

SECOND DIVISION

[G.R. No. 191215, February 03, 2014]

THENAMARIS PHILIPPINES, INC. (FORMERLY INTERMARE MARITIME AGENCIES, INC.)/ OCEANIC NAVIGATION LTD. AND NICANOR B. ALTARES, PETITIONERS, VS. COURT OF APPEALS AND AMANDA C. MENDIGORIN (IN BEHALF OF HER DECEASED HUSBAND GUILLERMO MENDIGORIN), RESPONDENTS.

D E C I S I O N

DEL CASTILLO, J.:

This Petition for *Certiorari* filed under Rule 65 of the Rules of Court assails the Resolution^[1] dated November 20, 2009 of the Court of Appeals (CA) in CA-G.R. SP No. 110808 for allegedly having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction. The CA, through the said Resolution, entertained private respondent's Petition for *Certiorari*^[2] despite having been filed 15 days late and allowed her to correct the technical infirmities therein. Also assailed is the CA's February 10, 2010 Resolution^[3] denying petitioners' Motion for Reconsideration with Prayer to Dismiss^[4] and giving private respondent another chance to cure the remaining deficiencies of the petition.

Factual Antecedents

This case stemmed from a complaint for death benefits, unpaid salaries, sickness allowance, refund of medical expenses, damages and attorney's fees filed by Amanda C. Mendigorin (private respondent) against petitioner Thenamaris Philippines, Inc., formerly Intermare Maritime Agencies, Inc./Oceanic Navigation Ltd., (Thenamaris), represented by its general manager, Capt. Nicanor B. Altares (petitioner), filed with the Labor Arbiter (LA). Private respondent is the widow of seafarer Guillermo M. Mendigorin (Guillermo) who was employed by Thenamaris for 27 years as an oiler and eventually, as second engineer in the latter's vessels. Guillermo was diagnosed with and died of colon cancer during the term of the employment contract between him and Thenamaris.

Ruling of the Labor Arbiter

Ultimately, the LA promulgated his Decision^[5] dated January 29, 2008 in favor of private respondent. Thus:

WHEREFORE, the foregoing considered, judgment is hereby rendered in favor of the complainant [herein private respondent] and finding respondents [herein petitioners] liable to pay jointly and severally: (a) death benefits amounting to US \$50,000.00 at its peso equivalent at the time of actual payment; (b) reimbursement of medical expenses amounting to P102,759.74; [(c)] moral and exemplary damages

amounting to P100,000.00 and P50,000.00 respectively; and (d) attorney's fees in the [amount of] ten percent (10%) of the total monetary award.

All other claims are DENIED.^[6]

Ruling of the National Labor Relations Commission (NLRC)

On appeal, the NLRC reversed^[7] the LA's Decision.

Private respondent moved for reconsideration.^[8] In a Resolution^[9] dated June 29, 2009, however, her motion was denied for lack of merit.

Private respondent, through counsel, received the June 29, 2009 Resolution of the NLRC on July 8, 2009. Sixty-two days thereafter, or on September 8, 2009, she filed a Motion for Extension of Time to File Petition for *Certiorari*^[10] before the CA. Private respondent alleged that she had until September 7, 2009 (as September 6, 2009, the actual last day for filing, fell on a Sunday) within which to file a petition for *certiorari*. However, as her counsel was then saddled and occupied with equally important cases, it would be impossible for him to file the petition on time, especially since the case involves voluminous documents necessary in the preparation thereof. Accordingly, private respondent asked for an extension of 15 days from September 7, 2009, or until September 22, 2009, within which to file the petition.

On September 22, 2009, private respondent filed her Petition for *Certiorari*^[11] before the CA.

Action of the Court of Appeals

In a Resolution^[12] dated November 20, 2009, the CA noted that private respondent's Petition for *Certiorari* was filed 15 days late and suffers from procedural infirmities. Nonetheless, in the interest of substantial justice, the CA entertained the petition and directed private respondent to cure the technical flaws in her petition. Thus:

The Court, in the interest of justice, resolved to **NOTE** the petition for *certiorari* filed on September 22, 2009, albeit the same was filed fifteen (15) days late.

