**SUPREME COURT**
**THIRD DIVISION**

**MANILA PEARL CORPORATION,**
***Petitioner*,**

***-versus-***

**G.R. No. 142960**
**April 15, 2005**

**MANILA PEARL INDEPENDENT WORKERS UNION,**
***Respondent*.**
**x----------x**

**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[1] and April 10, 2000[2] 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

> SEC. 15. Decision of the Secretary final and executory. – The Secretary shall have fifteen (15) calendar days within which to decide the appeal from receipt of the records of the case. The filing of the appeal from the decision of the Med-Arbiter stays the holding of any certification election. The decision of the Secretary shall be final and executory.
>
> Upon the finality of the decision of the Secretary affirming the decision to conduct a certification election, the entire records of the case shall be remanded to the office of origin for implementation of the decision. The implementation shall not be stayed unless restrained by appropriate court."

In National Federation of Labor vs. Laguesma,[3] we ruled that "the remedy of an aggrieved party in a Decision or Resolution of the Secretary of the DOLE is to timely file a motion for reconsideration as a precondition for any further or subsequent remedy, and then seasonably file a special civil action for certiorari under Rule 65 of the 1997 Rules of Civil Procedure."

In the instant petition, it may be recalled that upon receipt of the June 23, 1999 Resolution of the Office of the DOLE Secretary dismissing its appeal, petitioner, on September 10, 1999, filed a petition for certiorari with the Court of Appeals. Clearly, petitioner's failure to file its motion for reconsideration seasonably is fatal to its cause and has, in effect, rendered final and executory the June 23, 1999 Resolution of the Secretary of the DOLE.

Even assuming that the petition for certiorari is in order, still the Appellate Court did not err in dismissing it for being late.

In Manila Midtown Hotels & Land Corp. vs. NLRC,[4] we held that "certiorari, being an extraordinary remedy, the party who seeks to avail of the same must strictly observe the rules laid down by law." Considering that the assailed Resolution of the DOLE Secretary has become final and executory,[5] hence, the merits of the case can no longer be reviewed to determine if he could be faulted for grave abuse of discretion.[6]

**WHEREFORE**, the petition is **DENIED**. The assailed Resolutions dated February 15, 2000 and April 10, 2000 of the Court of Appeals in CA-G.R. SP No. 54854 are **AFFIRMED IN TOTO**.

Costs against petitioner.

**SO ORDERED**.

**Panganiban, *J.*, *(Chairman)*, Corona, Carpio-Morales, and Garcia, *JJ.*, concur.**

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[1] Annex "H" of the Petition for Review, Rollo at 82-84.
[2] Annex "A", id. at 26-27.
[3] See G.R. No. 123426, March 10, 1999, 304 SCRA 405 (1999), cited in University of Immaculate Concepcion and Sister Maria Jacinta De Belen, RVM vs. Secretary of Labor, G.R. No. 143557, June 25, 2004 at 7-8; and SMC Quarry 2 Workers Union – February Six Movement Local Chapter No. 1564 vs. Titan Megabags Industrial Corporation, G.R. No. 150761, May 19, 2004, 428 SCRA 524, 527.
[4] G.R. No. 118397, March 27, 1998, 288 SCRA 259, 265, cited in SC Resolution in Kowloon House/Willy Ng vs. Hon. Court of Appeals, G.R. No. 140024, June 18, 2003 at 6.
[5] See Maria Glenn M. Alviado et al. vs. MJG General Merchandize et al., G.R. No. 129702, September 8, 2003 at 5, cited in SMC Quarry 2 Workers Union – February Six Movement Local Chapter No. 1564 vs. Titan Megabags Industrial Corporation, supra.
[6] See Lagera vs. NLRC, G.R. No. 123636, March 31, 2000, 329 SCRA 436, 440, cited in SMC Quarry 2 Workers Union – February Six Movement Local Chapter No. 1564 vs. Titan Megabags Industrial Corporation, supra.