Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

BARRIO FIESTA RESTAURANT, LIBERTY ILAGAN, SUNSHINE ONGPAUCO-IKEDA and MARICO CRISTOBAL,	**G.R. No. 206690**
Petitioners,	Present:
	CARPIO, *J., Chairperson,*
	BRION,
	DEL CASTILLO,
	MENDOZA,* and
- versus -	LEONEN, *JJ.*
	Promulgated:
HELEN C. BERONIA,	
Respondent.	11 JUL 2016

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DECISION

BRION, *J.*:

In this petition for review on *certiorari,*[1] we resolve the challenge to the **June 21, 2012** decision[2] and the **April 5, 2013** resolution[3] of the Court of Appeals *(CA)* in CA-G.R. SP No. 119458.

The CA reversed and set aside the December 7, 2010 decision[4] of the National Labor Relations Commission *(NLRC)* and reinstated the May 31, 2010 ruling[5] of the labor arbiter *(LA)* declaring respondent Helen C. Beronia (*Beronia*) illegally dismissed.

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* On Official Leave.

1 *Rollo*, pp. 10-32.

2 Penned by Associate Justice Mariflor P. Punzalan Castillo and concurred in by Associate Justices Franchito N. Diamante and Edwin D. Sorongon, id. at 39-54.

3 Id. at 55.

4 Penned by Presiding Commissioner Herminio V. Suelo and concurred in by Commissioners Angelo Ang Palana and Numeriano D. Villena, id. at 238-246.

5 Issued by Labor Arbiter Virginia T. Luyas-Azarraga, id. at 167-177.

The Antecedents

On August 17, 2009, Beronia filed a complaint[6] for illegal dismissal, praying for backwages, damages, and attorney's fees against Barrio Fiesta Restaurant (*Barrio Fiesta*), its owner Liberty Ilagan (*Ilagan*), General Manager Sunshine Ongpauco-Ikeda (*Ikeda*), and Personnel Officer Marico Cristobal (*Cristobal*) (collectively referred to as *petitioners*).

Beronia claimed that on February 12, 1988, the spouses Rodolfo Ongpauco and Liberty Ilagan[7] hired her as receptionist[8] at one of their restaurants, the *Mikimito*. In 1989, they made her a cashier and assigned her at the *Bakahan* at *Manukan* restaurants; in 1990, they also assigned her at two branches of the *Barrio Fiesta*. She worked in these four restaurants until 1999 when she went on absence without leave to take care of her sick daughter.

Beronia added that after seven months, she was called back to work and was again assigned at the *Barrio Fiesta*. On September 5, 2008, Irene Molina (*Molina*), the cashier assigned to the shift preceding Beronia's, failed to enter in the cash register (Omron machine) a sales transaction worth ₱582.00. When Beronia began her shift (night shift), she failed to see Molina's handwritten note and her previous unrecorded sales transaction resulting in an excess of ₱582.00 in the cash register as compared to the amount recorded in the cash book.

Beronia argued that, in the following month, she used the ₱582.00 "overage" to offset the "shortages" she incurred on three separate instances when she could not find the corresponding receipts and vouchers despite diligent search. She believed in good faith that "offsetting" was authorized as it was the "usual practice among the cashiers, as sanctioned by the secretaries authorized to check the cashiers' cash book regularly x x x."[9]

She explained that this practice is based on the fact that, unlike in fast food chains and department stores where money moves only in one direction (*i.e.,* coming only from customer payments), the money handled by *Barrio Fiesta* cashiers also includes money used by the restaurant for its regular business expenses.[10]

On October 5, 2008, Ilagan's secretary, Nora Olarte (*Olarte*), reported the offsetting to Cristobal. Cristobal subsequently directed Beronia to submit a written explanation on the incident within 24 hours.[11] Beronia submitted her explanation, written on a half sheet of pad paper dated

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6 Id. at 95-96. See also *rollo,* p. 130; Beronia's Position Paper, p. 3, par. 8.

7 The spouses Rodolfo Ongpauco and Liberty Ilagan owned the following restaurants: *Mikimoto*, *Bakahan* at *Manukan*, *Ihaw-Ihaw Kalde-Kaldero*, and *Barrio Fiesta* restaurants.

