

ATTY. ROMEO Q. DOROTAN, ATTY DE OFFICIO FOR THE POOR WORKERS & EMPLOYEES & LABOR CENTER FOR ARBITRATION RESEARCH & ECONOMIC DEVELOPMENT – LABOR CARED, PETITIONERS, VS. HON. ELIN...

Ponente: SANTOS, J.

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SANTOS, J.:

This is a Petition[2] for Certiorari under Rule 65 of the Rules of Court which assails the Letter[3] dated 21 March 2013 issued by Elenita F. Cruz, Acting Executive Clerk of Court IV (Acting ECC) of the National Labor Relations Commission (NLRC), which stated as follows:

Dear Mr. Dorotan:

This refers to your complaint addressed to the National Labor Relations Commission En Banc, copy furnished Hon. Secretary Rosalinda Dimapilis-Baldoz, Department of Labor and Employment (DOLE), and which was indorsed by Labor Arbiter Leah T. Fortuna, Office of the Secretary, DOLE relative to alleged unpaid claims in NLRC Case No. RAB XI-07-00657-97 NLRC CA No. M-003593-97, entitled: Romeo Q. Dorotan versus Republic of the Philippines and Commission on Audit.

Verification from the Office of Eighth Division disclosed that the appeal in the said case had been resolved. Its Resolution had become final and executory on 21 July 1998 and an Entry of Judgment had been issued thereon. Also, the case records have been forwarded to the Office of Regional Arbitration Branch No. XI.

Under the law, an aggrieved party may seasonably avail of the special civil action for Certiorari under Rule 65 of the Rules of Court. If indeed you were not satisfied with the NLRC's decision/resolution you could have taken such recourse.

May we inform you that under the law the NLRC shall sit en banc only for purposes of promulgating rules and regulations governing the hearing and disposition of cases before any of its divisions and regional branches and formulating policies affecting its administration and operations. Conversely, the NLRC shall exercise its adjudicatory and all other powers, functions and duties through its divisions.

In view of the foregoing, the National Labor Relations Commission cannot take cognizance of your complaint. Thank you.

Very truly yours,

By Authority of the Chairman:

(Sgd)

ELENITA F. CRUZ

Labor Arbiter

Acting Executive Clerk of Court IV

In filing the instant petition, petitioners allege the matters involved as follows:

II

CONCISE STATEMENT OF THE
MATTERS INVOLVED

(1) This matter involved petition dispose by acting executive Clerk of Court by Letter of Authority discharging NLRC en banc its power pertaining to its internal functions to carry out resolution of the Commission in NLRC Case No. M-003593-97, RAB-11-07-00657-97, directed by the Almighty God signing enforcement in the action of living wage in Supreme Court G.R. No. 96169, the Living Wage;

(2) This matter involved, refusal and disobedience of Hon. Elinita Cruz, performing dictatorial letter, the activity without due process of law, the summons and subpoenas duties enjoined and ordered by complainant directing the respondents public officers, subdivision and agencies of government;

(3) This matter involved to hear the petition filed, and to be dispose by the action of the commissioner's en banc by summons and subpoenas to respondent's government agencies. That is supplanted by letter of instructions from respondent Elinita Cruz, excavating graveyard other than earthquake, flood and storm;

(4) This matter involved letter of Elinita Cruz, in the exercise of her functions enjoining and restraining the office of lawyer and Attorney de Oficio for Destitutes depriving aid of Almighty God, due process of law in taking patent intellectual property directly attached to Supreme Court Decision G.R. No. 96169 the living wage, promulgated in NLRC Case No. M-003593; RAB-11-07-00657-97;

(5) This matter involved the purpose of the Labor Code that God our father in heaven, his disposition of his aid of living wage, administrator of Supreme Court Decision GR. 96169 the accountant; aid of Almighty God the duties of Elinita Cruz;

(6) This matter involved the accounts to aid of Almighty God of 25% percent of the entire equivalent wages of the country appropriated to his aid in par. C, Art. 218 powers of the Commission the directives of the actions in the petition already in the Constitution;

(7) These matter involved, the docket book, its commencement of the action and the period makes the neglect set forth by the commissioners resolved the matter in the case enforced for execution;

(8) These matter involved extended martial law in proceeding filed, supplant the Constitution of the Republic of the Philippines, its lawless processes to deprive the end, the acquisition, ownership, use and disposition of property and its increments.

