

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**MEDINA INVESTIGATION & SECURITY
CORPORATION and ERNESTO Z.
MEDINA,**

Petitioners,

-versus-

**G.R. No. 144074
March 20, 2001**

**COURT OF APPEALS, NATIONAL
LABOR RELATIONS COMMISSION and
ROMEO TABURNAL,**

Respondents.

X-----X

RESOLUTION

GONZAGA-REYES, J.:

Before this Court is a Petition for Review seeking to set aside the Resolution dated June 2, 2000 dismissing the petition for being filed beyond the 60-day reglementary period and the Resolution dated July 12, 2000 denying the motion for reconsideration, both issued by the Court of Appeals in CA-G.R. SP No. 58968.

Respondent Romeo Taburnal was hired by petitioner corporation as security guard on September 8, 1996 and was assigned to one of its clients, Abenson, Inc. at Sta. Lucia Grand Mall. On September 5,

1997, the client requested that respondent Taburnal be relieved due to violations pursuant to the Service Contract such as reporting late for duty, below standard performance of duties, and exceeding the maximum six (6) months duty in the company. In view of his replacement, respondent Taburnal filed a complaint for Illegal Dismissal claiming for separation pay, non-payment of legal/special holiday and overtime pay, underpayment of 13th month pay and cash bond and tax refund. On April 29, 1999, the Labor Arbiter rendered judgment ordering the reinstatement of respondent Taburnal without loss of seniority rights and the payment of full backwages and salary differentials. Petitioners appealed to the NLRC which dismissed the same for lack of jurisdiction. The Motion for Reconsideration thereto was denied. Herein petitioners filed a petition for certiorari with the Court of Appeals which dismissed the petition outright for having been filed beyond the 60-day reglementary period or on the 67th day per its Resolution on June 2, 2000. The Court of Appeals ruled that the petition was filed on the sixty-seventh (67th) day since petitioners received on November 10, 1999 the Order dated August 26, 1999 of the NLRC and the Motion for Reconsideration thereto was filed of November 19, 1999. Copy of the order denying the said motion was received by petitioners on April 3, 2000, while the petition was filed with the Court of Appeals on May 31, 2000. The Court of Appeals did not discuss the merits of the petition. Hence, the petition raising the following grounds:

“THE COURT OF APPEALS ERRED WHEN IT RULED THAT THE PETITION FOR CERTIORARI WAS FILED BEYOND THE REGLEMENTARY PERIOD.

“PUBLIC APPELLEES COMMITTED A REVERSIBLE ERROR WHEN THEY DISMISSED THE PETITION, THEREBY AFFIRMING THE DECISION OF LABOR ARBITER FELIPE P. PATI WHICH AWARDED MONETARY CLAIMS AND OTHER RELIEF NOT PRAYED FOR IN THE COMPLAINT, IN GRAVE ABUSE OF THEIR DISCRETION, AMOUNTING TO LACK OR EXCESS OF JURISDICTION.

“PUBLIC APPELLEES GROSSLY ERRED AND GRAVELY ABUSED THEIR DISCRETION, WHEN THEY HELD APPELLANT ERNESTO Z. MEDINA JOINTLY AND

SEVERALLY LIABLE WITH APPELLANT MISCOR, INSPITE OF THE FACT THAT THERE IS NO EVIDENCE TO THAT EFFECT.”

Petitioners’ main contention is that their petition for certiorari filed with the Court of Appeals was within the 60-day reglementary period pursuant to Rule 65. They insist that when the assailed Order was received on April 3, 2000, the petition filed on May 31, 2000 was the 58th day, citing Section 1, Rule 22 of the 1997 Rules on Civil Procedure and Article 13 of the Civil Code.

In his Comment, private respondent Romeo Taburnal alleges that he is aware that Section 4, Rule 65 of the 1997 Rules on Civil Procedure was later amended, which amendment took effect on September 1, 2000. He insists however that the petition filed with the Court of Appeals was not yet covered by said amendment. Private respondent further avers that Article 223 of the Labor Code and the NLRC Rules of Procedure provide that appeal is the proper remedy for a party aggrieved by a decision of the Labor Arbiter and the filing of a petition for certiorari with the NLRC by petitioners is definitely a wrong remedy.

A.M. No. 00-2-03-SC amending Section 4, Rule 65 of the 1997 Rules of Civil Procedure (as amended by the Resolution of July 21, 1998) took effect on September 1, 2000 and provides, to wit:

“SECTION 4. When and where petition filed. — The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.

The petition shall be filed 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 appellate jurisdiction. If it

involves the acts or omissions of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed in and cognizable only by the Court of Appeals.

No extension of time to file the petition shall be granted except for compelling reason and in no case exceeding fifteen (15) days.”

Contrary to the position of respondents that such amendment should not apply in this case, we have ruled in the cases of Systems Factors Corporation and Modesto Dean vs. NLRC, et al., G.R. No. 143789 (promulgated on November 27, 2000) and Unity Fishing Development Corp. and/or Antonio Dee vs. CA, et al., G.R. No. 145415 (promulgated on February 2, 2001) that the amendment under A.M. No. 00-2-03-SC wherein the sixty-day period to file a petition for certiorari is reckoned from receipt of the resolution denying the motion for reconsideration should be deemed applicable. We reiterate that remedial statutes or statutes relating to remedies or modes of procedure, which do not create new or take away vested rights, but only operate in furtherance of the remedy or confirmation of rights already existing, do not come within the legal conception of a retroactive law, or the general rule against retroactive operation of statutes.^[1] Statutes regulating the procedure of the courts will be construed as applicable to actions pending and undetermined at the time of their passage. Procedural laws are retroactive in that sense and to that extent. The retroactive application of procedural laws is not violative of any right of a person who may feel that he is adversely affected.^[2] The reason is that as a general rule, no vested right may attach to nor arise from procedural laws.^[3]

The above conclusion is consonant with the provision in Section 6, Rule 1 of the 1997 Rules of Civil Procedure that “These Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding.”

The other issues raised by petitioners should be addressed and resolved by the court below.

WHEREFORE, the Resolutions dated June 2, 2000 and July 12, 2000 are hereby **SET ASIDE** and the case is **REMANDED** to the Court of Appeals for further proceedings.

SO ORDERED.

Melo, J., (Chairman), Vitug, Panganiban and Sandoval-Gutierrez, JJ., concur.

[1] Castro vs. Sagales, 94 Phil. 208.

[2] Gregorio vs. Court of Appeals, 26 SCRA 229; Tinio vs. Mina, 26 SCRA 512.

[3] Billones vs. CIR, 14 SCRA 674.

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