

LOURDES P. OLAC PETITIONER, VS. HON. COMMISSIONERS VIOLETA ORTIZ-BANTUG, JULIE C. RENDOQUE, AND JOSE G. GUTIERREZ, AND BETHEL GUEST HOUSE, REPRESENTED BY GENERAL MANAGER ROY T. ...

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is a Petition for Certiorari under Rule 65 of the Revised Rules of Court seeking to set aside the Decision of the National Labor Relations Commission, Seventh Division, Cebu City (NLRC) promulgated on August 29, 2014 in NLRC Case No. VAC-07-000328-2014.

A petition for certiorari is governed by the following provisions of the Rules of Court, thus:

RULE 65

Certiorari, Prohibition and Mandamus

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, or 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.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46. (1a)

Section 5. Respondents and costs in certain cases. — When the petition filed relates to the acts or omissions of a judge, court, quasi-judicial agency, tribunal, corporation, board, officer or person, the petitioner shall join, as private respondent or respondents with such public respondent or respondents, the person or persons interested in sustaining the proceedings in the court; xxxx.[1]

RULE 46

Original Cases

Section 2. To what actions applicable. — This Rule shall apply to original actions for certiorari, prohibition, mandamus and quo warranto.

Section 3. Contents and filing of petition; effect of noncompliance with requirements. — The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.

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. Xxxx.

The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

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 requirements shall be sufficient ground for the dismissal of the petition.[2]

Guided by the foregoing provisions, We find the petition laden with infirmities. In disregard of the requirements provided under the above-quoted rules, petitioner failed to:

1. implead the NLRC, 7[th] Division as a public respondent, but impleaded the individual NLRC commissioners in their personal capacity;
2. indicate a statement of material dates in the petition, specifically the date showing when the assailed Decision of the NLRC was received thereby rendering the Court unable to determine the timeliness of the filing of petitioner's Motion for Reconsideration on the said assailed Decision;
3. attach a clearly legible duplicate original or certified true copy of the decision or resolution sought to be assailed; petitioner only attached a machine copy of the certified true copy of the assailed Decision and Resolution;
4. attach relevant and pertinent documents necessary for the proper resolution of the petition (i.e. copy of the position paper of private respondent and its attachments, copy of petitioner motion for reconsideration on the assailed NLRC Decision, private respondent's comment on the motion for reconsideration); and,
5. failed to explain why the preferred personal mode of filing and service was not availed of in violation of Section 11, Rule 13 of the Rules of Court

Further, and most importantly, petitioner failed to execute and attach a Sworn Certification of Non-Forum Shopping in blatant violation of Section 1, Rule 65 of the Rules of Court. This violation, by itself, is sufficient to dismiss the petition.

The Supreme Court adopted the rules of requiring a certificate of non-forum shopping significantly, to curb the malpractice of forum shopping; the rule ordains that a violation thereof would constitute contempt of court and be a cause for the summary dismissal of the petition, without prejudice to the taking of appropriate action against the counsel of the party concerned.[3]

Furthermore, We observe that the petition does not specifically aver how the public respondent NLRC gravely abused its discretion in rendering its assailed Decision. A perusal of the discussion of the issues raised in the petition reveals that petitioner would want Us to review the findings of the NLRC like that of an appeal. However,

We bear to emphasize that this Court does not exercise appellate jurisdiction on decisions or resolutions rendered by the NLRC.

Although the mode of judicial review over decisions of the NLRC has for some time now been understood to be by a petition for certiorari under Rule 65 of the Rules of Court, this mode, being a special original action, is of course limited to the resolution of jurisdictional issues, that is, lack or excess of jurisdiction and, in almost all cases that have been brought to us, grave abuse of discretion amounting to lack of jurisdiction.[4]

Thus, jurisprudence decreed that the extent of judicial review by certiorari of decisions or resolutions of the NLRC in a petition for certiorari under Rule 65 does not normally include an inquiry into the correctness of its evaluation of the evidence. Errors of judgment, as distinguished from errors of jurisdiction, are not within the province of a special civil action for certiorari, which is merely confined to issues of jurisdiction or grave abuse of discretion. It is thus incumbent upon petitioner to satisfactorily establish that respondent Commission or executive labor arbiter acted capriciously and whimsically in total disregard of evidence material to or even decisive of the controversy, in order that the extraordinary writ of certiorari will lie. By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, and it must be shown that the discretion was exercised arbitrarily or despotically. For certiorari to lie, there must be capricious, arbitrary and whimsical exercise of power, the very antithesis of the judicial prerogative in accordance with centuries of both civil law and common law traditions.[5]

Considering the foregoing, We find the petition fatally defective. Petitioner's failure to comply with the requirements above-discussed is a sufficient ground for the dismissal of the instant petition.

WHEREFORE, the instant petition for certiorari is hereby DISMISSED.

SO ORDERED.

Hernando, J., Chairperson, and [*]Lopez, J., concur.

[*]Vice Justice Marie Christine Azacarraga-Jacob, per Office Order No. 01-15-GTI, January 22, 2015.

[1] Emphasis supplied.

[2] Emphasis and underscoring supplied.

[3] Land Car, Inc. v. Bachelor Express, Inc., G.R. No. 154377, December 8, 2003.

[4] St. Martin Funeral Home v. NLRC, G.R. No. 130866, September 16, 1998.

[5] Cocomangas Hotel Beach Resort v. Visca, G.R. No. 167045, August 29, 2008, citing Zarate, Jr. vs. Olegario, 331 Phil. 278 (1996).

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