

## THIRD DIVISION

**[ G.R. No. 144978, January 15, 2002 ]**

**UNIVERSAL ROBINA CORPORATION, AND/OR LANCE Y. GOKONGWEI, PETITIONERS, VS. COURT OF APPEALS, NATIONAL LABOR RELATIONS COMMISSION, CARLOS YGAÑA, LIBORIO VILLAFLOR AND RONALDO CARDINALES, RESPONDENTS.**

### DECISION

**PANGANIBAN, J.:**

The sixty-day period within which to file a petition for certiorari is reckoned from the receipt of the resolution denying the motion for reconsideration.

#### The Case

Before us is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, seeking to annul the May 18, 2000 and August 21, 2000 Resolutions<sup>[1]</sup> of the Court of Appeals (CA) in CA-GR SP No. 58695. The first assailed Resolution disposed as follows:

“WHEREFORE, premises considered, the instant petition is hereby DENIED due course and is ordered DISMISSED.”<sup>[2]</sup>

The second Resolution<sup>[3]</sup> denied petitioners’ Motion for Reconsideration.

#### The Facts

Respondents Carlos C. Ygaña, Liborio Villaflor and Ronaldo Cardinales were employees of CFC Corporation, an affiliate of the petitioner, Universal Robina Corporation. Upon retiring at the age of 60, they were granted, under the company’s retirement plan, benefits equivalent to one-half (1/2) month pay for every year of service.

On January 7, 1993, Congress enacted Republic Act No. 7641, which provided more liberal retirement benefits for employees in the private sector. Consequently, respondents filed a consolidated Complaint before the National Labor Relations Commission (NLRC), claiming retroactive entitlement to the enlarged benefits granted by RA 7641.

After proper proceedings, Labor Arbiter Eduardo J. Carpio rendered a Decision on January 15, 1999 in favor of respondents. The dispositive portion reads as follows:

“WHEREFORE, judgment is hereby rendered ordering [Petitioner] Universal Robina Corporation to pay [respondents] as follows: Ygana –

P67,494.46; Villaflor – P44,456.86; and Cardinales – P85,743.55.”<sup>[4]</sup>

On February 26, 1999, petitioners interposed an appeal to the NLRC. In due course, the labor arbiter was affirmed in the September 30, 1999 NLRC Resolution, a copy of which was received by petitioners on November 11, 1999.

On November 15, 1999, petitioners filed a Motion for Reconsideration, which the NLRC denied with finality via its December 29, 1999 Resolution. This Resolution was received by petitioners on March 14, 2000.

On May 15, 2000, petitioners filed the subject Petition for Certiorari with the Court of Appeals. On May 18, 2000, the CA promulgated the first assailed Resolution dismissing the Petition for having been filed out of time. A copy of the Resolution was received by petitioners on June 23, 2000.

### **Ruling of the Court of Appeals**

In dismissing the Petition, the CA held:

“Section 4, Rule 65 of the 1997 Rules of Civil Procedure provides that a special civil action for certiorari may be filed not later than sixty (60) days from notice of the judgment, order or resolution sought to be assailed. This rule does not contemplate that the 60-day period shall be counted from receipt of the motion for reconsideration, but from receipt of the decision. Such construction was made clear in the amendatory rule contained in Supreme Court *En Banc* Resolution dated 21 July 1998 which pertinently reads:

‘SEC. 4. *Where And When Petition To Be Filed.* – If the petitioner had filed a motion for new trial or reconsideration in due time after notice of said judgment, order or resolution, the period herein fixed shall be interrupted. If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days. In any event, reckoned from notice of such denial. x x x.’

“In the instant case, since petitioners received the assailed NLRC Resolution on 11 November 1999 and filed their motion for reconsideration on 15 November 1999, four (4) days had elapsed. Petitioners received the resolution denying their motion for reconsideration on 14 March 2000 and filed the present petition only on 15 May 2000. Clearly, the petition was filed 6 days late. Apparently, petitioners reckoned the 60-days prescribed period for filing petition for certiorari from receipt of the resolution denying their motion for reconsideration, which as earlier pointed out should not be the case.”<sup>[5]</sup>

Hence, this Petition.<sup>[6]</sup>

### **The Issue**

In their Memorandum,<sup>[7]</sup> petitioners raise this lone issue: