

JELTON APPAREL/SY-ON, INC., ET AL., PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, JOCELYN ESTRADA, JENNIE M. SENINING, ALMA LORIO, MARILOU E. PANGANIBAN AND MARIBEL S. A...

Ponente: CORALES, J.

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CORALES, J.:

This is a Petition for Certiorari[1] under Rule 65 of the Rules of Court seeking to annul the November 28, 2014 Resolution[2] of the National Labor Relations Commission (NLRC), Third Division in NLRC Case No. SRAB-IV-01-5946-14-B dismissing petitioners' appeal from the Decision[3] of the Labor Arbiter for failure to comply with jurisdictional requirements.

A perusal of the petition shows that the same is procedurally infirmed, warranting its outright dismissal, to wit:

- The names and actual addresses of all petitioners were not indicated in the petition, as required in Section 3, paragraph 1, Rule 46 of the Rules of Court;
- Petitioners failed to submit certified true copies of the following pertinent pleadings, in violation of Section 3, paragraph 3, Rule 46 of the same Rules: resignation letter of Jennie Senining marked as Annex "E" in the petition; herein private respondents position papers; and memorandum of appeal with attached motion to reduce bond;
- There is no proof showing that Melinda Aguisanda (Aguisanda) is authorized to file the instant petition on behalf of petitioners. Aguisanda did not also submit any proof that petitioners authorized her to sign the verification and certification of non-forum shopping;
- Atty. Antonio F. Butial, Jr., the notary public before whom the verification and certificate of non-forum shopping was subscribed and sworn to, did not indicate the serial number of his commission, in violation of Section 2, Rule VIII of the 2004 Rules on Notarial Practice; and
- Petitioners failed to comply with the requirement of a motion for reconsideration prior to the filing of a petition for certiorari.

It bears stressing that before a petition for certiorari can prosper, the petitioner must be able to show, among others, that he does not have any other "plain, speedy and adequate remedy in the ordinary course of law." This remedy referred to in Section 1, Rule 65 of the Rules of Court is a motion for reconsideration of the questioned order.[4]

There are several exceptions where a petition for certiorari will lie without the prior filing of a motion for reconsideration, to wit:

- a. where the order is a patent nullity, as where the court a quo has no jurisdiction;
- b. where the questions raised in the certiorari proceeding have been duly raised and passed upon by the lower

court, or are the same as those raised and passed upon in the lower court;

c. where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the government or the petitioner or the subject matter of the action is perishable;

d. where, under the circumstances, a motion for reconsideration would be useless;

e. where petitioner was deprived of due process and there is extreme urgency for relief;

f. where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable;

g. where the proceedings in the lower court are a nullity for lack of due process;

h. where the proceedings was ex parte or in which the petitioner had no opportunity to object; and

i. where the issue raised is one purely of law or where public interest is involved.[5]

However, none of the foregoing exceptions applies in this case and petitioners failed to show that a petition for certiorari would be a more speedy and adequate remedy than a motion for reconsideration from the November 28, 2014 Resolution of the NLRC.

Jurisprudence is replete with decisions which reiterate that before filing a petition for certiorari in a higher court, the attention of the public respondent should be first called to its supposed error and its correction should be sought. Failing this, the petition for certiorari should be denied.⁶

WHEREFORE, the present petition for certiorari is hereby DISMISSED.

SO ORDERED.

Villon, J., Chairperson and Zalameda, JJ., concur.

[1] Rollo, pages 3-27.

[2] Penned by Commissioner Pablo C. Espiritu, Jr., *ibid.*, pages 62-66.

[3] Penned by Labor Arbiter Melchisedek A. Guan, *ibid.*, pages 46-61.

[4] *Novateknika Land Corporation v. Philippine National Bank*, G.R. No. 194104. March 13, 2013.

[5] *Delos Reyes v. Flores*, G.R. No. 168726. March 5, 2010.

[6] *Novateknika Land Corporation v. Philippine National Bank*, *supra*, at note 4.

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