

FIRST DIVISION

[G.R. No. 143389, May 25, 2001]

**PFIZER INC., MA. ANGELICA B. LLEANDER AND SANDRA WEBB,
PETITIONERS, VS. EDWIN V. GALAN, RESPONDENT.**

D E C I S I O N

DAVIDE, JR., C.J.:

In this petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, petitioners assail the dismissal by the Court of Appeals of their petition for *certiorari* for having been filed beyond the sixty-day reglementary period.

Respondent Edwin V. Galan was an employee of petitioner Pfizer, Inc., a drug manufacturer. He was initially hired in August 1982 as a professional sales representative, commonly known as a medical representative. He was a recipient of several company awards, which eventually resulted in his promotion as District Manager for Mindanao in 1996. He continued to reap more awards as he exceeded sales targets.

In September 1997, respondent was recalled to Manila to meet with his superiors. In the meeting, the sales manager of Pfizer, Inc., issued a memorandum requiring him to explain his alleged unauthorized use of, and questionable expense claims made on, the company vehicle, as well as the doubtful liquidation of his cash advance of US\$5,000 for a recent official trip to Indonesia. After the submission of his explanation, a formal hearing on the charges was set. In the meantime, respondent was placed under preventive suspension and was advised to seek legal assistance. On October 1998, after the conclusion of the hearing, respondent received a notice of termination signed by Pfizer's co-petitioner Ma. Angelica B. Lleander. The cause for his dismissal was loss of trust and confidence.

Respondent then filed a complaint for illegal dismissal against petitioners before the National Labor Relations Commission (NLRC) Regional Arbitration Branch No. 9 in Zamboanga City. He demanded his reinstatement or separation pay; the payment of back wages, thirteenth-month pay, and bonuses; the reimbursement of expenses and incentives; and the payment of moral and exemplary damages and attorney's fees. Sandra Webb and Ma. Angelica Lleander were impleaded as respondents in their capacities as Country Manager and Employee Resources Director, respectively, of Pfizer, Inc. The case was docketed as NLRC Case No. RAB-09-02-00048-98.

In a Decision^[1] rendered on 14 August 1998, Labor Arbiter Rhett Julius Plagata declared that respondent was illegally dismissed and ordered Pfizer, Inc., to pay him back wages, separation pay, thirteenth month pay, incentives and bonuses, reimbursement of expenses and attorney's fees. Respondent's monetary award totalled P2,052,013.50.

Petitioners appealed from the decision to the NLRC in Cagayan de Oro City. In its Resolution^[2] of 17 December 1998, the NLRC affirmed the decision of the Labor Arbiter. A copy of the Resolution was received by petitioners on 29 December 1998. On 8 January 1999, petitioners filed a motion for reconsideration, which was denied by the NLRC in its Resolution^[3] of 29 April 1999. Petitioners received a copy of the latter Resolution on 13 May 1999.

On 5 July 1999, the NLRC decreed the entry of judgment^[4] of the case, and upon respondent's motion, issued a writ of execution^[5] on 3 August 1999.

Meanwhile, on 12 July 1999, or prior to the issuance of a writ of execution, petitioners filed with the Court of Appeals a petition for *certiorari* assailing the aforementioned NLRC Resolutions. In its Resolution^[6] of 11 August 1999 the Court of Appeals required the NLRC and respondent Galan to comment on the petition. However, on 11 November 1999 it issued the challenged resolution,^[7] which reads as follows:

We made a second look at the records. It is obvious to Us that the Petition for Certiorari was filed beyond the 60-day reglementary period, and is hereby DISMISSED. Consider these:

- 1) The December 17, 1998 contested Resolution was received on December 29, 1998. On January 8, 1999, the Motion for Reconsideration was filed, meaning, after a period of ten (10) days.
- 2) The Order dated April 29, 1999, denying the Motion for Reconsideration was received on May 13, 1999. Herein petition, in turn, was received by the Court already on July 12, 1999.
- 3) From May 13, 1999, up to and until July 12, 1999, computation wise, is already a period of 60 days. Adding ten (10) days would mean a total of seventy (70) days.

Aside from that, the Verification that was executed by Ma. Cleofe R. Legaspi, supposedly an Employment Specialist of Pfizer, Inc., was not properly executed. While she alleges being one of the petitioners (Rollo, p. 41) actually she is not. As a matter of fact, the parties (Ibid., p. 4), as petitioners, were only Pfizer, Inc., Ma. Angeles Lleander, and Sandra Webb. Miss Cleofe Legaspi certainly cannot be treated as one of the petitioners.

Petitioners moved to reconsider the Resolution. However, in its Resolution^[8] of 25 May 2000, the Court of Appeals denied the motion for reconsideration.

Petitioners then filed the herein petition invoking Rule 1, Section 6, of the 1997 Rules of Civil Procedure, which provides for the liberal construction of procedural rules. They also cite cases where we allowed the suspension of procedural rules to adhere to substantial justice. They claim that Section 4, Rule 65 of the 1997 Rules of Civil Procedure originally provided:

SEC. 4. *Where and when petition to be filed.* - The petition may be filed not later than sixty (60) days from notice of the judgment, order or resolution sought to be assailed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its jurisdiction, or in the Sandiganbayan if it is in aid of its jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, and unless otherwise provided by law or these Rules, the petition shall be filed in and cognizable only by the Court of Appeals.

In the Court's *En Banc* Resolution of 21 July 1998 in Bar Matter No. 803, the section was amended by adding the following paragraph:

If the petitioner had filed a motion for new trial or reconsideration in due time after notice of said judgment, order or resolution the period herein fixed shall be interrupted. If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days in any event, reckoned from notice of such denial. No extension of time to file the petition shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

The amendment took effect on 1 September 1998. It was published in the 26 July 1998 issues of the *Manila Bulletin*, *Philippine Daily Inquirer* and *Philippine Star*.

Petitioners assert that the publication of the amendment was not accorded wide dissemination unlike previous amendments of the rules on procedure, such as the 1997 Rules of Civil Procedure. When their petition for *certiorari* was filed before the Court of Appeals, their counsel relied on the original provision of Section 4, Rule 65 of the 1997 Rules of Civil Procedure. Such an honest mistake is excusable and should not prejudice the merit of their case.

Petitioners also call our attention to the implementation of Section 11, Rule 13 of the 1997 Rules of Civil Procedure, which allows a party to explain the failure to effect a personal filing of a pleading in court or personal service thereof to an adverse party. The said Rules took effect on 1 July 1997, but because of the failure of many parties and counsel to comply with it due to ignorance, we declared in *Solar Team Entertainment, Inc. v. Ricafort*^[9] that strict compliance with the said provision should be required after one month from the promulgation of our decision, or two years from the time the Rules actually took effect. Petitioners then urge us to accord their case with the consideration we conceded in *Solar Team*.

In his comment respondent Galan seeks the dismissal of the petition. He maintains that the Court of Appeals was correct in dismissing the petition for *certiorari* for having been filed out of time in light of the amendment of Section 4, Rule 65 of the Rules of Court. The ignorance of petitioners' counsel should not be used to prevent the execution of the judgment of the NLRC. While respondent agrees that procedural rules should be liberally construed, he, nonetheless, contends that