

**FELIPE N. CARIAGA AND NOEL C. YAMBA, PETITIONERS, VS.
NATIONAL LABOR RELATIONS COMMISSION, EIGHTH [8TH]
DIVISION, CAGAYAN DE ORO CITY AND BLUE ARMOUR SECURITY
INVESTIGATION & GE...**

Ponente: INTING, J.

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INTING, J.:

Before Us is a Petition for Certiorari[1] assailing the Resolution[2] dated January 31, 2013 of public respondent National Labor Relations Commission, Eighth (8[th]) Division in Case No. NLRC No. MAC-10- 012762-2012; and the Resolution[3] dated March 27, 2013 denying petitioners' motion for reconsideration. The dispositive portion[4] of the assailed Resolution dated January 31, 2013 reads:

“WHEREFORE, complainants' partial appeal is DISMISSED for being filed out of time while respondents' appeal is DENIED for lack of merit.

Accordingly, the Decision of the Executive Labor Arbiter Elbert C. Restauero dated August 22, 2012 is AFFIRMED.

SO ORDERED.”

A perusal, however, of the instant petition reveals the following defects and infirmities:

- There is no clear statement of material dates which would allow the Court to determine whether the petition is timely filed in violation of Section 3, Rule 46 of the Rules of Court;

The petition assailed (a) the NLRC Resolution dated January 31, 2013 which dismissed their partial appeal for being filed out of time, and (b) the NLRC Resolution dated March 27, 2013 which denied their motion for reconsideration. However, the statement of material dates refers to (a) February 28, 2013 Resolution which they allegedly received on March 14, 2013, and (b) May 7, 2013 Resolution denying their motion for reconsideration which they allegedly received on September 23, 2013;

- Pertinent pleadings and material portions of the records were not attached, such as private respondent's position paper before the Labor Arbiter, the parties' appeal memoranda before the NLRC, the motion for reconsideration of the assailed January 31, 2013 Resolution of the NLRC, in violation of Section 3, Rule 46 of the Rules of Court;

- The notarial certificates of the Verification and Certification of Non-Forum Shopping, and the Affidavit of Proof of Service failed to comply with the 2004 Rules of Notarial Practice, viz:

- Failure to indicate competent evidence of affiant's identity required under Section 12, Rule II, 2004 Rules of Notarial Practice;[5] and

- Failure to indicate (a) the serial number of the notary public's commission; (b) the province or city where he is commissioned; (c) the office address of the notary public; and (d) the roll of attorneys number of the notary public required under Section 2, Rule VIII of the 2004 Rules of Notarial Practice.

We are constrained to dismiss the petition in view of the foregoing defects appearing with it. Section 3, Rule 46 of the 1997 Rules of Civil Procedure, emphatically provides:

Section 3. Contents and filing of petition; effect of non-compliance with requirements. -

x xx x x x x x

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.

It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the record as are referred to herein, and other documents relevant or pertinent thereto. x x x.

x x x x x x x x

The petitioner shall pay the corresponding docket and other lawful fees to the clerk of court and deposit the amount of P500.00 for costs at the time of the filing of the petition.

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.

Notably, it is a settled principle of law that rules of procedure must be used to facilitate, not to frustrate the ends of justice.[6] Corollary, petitioner and his counsel should bear in mind that the right to appeal is not a natural right. The right to appeal is a statutory privilege, and it may be exercised only in the manner and in accordance with the provisions of the law.[7] A party who seeks to appeal must comply with the law's requirements; otherwise, he forfeits his privilege. Rules of procedure may be relaxed only to relieve a litigant of an injustice which is not commensurate with the degree of his thoughtlessness in not complying with the prescribed procedure.[8]

WHEREFORE, the instant Petition for Certiorari under Rule 65 is hereby DISMISSED.

SO ORDERED.

Camello and Lopez, JJ., concur.

[1] Rollo, pp. 2-12.

[2] Ibid., pp. 15-21.

[3] Ibid., pp. 22-23.

[4] Ibid., p. 20.

[5] Ibid., pp. 13, 16, 103.

[6] Cusi-Hernandez v. Sps. Diaz, 390 Phil. 1245 (2000).

[7] Spouses Ortiz v. Court of Appeals, 360 Phil. 95 (1998).

[8] Limpot v. Court of Appeals, G.R. No. 44642, 20 February 1989.

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