

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**METRO TRANSIT ORGANIZATION,
INC. and JOVENCIO P. BANTANG, JR.**
Petitioners,

-versus-

**G.R. No. 142133
November 19, 2002**

**THE COURT OF APPEALS, NATIONAL
LABOR RELATIONS COMMISSION
(First Division) and RUPERTO
EVANGELISTA, JR.,**
Respondents.

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DECISION

CARPIO, J.:

The Case

This is a Petition for Review under Rule 45 to reverse the Decision dated 30 April 1999 and the Resolution dated 16 February 2002 of the Court of Appeals^[1] in CA-G.R. SP No. 50122.

The Facts

Petitioner Metro Transit Organization, Inc. (“MTO” for brevity) is a government-owned and controlled corporation operating a light rail transit (“LRT” for brevity), while petitioner Jovencio Bantang, Jr. (“Bantang” for brevity) is an officer of MTO. Respondent Ruperto Evangelista (“Evangelista” for brevity) worked as a cash assistant in the Treasury Division of MTO.

On December 29, 1989, after completion of an inventory count of tokens, petitioners discovered that 2,000 pieces of tokens were missing. Petitioners conducted an investigation which resulted in implicating Evangelista as one of the alleged perpetrators responsible for the loss of the tokens. The evidence presented against Evangelista included three handwritten letters by three persons, namely: George Kasunuran, a vault keeper of MTO; Renato Mendoza, a treasury personnel of MTO; and Edgardo de Leon, owner of a token outlet.

Based on the handwritten letters, petitioners terminated Evangelista’s employment on April 3, 1990 for lack of trust and confidence. Petitioners also filed a criminal case for qualified theft against Evangelista before the prosecutor’s office but the investigating prosecutor dismissed the case.

Subsequently, Evangelista filed a case for illegal dismissal against petitioners. On September 5, 1991, Labor Arbiter Oswald B. Lorenzo rendered a decision declaring that petitioners illegally dismissed Evangelista. The Labor Arbiter ordered petitioners to reinstate Evangelista to his former position, with payment of full back wages. The dispositive portion of the Labor Arbiter’s decision reads:

“WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. Declaring the dismissal of complainant Ruperto Evangelista, Jr. as having been effected illegally by respondent Metro Transit Organization, Inc. and Jovencio P. Bantang, Jr.;

2. Ordering respondents to immediately reinstate complainant to his former position without loss of seniority rights and other monetary benefits with full back wages in the amount of FORTY SIX THOUSAND FIVE HUNDRED EIGHTY PESOS AND FIFTY SIX CENTAVOS (P46,580.56);
3. Respondent is further ordered to pay the thirteenth month due the complainant in the amount of THREE THOUSAND EIGHT HUNDRED EIGHTY AND ONE PESOS (P3,881.00);
4. Respondent is further ordered to pay the award of moral damages to complainant in the amount of TWENTY FIVE THOUSAND (P25,000.00) PESOS and exemplary damages in the amount of TWENTY FIVE THOUSAND (P25,000.00); and
5. Finally, respondent is ordered to pay for and as attorney's fees the amount of TEN THOUSAND FORTY SIX PESOS AND TWENTY TWO CENTAVOS (P10,046.22) which is equivalent to ten (10%) percent of the total award due the complainant herein.”

Petitioners appealed the Labor Arbiter's decision to the National Labor Relations Commission (“NLRC” for brevity). The NLRC rendered a judgment on March 7, 1996 affirming the Labor Arbiter's decision but deleting the award of moral and exemplary damages. Petitioners did not file any motion for reconsideration. Instead, petitioners directly filed with the Court of Appeals a petition for certiorari under Rule 65.

Ruling of the Court of Appeals

On April 30, 1999, the Court of Appeals rendered a decision dismissing the petition for certiorari filed by petitioners. The Court of Appeals ruled that the special civil action of certiorari will lie only if there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law. The Court of Appeals held that the plain

and adequate remedy is a motion for reconsideration of the assailed NLRC decision, which motion is mandatory.

On the merits of the case, the Court of Appeals ruled that petitioners failed to adduce substantial evidence to prove Evangelista's culpability for the loss of the 2,000 pieces of tokens. Petitioners presented only the handwritten letters implicating Evangelista. The Court of Appeals doubted the veracity of the handwritten letters because the letters were not sufficiently identified. The affidavit allegedly executed by petitioners' principal witness, Renato Mendoza ("Mendoza" for brevity), who identified Evangelista as the culprit, was not sworn to before any administering officer.

The Court of Appeals also found that petitioner Bantang prepared Mendoza's unsworn affidavit, and that Mendoza signed it under a threat of dismissal if he failed to cooperate with petitioners. Mendoza later renounced under oath before the investigating prosecutor his unsworn affidavit which pointed to Evangelista as the culprit. Moreover, the Court of Appeals held that petitioners failed to allow Evangelista to explain his side during the investigation. Neither, did petitioners give Evangelista an opportunity to contest the veracity of the handwritten letters presented against him.

The Court of Appeals denied petitioners' Motion for Reconsideration. Hence, the present petition.

Evangelista did not file any comment to the instant petition despite notices sent to him or his counsel at the address on record and despite earnest efforts by petitioners to locate his new address and that of his counsel. Hence, in a Resolution dated July 3, 2002, the Court considered the case submitted for resolution.

Issues

Petitioners raise the following assignment of errors:

"I

**THE COURT OF APPEALS ERRED IN HOLDING THAT
THE PETITION FOR CERTIORARI UNDER RULE 65 OF**

THE RULES OF COURT IS NOT THE PLAIN, SPEEDY AND ADEQUATE REMEDY AVAILABLE TO PETITIONERS;

II

HE COURT OF APPEALS ERRED IN HOLDING THAT A MOTION FOR RECONSIDERATION OF THE RESOLUTION OF THE NATIONAL LABOR RELATIONS COMMISSION IS NECESSARY BEFORE RESORTING TO A PETITION FOR CERTIORARI;

III

THE COURT OF APPEALS ERRED IN HOLDING THAT PETITIONERS ILLEGALLY DISMISSED PRIVATE RESPONDENT.”

The Court’s Ruling

We shall jointly discuss the first two issues raised by petitioners since these are interrelated.

Petitioners contend that a motion for reconsideration is not necessary before resort to the special civil action of certiorari under Rule 65. Petitioners contend that they availed of certiorari under Rule 65 with a prayer for a writ of preliminary injunction to set aside the NLRC decision because certiorari is the plain, speedy, adequate and only remedy available to petitioners. Petitioners argue that without the extraordinary relief of injunction, the NLRC can immediately execute the questioned decision rendering the issues raised in the petition moot and academic. Moreover, petitioners assert that a motion for reconsideration of the NLRC decision is no longer necessary because the questions that will be raised in the motion for reconsideration are the very same questions which the NLRC already considered.

We are not persuaded.

The general rule is that a motion for reconsideration is indispensable before resort to the special civil action for certiorari to afford the

court or tribunal the opportunity to correct its error, if any. The rule is well-settled that the filing of a motion for reconsideration is an indispensable condition to the filing of a special civil action for certiorari, subject to certain exceptions. Thus, in *Abraham vs. NLRC*,^[2] the Court ruled:

“Generally, certiorari as a special civil action will not lie unless a motion for reconsideration is filed before the respondent tribunal to allow it an opportunity to correct its imputed errors. However, the following have been recognized as exceptions to the rule:

- (a) where the order is a patent of nullity, as where the court a quo has no jurisdiction;
- (b) where the questions raised in the certiorari proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court;
- (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable;
- (d) where, under the circumstances, a motion for reconsideration would be useless;
- (e) where petitioner was deprived of due process and there is extreme urgency for relief;
- (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable;
- (g) where the proceedings in the lower court are a nullity for lack of due process;
- (h) where the proceedings was ex parte or in which the petitioner had no opportunity to object; and

- (i) where the issue raised is one purely of law or where public interest is involved.” (Emphasis supplied)

In *Seagull Shipmanagement and Transport, Inc. vs. NLRC*,^[3] we ruled:

“The law intends to afford the tribunal, board or office, an opportunity to rectify the errors and mistakes it may have lapsed into before resort to the courts of justice can be had. However, in the case at bar, petitioners had not only failed to explain its failure to file a motion for reconsideration before the NLRC, it has also failed to show sufficient justification for dispensing with the requirement. Certiorari cannot be resorted to as a shield from the adverse consequences of petitioners’ own omission to file the required motion for reconsideration.”

An examination of the records reveals that petitioners did not file a motion for reconsideration of the NLRC decision. As petitioners alleged in their petition before the Court of Appeals, a motion for reconsideration is not necessary as the questions raised before the court are the very same issues which the NLRC already considered.^[4] Except for this bare allegation, petitioners failed to show sufficient justification for dispensing with the requirement of a prior motion for reconsideration. Petitioners failed to state any justification that their case falls within any of the exceptions.

