

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**PFIZER INC., MA. ANGELICA B.
LLEANDER and SANDRA WEBB,
*Petitioners,***

-versus-

**G.R. No. 143389
May 25, 2001**

**EDWIN V. GALAN,
*Respondent.***

X-----X

DECISION

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:

SECTION 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. vs. 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 provisions on reglementary periods should be strictly applied since they are indispensable in preventing needless delays and are necessary to ensure orderly and speedy discharge of judicial business. He also cites jurisprudence where we declared strict compliance with those provisions, especially those involving the manner and period for perfecting appeals. Respondent further notes that petitioners conveniently ignored the Court of Appeals' observation that the verification of its petition was fatally defective.

In their reply to the respondents' comment, petitioners underscore that in the entire proceedings from the Labor Arbiter up to the NLRC, they had seasonably filed their pleadings. Moreover, if the original provision of Section 4, Rule 65 of the 1997 Rules of Civil Procedure would be observed, they could be deemed to have complied with the mandated period for the filing of a petition for certiorari. They reaffirm our pronouncements that in labor cases the rules on technicality must yield to the broader interest of substantial justice, especially in this case where there is an unwarranted monetary award to respondent. They also fault the NLRC in failing to appreciate the overwhelming evidence in their favor.

Finally, petitioners cite the Court's En Banc Resolution in Administrative Matter No. 00-2-03-SC, which took effect on 1 September 2000. The resolution amends Section 4 of Rule 65 of the 1997 Rules of Civil Procedure, and as amended it reads:

SECTION 4. When and where petition filed. — The petition shall be filed not later than sixty (60) days from notice of 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. (*Emphasis supplied*)

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 territory 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 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.

We gave due course to the petition, and the parties submitted their respective Memoranda as required.

In *Systems Factors Corporation vs. NLRC*^[10] we declared that the amendment introduced under A.M. No. 00-2-03-SC is procedural or remedial in character, as it does not create new or remove vested rights, but only operates in furtherance of the remedy or confirmation of rights already existing. It is settled that procedural laws may be given retroactive effect to actions pending and undetermined at the time of their passage, there being no vested rights in the rules of procedure. Thus, the said amendment may be given a retroactive effect. We reiterated this ruling in *Unity Fishing Development Corporation vs. Court of Appeals*.^[11]

Thus, by virtue of the retroactive effect of the amendment of Section 4, Rule 65 of the 1997 Rules of Civil Procedure introduced by our Resolution in A.M. No. 00-2-03-SC, which allows the filing of a petition for certiorari within sixty days from notice of the denial of a motion for reconsideration, the filing of petitioners' petition before the Court of Appeals was on time. Indeed, there is no dispute that their petition was filed on the sixtieth day from notice of the denial of their motion for reconsideration.

The Court of Appeals dismissed the petition also on the ground that the Verification in the petition was not properly executed; thus:

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.

A petition for review filed pursuant to Rule 65 of the 1997 Rules of Civil Procedure must be verified.^[12] Section 4, Rule 7 of said Rules, which provides for verification, pertinently reads as follows:

A pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his knowledge and belief.

Verification is intended to assure that the allegations in the pleading have been prepared in good faith or are true and correct, not mere speculations.^[13] Generally, lack of verification is merely a formal defect that is neither jurisdictional nor fatal. The court may order the correction of the pleading or act on the unverified pleading if the attending circumstances are such that strict compliance with the rule may be dispensed with in order to serve the ends of justice.^[14]

We firmly believe that the purpose of verification was served in the instant case wherein the verification of the petition filed with the Court of Appeals was done by Ms. Cleofe R. Legaspi. It remains undisputed that Ms. Legaspi was an Employment Specialist of petitioner Pfizer, Inc., who “coordinated and actually took part in the investigation” of the administrative charges against respondent Galan. As such, she was in a position to verify the truthfulness and correctness of the allegations in the petition. Besides, as pointed out by petitioners, Pfizer, being a corporate entity, can only act through an officer. Ms. Legaspi, who was an officer having personal knowledge of the case, was, therefore, merely acting for and in behalf of petitioner Pfizer when she signed the verification. Thus, the disputed verification is in compliance with the Rules.

It may not be amiss to state that, contrary to the finding of the Court of Appeals, Ms. Legaspi never represented herself as one of the petitioners in the petition before the Court of Appeals. Her declaration in number 1 of the verification reads:

I am an Employment Specialist of Pfizer, Inc., one of the petitioners in the instant case.

If we take this statement together with that in number 4, which reads: “Our company has not commenced any action or proceeding involving the same issues in the Supreme Court,” it is clear that the phrase “one of the petitioners” refers to Pfizer, Inc., and not to Ms. Legaspi. Hence, the finding of misrepresentation on Legaspi’s part is without basis.

WHEREFORE, the Resolutions of 11 November 1999 and 25 May 2000 of the Court of Appeals in CA-G.R. SP No. 53671 are hereby SET ASIDE, and the case is **REMANDED** to the Court of Appeals for further proceedings.

No pronouncement as to costs.

SO ORDERED.

**Puno, Pardo and Ynares-Santiago, JJ., concur.
Kapunan, J., is on leave.**

[1] Rollo, 139-154.

[2] Id., 189-204. Per Acting Presiding Commissioner Oscar N. Abella, with the concurrence of Commissioner Leon G. Gonzaga, Jr.

[3] Id., 211-212.

[4] Rollo, 396.

[5] Id., 399-401.

[6] Id, 256.

[7] Id, 258-259.

[8] Rollo, 281.

[9] 293 SCRA 661 [1998].

[10] G.R. No. 143789, 27 November 2000.

[11] G.R No. 145415, 3 February 2001.

[12] Section 1, Rule 65, 1997 Rules of Civil Procedure.

[13] *Robern Dev't. Corp. vs. Quitain*, 515 SCRA 150, 159 [1999], citing numerous cases.

[14] *Ibid.*