



Republic of the Philippines
Supreme Court
Baguio City

THIRD DIVISION

ANGELITO N. GABRIEL,
Petitioner,

G.R. No. 194575

Present:

- versus -

VELASCO, JR., J.,
Chairperson,
BERSAMIN,
LEONEN,
MARTIRES, and
GESMUNDO, JJ.

PETRON CORPORATION,
ALFRED A. TRIO, and
FERDINANDO ENRIQUEZ,
Respondents.

Promulgated:

April 11, 2018

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DECISION

MARTIRES, J.:

We resolve the petition for review on certiorari under Rule 45 of the Rules of Court filed by Angelito N. Gabriel (*Gabriel*) of the 21 July 2010¹ and the 17 November 2010² Resolutions of the Court of Appeals (*CA*) in CA-G.R. SP No. 114858.

THE FACTS

Gabriel was hired by Petron Corporation (*Petron*) as Maintenance Technician sometime in May 1987. Owing to his years of service and continued education, Gabriel rose from the ranks and eventually became a

¹ *Rollo*, pp. 45-47; penned by Associate Justice Fernanda Lampas-Peralta, and concurred in by Associate Justices Priscilla J. Baltazar-Padilla and Rodil Z. Zalameda.

² *Id.* at 126.


Quality Management Systems (*QMS*) Coordinator on 18 October 2004.³ However, Gabriel did not get any increase in his salary or any additional benefits despite his new position in the company.

Gabriel lamented that he was unable to reap the benefits of his promotion because of a complaint letter filed by Ms. Charina Quiwa (*Quiwa*),⁴ goddaughter of Alfred A. Trio (*Trio*), the General Manager of the Refining Division in Limay, Bataan. As a result, Gabriel was given notice to explain his side, though the notice failed to include the letter of Quiwa.⁵ Nevertheless, Gabriel denied harassing Quiwa and her family, and explained he had already settled the misunderstanding in confidence.⁶

According to his complaint, Gabriel thereafter suffered a series of harassment acts from private respondents as the company interpreted all his acts as violations of its rules and regulations.⁷ Hence, Gabriel claimed that he was constructively dismissed from Petron.

On their part, Petron's management explained that Gabriel's assignment as QMS Coordinator was not a promotion but was a result of company reorganization. Meanwhile, his relief as QMS Coordinator and detail to another office were not intended to harass or punish him, but were primarily to afford him the opportunity to defend himself in the ongoing investigation.

In the course of the investigation of Quiwa's complaint, it was brought to the attention of the company that Gabriel, as president of Gabriel Consultancy Services, proposed training services to another refinery plant in Bataan using the courses used at Petron's refinery.⁸ Gabriel was required to explain his side.⁹ A few months later, Gabriel was asked to address another violation¹⁰ for his use of company equipment and resources to reproduce 1,603 pages of company proprietary materials without authorization.¹¹

Eventually, the investigation on Gabriel was concluded sometime in March 2005, and he was formally charged with dishonesty, misconduct, misbehavior, and violation of "netiquette" policy, wherein he was required to justify why he should not be terminated.¹² Gabriel complied through a 

³ Id. at 175-176.

⁴ Id. at 177. The complaint against Gabriel was about him fabricating e-mails to make it appear that they were involved in an extramarital affair.

⁵ Id. at 187.

⁶ Id. at 188.

⁷ Id. at 240-242.

⁸ Id. at 178-186.

⁹ Id. at 189.

¹⁰ Id. at 190-191.

¹¹ Id. at 192.

¹² Id. at 197-198.

letter dated 30 March 2005, wherein he stressed that he had been placed in an unbearable and humiliating situation.¹³

After the hearing committee was convened, Gabriel failed to show up at work so he was given another notice of violation for absence without official leave.¹⁴ In his explanation, Gabriel said that he was merely following the advice of his psychiatrist and that he had no work to report back to given that he had been placed under floating status since the beginning of the investigation.¹⁵ On 12 May 2005, management took disciplinary action by suspending Gabriel from work for ten (10) days.¹⁶

On 19 April 2007, after both parties had submitted their respective position papers, the labor arbiter rendered a decision in favor of Gabriel. Upon close scrutiny of the job description of a QMS Coordinator and its various duties and responsibilities, the labor arbiter concluded that it was a supervisory position and that Gabriel was indeed promoted from his previous position.¹⁷

