

## SECOND DIVISION

[ G.R. No. 212895, November 27, 2019 ]

### FLUOR DANIEL, INC. PHILIPPINES, PETITIONER, VS. FIL-ESTATE PROPERTIES, INC., RESPONDENT.

#### DECISION

**REYES, A., JR., J.:**

The present petition for review<sup>[1]</sup> under Rule 45 of the Revised Rules of Court dated August 1, 2014 assails the Resolutions dated February 24, 2014<sup>[2]</sup> and June 3, 2014<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 133922, which denied Fluor Daniel, Inc. - Philippines' (FDIP) Motion for Additional Time to File Petition for *Certiorari*.

The facts are as follows:

On April 26, 2000, the Construction Industry Arbitration Commission (CIAC) issued a Notice of Award<sup>[4]</sup> in CIAC Case No. 42-98, which was captioned "*Fluor Daniel, Inc. - Phils., Claimant, versus Fil-Estate Properties, Inc. (FEPI), Respondent.*" Attached to the Notice of Award was a Decision<sup>[5]</sup> ordering FEPI to pay FDIP the amount of P13,579,599.57, plus interest.

The matter was then raised before the appellate courts. The CIAC decision was affirmed by the CA on December 21, 2001, and by this Court on June 18, 2008. Said judgment attained finality on April 17, 2009 upon the issuance of an Entry of Judgment<sup>[6]</sup> by this Court. Perforce, the CIAC issued a writ of execution. FEPI offered real properties as satisfaction for the judgment debt, but FDIP refused, on the ground that it is a foreign-owned corporation which cannot own real property in this jurisdiction. After further investigation, FDIP discovered that FEPI owned shares of stock in another corporation, Fil-Estate Industrial Park, Inc. (FEIP). The existence of these shares was relayed to the sheriff, and they were garnished in July 2012. On December 7, 2012, the shares were auctioned and awarded to FDIP as the highest bidder.

However, FDIP subsequently discovered that FEIP had ceased operations, thereby rendering its shares worthless. FDIP, thus, decided not to pay the sheriffs commission, and as such, the corresponding certificate of sale was not executed. Deeming the award unsatisfied, FDIP filed with the CIAC a Motion for Issuance of Alias Writ of Execution dated July 24, 2013, which the CIAC denied in an Order dated December 6, 2013. On December 27, 2013, FDIP filed a motion for reconsideration. On January 27, 2014, the CIAC issued a Declaration reiterating the denial of FDIP's motion for an alias writ of execution.<sup>[7]</sup> Nevertheless, on February 10, 2014, FDIP filed its Motion for Additional Time to File Petition for *Certiorari* with the CA, requesting for an additional period of 15 days, or until February 25, 2014,

within which to file a petition for *certiorari*. FDIP filed its petition for *certiorari* dated February 19, 2014.

On February 24, 2014, the CA issued the first assailed Resolution,<sup>[8]</sup> ruling that there was no showing of exceptional and meritorious circumstances that would enable the appellate court to exercise its discretion to grant an extension of time to file a petition for *certiorari*. The appellate court further held that if FDIP's case was really highly meritorious, it should have promptly utilized the 60-day reglementary period to conduct its investigation into FEPI's assets. The CA also noted that there was no showing that FDIP filed a motion for reconsideration of the CIAC's Order dated December 6, 2013 and there is no other plain, speedy, and adequate remedy in the ordinary course of law. As a result, the CA, in a Resolution dated February 28, 2014, simply considered FDIP's petition for *certiorari* as noted.

FDIP filed a motion for reconsideration on March 20, 2014.

On June 3, 2014, the CA issued the second assailed Resolution<sup>[9]</sup> denying FDIP's motion for reconsideration. The appellate court found no merit in the motion and reiterated the findings it made in the first assailed resolution.

FDIP now seeks redress before this Court, arguing that the appellate court erred in rejecting its Motion for Additional Time to File Petition for *Certiorari*. FDIP asserts that there are exceptional circumstances warranting the grant of additional time to file a petition for *certiorari*. *First*, FDIP had no plain, speedy and adequate remedy from the CIAC's Order dated December 6, 2013, since a motion for reconsideration was prohibited under the CIAC Rules. *Second*, FDIP will suffer manifest injustice as it will no longer have any recourse from the failed execution of the arbitral award that it had obtained more than ten years ago. *Third*, FDIP needed additional time to conduct its investigation into FEPI's properties since the latter was forcing FDIP to receive payment in a form that it cannot hold. *Fourth*, FDIP needed more time to find other suitable assets of FEPI, so that FDIP may determine if it would be worth the trouble of getting back to court. It was only after the conduct of such investigation that FDIP was able to determine that the only way to legally recover the award due to it was through another litigation of the matter before the courts; but by that time, FDIP was left with no choice but to ask for additional time to seek the proper remedy before the proper court.

In its Comment/Opposition,<sup>[10]</sup> FEPI disputes FDIP's claim that its case was exceptional and meritorious enough to warrant the exercise of the CA's discretion to grant an extension of time to file a petition for *certiorari*. FEPI asserts that, as the CA held, FDIP should have promptly utilized the 60-day reglementary period in conducting its investigation into the merits of continuing the litigation of the matter. FEPI, likewise, asserts that FDIP showed grave disregard for procedural rules by filing both a motion for reconsideration before the CIAC and petition for *certiorari* before the CA. FDIP had no one to blame but itself when it bought the allegedly worthless shares because it failed to observe due diligence in ascertaining the true value of the FEIP shares, since the principle of *caveat emptor* applies with equal force to auction sales. Lastly, FEPI argues that the resort to an alias writ of execution was correctly rejected by the CIAC, as FDIP cannot prevent the consummation of the auction sale by refusing to pay the sheriffs fees and costs.

The essential issue in this petition is whether or not the CA erred in denying FDIP's Motion for Additional Time to File Petition for *Certiorari*.

### **Ruling of the Court**

The petition is meritorious.

Under the Rules of Court currently in force, a petition for *certiorari* must be filed not later than 60 days from notice of the judgment, order or resolution complained of. If a motion for reconsideration or new trial was timely filed, the petition must be filed not later than 60 days from notice of the denial of the motion.<sup>[11]</sup> Under the amendment introduced by A.M. No. 00-2-03-SC in 2000, motions for extension of time to file petitions for *certiorari* were allowed for compelling reasons only. In *Yutingco v. Court of Appeals*,<sup>[12]</sup> the Court held that "the 60-day-period ought to be considered inextendible[,]" because this period "is deemed reasonable and sufficient time for a party to mull over and to prepare a petition asserting grave abuse of discretion by a lower court. The period was specifically set to avoid any unreasonable delay that would violate the constitutional rights of parties to a speedy disposition of their case."<sup>[13]</sup> Nevertheless, it was held in that same case that "it is a familiar and fundamental rule that a motion for extension of time to file a pleading is best left to the sound discretion of the court and an extension will not be allowed except for good and sufficient reason and only if the motion is filed before the expiration of the time sought to be extended."<sup>[14]</sup>

This has been the prevailing rule ever since, even after the amendments introduced by A.M. No. 07-7-12-SC in 2007. The strict proscription against motions for extension in *Laguna Metts Corp. v. Court of Appeals, et al.*<sup>[15]</sup> was subsequently qualified in *Domdom v. Third and Fifth Divisions of the Sandiganbayan, et al.*,<sup>[16]</sup> *Labao v. Flores, et al.*,<sup>[17]</sup> and *Mid-Islands Power Generation Corp. v. Court of Appeals, et al.*,<sup>[18]</sup> all of which held that motions for extension may be granted, subject to the discretion of the court and for compelling and meritorious reasons. These rulings were harmonized in *Rep. of the Phils. v. St. Vincent de Paul Colleges, Inc.*,<sup>[19]</sup> viz.:

What seems to be a "conflict" is actually more apparent than real. A reading of the foregoing rulings leads to the simple conclusion that *Laguna Metts Corporation* involves a strict application of the general rule that petitions for *certiorari* must be filed strictly within sixty (60) days from notice of judgment or from the order denying a motion for reconsideration. *Domdom*, on the other hand, relaxed the rule and allowed an extension of the sixty (60)-day period subject to the Court's sound discretion.

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Note that *Labao* explicitly recognized the general rule that the sixty (60)-day period within which to file a petition for *certiorari* under Rule 65 is non-extendible, only that there are certain exceptional circumstances, which may call for its non-observance. x x x