

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**MATAGUMPAY MARITIME CO., INC.,
NOIMI L. ZABALA and CAPT.
CRISANTO QUINTANA,**
Petitioners,

-versus-

**G.R. No. 144638
August 9, 2005**

BENEDICT C. DELA CRUZ,
Respondent.

X-----X

DECISION

SANDOVAL-GUTIERREZ, J.:

For resolution is the Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Resolutions dated July 18, 2000^[1] and August 30, 2000^[2] rendered by the Court of Appeals in CA-G.R. SP No. 59607, entitled “Matagumpay Maritime Co., Inc., Noimi L. Zabala and Capt. Crisanto Quintana vs. National Labor Relations Commission and Benedict C. Dela Cruz.”

The facts as borne by the records are:

Matagumpay Maritime Co., Inc., petitioner, is a manning agency for Yeh Shipping Co., Ltd., a corporation engaged in the operation of shipping vessels, including M/V Kirillis Barbara.

On May 10, 1993, Benedict C. Dela Cruz, respondent, was employed by petitioner as a seaman in M/V Kirillis Barbara with a monthly salary of US \$440.00. His employment covered a period of one (1) year or from May 10, 1993 to May 10, 1994.

Barely two (2) months thereafter or on July 15, 1993, he was diagnosed with arthritis and thereafter repatriated to the Philippines for medical treatment at the Seaman's Hospital. Later, he suffered severe chest pains, prompting his confinement at the Manila Medical Center where he was diagnosed with rheumatic heart disease.

Subsequently or on October 15, 1993, his attending physician issued a medical certificate declaring him "fit to work." He immediately reported for work but was advised by petitioner to show up periodically. Meanwhile, he attended a one-week radar observation course.

Sometime in January, 1994, he visited a co-employee at petitioner's M/V Cedar Forest. There, he saw Noimi Zabala, also impleaded as petitioner, who told him that petitioner company refused to re-employ him because of his ailment.

Eventually, his attending physician issued another medical certificate dated June 14, 1994 confirming his sickness as "work-oriented arthritis, acute ® knee and rheumatic heart disease." This prompted respondent to file with the Overseas Workers Welfare Administration (OWWA) an application for permanent disability benefits, which he later withdrew.

On October 24, 1997, respondent filed with the Labor Arbiter a complaint for illegal dismissal and non-payment of wages and disability benefits against petitioner and its officers, docketed as NCR OFW Case No. 97-10-4347.

In due course, the Labor Arbiter rendered a Decision dated July 7, 1999 dismissing the complaint but awarding respondent US \$440.00 as financial assistance.

Upon appeal, the National Labor Relations Commission (NLRC) issued a Resolution dated November 17, 1999 affirming with modification the Arbiter's assailed Decision in the sense that respondent was also granted disability benefits in the sum of US \$10,075.00, thus:

“WHEREFORE, premises considered, the Decision of the Arbiter dated 7 January 1999 is hereby AFFIRMED except with modifications. That in addition, respondents are jointly and severally adjudged to pay complainant disability benefits the peso equivalent of \$10,075.00, at the exchange rate prevailing during the time of payment, with legal interest of 6% p.a. from January, 1994 until finality of this Resolution and 12% p.a. from the date said Resolution becomes final and executory until actual payment.

No pronouncement as to costs.

SO ORDERED.”

Petitioners then filed a motion for reconsideration but was denied by the NLRC in a Resolution dated April 24, 2000.

Consequently, on July 10, 2000, petitioners filed with the Court of Appeals a petition for certiorari with prayer for issuance of a temporary restraining order and/or preliminary injunction.

In a Resolution dated July 18, 2000, the Court of Appeals dismissed the petition for being late, holding that:

“The petition for certiorari states that petitioners received the Resolution dated November 17, 1999 of the respondent NLRC on December 7, 1999. Petitioners filed a Motion for Reconsideration to said Resolution on December 17, 1999. Thus, ten (10) days already lapsed from their original period of sixty (60) days pursuant to Sec. 4, Rule 65 of the Rules of Civil

Procedure, as amended. The NLRC denied petitioners' Motion for Reconsideration in its April 20, 2000 Resolution which the latter received on May 11, 2000. From May 11, 2000, petitioners had only fifty (50) days left within which to file a petition for certiorari. They filed the petition only on July 10, 2000. From May 11 to July 10, 2000 was a period of sixty (60) days. Consequently, the petition was filed late by ten (10) days.

WHEREFORE, the petition being time-barred, the Court DISMISSES it.

SO ORDERED.”

Petitioners filed a motion for reconsideration, however, the same was denied by the Appellate Court in its Resolution dated August 30, 2000.

In the instant petition, petitioners contend that the Court of Appeals erred in dismissing the petition for certiorari for being late.

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

Section 4, Rule 65 of the 1997 Rules of Civil Procedure, as amended, provides:

“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 appellate 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.

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.”

It may be recalled that upon receipt (on December 7, 1999) of the November 17, 1999 Resolution of the NLRC, petitioners, on December 17, 1999, filed a motion for reconsideration. Under the above rule, upon the denial of the motion for reconsideration, petitioners may within the remaining period (in this case, a period of 50 days) file with the Court of Appeals a petition for certiorari. But it was only on July 10, 1999 or 60 days thereafter that petitioners filed such petition. Thus, petitioners incurred a delay of ten (10) days.

In *Manila Midtown Hotel & Land Corp. vs. NLRC*,^[3] we held that “certiorari, being an extraordinary remedy, the party who seeks to avail of the same must strictly observe the rule laid down by law.”

The assailed Resolutions of the NLRC having become final and executory, they could no longer be reviewed by the Court of Appeals to determine if they are tainted with grave abuse of discretion.^[4] We thus hold that the Appellate Court did not err in dismissing the petition before it for being late.

WHEREFORE, the instant petition is **DENIED**. The challenged Resolutions dated July 18, 2000 and August 30, 2000 of the Court of Appeals in CA-G.R. SP No. 59607 are **AFFIRMED**. Costs against petitioners.

SO ORDERED.

**PANGANIBAN, J., (Chairman), *Corona, Carpio Morales,
and GARCIA, JJ., concur.**

* On leave.

[1] Penned by Justice Hilarion L. Aquino, retired, and concurred in by Justice Andres B. Reyes, Jr. and Justice Mercedes Gozo-Dadole. Annex “B”, Petition for Review, Rollo at 37-39.

[2] Annex “A”, *ibid*, Rollo at 34-36.

[3] G.R. No. 118397, March 27, 1998, 288 SCRA 259, 265, cited in *Kowloon House/Willy Ng vs. Hon. Court of Appeals*, G.R. No. 140024, June 18, 2003 at 6.

[4] See *Lagera vs. NLRC*, G.R. No. 123636, March 31, 2000, 329 SCRA 436, 440, cited in *Manila Pearl Corporation vs. Manila Pearl Independent Workers Union*, G.R. No. 142960, April 15, 2005 at 6.