

THIRD DIVISION

[G.R. NO. 159750, December 14, 2005]

**JEHAN SHIPPING CORPORATION, PETITIONER, VS. NATIONAL
FOOD AUTHORITY, RESPONDENTS.**

DECISION

PANGANIBAN, J.:

The general rule is that the three-day notice requirement in motions under Sections 4 and 5 of the Rules of Court is mandatory. It is an integral component of procedural due process. But when the adverse party has actually had the opportunity to be heard, and has indeed been heard through pleadings filed in opposition to the motion, the purpose behind the rule is deemed duly served. The requirements of due process are substantially complied with.

The Case

Before us is a Petition for Review,^[1] filed by Jehan Shipping Corporation under Rule 45 of the Rules of Court. The Petition seeks to reverse and set aside the January 31, 2003 Decision^[2] and the September 9, 2003 Resolution^[3] of the Court of Appeals (CA) in CA-GR SP No. 69209. The assailed CA Decision disposed as follows:

"WHEREFORE, in the light of the foregoing, the Petition is hereby GRANTED. The questioned Joint Resolution dated 08 January 2002, the Writ of Execution dated 16 January 2002, and the Order dated 25 January 2002 are hereby SET ASIDE. Public respondent is ordered to rule on the substantive merits of petitioner [herein respondent] NFA's Motion for Reconsideration and Supplemental Motion For Reconsideration and, thereafter, to proceed in accordance with the rules of procedure. The injunction prayed for is hereby GRANTED and made permanent."^[4]

The CA denied reconsideration in its September 9, 2003 Resolution.

The Facts

The relevant procedural and factual antecedents of this case are summarized in the challenged Decision, as follows:

"On 02 August 1997, [petitioner] Jehan Shipping Corporation (*Jehan*, for short) filed a complaint against NFA [National Food Authority] before the Regional Trial Court of Cebu City, Branch 5 for collection of a sum of money with a prayer for injunction. The complaint alleged, among others, that NFA failed and refused to pay the sum of One Hundred Thirty Nine Thousand and Thirty Pesos (P139,030.00) representing earned freight for the services of *Jehan's* vessel, the M/V Phannie, which NFA hired on 30 April 1996 to transport NFA's nineteen thousand three hundred (19,300)

bags of imported rice from the M/V Altabith berthed at the Cebu anchorage area to the pier of Cebu City. The complaint further alleged that the M/V Phannie capsized and sank on 01 May 1996 due to big waves generated by fast crafts for which reason, thus, *Jehan* incurred expenses in salvaging and subsequently rehabilitating the vessel in the amount of Thirteen Million Six Hundred Twelve Thousand Seven Hundred Sixty Seven Pesos and Forty Seven Centavos (P13,612,767.47); and that the sinking of the vessel was due to NFA's fault and negligence as an NFA representative who was on the vessel did not allow it to leave because there was no berthing space at the pier though the vessel would have immediately left after the bags of rice were unloaded on it. On 18 September 1997, NFA filed its Answer with Counterclaims which specifically denied *Jehan's* allegations, and alleged that *Jehan* had no cause of action; that the proximate cause of the sinking of the M/V Phannie was the fault, negligence, and lack of care and foresight of the vessel's crew which was under the employ of *Jehan*; that *Jehan* was grossly negligent in the performance of its duties in the loading of the bags of rice; that the vessel's sinking was entirely due to its unseaworthiness; and that the NFA was not liable for the salvaging and rehabilitation of the vessel as it was not the vessel's owner. NFA alleged in its counterclaim that it incurred losses equivalent to the value of the 19,300 bags of rice, and that it incurred transportation expenses, expenses to contract the services of a legal counsel, and other expenses x x x.

"On 28 August 2001, a Decision was rendered which ordered NFA, among others, to pay *Jehan* the amounts the latter claimed as earned freight for the services of, and as expenses in salvaging and rehabilitating, the M/V Phannie as well as interest therefor; and attorney's fees, litigation expenses, and the cost of the suit x x x.

"On 01 October 2001, NFA received a copy of the Decision x x x.

"On 02 October 2001, *Jehan* filed a Motion For Execution Pending Appeal to which an Opposition was filed by NFA on 25 October 2001. *Jehan* filed on 26 November 2001 a Reply to the Opposition to which NFA filed on 06 December 2001 a Rejoinder with addendum to the Opposition x x x.

"On 16 October 2001, NFA filed a Motion For Reconsideration of the Decision. On 12 November 2001, it filed a Supplemental Motion For Reconsideration x x x.

"On 09 November 2001, the court a quo issued in open court at the hearing on said date an Order that it shall hold in abeyance resolution of *Jehan's* Motion For Execution Pending Appeal pending resolution of NFA's Motion For Reconsideration x x x.

"On 15 November 2001, *Jehan* filed an Opposition to NFA's Motion For Reconsideration which Opposition was received by NFA on 22 November 2001. On 03 December 2001, NFA filed a Reply/Comment to the Opposition x x x.