8 Id. at 77-78; Beronia's application for employment dated February 11, 1988.

9 Id. at 130; Beronia's Position Paper, p. 3, par. 8.

10 Id. at 111; Position Paper, p. 4, par. 15.

11 Id. at 88.

October 10, 2008, admitting that she had applied the overage to her shortages.[12]

Cristobal then gave her a termination of employment memorandum[13] dated October 17, 2008, which she refused to accept because it was not signed by Ikeda. She received the signed termination notice three weeks later; she stopped reporting for work starting November 15, 2008.

On February 3, 2009, Ilagan asked her to report back to work. She accepted the request as she was in dire need of money to support her daughter. She signed a contract to work as waitress[14] from February 4 to July 30, 2009 during which she was made to train new cashiers. On July 30, 2009, she was completely discharged.

The petitioners, through Atty. Richard Neil S. Chua (*Chua*) of *Ligon Solis Mejia Florendo* (*Ligon, et al.*) law firm, denied the claimed liability. They confirmed Beronia's employment as cashier at Barrio Fiesta, noting that for a while, her performance was satisfactory. In 2007, however, her work ethic changed; she was often late for work until she was suspended for seven days due to her repeated tardiness.[15] They added that Beronia was also suspended for two days for berating co-employees who confronted her for pocketing tips without giving them their share.[16]

The worst among Beronia's transgressions, the petitioners pointed out, involved acts that resulted in the loss of their trust and confidence in her.

The first of these acts occurred on October 2, 2006, when Barrio Fiesta's accounting department discovered that Beronia withheld/took cash ("cash out") from the sales of the restaurant and released the amount to one Maribeth "Letlet" Echaluche without authority from the management.[17] They maintained that the act constituted qualified theft but they nonetheless gave Beronia a chance and allowed her to continue her employment.

Beronia committed another act of qualified theft – the offsetting incident – which Beronia had in fact admitted.[18] The management discovered this act when Olarte reported on September 5, 2008 that Beronia applied (offset) the ₱594.00 (which she claimed was only ₱582.00 overage in the sale transactions of the cashier previous to her shift) to the shortages in her (Beronia's) transactions during the night shift.[19] The petitioners maintained that "offsetting" is a prohibited act as it is an implied admission of taking the cash surplus for one day and applying it to cash shortages for

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12 Id. at 89.
13 Id. at 90.
14 Id. at 92-93.
15 Id. at 82.
16 Id. at 85.
17 Id. at 86, 318.
18 *Supra* note 7. *Rollo,* p. 89.
19 *Supra* note 5. *Rollo,* p. 87.

the previous days. They stressed that the cash involved was restaurant property, not the cashier's.

On November 17, 2008, Beronia reported for work for the last time; at the close of business hours, the management dismissed Beronia for just cause.[20] She left the work premises peacefully.

After three months (or sometime in February 2009), Beronia approached Ilagan and begged that she be given any job at Barrio Fiesta. For humanitarian considerations, they granted Beronia's request, but told her that "due to her prior acts of theft, she would not be allowed to handle cash."[21] They advised her to apply for employment, which she did,[22] and Barrio Fiesta employed her as acting supervisor on a contractual basis for the period February 4, 2009 to July 30, 2009.[23]

Before the end of July 2009, the petitioners notified Beronia of the expiration of her contract on July 30, 2009.[24] She left the work premises peacefully on July 30, 2009, only to return sometime in August asking that she be hired again. They decided, however, not to employ her anymore. Beronia then filed the complaint for illegal dismissal, which they believed she did to spite them for the termination of her employment in November 2008.

In the decision[25] dated May 31, 2010, the LA declared that Beronia had been illegally dismissed, and ordered the petitioners to pay Beronia separation pay in lieu of reinstatement and backwages from the date of dismissal up to the signing of the decision.

The LA ruled that the dismissal penalty the petitioners imposed on Beronia was grossly disproportionate to the wrong she had committed as the petitioners failed to prove that Beronia was motivated by bad faith. The ₱582.00 shortage was a negligible amount, thus, her alleged violation of the unwritten policy on "offsetting of shortages" could be considered to have been done in good faith.

The LA added that Beronia deserves compassion given her more or less twenty-year service in the company as well as the fact that the "off-setting" incident was her first offense.

