

LETECIA VIDAL, MARLON VIDAL AND RICARTE VIDAL ALIAS OTING VIDAL, PETITIONERS, VS. SPS. ROBERTO OLMEDO AND LORNA DEMAYOGA OLMEDO, RESPONDENTS.

Ponente: LOPEZ, J.

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LOPEZ, J.:

Filed before this Court is an ex-parte motion for extension of time to file petition for certiorari[1] filed by the petitioners, praying for an extension of thirty (30) days from November 18, 2014 or until December 18, 2014 within which to file their petition for certiorari.

The Court notes that petitioners failed to pay the docket and other legal fees in the amount of four thousand five hundred and thirty pesos (Php 4,530.00).

Petitioners filed their petition for certiorari thru private courier. The petition was received by this Court on December 22, 2014 or four (4) days late from the last day of the thirty day extension requested by the petitioners. Further, petitioners still did not pay the required docket and other legal fees.

In the February 3, 2014 case of *Thenamaris Philippines, Inc., v. Court of Appeals*[2], the Supreme Court consolidated the rulings concerning the granting of motions for extension to file petitions for certiorari. Thus,

“In *Republic v. St. Vincent de Paul Colleges, Inc.* we had the occasion to settle the seeming conflict on various jurisprudence touching upon the issue of whether the period for filing a petition for certiorari may be extended. In said case we stated that the general rule, as laid down in *Laguna Metts Corporation v. Court of Appeals*, is that a petition for certiorari must be filed strictly within 60 days from notice of judgment or from the order denying a motion for reconsideration. This is in accordance with the amendment introduced by A.M. No. 07-7-12-SC24 where no provision for the filing of a motion for extension to file a petition for certiorari exists, unlike in the original Section 4 of Rule 65 which allowed the filing of such a motion but only for compelling reason and in no case exceeding 15 days.

Under exceptional cases, however, and as held in *Domdom v. Third and Fifth Divisions of the Sandiganbayan*, the 60-day period may be extended subject to the court’s sound discretion. In *Domdom*, we stated that the deletion of the provisions in Rule 65 pertaining to extension of time did not make the filing of such pleading absolutely prohibited. “If such were the intention, the deleted portion could just have simply been reworded to state that ‘no extension of time to file the petition shall be granted.’ Absent such a prohibition, motions for extension are allowed, subject to the court’s sound discretion.”

Then in *Labao v. Flores*, we laid down some of the exceptions to the strict application of the 60-day period rule, thus:

[T]here are recognized exceptions to their strict observance, such as: (1) most persuasive and weighty reasons; (2) to relieve a litigant from an injustice not commensurate with his failure to comply with the prescribed procedure; (3) good faith of the defaulting party by immediately paying within a reasonable time from the time of the default; (4) the existence of special or compelling circumstances; (5) the merits of the case; (6) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (7) a lack

of any showing that the review sought is merely frivolous and dilatory; (8) the other party will not be unjustly prejudiced thereby; (9) fraud, accident, mistake or excusable negligence without appellant's fault; (10) peculiar legal and equitable circumstances attendant to each case; (11) in the name of substantial justice and fair play; (12) importance of the issues involved; and (13) exercise of sound discretion by the judge guided by all the attendant circumstances. Thus, there should be an effort on the part of the party invoking liberality to advance a reasonable or meritorious explanation for his/her failure to comply with the rules.

x x x

Additionally, as cited earlier in Labao, there should be an effort on the part of the litigant invoking liberality to satisfactorily explain why he or she was unable to abide by the rules. Here, the reason offered for availing of the motion for extension is the heavy workload of private respondent's counsel, which is hardly a compelling or meritorious reason as enunciated in Labao. Time and again, we have held that the excuse of "heavy workload" is relative and often self-serving. Standing alone, it is not a sufficient reason to deviate from the 60-day rule.

Thus, private respondent's motion for extension should have been denied outright."

From the above rulings, it is clear that a petitioner seeking to file a motion for extension to file a petition for certiorari must proffer compelling or meritorious reasons and also satisfactorily explain why he or she was unable to abide by the rules. The excuse of "heavy workload" or "pressures of work" is relative and often self-serving and is an insufficient reason to deviate from the 60-day rule.

Upon review of petitioner's motion for extension, this Court noted that counsel for petitioner stated that "he needs additional time to file the said Petition considering that he has other cases to attend to and he still has to study the petition as well as the pieces of evidence to be attached thereon." As mentioned in the aforementioned ruling the heavy workload of petitioner's counsel is hardly a compelling or meritorious reason which would warrant an extension of the sixty (60) day period to file a petition for certiorari. In such cases the Supreme Court ruled that the motion for extension should be denied outright.

Notwithstanding, even if this Court grants the motion for extension sought by the petitioners, the petition for certiorari was belatedly filed and without the payment of the docket and other legal fees which merits the dismissal of the petition.

In the case of *Mercado v. Court of Appeals*[3] the Supreme Court sustained the dismissal by this Court of a petition for certiorari where petitioner failed to pay the required docket and other legal fees within the reglementary period of 60 days for filing a petition for certiorari. The High Court ruled that:

"We find that this petition must still be dismissed as the appellate court did not commit any grave abuse of discretion amounting to want or excess of jurisdiction in dismissing the petition for late payment of filing fees. Petitioner undeniably paid his docket fees beyond the reglementary period of 60 days for filing a petition for certiorari. Well settled is the rule that the court cannot acquire jurisdiction over the subject matter of a case, unless the docket fees are paid. And where the filing of the initiatory pleading is not accompanied by payment of the docket fees, the court may allow payment of the fee within a reasonable time but in no case beyond the applicable prescriptive or reglementary period."

In view of the forgoing, the petition for certiorari docketed as CA G.R. SP-UDK No. 08868 entitled "Letecia Vidal, Marlon Vidal and Ricarte Vidal Alias Oting Vidal v. Sps. Roberto Olmedo and Lorna Demayoga Olmedo" is hereby **DISMISSED** for having been belatedly filed without just cause and for failure of the petitioners to pay the corresponding docket and other legal fees within the reglementary period for filing a petition for certiorari.

SO ORDERED.

Delos Santos, E.L., Chairperson and Lagura-Yap, M.B., JJ., concur.

[1] Rollo, pp.3-12

[2] G.R. No. 191215, February 3, 2014

[3] G.R. No. 150241 November 04, 2004

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