"On 06 December 2001, Jehan filed an Opposition to Supplemental Motion For Reconsideration with Counter-Omnibus Motion: 1. For Leave to Withdraw Motion For Execution Pending Appeal; and, 2. For the Issuance of a Writ of Execution x x x.

"On 07 December 2001, public respondent called for a hearing on NFA's Motion For Reconsideration and Supplemental Motion For Reconsideration as well as *Jehan's* motion to withdraw the Motion For Execution Pending Appeal and motion for the issuance of a writ of execution with notice to both counsel of [NFA] and [*Jehan*]. [*Jehan's*] counsel appeared while NFA's counsel failed to appear. Public respondent issued an Order on said date which, among others, directed [NFA's] counsel to comment on *Jehan's* motion to withdraw the Motion For Execution Pending Appeal and motion for the issuance of a writ of execution within ten (10) days from receipt of a copy of said Order x x x.

"On 04 January 2002, NFA received the Order dated December 7, 2001 x x x.

"On 14 January 2002, NFA filed a Motion To Defer Resolution of the Plaintiff's Motion For Execution Pending Resolution of Defendant's Motion For Reconsideration and Supplemental Motion For Reconsideration x x x.

"On 08 January 2002, public respondent issued the x x x Joint Resolution [dated January 8, 2002] denying NFA's Motion For Reconsideration and Supplemental Motion For Reconsideration on the ground that it did not contain any notice of hearing directed to the parties, stating the time and place of hearing contrary to the mandate of Sections 4 and 5, Rule 15 of the Rules of Court. Consequently, public respondent granted *Jehan's* motion for the issuance of a writ of execution. Moreover, public respondent ruled that *Jehan's* Motion For Execution Pending Appeal has become moot and academic because *Jehan* already decided to withdraw it x x x.

"On 16 January 2002, the x x x Writ of Execution [dated 16 January 2002] was issued x x x.

"On 18 January 2002, NFA filed a Notice of Appeal x x x.

"On 25 January 2002, public respondent issued the x x x Resolution which denied NFA's Notice of Appeal on the ground that the Decision has already become final x x x.^[5]

Respondent National Food Authority (NFA) assailed before the Court of Appeals, via a Petition for Certiorari and Prohibition with Application for Preliminary Injunction and Temporary Restraining Order, the trial court's January 8, 2002 Joint Resolution, January 16, 2002 Writ of Execution, and January 25, 2002 Order.

Ruling of the Court of Appeals

The CA found that, despite lack of notice of the date and time of hearing, Jehan's counsel -- in his Oppositions -- was able to refute the substantial issues raised in the

Motion for Reconsideration and the Supplemental Motion for Reconsideration filed by the NFA. Moreover, he was present during the hearing of the Motions. Hence, the CA concluded that the requirement of the Rules on notice of hearing in motions had sufficiently been met, and the trial court erred in denying the Motions and in declaring them *pro forma*. Consequently, it held that NFA's period to appeal had not yet lapsed.

Furthermore, the appellate court held that there was a denial of due process when the trial court ruled upon Jehan's Motion for the Issuance of a Writ of Execution even before NFA had the opportunity to file a comment within the period given.

Hence, this Petition.^[6]

Issue

In its Memorandum, petitioner submits this lone issue for our consideration:

"Whether or not the Court of Appeals may still disturb, much less review and set aside on certiorari under Rule 65, a Writ of Execution issued by the trial court to implement its Decision which is already final and executory by operation of law."^[7]

Stated otherwise, the issue for our resolution is whether the CA committed a reversible error of law in granting the writ of certiorari. Corollary to this question is whether the lack of notice of hearing in the Motion for Reconsideration is fatal, such that the filing of the Motion did not toll the period to appeal, and the August 28, 2001 RTC Decision consequently became final and executory.

The Court's Ruling

The Petition is devoid of merit.

Main Issue:

Lack of Notice of Hearing in a Motion for Reconsideration

Admittedly, respondent committed a procedural lapse in failing to include a notice of hearing in its Motion for Reconsideration,^[8] filed on the very last day of its appeal period or on October 16, 2001. Again, it committed the same lapse in its Supplemental Motion for Reconsideration,^[9] which it filed on November 12, 2001.^[10] It postulates, though, that the procedural lapse should not defeat its Motions for the following reasons: (1) petitioner was able to oppose squarely the issues raised in the Motion for Reconsideration filed by respondent; and, (2) in deciding against the latter, the trial court manifestly committed a grave error, which resulted in huge losses for the government. Respondent adds that the procedural rule, which is intended to secure substantial justice, may be relaxed when its rigid application would defeat the ends of justice.

Citing various decisions of this Court, however, petitioner avers that, because of the failure of respondent to include a notice of hearing, the latter's Motions are worthless pieces of paper with no legal effect.