Moreover, the labor arbiter noted that Gabriel's fate shifted after the complaint of Quiwa. While at first glance the complaint may appear serious, she found the matter not at all connected with Gabriel's work or would affect at all the performance of his duties.¹⁸ She did not agree that the complaint could impact Gabriel's efficiency and compromise the company's operations.¹⁹ As for the other charges attributed to Gabriel, the labor arbiter considered these as acts of harassment and offshoots of the complaint filed by Quiwa.²⁰

As a result of the labor arbiter's findings, Gabriel was awarded full back wages, separation pay, moral and exemplary damages, and attorney's fees.²¹

The NLRC Decision

However, on 27 April 2009, the NLRC reversed the labor arbiter's ruling and dismissed the complaint against Petron.²² In dismissing the complaint against Petron, the NLRC held that: (1) Gabriel's assignment as QMS Coordinator was a mere lateral transfer because the appointment letter

¹³ Id. at 203-206.
¹⁴ Id. at 208.
¹⁵ Id. at 213.
¹⁶ Id. at 216.
¹⁷ Id. at 93.
¹⁸ Id. at 96.
¹⁹ Id.
²⁰ Id. at 97.
²¹ Id. at 97-100.
²² Id. at 101-109.

did not indicate an increase in rank and/or salary; (2) his subsequent detail to another office was not a demotion since Gabriel still received the same salary and benefits; (3) instead of putting Gabriel under preventive suspension, Petron's management thought it best to just give him another assignment; and (4) there was no substantial evidence to support the acts of harassment perpetrated by management.

After his motion for reconsideration was denied, Gabriel turned to the CA for recourse.

The Proceedings before the CA

Since Gabriel's counsel on record received the denial of his motion for reconsideration on 14 May 2010, he had sixty (60) days or until 13 July 2010, to file a petition for certiorari. However, on 10 July 2010, Gabriel had to file a motion for extension due to time and distance constraints for Gabriel to secure an authentication from the Philippine Consular Office in Australia.²³

In its 21 July 2010 resolution, the CA denied the motion for extension saying that no extensions are allowed under the amended Rule 65 of the Rules of Court, to *wit*:

Section 4, Rule 65, 1997 Rules of Civil Procedure, as amended under A.M. No. 07-7-12-SC, December 7, 2007, no longer provides for an extension of period to file a petition for certiorari. Significantly, in Laguna Metts Corporation vs. Court of Appeals, 594 SCRA 139, July 27, 2009, the Supreme Court explicitly ruled:

x x x x

WHEREFORE, petitioner's motion for extension is denied and accordingly, the present case is dismissed.²⁴

From this, Gabriel filed his motion for reconsideration with prayer to admit the attached petition for certiorari claiming that the factual circumstances of his case are exceptional and merit a relaxation of the rules of procedure.²⁵

After considering the submissions of both parties, the CA maintained that Gabriel's motion failed to present any substantial and meritorious ground which would justify a reversal of its earlier ruling.²⁶

²³ Id. at 39-43.

²⁴ Id. at 45-47.

²⁵ Id. at 48-54.

²⁶ Id. at 126.



OUR RULING

Aggrieved, Gabriel now seeks relief before this Court through this present petition. At the onset, Gabriel wants to correct the serious error the CA committed in denying his motion for extension out of sheer technicality. At the same time, Gabriel imputes grave abuse of discretion amounting to lack or in excess of jurisdiction on the part of the NLRC for setting aside the findings of constructive dismissal and reversing the decision of the labor arbiter.

Under our present labor laws, there is no provision for appeals from the decision of the NLRC. In fact, under Article 229 of the Labor Code, all decisions of the NLRC shall be final and executory after ten (10) calendar days from receipt thereof by the parties. Nevertheless, appellate courts – including this Court – still have an underlying power to scrutinize decisions of the NLRC on questions of law even though the law gives no explicit right to appeal. Simply said, even if there is no direct appeal from the NLRC decision, the aggrieved party still has a legal remedy.

