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SUPREME COURT
FIRST DIVISION

MARIO BASCO Y SALAO,
***Petitioner*,**

-versus-

G.R. No. 125290
February 29, 2000

COURT OF APPEALS and THE PEOPLE OF THE PHILIPPINES,
***Respondents*.**

x---x

D E C I S I O N

(RESOLUTION dated August 9, 2000)

KAPUNAN, *J*.:

This Petition for Review on *Certiorari* seeks the reversal of the Court of Appeals' resolution dated 29 September 1995 and 7 June 1996, respectively, which denied petitioner's petition for relief from judgment under Rule 38 of the Revised Rules of Court.

The antecedents leading to the present controversy are as follows:

On 24 August 1992, petitioner was charged with Qualified Illegal Possession of Firearm and Illegal Possession of Firearm before the Regional Trial Court of Manila (Branch XLI) under the following informations:

INFORMATION

The undersigned accuses MARIO BASCO y SALAO of the crime of Qualified Illegal Possession of Firearm, committed as follows:

> That on or about May 3, 1992, in the City of Manila, Philippines, the said accused, not being allowed or authorized by law to keep, possess and carry a firearm, did then and there willfully, unlawfully and knowingly have in his possession, control and custody a firearm, to wit:
>
> > one (1) cal. .38 revolver, Squire Bingham bearing Serial No. 183110 loaded with one (1) live ammunition and five (5) spent shells.
> >
> > Without first obtaining the necessary license and/or permit to carry and possess the same and in connection and by reason of such possession, did then and there willfully, unlawfully and feloniously, with intent to kill, fire and shoot one Rolando Buenaventura y Manuel, thus inflicting upon the latter mortal gunshot wounds and injuries which cause the death of the latter as a consequence.

Contrary to law.[1]

INFORMATION

The undersigned accuses MARIO BASCO y SALAO of violation of Section 261(q), B.P. 881 in relation to Section 31, RA 7166, committed as follows:

> That on or about May 3, 1992, in the City of Manila, Philippines, the said accused, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control a cal. 38 revolver "Squire Ringham" bearing Serial Number 183110 by then and

> there carrying the same along Cabangis Street, Tondo, this City, which is a public place on the aforesaid date which is covered by an Election period, without first securing the written authority from the COMELEC, as provided for by Section 261(q), B.P. 881 in relation to Section 31, RA 7166.
>
> Contrary to law.[2]

On 9 September 1992, upon arraignment, petitioner pleaded not guilty and the trial on the merits ensued.

On 15 March 1993, the trial court rendered its decision finding petitioner guilty as charged and sentenced him as follows:

> WHEREFORE, judgment is hereby rendered as follows:
>
> 1. In Criminal Case No. 92-109511, finding the accused MARIO BASCO y SALAO guilty beyond reasonable doubt for the crime of Illegal Possession of Firearm which he used to kill Rolando Buenaventura, Sr. alias Olay and hereby sentences him to suffer the penalty of Reclusion Perpetua. With costs against the accused.
>
> 2. In Criminal Case No. 92-109512, finding the accused MARIO BASCO Y SALAO guilty beyond reasonable doubt for the violation of Section 261 (q) of Batas Pambansa Blg. 881, in relation to Section 5 of Republic Act No. 7166 and hereby sentences the accused to suffer an indeterminate sentence ranging from one (1) year as minimum to three (3) years as maximum. Costs against the accused.
>
> SO ORDERED.[3]

Petitioner received a copy of the trial court's decision on 22 March 1993. Thereafter, on 6 April 1993, petitioner's counsel filed a Motion for Reconsideration of the said decision. However, in the notice of hearing, petitioner's counsel failed to indicate the date and time of the

motion's hearing as explicitly required by Sections 4 and 5, Rule 15 of the Rules of Court.

When petitioner's counsel realized his error, he submitted a Notification and Manifestation on 14 April 1993, which reads, thus:

NOTIFICATION AND MANIFESTATION
FISCAL ZENAIDA LAGUILLES
Trial Prosecutor
Manila

> BRANCH CLERK OF COURT
> Branch XLI
> Manila
>
> G R E E T I N G S :
>
> Accused intended to submit for this Court's for consideration and approval on Friday, 23 April 1993 at 8:30 in the morning the Motion for Reconsideration dated 5 April 1993. However, due to inadvertence brought about the need to rush the finalization of this motion, which has been delayed by the spate of prolonged power outages, this setting was omitted.
>
> Accused therefore serves notice that he is submitting the Motion for Reconsideration dated 5 April 1993 for this Court's consideration and approval on Friday, 23 April 1993 at 8:30 a.m.
>
> Makati, for Manila, 13 April 1993.[4]

On 28 April 1993, the trial court issued the following order:

O R D E R

> The record shows that the judgment in this case was promulgated last March 22, 1993. In other words, accused had up to April 6, 1993 within which to perfect an appeal.

> Last April 5, 1993, the accused through a new counsel filed a Motion for Reconsideration without the notice required under Secs. 4 and 5 of Rule 15 of the Rules of Court.
>
> Considering that a motion that does not contain a notice of hearing is but a mere scrap of paper, it presents no question which merits the attention and consideration of the Court, it is not even a motion for it does not comply with the rules and hence the Clerk has no right to receive it; the Court did not act on the motion.
>
> Last April 14, 1993, accused through counsel filed with the Court a Notification and Manifestation whereby it prayed that the Motion for Reconsideration be set for hearing today. Considering that the motion above adverted did not suspend the running of the period to appeal; that the judgment in this case has become final and executory, the Motion for Reconsideration and the Notification and Manifestation filed by the accused are hereby denied.
>
> SO ORDERED.[5]

In response thereto, petitioner on 4 May 1993 filed a petition for relief from judgment with the Regional Trial Court pursuant to Rule 38 of the Rules of Court. He contended that his inadvertence was due to the perennial brownouts being experienced across the country during that time and should thus be considered as a mistake or excusable negligence. Technical rules of procedure, he further asserted, should not be applied strictly when to do so would result in manifest injustice.[6]

On 12 July 1993, the trial court issued an order denying the petition for relief for lack of merit. Said order is hereunder reproduced in part:

x x x

> As can be readily seen, accused had up to April 6, 1993 within which to file his Motion for Reconsideration or Appeal.

> While it is true that judgments or orders may be set aside due to fraud, accident, mistake, or excusable negligence (Sec. 2, Rule 38), "a motion which does not meet the requirements of Sections 4 and 5 of Rule 15 of the Revised Rules of Court is a worthless piece of paper which the clerks has no right to receive and the respondent court a quo no authority to act upon." (Lucila B. Vda. de Azarias, petitioner, vs. The Honorable Manolo L. Madela, et al., 38 SCRA 35.)

The failure or defect in the notice of hearing in said motion cannot be cured by subsequent action of the court, for as held in Andrada et al. vs. The Honorable Court of Appeals, et al., 60 SCRA 379, the Supreme Court said:

> "This Court has repeatedly made it clear not only that a notice addressed to the Clerk of Court requesting him to 'set the foregoing motion for the consideration and approval of this Honorable Court immediately upon receipt hereof' does not comply with the requirements of Section 5 of Rule 15 but also that subsequent action of the court thereon does not cure the flaw, for a motion with a notice fatally defective is a 'useless piece of paper.'"
>
> The notice of hearing in the motion for reconsideration addressed to the Branch Clerk of Court states: "Please submit the foregoing Motion to the Honorable Court for its consideration and approval immediately upon receipt hereof." The same is patently a defective and fatal notice.
>
> The subsequent filing of the Notification and Manifestation that said Motion would be submitted for consideration and approval on Friday, 23 April 1993 at 8:30 o'clock in the morning did not cure the defect in the notice of hearing in the motion. As already stated, the last day for accused to file an appeal was April 6, 1993. As of April 7, 1993, the period to file an appeal already lapsed so that, curing the defective notice of hearing on April 14, 1993, granting that the subsequent notification cured the defect, was no longer possible.

WHEREFORE, premises considered, finding the Petition for Relief from Order of 28 April 1993 to be without merit, the same is hereby DENIED and let accused be committed to the Director of Prisoners, Muntinlupa, Metro-Manila.

SO ORDERED.[7]

Petitioner appealed the aforequoted order to the Court of Appeals on 30 July 1993. On 29 September 1995, the Court of Appeals dismissed petitioner's appeal on the ground of lack of jurisdiction through the following resolution:

RESOLUTION

This "Appeal on Certiorari" purporting to be an appeal of a special action is actually an appeal from the March 15, 1993 decision of Branch 41 of the Regional Trial Court of Manila convicting accused-appellant, Mario Basco, in Criminal Cases Nos. 92-109511 and 92-109512, for Qualified Illegal Possession of Firearms and Violation of Section 261 (9) of Batas Pambansa Blg. 881 in relation to Section 31, and for violation of Republic Act 7166, respectively.

A perusal of the records of the case discloses that no special civil action was filed with the court a quo that may be made the subject of this appeal. The only incidents submitted to it for resolution were the Motion for Reconsideration of the March 15, 1993 decision and Petition for Relief from Order which were both denied.

Since accused appellant was found guilty beyond reasonable doubt of the crimes charged and was sentenced to suffer the penalty of reclusion perpetua in Criminal Case No. 92-109511, and imprisonment of One (1) Year to Three (3) Years in Criminal Case No. 92-109512, his appeal falls under the exclusive appellate jurisdiction of the Supreme Court (Article VIII, Section 5, par. 2[d], Constitution).

We are thus constrained to dismiss this appeal on the ground of lack of jurisdiction.

> We cannot certify the appeal to the High Tribunal as it is not a case contemplated by Section 13 of Rule 124 of the Revised Rules of Court and to do so, would contravene the guidelines set forth in Supreme Court Circular No. 2-90 –
>
>> (d) No transfer of appeals erroneously taken. — No transfers of appeals taken to the Supreme Court or to the Court of Appeals to whichever of these Tribunals has appropriate appellate jurisdiction will be allowed, continued ignorance of willful disregard of the law on appeals will not be tolerated. (Paragraph [d], Sub-Head 4 of Circular No. 2-90)
>
> which circular is based from the High Tribunal's March 1, 1990 minute resolution in the case of Anacleto Murillo vs. Rodolfo Consul, (UDK-9748, 183 SCRA xi, xvii, xviii) where it emphatically declared that:
>
>> There is no longer any justification for allowing transfers of erroneous appeals from one court to another, much less for tolerating continued ignorance of the law on appeals. It thus behooves every attorney seeking review and reversal of a judgment or order promulgated against his client, to determine clearly the errors he believes may be ascribed to the judgment or order, whether of fact or of law, then to ascertain which court properly has appellate jurisdiction; and finally, to observe scrupulously the requisites for appeal prescribed by law, with keen awareness that any error or imprecision in compliance therewith may well be fatal to his client's cause.
>
> WHEREFORE, the appeal is hereby DISMISSED.
>
> SO ORDERED.[8]

Petitioner's motion for reconsideration was, likewise, denied by the Court of Appeals in its resolution dated 7 June 1996. The Court of Appeals ruled, thus:

x x x

> Accused-appellant moors his motion upon the ground that his appeal was not from the judgment of conviction but rather from the court a quo's order denying his petition for relief from judgment.
>
> We find this argument to be untenable. A Petition for Relief from Judgment is an extraordinary remedy.
>
> Relief from judgment or order is premised on equity and it is granted only in exceptional circumstances, as when a judgment or order is entered, or any other proceeding is taken through fraud, accident, mistake or excusable negligence. (Director of Lands vs. Rommaban, 131 SCRA 431, 437 [1984]).
>
> Appellant has cited us to no ground to enable him to avail of this remedy. What is evident that accused-appellant resorted to this remedy only to retrieve his lost appeal.
>
> WHEREFORE, the Motion for Reconsideration is hereby DENIED for lack of merit.
>
> SO ORDERED.[9]

Hence, this petition for review on certiorari.

Petitioner raises three issues for the Court's resolution:

> A. WHETHER OR NOT THE PROSECUTION HAS PROVED THE GUILT OF THE PETITIONER BEYOND REASONABLE DOUBT.
>
> B. WHETHER OR NOT THE COURT OF APPEALS CORRECTLY RULED THAT PETITIONER'S APPEAL FROM THE DENIAL OF HIS PETITION FOR RELIEF SHOULD HAVE BEEN LODGED WITH THIS HONORABLE COURT.

C. WHETHER OR NOT THE PETITIONER HAS SUCCEEDED IN SHOWING HIS ENTITLEMENT TO RELIEF.[10]

The core issue in this case is whether or not petitioner's plea for annulment of judgment under Rule 38 of the Rules of Court is meritorious.

At the outset, it bears stressing that the instant controversy does not concern an appeal from the judgment of conviction itself. The Court of Appeals evidently erred in dismissing petitioner's appeal on the ground of lack of jurisdiction. It ruled that since petitioner was meted the sentence of reclusion perpetua, his appeal falls under the Supreme Court's exclusive appellate jurisdiction in accordance with Art. VIII, Sec. 5 (2)[d] of the 1987 Constitution of the Philippines.[11]

The case brought to the Court of Appeals involved an appeal from the trial court's denial of petitioner's petition for relief from judgment. When the Court of Appeals dismissed the appeal on 29 September 1995, the applicable provision was Sec. 2, Rule 41 of the Rules of Court governing appeals from the Regional Trial Courts to the Court of Appeals. Said provision specifically stated that:

> SECTION 2. Judgments or orders subject to appeal. —
>
> A judgment denying relief under Rule 38 is subject to appeal, and in the course thereof, a party may also assail the judgment on the merits, upon the ground that it is not supported by the evidence or it is contrary to law.
>
> In Service Specialists, Inc. vs. Sheriff of Manila,[12] the Court confirmed that "a judgment or order denying relief under Rule 38 is final and appealable, unlike an order granting such relief which is interlocutory." Hence, jurisdiction then properly belonged to the Court of Appeals.
>
> However, under the 1997 Amended Rules of Procedure, an order denying a petition for relief is no longer subject to appeal. The aggrieved party's recourse is to file the appropriate special civil action under Rule 65 of the Amended Rules.[13]

> The issue of jurisdiction aside, the Court has emphasized that petition for relief from judgment is a unique remedy in the sense that it is based on the principle of equity and constitutes the petitioner's final chance to prosecute or defend his cause. Being an act of grace, a petition for relief from judgment is usually not regarded with favor and thus, is allowed only in exceptional cases where there are no other adequate and available remedies.[14]

The Court, in Samoso vs. CA,[15] further elucidates:

> Relief from judgment under Rule 38 of the Rules of Court is a remedy provided by law to any person against whom a decision or order is entered into through fraud, accident, mistake or excusable negligence. It is of equitable character, allowed only in exceptional cases as when there is no other available or adequate remedy. When a party has another adequate remedy available to him, which was either a motion for new trial or appeal from adverse decisions of the lower court, and he was not prevented by fraud, accident, mistake or excusable negligence from filing such motion or taking the appeal he cannot avail himself of the relief provided in Rule 38 (Rizal Commercial Banking Corporation vs. Lood, 110 SCRA 205 [1981]; Ibabao vs. Intermediate Appellate Court, 150 SCRA 76 [1987]).

Petitioner, however, implores the Court to be liberal in the application of technical rules of procedure (which in this instance refer to the requisites of a proper notice of hearing) and cites a plethora of cases[16] in support thereof. He reasons out that the defective notice of hearing in his motion for reconsideration was due to the day-long brown-outs that plagued the metropolis and which caused his counsel to have the above pleading prepared outside the law office. In view of this peculiar circumstance, counsel's failure to specify the date and time for the hearing of petitioner's motion for reconsideration should rightly be deemed excusable negligence.

Petitioner claims that whatever defect there was in his motion was cured by the notification and manifestation which he filed even before

the trial court issued its order denying the motion for reconsideration for being a mere scrap of paper.

Finally, petitioner points out to this Court that his conviction carries a prison term for life which, standing alone, is a circumstance exceptional enough to allow him opportunity to challenge the judgment of conviction against him for reasons of equity and substantial justice.[17]

We are acutely aware of the judicial mandate that:

> Rules of court prescribing the time within which certain acts must be done, or certain proceedings taken, are absolutely indispensable to the prevention of needless delays and the orderly and speedy discharge of judicial business. Strict compliance with such rules is mandatory and imperative.[18]

With respect to notices of hearing of motions, this has been more often than not the Court's guiding principle. We have time and again given warning that a notice of hearing which does not comply with the requirements of Secs. 4, 5 and 6, Rule 15 of the Rules of Court,[19] is a worthless piece of paper and would not merit any consideration from the courts. Recently, this rule was reiterated and upheld in People of the Philippines vs. CA, et al.[20] Thus:

> Under Section 4 of Rule 15 of the Rules of Court, the applicable law during the pendency of the case before the trial court, every written motion must be set for hearing by the applicant and served together with the notice of hearing thereof, in such a manner as to ensure receipt by the other party at least three days before the date of hearing, unless the court, for good cause, sets the hearing on shorter notice. Under Sections 5 and 6 thereof, the notice of hearing shall be addressed to the parties concerned and shall specify the time and date of the hearing of the motion; no motion shall be acted upon by the court without proof of service of the notice thereof, except when the court is satisfied that the rights of the adverse party are not affected.
>
> A motion without a notice of hearing is pro forma, a mere scrap of paper that does not toll the period to appeal, and upon

> expiration of the 15-day period, the questioned order or decision becomes final and executory. The rationale behind this rule is plain: unless the movant sets the time and place of hearing, the court will be unable to determine whether the adverse party agrees or objects to the motion, and if he objects, to hear him on his objection, since the rules themselves do not fix any period within which he may file his reply or opposition.

A supplemental pleading subsequently filed to remedy the previous absence of notice will not cure the defect nor interrupt the tolling of the prescribed period within which to appeal. In Cledera vs. Sarmiento, citing Manila Surety vs. Bath, this Court ruled:

> We are not impressed by the argument that the supplement filed by the appellants on May 30 should be deemed retroactive as of the date the motion for reconsideration was filed and, therefore, cured the defect therein. To so consider it would be to put a premium on negligence and subject the finality of judgments to the forgetfulness or whims of parties-litigants and their lawyers. This of course would be intolerable in a well-ordered judicial system.
>
> [A]ppellants were or should have been alerted to the fact that their motion for reconsideration of May 12 did not interrupt the period for appeal when they received the court's order of May 21, 1959, wherein it was stated that what appellants had filed was not even a motion and presented no question which the court could decide.

Nonetheless, procedural rules were conceived to aid the attainment of justice. If a stringent application of the rules would hinder rather than serve the demands of substantial justice, the former must yield to the latter. Recognizing this, Sec. 2, Rule 1 of the Rules of Court specifically provide that:

> SECTION 2. Construction. — These rules shall be liberally construed in order to promote their object and to assist the parties in obtaining just, speedy, and inexpensive determination of every action and proceeding. (Emphasis ours.)

The liberal construction of the rules on notice of hearing is exemplified in Goldloop Properties, Inc. vs. CA:[21]

> Admittedly, the filing of respondent-spouses' motion for reconsideration did not stop the running of the period of appeal because of the absence of a notice of hearing required in Secs. 3, 4 and 5, Rule 15, of the Rules of Court. As we have repeatedly held, a motion that does not contain a notice of hearing is a mere scrap of paper; it presents no question which merits the attention of the court. Being a mere scrap of paper, the trial court had no alternative but to disregard it. Such being the case, it was as if no motion for reconsideration was filed and, therefore, the reglementary period within which respondent-spouses should have filed an appeal expired on 23 November 1989.
>
> But, where a rigid application of that rule will result in a manifest failure or miscarriage of justice, then the rule may be relaxed, especially if a party successfully shows that the alleged defect in the questioned final and executory judgment is not apparent on its face or from the recitals contained therein. Technicalities may thus be disregarded in order to resolve the case. After all, no party can even claim a vested right in technicalities. Litigations should, as much as possible, be decided on the merits and not on technicalities.
>
> Hence, this Court should not easily allow a party to lose title and ownership over a party worth P4,000,000.00 for a measly P650,000.00 without affording him ample opportunity to prove his claim that the transaction entered into was not in fact an absolute sale but one of mortgage. Such grave injustice must not be permitted to prevail on the anvil of technicalities.

Likewise, in Samoso vs. CA,[22] the Court ruled:

> But time and again, the Court has stressed that the rules of procedure are not to be applied in a very strict and technical sense. The rules of procedure are used only to help secure not override substantial justice (National Waterworks & Sewerage System vs. Municipality of Libmanan, 97 SCRA 138 [1980];

> Gregorio vs. Court of Appeals, 72 SCRA 120 [1976]). The right to appeal should not be lightly disregarded by a stringent application of rules of procedure especially where the appeal is on its face meritorious and the interests of substantial justice would be served by permitting the appeal (Siguenza vs. Court of Appeals, 137 SCRA 570 [1985]; Pacific Asia Overseas Shipping Corporation vs. National Labor Relations Commission, et al., G.R. No. 76595, May 6, 1998).

In the instant case, it is petitioner's life and liberty that is at stake. The trial court has sentenced him to suffer the penalty of reclusion perpetua or a lifetime of incarceration. His conviction then attained finality on the basis of mere technicality. It is but just, therefore, that petitioner be given the opportunity to defend himself and pursue his appeal. To do otherwise would be tantamount to grave injustice. A relaxation of the procedural rules, considering the particular circumstances, is justified.

Considering that there is sufficient evidence before the Court to enable it to resolve the fundamental issues, we will dispense with the regular procedure of remanding the case to the lower court, in order to avoid further delays in the resolution of the case.[23]

WHEREFORE, premises considered, the petition is given **DUE COURSE**. The 12 July 1993 Order of the trial court denying the petition for relief from judgment and the Court of Appeals' Resolution dated 29 September 1995 and 7 June 1996 dismissing petitioner's appeal from said 12 July 1993 Order are hereby **REVERSED** and **SET ASIDE**. Petitioner and the Solicitor General are given a period of thirty (30) days from notice hereof to file their respected memorandum in support of their positions, after which the case is deemed submitted for decision.

SO ORDERED.

Davide, Jr., *C.J.*, Puno, Pardo and Ynares-Santiago, *JJ.*, concur.

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[1] Original Records, p. 2.

[2] Id., at 263.
[3] Rollo, p. 52.
[4] Id., at 72.
[5] Original Records, p. 200.
[6] Rollo, pp. 73-85.
[7] Id., at 106-107.
[8] Id., at 142-144.
[9] Id., at 164-165.
[10] Petitioner's Memorandum p. 4.
[11] Sec. 5. The Supreme Court shall have the following powers:

x x x

(2) Review, revise, reverse, modify, or affirm on appeal or certiorari, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:

x x x

(d) All criminal cases in which the penalty imposed is reclusion perpetua or higher.

x x x

[12] 145 SCRA 139 (1986), See also, Go It Bun vs. CA, 214 SCRA 41 (1992).
[13] SECTION 1. Subject of appeal.—An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

(a) An order denying a motion for new trial or reconsideration;

(b) .An order denying a petition for relief or any similar motion seeking relief from judgment;

(c) An interlocutory order;

(d) An order disallowing or dismissing an appeal;

(e) An order denying a motion to set aside a judgment by consent, confession or compromise on the ground of fraud, mistake or duress, or any other ground vitiating consent;

(f) An order of execution;

(g) A judgment or final order for or against or one or more of several parties or in separate claims, counterclaims, cross-claims and third-party complaints, while the main case is pending, unless the court allows an appeal therefrom; and

(h) An order dismissing an action without prejudice.

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65. (Emphasis ours.)

[14] National Power Corporation vs. CA, 218 SCRA 41 (1993).
[15] 178 SCRA 654 (1989), see also Manila Electric Co. vs. CA, 187 SCRA 200 (1990); Tuason vs. CA, 256 SCRA 158 (1996).
[16] De Guzman vs. Sandiganbayan, 256 SCRA 171 (1986); F & L Mercantile vs. IAC, 142 SCRA 385 (1986); Patricio vs. Leviste, 172 SCRA 774 (1989); Legarda vs. CA, 195 SCRA 418 (1991); Alonso vs. Villamor, 16 Phil. 315 (1910).

[17] Rollo, p. 17.
[18] FJR Garments Industries vs. CA, 130 SCRA 216 (1984).
[19] Sec. 4. Notice. — Notice of a motion shall be served by the applicant to all parties concerned, at least three (3) days before the hearing thereof, together with a copy of the motion, and of any affidavits and other papers accompanying it. The court, however, for good cause may hear a motion on shorter notice, specially on matters which the court may dispose of on its own motion.

Sec. 5. Contents of notice. — The notice shall be directed to the parties concerned, and shall state the time and place for the hearing of the motion.

Sec. 6. Proof of service, to be filed with motion. — No motion shall be acted upon by the court, without proof of service of the notice thereof, except when the court is satisfied that the rights of the adverse party or parties are not affected.
[20] 296 SCRA 418 (1998).
[21] 212 SCRA 498 (1992).
[22] 178 SCRA 654 (1989).
[23] Samoso vs. CA, 178 SCRA 654 (1989); Hechanova vs. CA, 145 SCRA 550 (1986); Siguenza vs. CA, 137 SCRA 570 (1985).

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