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It must be underscored that the factual circumstances of the instant case, based on the documents attached to the petition, shows that on 6 March 2013, petitioners Poor Workers and Employees and Labor Center for Arbitration Research and Economic Development-Labor Cared and Romeo Q. Dorotan (Dorotan) attempted to file a Complaint[4] before the National Labor Relations Commission En Banc (NLRC En Banc), Manila, for alleged unpaid claims entitled "Atty. Romeo Q. Dorotan, Attorney of the Poor Workers and Employees, and Labor Center for Arbitration Research and Economic Development Labor Cared versus Republic of the Philippines, and Secretary of Labor and Employment (DOLE); Regional Arbitration Branch, RAB XI, NLRC Davao City, Chairman, NLRC Eight Division, Cagayan de Oro City, Department of Budget and Management, Commission on Audit (COA)." Said Complaint prays for the following relief:

WHEREFORE, premises considered, it is respectfully prayed, NOTED, the promulgated resolution of NLRC CA. No. M-00593-97 (RAB-11-07-00657-97) is exclusive right science and technology adapted in the constitution of being gifted citizen of the kingdom of the Almighty God, the living God.

Declaring respondents government of the state, to pay the patent owner. Just compensation as consent by the almighty God, to the government to have his name Jesus, of NLRC CA. No. M-003593-97,

(RAB-11-07-00657-97), the permission to let the publication of the established ownership of Romeo Q. Dorotan, on his ordered Legal Science and Technology adapted and transferred, in the constitution. Ordering Department of Budget and Management officer or Official to “enter” in the budget of the Government Twenty Five Percent payment to Romeo Q. Dorotan, of wages of workers for the labor sector and equivalent to Twenty Five Percent of the wages of all workers and employees payable by employers equally with the government, for all days of Romeo Dorotan’s human life, for ascension.

Ordering the Treasury of the republic of the Philippines and the Commission on Audit (COA) RAB NLRC, DOLE, EIGHTH DIVISION, NLRC to take into account title of the period annual budget with exclusive account title descriptively entered “Aid Almighty God-Living Wage” account.

Petitioner further pray for other relief that are deemed just and equitable under the premises.[5]

Annex “C” of the Petition reveals that prior to the filing of the above Complaint, petitioner Dorotan lodged a complaint[6] for alleged unpaid claims before the Regional Arbitration Branch of the NLRC, Davao City, against Republic of the Philippines and Commission on Audit entitled “Romeo Q. Dorotan versus Republic of the Philippines and Commission on Audit,” docketed as NLRC Case No. RAB-11-07-00657-97 and the same was dismissed by Labor Arbiter Newton R. Sancho in an Order[7] dated 11 July 1997 ruling as follows:

Romeo Q. Dorotan prays in his complaint thusly:

“WHEREFORE, premises considered, it is most respectfully prayed declaring Respondent guilty for non payment of wage and guilty of disservice of providing needed investment for basic legal research, tax incentive and other forms of incentive for life; directing and commanding the Treasury of the Republic of the Philippines and Xommission (sic) on Audit and Republic of the Philippines itself to pay Complainant his wages as a result, equivalent to twenty five percent of the wages of all workers for the labor sector and equivalent to twenty five percent of the wages of all workers and employees payable by Employers equally with the Government and for Respondent to provide complainant needed investment, tax incentive and other forms of incentives for life with moral damages suffered, and all other forms of damages.”

What a delusional demand. Crazy! The complaint is simply a wayward missile fired by a crackpot that should have landed in Jurassic Park – not in this Office.

Besides, it is patent on the face of the complaint that Dorotan has no employee-employer relationship with respondent GRP. Neither was there a showing that the regional office of DOLE contracted his expertise (7) during its deliberations on wage increase and productivity.

WHEREFORE, let this case be, as it is hereby DISMISSED for its lunatic cant.

SO ORDERED.