Finally, the LA ruled, the petitioners' subsequent act of rehiring and assigning Beronia to a higher position – as Acting Supervisor to train incoming cashiers – belie their charge of serious misconduct and breach of trust and confidence.

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20 *Supra* note 8. *Rollo,* p. 90.
21 *Rollo*, p. 101; petitioners' Position Paper, p. 5, par. 7.
22 Id. at 301.
23 Id. at 92-93.
24 Id. at 94.
25 *Supra* note 5.

The NLRC decision

On petitioners' appeal,[26] the NLRC reversed the LA's ruling in its December 7, 2010 decision.[27]

The NLRC pointed out that Beronia was hired as cashier of Barrio Fiesta restaurant – a position of utmost trust and confidence. Prior to the offsetting incident, she had already been warned for releasing cash to a person without prior authority from the management. While she claimed that offsetting short amounts was a practice among cashiers with the implicit authorization of the secretaries, she failed to show that she sought the authorization of the secretary on duty before undertaking the offsetting. In fact, the secretary was the one who brought to Cristobal's attention her unauthorized offsetting.

Thus, the NLRC concluded that the wrong Beronia committed rendered her unworthy of the utmost trust and confidence reposed on her by the petitioners justifying her dismissal from the service. That the amount involved was "only" ₱594.00 did not mean that Beronia did not breach the petitioners' trust and confidence.

Beronia sought reconsideration[28] of the NLRC's December 7, 2010 decision. On **January 13, 2011**, the petitioners filed their opposition to Beronia's motion for reconsideration;[29] **the opposition was personally signed and filed by Ilagan and Ikeda.**

The NLRC subsequently denied Beronia's motion for reconsideration on February 24, 2010,[30] prompting the latter to seek recourse before the CA *via* a petition for *certiorari.*[31]

The Proceedings before the CA

On **August 1, 2011**, the CA issued a resolution[32] directing the petitioners to file their comment.

On **September 16, 2011**, the CA issued another resolution[33] stating, among others, that "no manifestation and comment has been filed by the [petitioners]."

In a resolution[34] dated **March 2, 2012**, the CA gave the petitioners a last opportunity to file their comment to Beronia's petition within ten days from notice.

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26 *Rollo*, pp. 178-201.
27 *Supra* note 4.
28 *Rollo*, pp. 247-267.
29 Id. at 268-279.
30 Id. at 325-327.
31 Id. at 328-377.
32 Id. at 380.
33 Id. at 381.
34 Id. at 382.

Subsequently, in its **June 8, 2012** resolution,[35] the CA submitted the case for decision *sans* the petitioners' comment.

In the ***June 21, 2012*** decision,[36] the CA reinstated the LA's May 31, 2010 decision, declaring that Beronia had been dismissed without just cause and without the observance of due process.

The CA ruled that the petitioners' basis for dismissing Beronia was unclear as they failed to show or prove that the company prohibited the act of offsetting. The CA also pointed out that while the petitioners submitted a copy of a memorandum dated June 22, 2004, requiring all cashiers to explain in writing their shortages or overages, the memorandum was submitted for the first time – together with their opposition to Beronia's motion for reconsideration – and was neither an original nor a certified copy.

The CA agreed that the value of the amount involved was immaterial, but pointed out that the petitioners nonetheless failed to show that Beronia's breach of confidence was willful.

The CA added that the petitioners in fact also failed to prove the theft Beronia allegedly committed when she released, without prior consent and authority of the management, amounts of money to a certain Marileth Echaluche. The violation report shows that they simply warned Beronia for her failure to report the release of cash and not for committing theft. Thus, absent proof of bad faith and ill motive in this release of money, the loss of trust and confidence simply has no basis.

Finally, the CA noted that the petitioners' subsequent rehiring of Beronia as acting supervisor negates the charge of loss of trust and confidence. An employer would not likely require a previously dismissed employee charged with theft to train its incoming cashiers.

On November 29, 2012, the petitioners, through *Real Bartolo & Real* law offices, filed with the CA an Entry of Appearance with Manifestation and Motion for Reconsideration.[37]

In its ***April 5, 2013*** resolution,[38] the CA, among others: (1) merely noted the petitioners' manifestation and motion for time within which to comply, pointing out that it has already received the postal registry return receipt for the petitioners' counsel on record – *Ligon, et al.* – showing that the petitioners' counsel has received a copy of the CA's June 21, 2012 decision on June 29, 2012; (2) noted the petitioners' termination of their counsel of record's services on February 19, 2013; and (3) **denied** the petitioners' motion for reconsideration for **being 138 days late**.

