

**CESAR JOSE M. LUCERO, PETITIONER, V. RAMON S. GUTIERREZ,
CAPT. ELMER F. PEÑA, ARIEL S. CONCEPCION, AND HILARIO A.
CABUGON, RESPONDENTS.**

Ponente: TOLENTINO, A.G., J.

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TOLENTINO, A.G., J.:

Under consideration is the petitioner's 2nd[1] and 3rd[2] Motions For Extension Of Time To File Petition For Review On Certiorari filed on March 5, 2014 and March 20, 2014, respectively:

Assailed in this petition for review is the order dated November 21, 2013 of the Office of the Ombudsman, a copy of which was received by the petitioner on February 4, 2014. On February 18, 2014, the petitioner filed a Motion For Extension Of Time To File Petition For Review On Certiorari, which was granted by this Court through a resolution[3] dated February 25, 2014. Accordingly, the petitioner was given until March 5, 2014 within which to file the intended petition for review.

The said period, however, elapsed without the petitioner having filed any pleading. Instead, the petitioner again successively filed the subject two motions for extension of time. Then, on April 4, 2014, the petitioner filed the corresponding petition for review.

Section 4, Rule 43 of the 1997 Rules of Civil Procedure, as amended, which governs the review of decisions or final orders of the Ombudsman in administrative cases[4] specifically proscribes the filing of a second motion for extension except for the most compelling reasons.

“Section 4. Period of appeal. — The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency a quo. Only one (1) motion for reconsideration shall be allowed. Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.” (Emphasis supplied).

The aforequoted rule is clear. This Court may grant an “additional period of 15 days only” within which to file the petition for review. Albeit under the same section, a “further extension” not to exceed 15 days may be granted “for the most compelling reason,” petitioner had no basis to assume that his request for further extension is meritorious and would be granted. Motions for extension are not granted as a matter of right but in the sound discretion of the court, and lawyers should never presume that their motions for extension or postponement would be granted or that they would be granted the length of time they pray for.[5]

Moreover, it is only logical that the motion for extension of time must be filed before the expiration of the period sought to be extended; otherwise, the same is of no effect since there would no longer be any period to extend, and the assailed judgment or order will have become final and executory.[6] In this case, it cannot be gainsaid that

the petitioner filed his 2nd motion for extension of time after the period of extension granted to him by this Court had already elapsed. The petitioner was given the additional time until March 5, 2014 within which to file a petition for review. Without filing a petition for review, the petitioner instead filed a 2nd motion for extension of time on March 15, 2015. Evidently, the said motion, as well as the 3rd motion for extension of time and the corresponding petition for review, is belatedly filed.

Furthermore, the justifications advanced by the petitioner's counsel in the subject motions for extension do not prove to be meritorious. In his 2nd motion for extension, the petitioner's counsel offered as justifications for asking additional time his “hectic hearing schedules” and “writing extra-complicated pleadings for various courts.” Meanwhile, in the 3rd motion for extension, the petitioner's counsel interposed the alleged failure of the petitioner to communicate with him to justify his motion. It has been consistently ruled that mere pressure and volume of work cannot be considered “compelling reason” to justify a request for extension.^[7]

WHEREFORE, premises considered, the petitioner's 2nd and 3rd motions for extension of time dated March 15 and 20, 2014 respectively, are DENIED. Accordingly, this case is DISMISSED OUTRIGHT for failure to file the petition for review within the period of extension granted by this Court which expired on March 5, 2014. The Petition For Review subsequently filed by the petitioner on April 8, 2014 is merely NOTED.

SO ORDERED.

Rosario and Bueser,^[*] JJ., concur.

[*] Vice Justice Leoncia R. Dimagiba, per Raffle conducted on May 26, 2014.

[1] Rollo, pp. 9-10.

[2] Rollo, pp. 12-13.

[3] Rollo, p. 6.

[4] Fabian vs. Desierto, G.R. No. 129742, September 16, 1998.

[5] Bernardo vs. People, G.R. No.166980, April 4, 2007.

[6] Thenamarines Philippines, Inc. vs. Court of Appeals, G.R. No. 191215, February 3, 2014.

[7] Heirs of Ramon B. Gayares vs. Pacific Asia Overseas Shipping Corporation, G.R. No. 178477, July 16, 2012.

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