Certiorari proceedings are limited in scope and narrow in character because they only correct acts rendered without jurisdiction, in excess of jurisdiction, or with grave abuse of discretion. Indeed, relief in a special civil action for certiorari is available only when the following essential requisites concur: (a) the petition must be directed against a tribunal, board, or officer exercising judicial or quasi-judicial functions; (b) the tribunal, board, or officer must have acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or in excess of jurisdiction; and (c) there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law.²⁷ It will issue to correct errors of jurisdiction and not mere errors of judgment, particularly in the findings or conclusions of the quasi-judicial tribunals (such as the NLRC). Accordingly, when a petition for certiorari is filed, the judicial inquiry should be limited to the issue of whether the NLRC acted with grave abuse of discretion amounting to lack or in excess of jurisdiction.²⁸

In *St. Martin Funeral Home v. NLRC*,²⁹ the Court laid down the proper recourse should the aggrieved party seek judicial review of the NLRC decision:

The Court is, therefore, of the considered opinion that ever since appeals from the NLRC to the Supreme Court were eliminated, the legislative intendment was that the special civil action of certiorari was and still is the proper vehicle for judicial review of decisions of the NLRC.

²⁷ *PALEA v. Cacadac*, 645 Phil. 494, 501 (2010).

²⁸ *Empire Insurance Company v. NLRC*, 355 Phil. 694, 701 (1998).

²⁹ 356 Phil. 811, 823 (1998).



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Therefore, all references in the amended Section 9 of B.P. No. 129 to supposed appeals from the NLRC to the Supreme Court are interpreted and hereby declared to mean and refer to petitions for certiorari under Rule 65. Consequently, all such petitions should henceforth be initially filed in the Court of Appeals in strict observance of the doctrine on the hierarchy of courts as the appropriate forum for the relief desired.³⁰

From the CA, the labor case is then elevated to this Court for final review. In reviewing labor cases through a petition for review on certiorari, we are solely confronted with whether the CA correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, and **not** whether the NLRC decision on the merits of the case was correct.³¹ Specifically, we are limited to:

- (1) Ascertaining the correctness of the CA's decision in finding the presence or absence of grave abuse of discretion. This is done by examining, on the basis of the parties' presentations, whether the CA correctly determined that at the NLRC level, all the adduced pieces of evidence were considered; no evidence which should not have been considered was considered; and the evidence presented supports the NLRC's findings; and
- (2) Deciding other jurisdictional error that attended the CA's interpretation or application of the law.³²

However, we are constrained from reviewing these issues in the present case because the CA, at the outset, denied Gabriel's motion for extension to file a petition for certiorari and did not make any finding on the presence or absence of grave abuse of discretion. In other words, we cannot dwell on matters covered under Gabriel's petition for certiorari because what was elevated before us via petition for review on certiorari was the CA's denial of his motion for extension. Under these circumstances, we can only look into the legal soundness behind the denial of the motion for extension because of our limited mode of judicial review under Rule 45 of the Rules of Court.

Under Section 4 Rule 65 of the Rules of Court and as applied in the *Laguna Metts Corporation* case,³³ the general rule is that a petition for certiorari must be filed within sixty (60) days from notice of the judgment.

³⁰ Id. at 824.

³¹ *Montoya v. Transmed Manila Corporation*, 613 Phil. 696, 707 (2009); *Phimco Industries, Inc. v. Phimco Industries Labor Association (PILA)*, 642 Phil. 275, 288 (2010); *Niña Jewelry Manufacturing of Metal Arts, Inc. v. Montecillo*, 677 Phil. 447, 464 (2011); *Gonzales v. Solid Cement Corporation*, 697 Phil. 619, 638 (2012); *Career Philippines Shipmanagement, Inc. v. Serna*, 700 Phil. 1, 9 (2012); *Century Iron Works, Inc. v. Banas*, 711 Phil. 576, 586-587 (2013).

³² *Stanley Fine Furniture v. Gallano*, 748 Phil. 624, 637 (2014).

³³ Phil. 530, 537 (2009).