Certiorari is not a shield from the adverse consequences of an omission to file the required motion for reconsideration. As correctly pointed out by the Court of Appeals in its Decision,^[5] petitioners may not arrogate to themselves the determination of whether a motion for reconsideration is necessary or not. In *Zapata vs. NLRC*,^[6] this Court held:

“Petitioner cannot, on its bare and self-serving representation that reconsideration is unnecessary, unilaterally disregard what the law requires and deny respondent NLRC its right to review its pronouncements before being hailed to court to account therefor. On policy considerations, such prerequisite would

provide an expeditious termination to labor disputes and assist in the decongestion of court dockets by obviating improvident and unnecessary recourse to judicial proceedings. The present case exemplifies the very contingency sought to be, and which could have been, avoided by the observance of said rules.”

The plain and adequate remedy referred to in Section 1 of Rule 65 is a motion for reconsideration of the assailed decision. The purpose of this requirement is to enable the court or agency to rectify its mistakes without the intervention of a higher court. To dispense with this requirement, there must be a concrete, compelling, and valid reason for the failure to comply with the requirement.

Petitioners argue that the findings of the Court of Appeals have no basis in fact and are contrary to law. Petitioners contend that the retraction of Mendoza is not sufficient to overturn the other evidence which independently establish the guilt of Evangelista. Petitioners assert that the Court of Appeals relied merely on the recantation of Mendoza. Petitioners maintain that the Court of Appeals disregarded the positive identification of Evangelista by another witness, De Leon, the owner of the token outlet. Petitioners claim that other than his bare denial, Evangelista failed to present any other evidence to substantiate his self-serving denial.

Finally, petitioners lament that despite the overwhelming evidence pointing to the guilt of Evangelista, the Court of Appeals still chose to ignore the plain and concrete evidence warranting the termination of Evangelista’s employment. Petitioners aver that the dismissal by the prosecutor of the criminal case against respondent does not ipso facto make Evangelista’s dismissal illegal. Petitioners insist that the dismissal by the prosecutor of a criminal complaint against an employee for qualified theft does not bind the labor tribunal in determining whether the employee has committed an act of dishonesty for stealing company property.

We cannot agree with petitioners.

It is true that the criminal case for qualified theft against Evangelista and the complaint for illegal dismissal against petitioners deal with two different issues cognizable by two

different tribunals. Indeed, these two cases respectively require distinct and well delineated degrees of proof. Proof beyond reasonable doubt is required to sustain a criminal conviction, while only substantial evidence is required to make a finding of culpability in a labor case. A labor arbiter or tribunal may legally sustain an employee's dismissal for dishonesty in stealing company property even if the employee has not been convicted of qualified theft in a criminal case arising from the same act.^[7] Even if the employee is acquitted in the criminal case, he may still be legally dismissed for the same act, unless the acquittal exonerates him from any wrongdoing.^[8]

The instant case, however, is a petition for review where only questions of law may be raised.^[9] What petitioners are attempting to do here is to urge the Court to re-examine the probative value or evidentiary weight of the evidence presented below. The Court cannot do this unless the appreciation of the pieces of evidence on hand is glaringly erroneous. This is where petitioners fail.

The Court of Appeals affirmed the findings of both the NLRC and the Labor Arbiter that petitioners failed to present substantial evidence to establish that Evangelista stole the 2,000 pieces of tokens. The findings of the Labor Arbiter, when affirmed by the NLRC and the Court of Appeals, are binding on this Court unless patently erroneous. In the instant case, we find no patent errors.

It is not the function of this Court to analyze or weigh all over again the evidence already considered in the proceedings below. The jurisdiction of this Court is limited only to reviewing errors of law that may have been committed by the lower courts.^[10] Likewise, it is not for this Court to re-examine conflicting evidence, re-evaluate the credibility of witnesses, or substitute the findings of fact of an administrative tribunal which has expertise in its special field.^[11]

WHEREFORE, finding no reversible error in the decision appealed from, the petition for review is **DENIED**.

SO ORDERED.

**Davide, Jr., C.J., Vitug, Ynares-Santiago and Azcuna, JJ.,
concur.**

- [1] Eleventh Division composed of Justices Oswaldo D. Agcaoili (ponente),
Corona Ibay-Somera and Eloy R. Bello, Jr.
- [2] 353 SCRA 739 (2001).
- [3] 333 SCRA 236 (2000).
- [4] Record of CA-G.R. SP No. 50122, p. 6, Petition, p. 4.
- [5] Rollo, p. 49.
- [6] 175 SCRA 56 (1989).
- [7] Nicolas vs. NLRC, 258 SCRA 250 (1996).
- [8] Vergara vs. NLRC, 282 SCRA 486 (1997); MGG Marine Services vs. NLRC,
259 SCRA 664 (1996).
- [9] Section 1, Rule 45 states as follows: “A party desiring to appeal by certiorari
from a judgment or final order or resolution of the Court of Appeals, the
Sandiganbayan, the Regional Trial Court or other courts whenever authorized