

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

SEA POWER SHIPPING
ENTERPRISES, INC.,
Petitioner,

-versus-

**G.R. No. 138270
June 28, 2001**

**COURT OF APPEALS, NATIONAL
LABOR RELATIONS COMMISSION And
ROSALINDA E. SAQUILON,**
Respondents.

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DECISION

BUENA, J.:

The Resolutions^[1] of the Court of Appeals dated February 24, 1999, and March 30, 1999, in C.A. G.R. SP No. 50344 which dismissed petitioner's petition for certiorari and motion for reconsideration, are being impugned in this present petition.

The facts are as follows:

Adonis Saguilon, husband of private respondent, was recruited and hired by Fil-Pride Shipping Co. Inc. (Fil-Pride) to work as a fitter on board the vessel M/V Anne Gro (renamed M/V Etoile) owned by

Oceanbulk Maritime S.A., a foreign corporation duly organized and existing under the laws of Greece.

On April 24, 1992, after undergoing the usual pre-employment medical examination and processing of documents and papers, Adonis Saguilon joined M/V Anne Gro. However, barely two (2) months and two (2) weeks after, Saguilon was signed off and hospitalized due to medical reasons. He was repatriated to Manila on July 11, 1992 and referred to the S.M. Lazo Medical Center where he was confined from July 13, 1992 to July 22, 1992. He died of cardio pulmonary arrest, r/o liver cirrhosis on August 21, 1992.

Private respondent demanded death and burial benefits, and medical and sickness allowance from petitioner Sea Power Shipping Enterprises, Western Shipping Agencies, Fil-Pride, Philippine Transmarine Carriers, Inc., and More Maritime Agencies Inc. Their failure and refusal to pay said claims impelled private respondent to file on May 11, 1993, a complaint for death and burial benefits and medical and sickness allowance before the Philippine Overseas Employment Administration (POEA), which case was later referred to the National Labor Relations Commission (NLRC) pursuant to R.A. No. 8042, otherwise known as the Migrant Workers Act.

All the respondents therein denied any liability. Fil. Pride and Western Shipping, claimed that they ceased to be the manning agent of M/V Anne Gro and that Philippine Transmarine Carriers has assumed responsibility for any seaman recruited and hired. Phil. Transmarine Carriers, on the other hand, argued that the deceased is not entitled to any death benefits and medical allowances in the absence of any evidence to prove that the death is compensable. It asserted that the cause of death did not occur during the term of his employment, it being apparent that the deceased was already afflicted with liver cirrhosis even prior to his employment with M/V Anne Gro.

Petitioner, for its part, contended that it ceased to be the manning agent of M/V Anne Gro, the agency agreement with their foreign principal having been transferred to More Maritime Agencies, Inc. which assumed responsibility for all liabilities that may arise with respect to seamen recruited and deployed by M/V Anne Gro. More Maritime Agencies also claimed that they will only be held liable to

seamen recruited and deployed by petitioner and that since the deceased was recruited and employed by Fil-Pride, it has no liability for any claims arising from said employment.

On October 30, 1997, Labor Arbiter Pablo Espiritu, Jr. rendered a decision in favor of private respondent, the dispositive portion of which reads:

“WHEREFORE, premises considered judgment is hereby rendered ordering all of the Respondents to jointly and solidarily pay complainant medical and sickness allowance of 120 days under the standard employment contract for Filipino seamen on board ocean-going vessels in the amount of US\$1,800.00 or its monetary equivalent in Philippine currency at the time of payment.

“Dismissing the complaint for death and burial benefits and other monetary claims of the complainant for want of merit.

“SO ORDERED.”^[2]

On appeal, the NLRC (Second Division) modified the aforesaid decision thus:

“WHEREFORE, the Appeal filed by respondent Fil-Pride Shipping Co., Inc. is hereby GRANTED in that it is absolved from liability arising from the Decision appealed from.

“However, as to the rest of the respondents who have neither appealed nor were otherwise heard from, the Decision of Labor Arbiter Pablo C. Espiritu, Jr., dated October 30, 1997 is now final and executory.