In *Labao v. Flores*,³⁴ however, we laid down exceptions to the strict application of this rule:

However, there are recognized exceptions to their strict observance, such as: (1) most persuasive and weighty reasons; (2) to relieve a litigant from an injustice not commensurate with his failure to comply with the prescribed procedure; (3) good faith of the defaulting party by immediately paying within a reasonable time from the time of the default; (4) the existence of special or compelling circumstances; (5) the merits of the case; (6) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (7) a lack of any showing that the review sought is merely frivolous and dilatory; (8) the other party will not be unjustly prejudiced thereby; (9) fraud, accident, mistake or excusable negligence without appellant's fault; (10) peculiar legal and equitable circumstances attendant to each case; (11) in the name of substantial justice and fair play; (12) importance of the issues involved; and (13) exercise of sound discretion by the judge guided by all the attendant circumstances. Thus, there should be an effort on the part of the party invoking liberality to advance a reasonable or meritorious explanation for his/her failure to comply with the rules.³⁵ (citations omitted)

In the motion for extension to file a petition for certiorari, it was stated that Gabriel had since been working and living in Australia for a few years subsequent to his separation from Petron. The week before the 60-day deadline for filing, Gabriel's counsel had already emailed a copy of the petition. Gabriel explained in his motion that he needed more time to secure an appointment with the Philippine Consular Office in Melbourne, Australia.

Unlike those mentioned exceptions when the period to file a petition for certiorari was not strictly applied, we do not find Gabriel's reason to meet the deadline compelling. In the first place, his counsel, who is supposed to be well-versed in our rules of procedure, should have anticipated that Gabriel needed to take his oath before the Philippine Consular Office. By giving Gabriel only one (1) week to comply with this requirement, his lawyer did not give him much time and simply assumed that Gabriel could deliver on time. On the other hand, Gabriel, assuming he really wanted to pursue his case against Petron, could have easily visited the Philippine Consular Office as soon as possible. Instead, he opted to wait for a few days thinking that time was not of the essence.

We must remember that the rationale for the amendments under A.M. No. 07-7-12-SC is essentially to prevent the use (or abuse) of the petition for certiorari under Rule 65 to delay a case or even defeat the ends of justice.³⁶

³⁴ 649 Phil. 213-225 (2010).

³⁵ Id. at 222-223.

³⁶ Supra note 33 at 537.

Here, we cannot simply reward the lack of foresight on the part of Gabriel and his lawyer.

As a final note, although the CA never ruled on the merits of the case, it had a chance to consider Gabriel’s petition for certiorari because this was attached to the motion for reconsideration. For practical reasons, the CA would not have ignored outright the attached petition and not consider the merits of the case. Regardless whether the CA did or not, we can assume that it was acting within its judicial discretion.

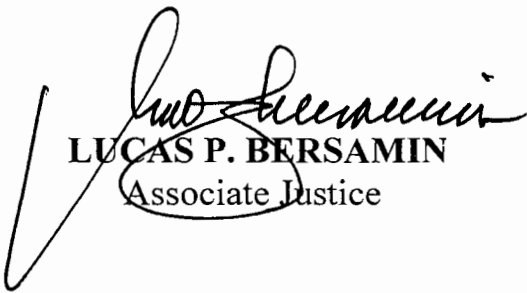
WHEREFORE, premises considered, the present petition is **DENIED**. The assailed 21 July 2010 and 17 November 2010 Resolutions of the Court of Appeals in CA-G.R. SP No. 114858 are hereby **AFFIRMED**.

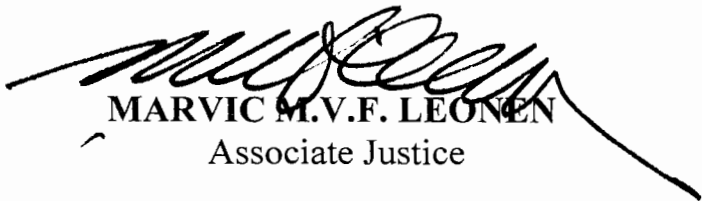
SO ORDERED.

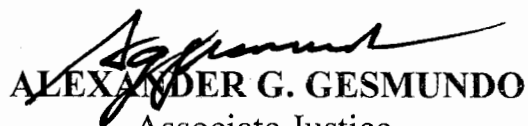

SAMUEL R. MARTIRES
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

A T T E S T A T I O N


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.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

C E R T I F I C A T I O N

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.



ANTONIO T. CARPIO
Acting Chief Justice