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35 Id. at 383.
36 *Supra* note 2.
37 Signed by Emmanuel S. Bartolo for Real Bartolo & Real law offices, *rollo,* pp. 56-73.
38 *Supra* note 3.

The records show that the petitioners, through their counsel of record, *Ligon et al.,* received copies of the CA's August 1, 2011; September 16, 2011; March 2, 2012; and June 8, 2012 resolutions and of the June 21, 2012 decision.

The Petition

The petitioners seek the reversal of the CA rulings, arguing that the CA reversibly erred in declaring that: (1) their motion for reconsideration was filed out of time; (2) Beronia was illegally dismissed; and (3) she was denied due process.[39]

On the first assignment of error, the petitioners ask for a liberal application of the procedural rules, reasoning that they believed all the while that they were being represented by their former counsel, *Ligon, et al.,* through Atty. Chua. Atty. Chua, however, alleged that he had ceased to be their lawyer since 2010 when his services "were disengaged" by mutual agreement with the petitioners[40] after the appeal to the NLRC was filed. The petitioners argue that the procedural lapse before the CA was clearly due to a miscommunication with the law firm for which they should not be made to suffer, in the interest of substantial justice.

On the illegal dismissal issue, the petitioners insist that Beronia was dismissed for just cause. They argue that Beronia committed acts resulting in a breach of their trust that, together with her previous infractions, justify the termination of her employment.

They reiterate in this regard that the most serious of Beronia's infractions refers to the offsetting of shortages in her sales transactions with the overage in sales handled by another cashier. Beronia admitted the offsetting, stating in her explanation "*yong over ko ay inoffset ko sa short ko.*"[41] They stress that she was aware that the management never consented to the offsetting as there is an existing policy on the matter.[42] Thus, they contend that her admission serves as substantial evidence of fraud and serious misconduct resulting in their loss of trust and confidence in her as a cashier of the restaurant.

They add that, being equally protected under the law, they have the prerogative to discipline the employees and to impose appropriate penalties on erring workers pursuant to company rules and regulations. They likewise have the prerogative to hire dismissed employees out of compassion for a specific period; as they did in Beronia's case when they hired her for the fixed period of February 4, 2009 to July 30, 2009.

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39 See Petition, *supra* note 1.

40 Id. at 386; letter dated February 25, 2013 of Atty. Richard Neil S. Chua to Liberty Ilagan.

41 *Supra* note 15, *rollo,* p. 89.

42 *Rollo,* p. 81.

On the due process issue, the petitioners argue that the essence of due process is simply an opportunity to be heard or to explain one's side as applied in administrative proceedings. In the present case, they point out that Barrio Fiesta served the first notice (October 9, 2008 memorandum) on Beronia informing her of the charges against her and asking her for a written explanation within 24 hours.

Initially, Beronia offered a verbal explanation on the offsetting incident, but when told that it should be in writing, she wrote down her explanation on a half sheet of pad paper stating that she had applied the overage to her shortages.[43] They thus submit that they duly accorded Beronia the required due process.

The Case for Beronia

Beronia prays that the petition "be denied for utter lack of merit."[44] She asserts that the CA committed no error in denying the petitioners' motion for reconsideration for late filing, a procedural lapse admitted by the petitioners themselves, although they put the blame on their former counsel – *Ligon, et al.* – for not informing them of its receipt of the June 21, 2012 decision of the CA.

She argues that the petitioners' alleged miscommunication with their former counsel should not be made an excuse for their failure to file their motion for reconsideration with the CA on time. The documents the petitioners had in fact presented show that they and not their former counsel have been negligent in handling their case.

Since the petitioners filed their motion for reconsideration only on November 29, 2012, or 138 days after the lapse of the reglementary period, the June 21, 2012 decision of the CA had already become final and executory.

On the main issue, Beronia argues that the CA correctly ruled that she was illegally dismissed as the act of offsetting does not amount to fraud or willful breach that would justify termination of employment for loss of trust and confidence. She insists that the petitioners failed to present evidence to show that she willfully and deliberately misrepresented Barrio Fiesta's sales record; on the contrary, she sufficiently explained that it was Molina who failed to enter the sales transaction in question. She adds that her subsequent rehiring by the petitioners negated loss of trust as a basis for her dismissal.

Beronia bewails the petitioners' reliance on her alleged past infractions as additional ground for her dismissal, contending that there is likewise no evidence that she committed these infractions. In any case, she argues that the alleged tip-pocketing, berating of co-employees, and failing

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43 *Supra* note 8.

44 Comment dated October 16, 2013, *rollo,* pp. 407-424.

to release cash to a co-employee were offenses which had already been meted their corresponding penalties; they also have no relation to the offense of "offsetting" for which she was charged in the October 9, 2008 show-cause memorandum[45] and for which she was eventually dismissed.

Finally, Beronia assails the petitioners' failure to afford her due process in her petition for dismissal. She argues that she was not given adequate opportunity to prepare for her defense as she was given only 24 hours to submit her explanation and was not sufficiently informed of the specific facts upon which the charge was based. Although a formal hearing is not required, she adds, the employee should nevertheless be given ample time to be heard, which was absent in her case, and the defect was not cured with the third notice (dated October 17, 2008) laying down additional charges for her dismissal.

The Issue

The core issues for the Court's resolution are: (1) whether the CA reversibly erred in denying the petitioners' motion for reconsideration for belated filing; and (2) whether the CA erred in reinstating the labor arbiter's ruling finding Beronia dismissed without just cause and without due process.

The Court's Ruling

We resolve to DENY the petition.

The CA did not err in denying the petitioners' motion for reconsideration for belated filing.

A. The petitioners' motion for reconsideration was filed well beyond the fifteen-day reglementary period.

There is no question that the petitioners filed their motion for reconsideration of the CA's June 21, 2012 decision 138 days beyond the fifteen-day reglementary period for filing the motion. The petitioners, through their former counsel, received the copy of this CA decision on June 29, 2012, and had only until July 14, 2012 (or until July 16, 2012 since July 14, 2012 was a Saturday) to file their motion for reconsideration. They filed this motion, through a new counsel, only on November 29, 2012.

Under Section 1, Rule 52 of the Rules of Court, a motion for reconsideration of a judgment or final resolution should be filed within fifteen (15) days from notice. If no appeal or motion for reconsideration is filed within this period, the judgment or final resolution shall forthwith be

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45 *Rollo*, p. 88.

entered by the clerk in the book of entries of judgment as provided under Section 10 of Rule 51.[46]

The fifteen-day reglementary period for filing a motion for reconsideration is non-extendible.

In *Ponciano Jr. v. Laguna Lake Development Authority, et al.*,[47] the Court refused to admit a motion for reconsideration filed only one day late, pointing out that the Court has, in the past, similarly refused to admit belatedly filed motions for reconsideration.

Without a motion for reconsideration of the CA's June 21, 2012 decision duly filed on time, the petitioners lost their right to assail the CA decision before this Court. "For purposes of determining its timeliness, a motion for reconsideration may properly be treated as an appeal. As a step to allow an inferior court to correct itself before review by a higher court, a motion for reconsideration must necessarily be filed within the period to appeal. When filed beyond such period, the motion for reconsideration *ipso facto* forecloses the right to appeal."[48]

In other words, the petitioners' failure to timely file the motion for reconsideration foreclosed any right which they may have had under the rules not only to seek reconsideration of the CA's June 21, 2012 decision; more importantly, the failure foreclosed their right to assail the CA decision before this Court.

B. The supposed negligence of the petitioners' former counsel was the result of their actions and inactions, hence, is binding on the petitioners.

The petitioners claim that their former counsel – *Ligon, et al.* through Atty. Chua – did not inform them of the CA's August 1, 2011; September

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46 Section 10, Rule 51 of the Rules of Court provides in full:

> SEC. 10. *Entry of judgments and final resolutions.* — If no appeal or motion for new trial or reconsideration is filed within the time provided in these Rules, the judgment or final resolution shall forthwith be entered by the clerk in the book of entries of judgments. The date when the judgment or final resolution becomes executory shall be deemed as the date of its entry. The record shall contain the dispositive part of the judgment or final resolution and shall be signed by the clerk, with a certificate that such judgment or final resolution has become final and executory.

