

THIRD DIVISION

[G.R. NO. 162445, October 20, 2005]

**DIONISIO L. BACARRA, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION AND WILSON LEDESMA,
RESPONDENTS.**

D E C I S I O N

CARPIO MORALES, J.:

The present Petition for Review^[1] assails the Resolutions dated June 11, 2003^[2] and February 23, 2004^[3] of the Court of Appeals in CA-G.R. SP No. 76774, "*Dionisio L. Bacarra versus National Labor Relations Commission and Wilson Ledesma.*"

The facts which spawned the filing of the case subject of the present petition are as follows:

Dionisio L. Bacarra (petitioner) who was hired in 1993 as driver by Wilson Ledesma (respondent), proprietor of Linea Industries which is engaged in the trucking business, was on February 18, 1999 prevented from entering the company premises, drawing him to file a complaint for illegal dismissal against respondent.

Before the Labor Arbiter, respondent maintained that petitioner's dismissal was valid and justified in view of the then prevailing economic crisis and loss of its clients which consequently resulted in the closure or cessation of operation of his trucking business, a valid ground for termination of employment^[4] under Article 283 of the Labor Code, as amended.

The Labor Arbiter found petitioner to have been illegally dismissed, the February 18, 1999 incident during which he was prevented from entering the company premises having amounted to constructive dismissal.

On respondent's claim that petitioner was terminated as early as May 1998, the Labor Arbiter held that even if that were true, respondent had not shown that a written notice had been served on petitioner and a termination report submitted to the Department of Labor and Employment as required by the Labor Code.^[5]

Respondent appealed to the National Labor Relations Commission (NLRC) which, by Resolution of October 24, 2002, modified the decision of the Labor Arbiter, it finding that there was a valid cessation of operations.^[6] The NLRC disposed as follows:

IN THE LIGHT OF THE FOREGOING, the decision is hereby MODIFIED deleting the award of backwages. Respondents are however ordered to pay complainant's Separation pay and Thirteen Month Pay in the total amount of TWENTY FOUR THOUSAND THREE HUNDRED TWENTY NINE PESOS AND THIRTY NINE CENTAVOS (P24,329.39) and Attorney's Fees

of TWO THOUSAND FOUR HUNDRED THIRTY TWO PESOS (P2,432,00).^[7]
(Underscoring supplied)

Petitioner's Motion for Reconsideration having been denied by the NLRC by Resolution of January 23, 2003^[8] which was received by petitioner on March 3, 2003,^[9] petitioner filed before the Court of Appeals (CA) on April 30, 2003, a Motion for Extension^[10] of thirty (30) days from May 2, 2003 to file a Petition for Certiorari, giving as reason behind the motion the heavy workload of his counsel.

Without awaiting the CA's action on his motion for extension, petitioner filed his petition for certiorari on May 9, 2003 or seven days beyond the 60-day reglementary period for the purpose.

By the first assailed Resolution^[11] dated June 11, 2003, the CA denied the motion for extension of time and ordered that the petition filed on May 9, 2003 be expunged from the record and the case dismissed, citing Section 4, Rule 65 of the Rules of Court which provides:

Sec.4. *When and where petition filed.* - The petition may be filed not later than sixty (60) days from notice of the 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.

x x x

No extension of time to file the petition shall be granted **except** for compelling reason and in no case exceeding 15 days. (Emphasis and underscoring supplied)

Citing *Velasco v. Ortiz*,^[12] the CA ruled that a lawyer's heavy workload or loaded calendar is no excuse for failure to comply with reglementary periods prescribed by the Rules.

Petitioner's Motion for Reconsideration of the first assailed resolution having been denied by the CA by Resolution^[13] of February 23, 2004, petitioner comes before this Court proffering the following:

GROUNDS RELIED UPON FOR THE
ALLOWANCE OF THE PETITION

I

The Court of Appeals committed reversal (sic) error in ordering the petition for certiorari expunged from the record and dismissing the case, because decision of the former (sic) was probably not in accord with law or with the applicable decisions of the Supreme Court.

II

The Court of Appeals committed reversal (sic) error in not finding respondent NLRC to have committed grave abuse of discretion in

modifying the decision of the labor arbiter notwithstanding absence of evidence to substantiate its findings.^[14]

The petition is impressed with merit.

On the first ground-basis of the petition, petitioner argues that the delay of seven days is not unreasonable, especially given the issues it raised which "involved primordial interest of substantial justice."

At the outset, it bears reminding that the invocation of "the interest of substantial justice" is not a magic wand that automatically compels this Court to suspend procedural rules.^[15] Except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of thoughtlessness in not complying with the procedure prescribed, procedural rules must be followed.

In *Yutingco v. Court of Appeals*,^[16] this Court explained why a petition for certiorari must be filed within a period of sixty days.

The New Rules on Civil Procedure, Section 4, Rule 65, prescribes a period of sixty (60) days within which to file a petition for certiorari. The 60-day 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.** For these reasons, the 60-day period ought to be considered inextendible.^[17] (Emphasis and underscoring supplied)

In said case, this Court held that a delay in the filing of petition for certiorari may be excused only under exceptional circumstances on the ground of **justice and equity**. Where no such circumstances exist, the delay is fatal.^[18]

Petitioner's Motion for Extension to file petition for certiorari before the CA was anchored on his counsel's heavy workload. Standing alone, heavy workload does not suffice to call for a deviation from the 60-day rule. *Apropos* in this connection is the reminder of this Court in *Miwa v. Medina*^[19] for lawyers to handle only as many cases as they can efficiently handle because it is not enough that they are qualified to handle legal matters, for they are also required to prepare adequately and give the appropriate attention to their legal works.

In *People v. Gako, Jr.*,^[20] a petition for review filed under Rule 45 which assailed the dismissal of a Petition for Certiorari before the CA for being filed late, this Court, after considering the issues raised therein which proffered extenuating circumstances, held that the CA should have passed upon the merits of the petition. It accordingly granted the petition for review.

In his petition before the CA, petitioner raised the following:

GROUND

RESPONDENT NATIONAL LABOR RELATIONS COMMISSION COMMITTED