A perusal of the instant petition reveals the following procedural infirmities, namely:

- (1) The attached *Verification/Certification of Non-Forum Shopping* does not conform with the requirements under Section 12, Rule II of the 2004 Rules of Notarial Practice, as a Community Tax Certificate is no longer considered competent evidence of an affiant's identity; and
- (2) Except for the copy of the *Motion for Reconsideration* filed with the National Labor Relations Commission, no other copies of pertinent and relevant pleadings/documents are attached therewith, such as petitioner's *Complaint*, respondent's

Memorandum of Appeal, petitioner's *Opposition to Respondent's Appeal*, if any, all of which may aid this Court in judiciously resolving the issues raised in the petition.

ACCORDINGLY, this Court, in line with the rule that cases should be determined on the merits, after full opportunity to all parties for ventilation of their causes and defenses have been given, rather than on technicality or some procedural imperfections, resolved to **DIRECT** petitioner to submit anew a *Verification/Certification of Non-Forum Shopping* which complies with the requirements of the rules, and clear and legible copies of the aforementioned pleadings/documents, within ten (10) days from receipt of notice hereof.

SO ORDERED.^[13] (Emphasis in the original)

Petitioners filed a Motion for Reconsideration with Prayer to Dismiss,^[14] strongly opposing private respondent's Motion for Extension to File Petition for *Certiorari* for being an absolutely prohibited pleading. Citing *Laguna Metts Corporation v. Court of Appeals*,^[15] petitioners argued that A.M. No. 07-7-12-SC^[16] effectively rendered the 60-day period for filing a petition for *certiorari* non-extendible after it deleted portions of Rule 65 pertaining to extension of time to file petition. Thus, as the rule now stands, petitions for *certiorari* must be filed strictly within 60 days from notice of judgment or from the order denying a motion for reconsideration.^[17]

Petitioners also contended that even assuming that an extension is still allowable, private respondent's motion for extension is nevertheless a useless piece of paper as it was filed beyond the 60-day period for filing a petition for *certiorari*.

Lastly, petitioners asserted that as private respondent's motion for extension is a prohibited pleading, as well as one filed outside of the reglementary period, then private respondent's Petition for *Certiorari* is a mere scrap of paper with no remedial value whatsoever. Consequently, the Decision of the NLRC has become final and executory and is beyond the ambit of judicial review.

In the meantime, private respondent submitted her Compliance^[18] with the CA's Resolution of November 20, 2009. Nevertheless, she still failed to attach thereto copies of her Complaint filed before the LA and Memorandum filed with the NLRC.

In a Resolution^[19] dated February 10, 2010, the CA denied petitioners' motion and, instead, gave private respondent one last opportunity to fully comply with its November 20, 2009 Resolution by submitting clear and legible copies of the still lacking pleadings within five days from notice thereof.

Thus, the present Petition for *Certiorari*.

Entry of Judgment^[20] was already issued by the NLRC on August 13, 2009. Per NLRC Rules, the June 29, 2009 Resolution became final and executory on July 18, 2009 and was recorded in the Book of Entries of Judgment.

Issues

1. THE PUBLIC RESPONDENT CA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT NOTED THE PETITION FOR CERTIORARI FILED BY THE PRIVATE RESPONDENT INSTEAD OF DISMISSING IT OUTRIGHT FOR HAVING BEEN FILED BEYOND THE MANDATORY AND JURISDICTIONAL 60-DAY PERIOD REQUIRED BY SECTION 4, RULE 65 OF THE RULES OF COURT, AS AMENDED BY A.M. NO. 07-7-12-SC.
2. THE PUBLIC RESPONDENT CA COMMITTED GRAVE ABUSE OF DISCRETION WHEN, IN NOTING THE VERY LATE PETITION FILED BY THE PRIVATE RESPONDENT, IT GROSSLY IGNORED THIS HONORABLE COURT'S VERY RECENT RULING IN LAGUNA METTS CORPORATION v. COURT OF APPEALS, ARIES C. CAALAM AND GERALDINE ESGUERRA (G.R. NO. 185220, JULY 27, 2009), WHICH **DISALLOWED ANY MOTIONS FOR EXTENSION OF TIME TO FILE A PETITION FOR CERTIORARI UNDER RULE 65.**^[21]
(Underscoring and emphasis in the original)

Our Ruling

There is merit in the petition.

In *Republic v. St. Vincent de Paul Colleges, Inc.*^[22] we had the occasion to settle the seeming conflict on various jurisprudence touching upon the issue of whether the period for filing a petition for *certiorari* may be extended. In said case we stated that the general rule, as laid down in *Laguna Metts Corporation v. Court of Appeals*,^[23] is that a petition for *certiorari* must be filed strictly within 60 days from notice of judgment or from the order denying a motion for reconsideration. This is in accordance with the amendment introduced by A.M. No. 07-7-12-SC^[24] where no provision for the filing of a motion for extension to file a petition for *certiorari* exists, unlike in the original Section 4 of Rule 65^[25] which allowed the filing of such a motion but only for compelling reason and in no case exceeding 15 days.^[26] Under exceptional cases, however, and as held in *Domdom v. Third and Fifth Divisions of the Sandiganbayan*,^[27] the 60-day period may be extended subject to the court's sound discretion. In *Domdom*, we stated that the deletion of the provisions in Rule 65 pertaining to extension of time did not make the filing of such pleading absolutely prohibited. "If such were the intention, the deleted portion could just have simply been reworded to state that 'no extension of time to file the petition shall be granted.' Absent such a prohibition, motions for extension are allowed, subject to the court's sound discretion."^[28]

Then in *Labao v. Flores*,^[29] we laid down some of the exceptions to the strict application of the 60-day period rule, thus:

[T]here are recognized exceptions to their strict observance, such as: (1) most persuasive and weighty reasons; (2) to relieve a litigant from an injustice not commensurate with his failure to comply with the prescribed procedure; (3) good faith of the defaulting party by immediately paying within a reasonable time from the time of the default; (4) the existence of special or compelling circumstances; (5) the merits of the case; (6) a

cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (7) a lack of any showing that the review sought is merely frivolous and dilatory; (8) the other party will not be unjustly prejudiced thereby; (9) fraud, accident, mistake or excusable negligence without appellant's fault; (10) peculiar legal and equitable circumstances attendant to each case; (11) in the name of substantial justice and fair play; (12) importance of the issues involved; and (13) exercise of sound discretion by the judge guided by all the attendant circumstances. Thus, there should be an effort on the part of the party invoking liberality to advance a reasonable or meritorious explanation for his/her failure to comply with the rules.

In this case, counting 60 days from her counsel's receipt of the June 29, 2009 NLRC Resolution on July 8, 2009, private respondent had until September 7, 2009 to file her petition or a motion for extension, as September 6, 2009, the last day for filing such pleading, fell on a Sunday. However, the motion was filed only on September 8, 2009.^[30] It is a fundamental rule of remedial law that a motion for extension of time must be filed before the expiration of the period sought to be extended; otherwise, the same is of no effect since there would no longer be any period to extend, and the assailed judgment or order will have become final and executory.^[31]

Additionally, as cited earlier in *Labao*, there should be an effort on the part of the litigant invoking liberality to satisfactorily explain why he or she was unable to abide by the rules.^[32] Here, the reason offered for availing of the motion for extension is the heavy workload of private respondent's counsel, which is hardly a compelling or meritorious reason as enunciated in *Labao*. Time and again, we have held that the excuse of "[h]eavy workload is relative and often self-serving. Standing alone, it is not a sufficient reason to deviate from the 60-day rule."^[33] Thus, private respondent's motion for extension should have been denied outright.

Notably, the CA's November 20, 2009 Resolution refrained from ruling on the timeliness of private respondent's motion for extension. Instead, it directly ruled on the Petition for *Certiorari* as seen by its statement "[t]he Court x x x resolved to NOTE the petition for *certiorari* x x x, albeit the same was filed fifteen (15) days late." To our mind, the foregoing pronouncement is an indirect acknowledgment on the part of the CA that the motion for extension was indeed filed late. Yet it opted to still entertain and "note" the Petition for *Certiorari*, justifying its action as being "in the interest of justice."

We do not approve of the CA's ruling on the matter because, as the motion for extension should have been denied outright, it necessarily follows that the Petition for *Certiorari* is, in the words of petitioners, a "mere scrap of paper with no remedial value whatsoever."

In *Negros Slashers, Inc. v. Teng*,^[34] which likewise dealt with the late filing of a petition for *certiorari*, we recognized that although procedural rules ought to be strictly enforced by courts in order to impart stability in the legal system, we have, nonetheless, relaxed the rigid application of the rules of procedure in several cases to afford the parties the opportunity to fully ventilate their cases on the merits. This is because the ends of justice would be better served if the parties were given the