See also Section 1, Rule VII of the 2009 Internal Rules of the Court of Appeals, which states:

> Section 1. *Entry of Judgment. – Unless a motion for reconsideration or new trial is filed or an appeal is taken to the Supreme Court, judgments and final resolutions of the Court shall be entered upon expiration of fifteen (15) days from notice to the parties.*
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> x x x x

47 591 Phil. 194, 211 (2008), citing *Philippine Coconut Authority v. Garrido,* 424 Phil. 904, 909 (2002), and *Vda. De Victoria v. Court of Appeals*, G.R. No. 147550, January 26, 2005, 449 SCRA 319, 330-331.

48 *Ponciano Jr. v. Laguna Lake Development Authority, et. al.*, id., citing *Insular Life Assurance Co., Ltd v. National Labor Relations Commission*, G.R. Nos. L-74191, December 21, 1987, 156 SCRA 740, 746.

16, 2011; March 2, 2012; and June 8, 2012 resolutions, and of the June 21, 2012 decision, this omission "effectively depriv[ing] [them] of procedural and substantive due process of law."[49] They argue that their procedural lapse before the CA was clearly due to a miscommunication with their former law firm and that the CA should not have denied their motion for reconsideration in the interest of substantial justice.

We do not see any merit in this argument.

We are not unaware that in certain cases, this Court allowed the liberal application of procedural rules. We stress, however, that these cases are the exceptions and were sufficiently justified by attendant meritorious and exceptional circumstances.

A motion for reconsideration on the ground of excusable negligence is addressed to the sound discretion of the court which cannot be granted except upon a clear showing of justifiable circumstances negating the effects of any negligence that might have been present.

We emphasize and reiterate that rules of procedure must be faithfully complied with and cannot be based solely on the claim of substantial merit. Rules prescribing the time to do specific acts or to undertake certain proceedings are considered absolutely indispensable to prevent needless delays and to the orderly and prompt discharge of judicial business. By their very nature, these rules are mandatory.[50]

In the present case, the only permissible consideration we can take is to determine whether circumstances exist to excuse the petitioners' delay in the filing of their motion for reconsideration. If there are none, as indeed we find because the petitioners utterly failed to show us one, then the delay is fatal.

We note that on January 13, 2011, the petitioners filed an **Opposition**,[51] dated **January 5, 2011**, to the motion filed by Beronia seeking reconsideration of the NLRC's December 7, 2010 decision.

Significantly, this January 5, 2011 opposition was signed personally by petitioners Ilagan and Ikeda, on behalf of themselves and of petitioner Barrio Fiesta, instead of by Atty. Chua for *Ligon, et al.* as the petitioners' counsel.

As a rule, when a party to a proceeding is represented by counsel, it is the counsel who signs any pleading filed in the course of the proceeding. The party represented does not have to sign the pleadings, save only in the

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49 *Rollo*, p. 21.

50 *Laguna Metts Corp. v. CA*, 611 Phil. 530, 534-535 (2009). See also *Prudential Guarantee and Assurance, Inc. v. CA*, 480 Phil. 134, 140 (2004); and *Mejillano v. Lucillo, et al.*, 607 Phil. 660, 668-669 (2009).

51 *Rollo*, pp. 268-279.

specific instances required by the rules; they appear before the court and participate in the proceedings only when specifically required by the court or tribunal.

In the petitioners' case, they were themselves aware that Beronia sought reconsideration of the NLRC decision as they had, in fact, personally opposed this motion instead of through their counsel on record, *Ligon, et al.* Had they still been represented by their counsel, through Atty. Chua as they claim, the latter would have signed and filed the opposition in their behalf.

Viewed in this light, the petitioners must have known that *Ligon, et al.* no longer represented them in this case; this was true even at the NLRC level and before the case reached the CA.

This conclusion becomes unavoidable when we consider the February 25, 2013 letter of Atty. Chua replying to Ilagan's February 13, 2013 letter[52] purportedly terminating the services of *Ligon, et al.* in the case.

