

**BASILIO BIEN ET AL., PETITIONERS, VS. HON. MODESTO CASTILLO, ETC., AMBROSIO ARAGO, AND FELIX LAÑADA, RESPONDENTS.***G.R. No. L-7428. May 24, 1955*

Ponente: REYES, A., J.

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In Tenancy Case No. 4010-R of the Court of Industrial Relations that court rendered a decision, authorizing the landlord to eject the tenants from their respective landholdings for willful disobedience to his lawful orders. Notice of the decision, together with a copy thereof, was received by the tenants, thru counsel, on October 12, 1953. At the foot of the notice was the following-

**"NOTE:**

"1. Motion for reconsideration in six (6) copies duly verified under oath shall be filed within five (5) days from receipt of a decision or order. Arguments supporting same may be filed simultaneously or within ten (10) days thereafter. The adverse party may file his answer or opposition with argument, also in six (6) copies duly verified under oath, within ten (10) days from receipt of the movant's argument. (Secs. 15, 16, and 17, as amended, Rules of C.I.R.)

"2. Notice of appeal and appeal may be perfected within ten (10) days from the date the aggrieved party receives notice of the resolution of the C.I.R. sitting en banc. (Manila Terminal Company, Case No. G.R. No. L-4150, March 20, 1951.)"

On October 19, that is, 7 days after they were notified of the decision, the tenants filed a pro forma motion for reconsideration, alleging that the said decision was against the evidence and the law and praying that the record of the case be forwarded to the Naga City branch of the court for the purposes of reference and that "the ten (10) days period to present the petitioners' Motion For Reconsideration should be made to start" upon notice that the record was always available for examination in Naga. (Counsel for the tenants was apparently referring to the 10 days allowed for filing the supporting arguments, which would otherwise commence to run from the filing of the motion itself.) Acting on the motion, the court in banc, under date of November 24, 1953, rendered the following-

**"R E S O L U T I O N**

"Counsel for petitioners having failed to file arguments in support of his pro-forma motion for reconsideration, dated October 19, 1953, in accordance with rules 15, 16, and 17 of this Court, let said motion be, as it is hereby, DISMISSED.

"SO ORDERED."

Reconsideration of this resolution having been denied, the tenants brought the present action for certiorari to the said resolution set aside "as having been issued with grave abuse of discretion" and to order the lower court to allow the petitioners to present their arguments in support of their pro forma motion for reconsideration.

Answering the petition, the respondent judge explains that in dismissing petitioner's first motion for reconsideration for their failure to file arguments in support thereof, the prayer to have the record of the case sent to Naga City "was disregard or ignored by the respondent judge as the petitioners' counsel was presumed to know that the court records may not be withdrawn from the court premises for the personal convenience of one party because they are available for inspection in the court at any time during office hours;" and that even assuming that the said motion "should not have been dismissed on the ground of failure to file the supporting arguments, yet the said motion should in fact be dismissed because the same was filed beyond the five-day period required by the Rules of the Court of Industrial Relations." Attached to the answer is a copy of sections 15, 16, and 17 of those rules, which read as follows:

"MOTION FOR RECONSIDERATIONS

"SEC. 15. The movant shall file the motion, in six copies, within five (5) days from the date on which he receives notice of the order or decision, object of the motion for reconsideration, the same to be verified under oath with respect to the correctness of the allegations of facts, and serving a copy thereof, personally or by registered mail, on the adverse party. The latter may file an answer, in six (6) copies, duly verified under oath.

"Sec. 16. Both the motion and the answer shall be submitted with arguments supporting the same. If the arguments can not be submitted simultaneously with said motion, upon notice to the Court, the movant shall file same within ten (10) days from the date of the filing of his motion for reconsideration. The adverse party shall also file his answer within ten (10) days from the receipt by him of a copy of the arguments submitted by the movant.

"Sec. 17. After an answer to the motion is registered, or after ten (10) days from the receipt of the arguments in support of said motion by the adverse party without any answer having been filed, the motion shall be deemed submitted for resolution of the Court in banc, unless it is considered necessary to hear oral arguments, in which case the Court shall issue the corresponding order or notice to that effect.

"Failure to observe the above specified periods shall be sufficient cause for dismissal of the motion for reconsideration or striking out of the answer and/or the supporting arguments, as the case may be."

It is clear from the above rules, as well as from the condensed version thereof appearing at the foot of the notice of decision, that a period of only five days, from receipt of said notice, is allowed for the filing of a pro forma motion for reconsideration, though the arguments in support thereof may be filed later, that is, ten days after the filing of the motion itself. As petitioners' pro forma motion was filed seven days after notice of decision, it is clear that the motion was out of time. Petitioners could have asked for an extension of the five-day period for filing said motion, but a petition of that nature should have been presented before the expiration of the period, and this petitioners failed to do. Instead they asked for an extension of the period allowed for submitting the supporting arguments, which was to no purpose because the motion itself could no longer be considered. It may be added that, as specifically provided in section 17 of the rules, failure to observe the periods for filing the motion for reconsideration and its supporting arguments is sufficient cause for dismissing either or both.

Counsel for petitioners explains that his failure file the support arguments was due to the fact that the court did not pass upon his request to have the record of the case sent to Naga and to have his time for filing the arguments extended. But the point is immaterial for, the pro forma motion having been itself filed out of time, its dismissal

was in order in accordance with the provisions of the rules, whether the arguments in support thereof were or were not filed within the period therein provided.

In view of the foregoing, the petition for certiorari is denied, but without costs since petitioners have been allowed to litigate as paupers.

Pablo, Bengzon, Padilla, Montemayor, Bautista Agnelo, Labrador, Concepcion, and Reyes, J.B.L., concur.

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