

## THIRD DIVISION

[ G.R. NO. 142960, April 15, 2005 ]

**MANILA PEARL CORPORATION, PETITIONER, VS. MANILA PEARL  
INDEPENDENT WORKERS UNION, RESPONDENT.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

This is a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Resolutions dated February 15, 2000<sup>[1]</sup> and April 10, 2000<sup>[2]</sup> of the Court of Appeals in CA-G.R. SP No. 54854, entitled "*Manila Pearl Corporation vs. Hon. Undersecretary Rosalinda Dimapilis-Baldoz, Manila Pearl Independent Workers Union and Med-Arbiter Anastacio L. Bactin.*"

The controversy herein stemmed from a petition for certification election filed with the Med-Arbiter of the Regional Office No. IV, Department of Labor and Employment (DOLE) by Manila Pearl Independent Workers Union, *respondent union*.

In its opposition, Manila Pearl Corporation, *petitioner company*, alleged that at least 83 votes of the sub-contractual, supervisory, dismissed and resigned employees were excluded in the results of the certification election.

In due course, the Med-Arbiter issued an Order dated August 4, 1998 dismissing the protest filed by petitioner company, thus:

"WHEREFORE, premises considered, the protest filed by respondent Manila Pearl Corporation is hereby dismissed for lack of legal and factual basis. Consequently, it is hereby ordered that the 83 challenged votes be opened, counted and tabulated and be included in the results of the certification election held on October 15, 1997.

"SO ORDERED."

On September 7, 1998, petitioner company interposed an appeal to the Office of the Secretary of Labor.

In a Resolution dated June 23, 1999, the Undersecretary of Labor, affirmed the Med-Arbiter's Order, thus:

"WHEREFORE, the appeal is hereby DISMISSED for lack of merit and the Order dated 04 August 1998 of the Med-Arbiter is AFFIRMED. Accordingly, let the records of this case be forwarded to the regional office of origin for the immediate implementation of the Med-Arbiter's order.

"The withdrawal as counsel of MPC by Antonio H. Abad and Associates is

hereby NOTED. Let this resolution and subsequent processes be served on MPC unless it hires another counsel to act on its behalf for purposes of this proceeding.

SO RESOLVED."

Consequently, on September 10, 1999, petitioner company filed a petition for *certiorari* with the Court of Appeals.

In a Resolution dated February 15, 2000, the Court of Appeals dismissed the petition for being late, holding that:

"On account of the fact that the present petition for ***certiorari*** filed on September 10, 1999 was not seasonably filed within the sixty (60) day reglementary period in violation of Section 4 of Rule 65 of the 1997 Rules of Civil Procedure, as amended, We hereby RESOLVE to DISMISS the same OUTRIGHT.

A perusal of the subject resolution assailed in this petition (Annex "A" of the petition, Rollo, pp. 16 to 18) would reveal that the date of receipt of the same was consistently tampered with to show that it was received on a much later date. The date written on the said pages, which is July 17, 1999 (7/17/99) clearly shows that the number one (1) was inserted consistently on all the three (3) pages wherein the date of receipt was written to make it appear that the resolution was received on July 17 not July 7, 1999. Such insertion, contemptuous as it is, is clearly visible to the naked eye.

In view thereof, We hold that the date of receipt of the assailed June 23, 1999 Resolution of public respondent Undersecretary Rosalinda Dimapilis-Baldoz was on July 7, 1999. Perforce, the present petition filed on September 10, 1999 was undeniably filed out of time (5 DAYS LATE).

Petition is hereby dismissed.

SO ORDERED."

Petitioner company filed a motion for reconsideration, however, the same was denied by the Appellate Court in its Resolution dated April 10, 2000.

In the instant petition, petitioner company contends that the Court of Appeals erred in dismissing the petition for *certiorari* for being late.

In its comment, respondent union asserts that the Court of Appeals committed no reversible error in law in dismissing the petition.

Section 15, Rule XI of the Implementing Rules of the Labor Code provides:

"RULE XI

CERTIFICATION ELECTIONS

x x x