“SO ORDERED.”^[3]

On October 28, 1998, petitioner filed a motion for reconsideration alleging that it filed a notice of partial appeal with memorandum of appeal with the NLRC. The said motion was, however, denied on September 14, 1998.^[4]

Aggrieved, petitioner assailed the aforesaid decision before the Court of Appeals through a petition for certiorari but was outrightly dismissed by the appellate court through its Resolution dated February 24, 1999, the fallo of which reads:

X x x

“(a) It failed to comply with Rule 65, second paragraph, of the 1997 Rules of Civil Procedure, as amended, which states that: ‘The petition shall be accompanied by a certified true copy of judgment, order, resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.’ Thusly:

- 1) It is not accompanied by a copy of the Motion for Reconsideration of therein respondent (now Petitioner Sea Power Shipping Enterprises, Inc.) of the Decision dated September 14, 1993 (should be 1998) of the herein respondent National Labor Commission (Second Division) which motion for reconsideration is mentioned or adverted to in paragraph 14 of the present petition;
- 2) It is not accompanied by a copy of the original complaint filed by the herein private respondent Rosalinda E. Saquilon against the original respondent Western Shipping Agencies, nor yet of the amended complaint, filed on June 24, 1993 by therein complainant’s counsel against herein party-respondent Philippine Transmarine Carriers, Inc., as additional party respondent, which original complaint and amended complaint are mentioned in paragraph 7 of the present petition;
- 3) It is not accompanied by a copy of the Affidavit of Assumption of Responsibility dated March 16, 1993, which was allegedly executed by the herein petitioner Sea Power Enterprises, Inc., through its

President/General Manager Estefany Aquino-Dela Fuente as mentioned in paragraph 5 of the present petition;

- 4) It is not accompanied by a copy of the pertinent provisions of Section 6, Rule I, Book III of the POEA Rules and Regulations, a document mentioned in the same paragraph 5 of the present petition; and
- 5) It is not accompanied by a copy of the Opposition to Manifestation which the herein private respondent Rosalinda E. Saquilon allegedly filed for and in behalf of herein respondent Philippine Transmarine Carriers, Inc., and the Motion to Substitute MORE Maritime Agencies, Inc., as party respondent, nor yet of the herein petitioner's alleged position paper dated May 10, 1996, all three of which pleadings are mentioned in paragraphs 9 and 10 of the present petition.

- (b) Notwithstanding that the petition contains a prayer or application for the issuance of a writ of preliminary injunction and/or temporary restraining order, the petitioner has not filed a bond nor offered to post one, which is a requirement under Rule 58, Section 4(b), of the 1997 Rules of Civil Procedure, as amended; hence, a cause or reason for the denial of the prayer or application for the issuance of such writ or order.

We RESOLVE to OUTRIGHTLY DISMISS the present petition; and to DENY the writ of preliminary injunction and/or temporary restraining order prayed for.

“SO ORDERED.”^[5]

The denial by the appellate court of petitioner's motion for reconsideration prompted the latter to file the present petition pleading this Court's compassion to set aside the dismissal of its case solely on grounds of technicality. Petitioner maintains that the rules of court should be liberally construed and that rules of procedure must give way to considerations of equity and substantial justice.

Petitioner further contends that it should be absolved from any liability considering that its appeal to the NLRC raised arguments identical to the appeal of Fil-Pride which was absolved from any liability by the NLRC.

Commenting on the petition, public respondent, through the Solicitor General, argues that the petition suffers from procedural infirmities which warrant its dismissal. It claims that petitioner availed of an improper remedy, instead of filing a petition for review on certiorari under Rule 45, it filed a petition for certiorari under Rule 65 of the Rules of Court. It likewise asserts that the Court of Appeals has sufficient basis in dismissing the petition since petitioner failed to comply with the requirements set forth under the rules and that whether an appeal was filed by the petitioner and whether such appeal should absolve it from paying the deceased, are factual issues which are not proper subjects of a petition for certiorari.^[6]

The petition is without merit.

A party desiring to appeal by certiorari from a judgment, or final order or resolution, of the Court of Appeals, as in this case, may file with the Supreme Court a verified petition for review on certiorari^[7] within fifteen (15) days from notice of the judgment, final order or resolution appealed from.^[8]

Petitioner, instead of a petition for review on certiorari under Rule 45 of the Rules of Court, filed with this Court the instant petition for certiorari under Rule 65, an improper remedy as pointed out by the Solicitor General in his comment to the petition. By availing of a wrong or inappropriate mode of appeal, the petition merits an outright dismissal pursuant to Circular No. 2-90.^[9]

In *Ybanez vs. Court of Appeals*,^[10] we have admonished the practice of some litigants of delegating upon this Court the task of determining under which rule a petition should fall and warned litigant's counsel to make sure of the nature of the errors he proposes to assign, and to follow scrupulously the requisites for appeal prescribed by law, ever aware that any error or imprecision in compliance may well be fatal to his client's cause.

Similarly, petitioner's failure to comply with the provisions of Section 1, Rule 65 of the Rules of Court when it filed its petition for certiorari before the Court of Appeals is fatal to its cause. A party who seeks to avail of the extraordinary remedy of certiorari must observe the rules laid down by law, and non-observance of the said rules may not be brushed aside as a mere technicality.^[11]

It is true that a litigation is not a game of technicalities and that the rules of procedure should not be strictly enforced at the cost of substantial justice. However, it does not mean that the Rules of Court may be ignored at will and at random to the prejudice of the orderly presentation and assessment of the issues and their just resolution.^[12] It must be emphasized that procedural rules should not be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights. Like all rules, they are required to be followed except only for the most persuasive of reasons.^[13] Thus in *Tan vs. Court of Appeals*^[14] we have held that:

“Liberal construction of this rule has been allowed by this Court in the following cases: (1) where a rigid application will result in manifest failure or miscarriage of justice, especially if a party successfully shows that the alleged defect in the questioned final and executory judgment is not apparent on its face or from the recitals contained therein; (2) where the interest of substantial justice will be served; (3) where the resolution of the motion is addressed solely to the sound and judicious discretion of the court; and (4) where the injustice to the adverse party is not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.”

The reason cited by petitioners' counsel, to wit, that she failed to attach the required documents to the petition considering that it was her first time to file such petition before the Court of Appeals, is to our mind, not ample justification to forego established rules of procedure.

As a member of the bar, it is incumbent upon counsel to familiarize herself with the procedural rules designed to settle pending legal disputes and controversies in an orderly and expeditious manner; it is even a further step for counsel to comply with these rules and not

loosely invoke the exceptions when the same are not clearly applicable in the particular case obtaining.

In light of this, this Court is not unaware that “excusable negligence” and “oversight” have become an all too familiar and ready excuse on the part of counsels remiss in their bounden duty to comply with established rules. Truly, we can neither overemphasize nor underestimate the significance of procedural rules in the adjudication of the respective rights and liabilities of litigants.

Furthermore, the issue as to whether petitioner filed its appeal and whether such appeal should be appreciated in the same light as that of Fil-Pride’s appeal is a question of fact which necessarily requires a review of the evidence of the parties before the NLRC, which is not allowed in a petition for certiorari. Judicial review of the decisions of the NLRC by way of a special civil action for certiorari under Rule 65 is confined only to issues of want or excess of jurisdiction and grave abuse of discretion on the part of the tribunal rendering them.^[15]

In fine, we find no cogent reason to reverse the decision Of the Court of Appeals.

WHEREFORE, the assailed Resolutions of the Court of Appeals are hereby **AFFIRMED**. The instant petition is hereby **DISMISSED** for lack of merit.

SO ORDERED.

Bellosillo, Mendoza, Quisumbing and De Leon, Jr., JJ., concur.

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- [1] Annexes “A” and “B”, pp. 22-26, Rollo.
[2] Rollo, p. 46.
[3] Ibid., pp. 75-76.
[4] Annex “C”, p. 27, Rollo.
[5] Court of Appeals Resolution, Rollo pp. 24-26.
[6] Comment, Rollo pp. 196, 206.
[7] Section 1, Rule 45, 1997 Rules of Civil Procedure.
[8] Section 2, Ibid.

- [9] “4. Erroneous Appeals. — An appeal taken to either Supreme Court or the Court of Appeals by the wrong or inappropriate mode shall be dismissed.”
- [10] 253 SCRA 540, 547 [1996].
- [11] Manila Midtown Hotels and Land Corp. vs. NLRC, 288 SCRA 260 [1998].
- [12] Limpot vs. Court of Appeals, 170 SCRA 367 [1989].
- [13] Calang vs. Court of Appeals, 199 SCRA 687, 689 [1991]; Gesmundo vs. JRB Realty Corp., 234 SCRA 153, 160 [1994].
- [14] 295 SCRA 755, 767 [1998].
- [15] Pepsi Cola Products Phil., Inc vs. NLRC, 3156 SCRA 587 [1999]; Quebec, Sr. vs. NLRC, 301 SCRA 627 [1999]; Jardine Davis, Inc vs. NLRC, 306 SCRA 289 [1999]; Premiere Development Bank vs. NLRC, 293 SCRA 49 [1998]; Stolt-Neilsen Marine Services, Inc. vs. NLRC, 300 SCRA 231 [1998].