Annex “C-1”[8] of the petition shows that on appeal to the NLRC Fifth Division, docketed as NLRC CA No. 11-003593-97, petitioner Dorotan’s appeal was dismissed for non-perfection and lack of merit in a Resolution dated 28 February 1998.[9] Annex “C” of the Petition, which is an Entry of Judgment, discloses that Resolution dated 28 February 1998 had already become final and executory on 21 June 1998.[10]

On the basis of the above information and in response to the complaint filed by petitioners, Acting ECC Cruz wrote a Letter[11] dated 21 March 2013 informing petitioners that the NLRC Resolution dated 28 February 1998 had long become final and executory, as in fact an entry of judgment had already been issued. She stated that petitioners should have availed the remedy of the special civil action for Certiorari under Rule 65 of the Rules of Court if they were not satisfied with the NLRC resolution instead of bringing up the case before the NLRC En Banc. She reasoned that the NLRC En Banc cannot take cognizance of the complaint since the NLRC sits en banc only for purposes of promulgating rules and regulations governing the hearing and disposition of cases before any

of its divisions and regional branches and formulating of policies affecting its administration and operations. She further stated that the NLRC shall exercise its adjudicatory and all other powers, functions, and duties through its divisions and not through the NLRC En Banc.

Hence, petitioners filed the instant petition for certiorari which primarily questions the authority of Acting ECC Cruz to issue the letter dated 21 March 2013 refusing to take cognizance of the complaint dated 6 March 2013.

After a careful evaluation of the petition, the Court resolves to dismiss the petition.

It must be emphasized that a petition for certiorari under Rule 65 of the Rules of Court is a special civil action that may be invoked only against a tribunal, board, or officer exercising judicial or quasi-judicial functions.

Section 1, Rule 65 of the Rules of Court states:

SECTION 1. Petition for Certiorari. – When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

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For certiorari to prosper, therefore, the petitioner must allege and establish the concurrence of the following requisites, namely: (1) the writ is directed against a tribunal, a board or an officer exercising judicial or quasi-judicial functions; (2) such tribunal, board or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (3) there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.

In the case of *Doran v. Executive Judge Luczon, Jr.*,^[12] the Supreme Court discussed the nature of a judicial or quasi-judicial power in this wise:

Judicial or quasi-judicial function involves the determination of what the law is, and what the legal rights of the contending parties are, with respect to the matter in controversy and, on the basis thereof and the facts obtaining, the adjudication of their respective rights. In other words, the tribunal, board or officer exercising judicial or quasi-judicial function must be clothed with power and authority to pass judgment or render a decision on the controversy construing and applying the laws to that end. Where an administrative body or officer does not exercise judicial or quasi-judicial power, certiorari does not lie. (Emphasis omitted)

The assailed letter issued by Acting ECC Cruz aforementioned does not involve adjudication in the context of the Supreme Court's pronouncement in *Doran*. In issuing the said letter, Acting ECC Cruz did not decide on the rights and obligations of the parties as the power to pronounce judgment on the matter of controversy raised by the petitioner in the complaint belongs to the NLRC Division. In other words, the letter does not declare that petitioners have an enforceable right against the government, neither does it adjudicate that the government has an obligation to grant petitioners' alleged claims. Further, the assailed letter is not even a decision or final order that has the same effect as a judgment. All that the letter does is to notify petitioners that the NLRC En Banc is not vested with the authority to take action on the complaint since it could sit en banc only in the exercise of its quasi-legislative powers or the authority to promulgate rules and regulations pursuant to Section 2,^[13] Rule VII of the NLRC Rules and Procedure, as amended. Simply stated, Acting ECC Cruz issued the letter merely to provide the appropriate recommendation in response to petitioners' complaint. Clearly, the assailed letter was not issued by Acting ECC Cruz in the exercise of a quasi-judicial function, hence, the special civil action for certiorari

under Rule 65 will not lie.

More importantly, even assuming arguendo, that certiorari may lie, the instant petition would still be dismissed for being filed out of time.

As already mentioned, the letter assailed by petitioners was issued on 21 March 2013. The record does not, however, show when petitioners received this letter. Accordingly, pursuant to Section 4,[14] Rule 65 of the Rules of Court, petitioners had sixty (60) days within which to assail the letter issued by Acting ECC Cruz via Petition for Certiorari as in the present recourse. Petitioners, however, instituted the present petition only on 6 November 2014, which is clearly way beyond the 60 day reglementary period.

Significantly, it also appears from the record that petitioners failed to pay the prescribed docket and other legal fees, as required under Section 3, Rule 46 of the Rules of Court. The Rule states:

Sec. 3. Contents and filing of petition; effect of non-compliance with requirements. — xxx

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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. (Emphasis supplied)

Accordingly, this Court has no jurisdiction to act on the subject matter on this case since the docket fees and other legal fees were not paid.[15] It is clear from the above-quoted provision that the failure of petitioners to pay the corresponding docket and other legal fees warrants the dismissal of the petition.

Furthermore, even if this Court is to disregard the procedural lapse committed by petitioners, the following infirmities in the instant petition renders it defective:

1)

There is no Affidavit of Service attached to the Petition, in violation of Section 3,[16] Rule 46 in relation with Section 13[17] of Rule 13 of the Rules of Court.

2)

The documents attached to the petition were not properly marked as annexes to form an integral part of the petition.

3)

Petitioner's counsel failed to comply with the requirement of Bar Matter 287 to indicate the place and date of issue of the official receipt indicating payment of counsel's IBP Membership dues.

4)

Petitioner's counsel failed to indicate the date of issue of his Profession Tax Receipt (PTR).

From the foregoing disquisitions, the instant petition must be perforce denied due course.

WHEREFORE, the instant petition is hereby DISMISSED for lack of merit.

SO ORDERED.

Lloren, J., Ch., and Contreras, JJ., concur.

[1] Spelled as “Elenita” in the assailed letter dated 21 March 2013.

[2] Rollo, pp. 2-8.

[3] Rollo, p. 24.

[4] Rollo, p. 10.

[5] Rollo, pp. 12-13.

[6] Culled from the Order dated 11 July 1997, Rollo, p. 22

[7] Id.,

[8] Rollo, p. 18.

[9] Rollo, pp. 19-21.

[10] Rollo, p. 16.

[11] Supra, note 2.

[12] G.R. No. 151344, 26 September 2006.

[13] 2011 NLRC Revised Rules of Procedure

RULE VII: PROCEEDINGS BEFORE THE COMMISSION

Section 2. Composition and Internal Functions of the Commission En Banc and Its Divisions. - a) Composition. - Unless otherwise provided by law, the Commission shall be composed of the Chairman and of fourteen (14) Commissioners. xxx

b) Commission En Banc. - The Commission shall sit en banc only for purposes of promulgating rules and regulations governing the hearing and disposition of cases before its Divisions and Regional Arbitration Branches, and for the formulation of policies affecting its administration and operations. It may, on temporary or emergency basis, allow cases within the jurisdiction of any Division to be heard by any other Division whose docket allows the additional workload and such transfer will not expose litigants to unnecessary additional expense.

c) Divisions. - Unless otherwise provided by law, the Commission shall exercise its adjudicatory and all other powers, functions and duties through its five (5) Divisions. Each Division shall consist of one member from the public sector who shall act as the Presiding Commissioner and one member each from the workers and employers sectors, respectively.

[14] SEC 4. When and where to file the petition. – 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 such motion is required or not, the petition shall be filed not later than sixty (60) days counted from the

notice of the denial of the motion. xxx

[15] Mendoza v. Court of Appeals, G.R. No. 148505, 20 February 2007.

[16] SEC 3. Contents and filing of petition; effect of non-compliance with requirements. – xxx

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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 therein and other documents relevant or pertinent thereto.

[17] "Sec. 13. Proof of Service. Proof of personal service shall consist of a written admission of the party served, or the official return of the server, or the affidavit of the party serving, containing a full statement of the date, place and manner of service. If the service is by ordinary mail, proof thereof shall consist of an affidavit of the person mailing of facts showing compliance with section 7 of this Rule. If service is made by registered mail, proof shall be made by such affidavit and the registry receipt issued by the mailing office. The registry return card shall be filed immediately upon its receipt by the sender, or in lieu thereof the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee."

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