

FIRST DIVISION

[G.R. No. 141959, September 29, 2000]

JUANITA NARZOLES, PERLITA GUTIERREZ, MYLENE GERONAGA, LETICIA M. FORMAL, ARNEL DIMALIBOT, MARITES SAGUID, IRENE MARCENE, ABRAM GERONAGA, ROLANDO LU, MARIBETH HERNANDEZ, CORAZON AGARAP, PATRICIA ROSARIO, BERNADETTE LU, ANGELES MANGUL AND JOSEFINA MARTE, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, EASTERN MINDORO INSTITUTE OF TECHNOLOGY AND SCIENCES (EMITS), AND MR. MARCIAL S. SEMILLA, RESPONDENTS.

R E S O L U T I O N

KAPUNAN, J.:

Section 4, rule 65, as amended by Circular No. 39-98, provides that the 60-day period for filing a petition for certiorari shall be interrupted by the filing of a motion for reconsideration or new trial. In the event of the denial of the motion, the petitioner only has the remaining period within which to file the petition. Does the amendment apply to cases where the motion for reconsideration was filed before the amendment although the petition was filed after the amendment took effect? This is the question originally raised by the instant petition.

From the adverse decision of the Labor Arbiter dismissing their complaint for illegal dismissal, petitioner-employees appealed to the National Labor Relations Commission. The NLRC modified the decision of the Labor Arbiter and ordered respondents to reinstate petitioners "but without backwages." Petitioners received the NLRC decision on 23 July 1998, and filed a motion for reconsideration on 3 August 1998. (The last day for filing said motion was on 2 August 1998, a Sunday.)

On September 1, 1998, the amendment to Section 4, Rule 65 took effect per Circular No. 39-98. The amendment added another paragraph to said Section, and reads:

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. No extension of time to file the petition shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

Previous to the amendment, Section 4, Rule 65 provided in the lone paragraph that "(t)he petition may be filed not later than sixty (60) days from notice of the judgment, order or resolution sought to be assailed in the Supreme Court."

On 19 October 1998, petitioners received a copy of the NLRC Resolution denying

their motion for reconsideration. Petitioners filed a petition for certiorari in this Court on 17 December 1998. The Court referred the case to the Court of Appeals pursuant to the ruling in *St. Martin Funeral Homes vs. NLRC*.^[1]

Acting on the petition, the court of appeals denied the same for late filing. Apparently, the CA applied Section 4, Rule 65, as amended by Circular No. 39-98, in computing the period for the filing of the petition for certiorari. It held:

The reglementary period to file petition for certiorari is sixty (60) days from notice of the accrual of the cause for certiorari (Sec. 4, Rule 65, 1997 Rules of Civil Procedure).

Petitioner's last day to file their petition for certiorari is December 8, 1998. The petition was filed before the Honorable Supreme Court on December 17, 1998. Consequently, this court hereby RESOLVES TO DISMISS the petition for having been filed beyond the reglementary period.^[2]

Their motion for reconsideration having been denied by the CA, petitioners filed the present petition for review.

There is no question that the amendments brought about by Circular No. 39-98, which took effect on September 1, 1998, were already in force, and therefore applicable when petitioners filed their petition. Statutes regulating the procedure of the courts are applicable to actions pending and undetermined at the time of their passage. Procedural laws are retroactive in that sense.^[3] No vested rights attach to procedural laws.^[4] Consequently, the CA, in accordance with Circular No. 39-98, correctly deducted the 16 days (the fifteenth day was a Sunday) it took for petitioners to file their motion for reconsideration from the 60-day reglementary period. As petitioners only had the remaining period of 44 days from 19 October 1998, when it received a copy of the resolution denying reconsideration, to file the petition for certiorari, or until 8 December 1998, the filing of the petition on 17 December 1998 was nine (9) days too late.

Petitioners, however, claim exception to the retroactive application of Circular No. 39-98 since it would work injustice to them.^[5] We do not deem it necessary to rule on this contention in view of further amendments to Section 4, Rule 65.

The Court has observed that Circular No. 39-98 has generated tremendous confusion resulting in the dismissal of numerous cases for late filing. This may have been because, historically, i.e., even before the 1997 revision to the Rules of Civil Procedure, a party had a fresh period from receipt of the order denying the motion for reconsideration to file a petition for certiorari. Were it not for the amendments brought about by Circular No. 39-98, the cases so dismissed would have been resolved on the merits. Hence, the Court deemed it wise to revert to the old rule allowing a party a fresh 60-day period from notice of the denial of the motion for reconsideration to file a petition for certiorari. Earlier this year, the Court resolved, in A.M. No. 00-2-03-SC, to further amend Section 4, Rule 65 to read as follows:

Sec. 4. *When and where petition filed.* - The petition shall 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