

## THIRD DIVISION

[ G.R. No. 182718, September 26, 2008 ]

**JULIO B. PURCON, JR., PETITIONER, VS. MRM PHILIPPINES, INC. AND MIGUEL L. RIVERA/MARITIME RESOURCES MANAGEMENT, RESPONDENTS.**

### RESOLUTION

**REYES, R.T., J.:**

A PETITION for relief from judgment under Rule 38 of the 1997 Rules of Civil Procedure is an equitable remedy that is allowed only in exceptional cases when there is no other available or adequate remedy. It may be availed of only after a judgment, final order, or other proceeding was taken against petitioner in any court through fraud, accident, mistake, or excusable negligence.<sup>[1]</sup>

Before Us is a petition for relief from judgment<sup>[2]</sup> filed by Julio B. Purcon, seeking to set aside Our July 16, 2007 Resolution,<sup>[3]</sup> which denied his petition for review, as well as the October 9, 2007 Entry of Judgment.<sup>[4]</sup> He pleads for the Court's leniency on account of the negligence and inefficiency of his counsel, which resulted in the late filing of the petition and in filing defective pleadings within this Court.

#### The Antecedents

The case stemmed from a complaint filed by petitioner for reimbursement of medical expenses, sickness allowance and permanent disability benefits with prayer for compensatory, moral and exemplary damages and attorney's fees before the Arbitration Branch of the National Labor Relations Commission (NLRC).

In his verified position paper, petitioner alleged that on January 28, 2002, respondent MRM Philippines, Inc. hired him as a seaman on board the vessel M/T SARABELLE 2. He signed a contract for three (3) months with a monthly salary of \$584.00. According to petitioner, his work involved a day-to-day activity that required exertion of strenuous effort, and that he often worked overtime due to the pressure of his work. His contract was extended for another three (3) months. On the second week of June 2002, he felt an excruciating pain in his left testicle. After being examined by a doctor at the port of France, he was diagnosed with hernia. On June 26, 2002, he was repatriated due to his ailment.

Upon petitioner's return to the Philippines, he was examined by Dr. Alegre, the company physician, who prescribed certain medication. On July 24, 2002, Dr. Alegre declared that he was fit to resume work. When he reported to MRM Philippines, Inc. hoping to be re-hired for another contract, he was told that there was no vacancy for him.

On September 17, 2003, he consulted Dr. Efren R. Vicaldo, an internist-cardiologist

of Philippine Heart Center. On March 3, 2004, after a thorough medical examination and evaluation, he was diagnosed with EPIDIDYMITIS, LEFT; UPPER RESPIRATORY TRACT INFACTION WITH INPEDIMENT GRADE XIV.

Respondents, on the other hand, countered that since petitioner's ailment, hernia, is not work-related, he is not entitled to disability benefit and related claims. In fact, he was declared fit to resume work on July 23, 2002 by the company-designated physician. Respondents likewise argued that his ailment is not to be considered a permanent disability as this is easily correctable by simple surgery. More importantly, petitioner signed a Quitclaim and Release which was notarized.

On March 31, 2005, Labor Arbiter Donato G. Quinto, Jr. rendered its decision<sup>[5]</sup> dismissing the complaint for utter lack of merit. The Labor Arbiter explained that petitioner was fit to resume work as a seafarer as of July 23, 2002 as his "hernia" was already cured or non-existent. In fact, petitioner was ready to resume work. Unfortunately, he was not accommodated due to lack of vacancy. The fact that he was not re-hired by respondent did not mean that he was suffering from disability.

On May 5, 2005, complainant-appellant (petitioner) filed a memorandum of appeal with the NLRC Third Division.

On September 30, 2005, the NLRC Third Division issued a resolution<sup>[6]</sup> as follows:

WHEREFORE, the appeal is DISMISSED for lack of merit and the assailed decision dated March 31, 2005 is hereby AFFIRMED.

SO ORDERED.<sup>[7]</sup>

On December 20, 2005, the motion for reconsideration was dismissed for lack of merit. On January 27, 2006, the NLRC resolution became final and executory and was recorded in the Book of Entries of Judgments.

On March 2, 2006, petitioner filed a petition for *certiorari* under Rule 65 of the Revised Rules of Court with the Court of Appeals (CA). However, on June 7, 2006, the CA dismissed the case due to formal infirmities. Petitioner's motion for reconsideration was denied. On September 29, 2006, the CA resolution became final and executory.

On May 9, 2007, petitioner filed with this Court a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure assailing the June 7, 2006 and September 5, 2006 Resolutions of the CA, which dismissed his petition for *certiorari*.

In Our Resolution<sup>[8]</sup> dated July 16, 2007, We denied the petition for the following reasons: (1) the petition was filed beyond the reglementary period of fifteen (15) days fixed in Section 2, Rule 45 in relation to Section 5(a), Rule 56, 1997 Rules of Civil Procedure, as amended; (2) failure to pay on time docket and other fees and deposit for costs in violation of Section 3, Rule 45, in relation to Section 5(c) of Rule 56; and (3) insufficient or defective verification under Section 4, Rule 7.

We likewise held that petitioner failed to sufficiently show that the CA committed any reversible error in the challenged resolutions as to warrant the exercise of this Court's discretionary appellate jurisdiction. He was not able to convince this Court

why the actions of the Labor Arbiter, the NLRC and the CA, which have passed upon the same issue, should be reversed. Consequently, on October 9, 2007, an Entry of Judgment was issued.

On May 6, 2008, petitioner filed the instant petition for relief from judgment interposing the following grounds:

- I. The Honorable Labor Arbiter committed a GROSS MISTAKE when he based his decision on the fit to work certification issued by the company-designated physician and on the Quitclaim and Release executed by the complainant;
- II. The Honorable Labor Arbiter further committed a GROSS MISTAKE when he adopted the irrelevant jurisprudence cited by the respondents and by adopting it in his decision;
- III. The Honorable NLRC Third Division also committed a GROSS MISTAKE when it affirms the ERRONEOUS decision of the Honorable Labor Arbiter;
- IV. The factual findings of the Honorable Labor Arbiter, and the Honorable NLRC Third Division, are not based on substantial evidence and that their decisions are contrary to the applicable law and jurisprudence; and
- V. The collaborating counsel of the petitioner committed a GROSS MISTAKE in filing defective pleadings to the prejudice of the herein petitioner.<sup>[9]</sup>

The threshold issue before Us is - Can petitioner avail of a petition for relief from judgment under Rule 38 of the 1997 Rules of Civil Procedure from Our resolution denying his petition for review?

We answer in the negative. **A petition for relief from judgment is not an available remedy in the Supreme Court.**

**First**, although Section 1 of Rule 38 states that when a judgment or final order is entered through fraud, accident, mistake, or excusable negligence, a party in any court may file a petition for relief from judgment, this rule must be interpreted in harmony with Rule 56, which enumerates the original cases cognizable by the Supreme Court, thus:

Section 1. *Original cases cognizable.* - Only petitions for *certiorari*, prohibition, mandamus, *quo warranto*, *habeas corpus*, disciplinary proceedings against members of the judiciary and attorneys, and cases affecting ambassadors, other public ministers and consuls may be filed originally in the Supreme Court.

A petition for relief from judgment is **not** included in the list of Rule 56 cases originally cognizable by this Court.

In *Dela Cruz v. Andres*,<sup>[10]</sup> We reiterated Our pronouncement in *Mesina v. Meer*,<sup>[11]</sup> that a petition for relief from judgment is not an available remedy in the Court of