In the February 25, 2013 letter, Atty. Chua categorically pointed out that he had not been the petitioners' counsel since 2010 due to their mutual agreement. To quote this letter:

> "February 25, 2013
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> x x x x
>
> Dear Mrs. Liberty D. Ilagan,
>
> I received your letter that you are terminating my services effectively immediately.
>
> However, **this is no longer possible since I have not been your counsel since 2010 due to our mutual agreement to disengage all professional relationships after the appeal to the NLRC was made in relation to your case**.
> You will recall, hopefully, that **you even asked me for copies of a notice to withdraw as your legal counsel to make way for your new lawyer**, which I readily provided you through your assistant Ms. Gerly who was then working in your Barrio Fiesta, Makati Branch. You and Gerly were specifically instructed to sign the Conforme and file the same [with] the NLRC simultaneously with the new counsel you alleged to have engaged already by that time.
>
> I also gave Ms. Gerly all of the folders and documents relevant to this case.
>
> As to whether or not you actually submitted my Notice to Withdraw as Counsel to the said quasi-judicial body (NLRC) is already unknown to me, but the same was your responsibility to do since it was upon your adamant request.

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52 Id. at 385.

x x x x

I hope this clarifies the situation, and I wish you all the best.

Very truly yours,

RICHARD NEIL S. CHUA" [emphases and underscorings supplied]

Considered together, the January 5, 2011 opposition and the February 25, 2013 letter of Atty. Chua more than sufficiently show that there could not have been any miscommunication between the petitioners and their former counsel that could have reasonably prevented the petitioners from immediately acting on Beronia's *certiorari* petition before the CA. Their failure to act on Beronia's *certiorari* petition, therefore, was due solely to their own fault or negligence, not to their former counsel's as they claim.

C. The CA decision became final and executory which the CA and even this Court could no longer review.

As the petitioners failed to timely seek reconsideration or appeal within the fifteen-day reglementary period, the CA's June 21, 2012 decision automatically became final and executory after the lapse of this fifteen-day period.

"It is well-settled that judgments or orders become final and executory by operation of law and not by judicial declaration. The finality of a judgment becomes a fact upon the lapse of the reglementary period of appeal if no appeal is perfected or [no] motion for reconsideration or new trial is filed."[53] "The court need not even pronounce the finality of the order as the same becomes final by operation of law. In fact, it could not even validly entertain a motion for reconsideration after the lapse of the period for taking an appeal x x x **The subsequent filing of a motion for reconsideration cannot disturb the finality of the judgment or order."[54]**

Once a decision becomes final and executory, it is *"immutable and unalterable, and can no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land."[55]*

The CA in this case lost jurisdiction when the petitioners failed to file the motion for reconsideration within the fifteen-day reglementary period. The petitioners' subsequent filing of the motion for reconsideration 138 days

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53 *Franco-Cruz v. Court of Appeals, et al.,* 587 Phil. 307, 317 (2008), citing *Testate Estate of Manuel v. Biascan,* 401 Phil. 49, 59 (2000). See also *Cadena v. Civil Service Commission,* 679 Phil. 165, 176-177 (2012).

54 *Franco-Cruz v. Court of Appeals, supra* note 53.

55 *Guzman v. Guzman and Montealto,* 706 Phil. 319, 327 (2013) (citation omitted).

after the deadline did not and could no longer disturb the finality of the June 21, 2012 decision nor restore jurisdiction which had already been lost.[56]

Accordingly, the CA did not err in refusing to admit and act on the petitioners' motion for reconsideration. At the time the petitioners filed their motion for reconsideration, the decision subject of this motion had already become final.

Consequently, we can no longer review nor modify in any way the CA's June 21, 2012 decision. With this conclusion, we see no reason for us to resolve the petitioners' other issues.

WHEREFORE, we hereby DENY the petition as the decision dated June 21, 2012 and the resolution dated April 5, 2013 of the Court of Appeals in CA-G.R. SP No. 119458, have lapsed to finality and are beyond our power to review.

SO ORDERED.

ARTURO D. BRION
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

(On Official Leave)
JOSE CATRAL MENDOZA
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

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56 See *Ponciano Jr. v. Laguna Lake Development Authority, et. al.*, 591 Phil. 194, 211 (2008); *Fabella v. Tancinco, et. al.*, 86 Phil. 543, 548 (1950); and *Bolaño and Rabat v. Intermediate Appellate Court,* GR No. 68458, Phil. 409, 413 (1985).

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice