

**MANILA TERMINAL RELIEF AND MUTUAL AID ASSOCIATION,
PETITIONER, VS. MANILA TERMINAL CO., INC. AND THE COURT OF
INDUSTRIAL RELATIONS, RESPONDENTS.***G. R. No. L-4150. March 19, 1951*

Ponente: PARAS, J.

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PARAS, J.:

Under date of April 1, 1950, a decision was rendered by the Court of Industrial Relations, with Judge V. Jimenez Yanson presiding, in case No. 86-V, Manila Terminal Relief and Mutual Aid Association vs. Manila Terminal Company, Inc. Notice of the decision was received by the petitioner on April 3, 1950. On April 10, 1950, the petitioner filed a motion for reconsideration which was denied by the Court of Industrial Relations, sitting in banc, by resolution dated July 13, 1950. Notice of the resolution was received by the petitioner on September 19, 1950. On September 25, 1950, the petitioner filed in the Supreme Court the present petition to review on certiorari the decision of the Court of Industrial Relations.

The respondent Manila Terminal Company, Inc., through its counsel, has filed a motion for the summary dismissal of the petition for certiorari on the ground that it was filed three days beyond the reglementary period of ten days, it being contended that this period is to be counted from April 3, 1950, when the petitioner received notice of the decision rendered by Judge Yanson, deducting the time during which petitioner's motion for reconsideration was pending. Respondent's computation is as follows: From April 3, to April 10, when the motion for reconsideration was filed, seven days had elapsed with the result that only three days remained after notice of the denial of the motion for reconsideration (September 19, 1950) within which the petitioner could appeal by certiorari. In other words, it is contended that the petitioner had only until September 22 to file the present petition for certiorari.

Under Commonwealth Act No. 103, section 1, as it originally stood, the Court of Industrial Relations was presided over by one Judge. Under the amendment introduced by Commonwealth Act No. 254, the number of judges composing the Court of Industrial Relations was increased to three, and a provision was made that "should any party aggrieved by a ruling or decision of any of the Judges, request a reconsideration thereof, or at the request of any of them, the judges shall sit together, and the concurrence of the majority shall be necessary for the pronouncement of the decision, order or award." In virtue of the amendment introduced by Commonwealth Act 559, the number of Judges of the Court of Industrial Relations was increased to five, and the provision was also made that "should any party aggrieved by a ruling or decision of any of the Judges, request a reconsideration thereof, or at the request of any of them, the Judges shall sit together, and the concurrence of at least three of the five judges shall be necessary for the pronouncement of a decision, order or award."

Section 14 of Commonwealth Act No. 103 has not suffered any change insofar as it provides that "at the expiration of ten days from the date of the award, order or decision, in cases brought under the provisions of section four hereof, judgment shall be entered in accordance therewith, unless during said ten days an aggrieved

party shall appeal therefrom to the Supreme Court of the Philippines by writ of certiorari as hereinafter provided." This provision is relied upon by the respondent in its motion for summary dismissal.

In our opinion, the period of ten days within which an appeal by certiorari may be taken from a decision of the Court of Industrial Relations should be counted from the date the aggrieved party receives notice of the decision or order of the Court of Industrial Relations, sitting in banc, where a motion for reconsideration has been filed against "a ruling or decision of any of the Judges."

This is not a new pronouncement, since in the case of *Bardwill Bros. vs. Generoso*, decided on December 16, 1938,[*] (38 Official Gazette, 2721, 2722-2723), this court already held that for the purpose of harmonizing section 1 of Commonwealth Act No. 103, as amended by Commonwealth Act No. 254, and section 14 of Commonwealth Act No. 103, "it is enough that it be understood and held, and we so hold that the said period of ten days does not begin to run except from the time the Court of Industrial Relations, sitting in banc, has resolved the motion for reconsideration." There is sound foundation for this pronouncement. In the very nature of things, a motion for reconsideration against a ruling or decision by one judge is in effect an appeal to the Court of Industrial Relations in banc; and there can, therefore, be no appealable decision of said court until it shall have acted as a body on the motion for reconsideration. The mere fact that the Court of Industrial Relations, sitting in banc, denies a motion for reconsideration, is of no moment, because in such case it can rightly be said to have affirmed or adopted the one-judge decision. Upon the other hand, if the court in banc creverses or modifies a ruling or decision sought to be reconsidered, the decision in banc logically becomes the decision from which any aggrieved party may appeal.

Section 14 of Commonwealth Act No. 103, providing that an aggrieved party may appeal within ten days from the date of the award, order or decision, would support the contention of the respondent that the ten-day period should be counted from the date of notice of the decision rendered by one judge under section 1 of Commonwealth Act No. 103 before it was amended, when the Court of Industrial Relations was presided over only by one judge, because any motion for reconsideration would have to be passed upon, as in a court of first instance, by the same judge. But this construction loses its basis after the amendments increasing the number of judges, first, from one to three and, secondly, from three to five, and allowing a motion for reconsideration to be filed against a ruling or decision by one judge and to be resolved by the Court of Industrial Relations sitting in banc. Obviously, the purpose of requiring resolution on the motion for reconsideration by the court in banc is, for all intents and purposes, to substitute the decision or order of a collegiate court for the ruling or decision of any one judge.

It cannot be pretended that the reason for computing the ten-day period from notice of the decision by one judge is to abbreviate the time for appeal, because said period is in fact already short. At any rate, under the rules of the Court of Industrial Relations, a motion for reconsideration must be filed within five days, and the consequences is that, even under our pronouncement herein, the maximum time that may be consumed by an aggrieved party desiring to file a petition for certiorari will not exceed fifteen days, which constitute also a relatively brief period.

The resolution of this court of February 17, 1950, in *G. R. No. L-3481, Suburban Theatres, Inc. Cinema Workers' Union of the Philippines et al.*, holding that the ten-day period should be counted from notice of the decision by one judge, can neither be relied upon, for the simple reason that it was based on the cases of *Aguilar vs. Court of Industrial Relations*, *G. R. No. L-1843*, and *Olavario vs. Villanueva*, (85 Phil., 254, 47 Off. Gaz., 2916), in which the petitions for certiorari were in fact filed more than ten days after notice of the resolution of the Court of Industrial Relations vs. in banc.

Wherefore, it appearing that the petition for certiorari in this case was filed within ten days from September 19, 1950, when the petitioner was notified of the resolution denying the motion for reconsideration, the motion for

dismissal filed by the respondent Manila Terminal Company, Inc. is denied.

Feria, Bengzon, Padilla, Montemayor, Jugo and Bautista Angelo, JJ., concur.

[*] 66 Phil., 786.

DISSENTING

REYES, J., with whom concur MORAN, C. J., PABLO, and TUASON, JJ.,

The question presented by the Manila Terminal Company's motion to dismiss is whether, in a case where the Court of Industrial Relations, sitting in banc, has denied reconsideration of a decision rendered by one of its judges, the period for appeal from said decision begins to run from notice thereof or from notice of the denial of the motion for reconsideration. On the authority of *Bardwill Bros. vs. Generoso et al.* (66 Phil., 736), the majority hold that it is from the date of the latter notice that the period for appeal should be computed. To this I cannot agree. That case is authority for the proposition that an appeal brought before appellant's pending motion for reconsideration has been resolved is premature. But it cannot serve as a precedent on the precise question herein presented, which was not in issue in that case.

The ruling that should control in the case at bar is that laid down in the case of *Suburban Theatres, Inc. vs. Cinema Workers' Union of the Philippines et al.* (G. R. No. L-3481), where an appeal by certiorari brought 13 days after notice of the decision of one of the judges of the Court of Industrial Relations, but only 8 days from notice of the denial by the court in banc of appellant's motion for reconsideration, was dismissed as having been filed out of time. In that case the pronouncement made by this court in the *Bardwill* case, *supra*, "as to the time from which the period to appeal should be computed," was declared "obiter, and repealed in *Aguilar vs. Court of Industrial Relations*, G. R. No. L-1843." Says this court in its resolution of February 17, 1950, rendered in that case:

"In G. R. No. L-3481, *Suburban Theatres, Inc., vs. Cinema Workers' Union of the Philippines et al.*, wherein petitioner filed a motion for reconsideration of the resolution of this court (November 18, 1949) dismissing its petition for certiorari, it appearing that the herein petitioner had been notified of the decision of Judge Bautista of the Court of Industrial Relations on September 7, 1949, and filed a motion for reconsideration with said court in banc on September 12, 1949, which motion was denied and a notice of denial was received by petitioner on September 15, 1949, and it appearing further that this petition for certiorari was filed on September 23, 1949; considering that (a) the period for perfecting an appeal from a decision of the Court of Industrial Relations is ten (10) days, (*Manila-Trading and Supply Company vs. Philippine Labor Union*, 40 Off. Gaz. 14th Supplement page 178; *Olavario vs. Villanueva*, 47 Off. Gaz., 2916; that (b) in this case, said period should be counted from September 7, 1949, when petitioner was notified of the decision of Judge Bautista, deducting all the time during which the motion for reconsideration was under advisement by the court in banc (*Aguilar vs. Court of Industrial Relations*, G. R. No. L-1843, Dec. 15, 1947) and (c) that therefore the herein petition for certiorari was filed thirteen (13) days after the petitioner was notified of the decision of Judge Bautista; the court resolved to deny the petitioner's motion for reconsideration.

"The ruling on the matter in *Bardwill Bros. vs. Generoso*, (66 Phil., 736), is obiter, and repealed in *Aguilar vs. Court of Industrial Relations*, (G. R. No. L-1843), as to the date from which the period to appeal should be computed. In *Olavario vs. Villanueva* (*supra*), the motion for reconsideration was filed on the same date of notice of decision, and thus the time to appeal was counted from the date when aggrieved party was notified of the denial of said motion."

The ruling enunciated in the above resolution merely follows the mandate of the law (sec. 14, C. A. No. 103, as amended) that "At the expiration of ten days from the date of the award, order or decision, in cases brought under the provisions of section four hereof, judgment shall be entered in accordance therewith, unless during said ten days an aggrieved party shall appeal therefrom to the Supreme Court of the Philippines by writ of certiorari as hereinafter provided." It is obvious from the wording of this provision that the ten-day period for appeal is to be computed from the date of the award, order or decision appealed from (which in the present case is no other than that rendered by one judge since its reconsideration was denied by the court in banc, excluding from the computation, as we have heretofore ruled, the time taken up by the motion for reconsideration. The ruling also accords with the policy of the law of expediting the disposal of labor cases and is in line with the settled practice in the regular courts, where the period for appeal is computed from notice of the decision appealed from and not from notice of the denial of the motion for reconsideration, but deducting the time during which said motion has been pending. The ruling thus makes for uniformity in our judicial practice. I recollect that it was arrived at after mature and protracted deliberation and given subsequent application in the case of *Gotauco & Co., Inc. vs. Kaisahan Ng Mga Manggagawa sa Kahoy sa Filipinas*, (G. R. No. L-3593). It should now be considered as settled law by virtue of the doctrine of *stare decisis*. In ignoring or bypassing it in the present case without apparent justification in reliance upon a contrary dictum that has already been repealed, the majority opinion undermines the stability of our jurisprudence and makes the administration of justice a constant subject of speculation.

My vote, therefore, is to grant the motion to dismiss.

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