

**UNIVERSAL ROBINA CORPORATION, AND/OR LANCE Y. GOKONGWEI, PETITIONERS, VS. COURT OF APPEALS, NATIONAL LABOR RELATIONS COMMISSION, CARLOS YGAÑA, LIBORIO VILLAFLOR AND RONALDO CAR...**

*G.R. No. 144978. January 15, 2002*

Ponente: PANGANIBAN, J.

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**PANGANIBAN, J.:**

The sixty-day period within which to file a petition for certiorari is reckoned from the receipt of the resolution denying the motion for reconsideration.

**The Case**

Before us is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, seeking to annul the May 18, 2000 and August 21, 2000 Resolutions[1] of the Court of Appeals (CA) in CA-GR SP No. 58695. The first assailed Resolution disposed as follows:

“WHEREFORE, premises considered, the instant petition is hereby DENIED due course and is ordered DISMISSED.”[2]

The second Resolution[3] denied petitioners’ Motion for Reconsideration.

**The Facts**

Respondents Carlos C. Ygaña, Liborio Villaflor and Ronaldo Cardinales were employees of CFC Corporation, an affiliate of the petitioner, Universal Robina Corporation. Upon retiring at the age of 60, they were granted, under the company’s retirement plan, benefits equivalent to one-half (1/2) month pay for every year of service.

On January 7, 1993, Congress enacted Republic Act No. 7641, which provided more liberal retirement benefits for employees in the private sector. Consequently, respondents filed a consolidated Complaint before the National Labor Relations Commission (NLRC), claiming retroactive entitlement to the enlarged benefits granted by RA 7641.

After proper proceedings, Labor Arbiter Eduardo J. Carpio rendered a Decision on January 15, 1999 in favor of respondents. The dispositive portion reads as follows:

“WHEREFORE, judgment is hereby rendered ordering [Petitioner] Universal Robina Corporation to pay [respondents] as follows: Ygana – P67,494.46; Villaflor – P44,456.86; and Cardinales – P85,743.55.”[4]

On February 26, 1999, petitioners interposed an appeal to the NLRC. In due course, the labor arbiter was affirmed in the September 30, 1999 NLRC Resolution, a copy of which was received by petitioners on November 11, 1999.

On November 15, 1999, petitioners filed a Motion for Reconsideration, which the NLRC denied with finality via its December 29, 1999 Resolution. This Resolution was received by petitioners on March 14, 2000.

On May 15, 2000, petitioners filed the subject Petition for Certiorari with the Court of Appeals. On May 18, 2000, the CA promulgated the first assailed Resolution dismissing the Petition for having been filed out of time. A copy of the Resolution was received by petitioners on June 23, 2000.

### Ruling of the Court of Appeals

In dismissing the Petition, the CA held:

“Section 4, Rule 65 of the 1997 Rules of Civil Procedure provides that a special civil action for certiorari may be filed not later than sixty (60) days from notice of the judgment, order or resolution sought to be assailed. This rule does not contemplate that the 60-day period shall be counted from receipt of the motion for reconsideration, but from receipt of the decision. Such construction was made clear in the amendatory rule contained in Supreme Court En Banc Resolution dated 21 July 1998 which pertinently reads:

‘SEC. 4. Where And When Petition To Be Filed. – If the petitioner had filed a motion for new trial or reconsideration in due time after notice of said judgment, order or resolution, the period herein fixed shall be interrupted. If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days. In any event, reckoned from notice of such denial. x x x.’

“In the instant case, since petitioners received the assailed NLRC Resolution on 11 November 1999 and filed their motion for reconsideration on 15 November 1999, four (4) days had elapsed. Petitioners received the resolution denying their motion for reconsideration on 14 March 2000 and filed the present petition only on 15 May 2000. Clearly, the petition was filed 6 days late. Apparently, petitioners reckoned the 60-days prescribed period for filing petition for certiorari from receipt of the resolution denying their motion for reconsideration, which as earlier pointed out should not be the case.”[5]

Hence, this Petition.[6]

### The Issue

In their Memorandum,[7] petitioners raise this lone issue:

“Whether or not the Petition for Certiorari filed by the petitioners in CA G.R. SP No. 58695 is dismissible for being filed out of time.”[8]

### The Court’s Ruling

The Petition is meritorious.

#### Main Issue:

#### Computation of the Period to File Petition

Petitioners pray for liberality in the computation of the reglementary period within which to file a petition for certiorari under Section 4, Rule 65 of the Rules of Court.

Strictly speaking, the CA did not err in dismissing the Petition, because the prevailing rule at the time was the July 21, 1998 Resolution in Bar Matter No. 803, which had amended Section 4, Rule 65 of the Rules of Court,[9] as follows:

“SEC. 4. Where and when petition to be filed. – The petition may be filed not later than sixty (60) days from notice of the judgment, order or resolution sought to be assailed x x x.

“If the petitioner had filed a motion for new trial or reconsideration in due time after notice of said judgment, order or resolution, the period herein fixed shall be interrupted. If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days in any event,

reckoned from notice of such denial. No extension of time to file the petition shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.”

However, the Rule was amended by this Court in AM No. 00-2-03-SC, which took effect on September 1, 2000. As amended, the Rule now reads as follows:[10]

“SEC. 4. When and where petition filed. – The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of the said motion.” (Italics supplied)

The amendment under AM No. 00-2-03-SC is procedural or remedial in character. It does not create new rights or remove vested ones. It operates only in furtherance of the remedy or in confirmation of rights already existing; thus, it is given retroactive effect.

By virtue of this retroactive effect, we hold that the Petition for Certiorari was filed on time. On March 14, 2000, petitioners received a copy of the NLRC Resolution denying their Motion for Reconsideration. They then filed with the CA their Petition for Certiorari on May 15, 2000. Strictly speaking, the 60th day from the date on which they received the denial of their Motion for Reconsideration was May 13, which fell on a Saturday. They, therefore, had until May 15 -- or the next working day, which was a Monday -- to file their petition.

In a number of cases, we have already ruled that the sixty-day period shall be reckoned from the receipt of the resolution denying the motion for reconsideration.[11] This amendment, contained in AM No. 00-2-03-SC, was deemed applicable even if a petition had been filed before September 1, 2000, on the ground that rules regulating procedures should be made applicable to actions pending and undetermined at the time of their passage.[12]

WHEREFORE, the Petition is hereby GRANTED and the assailed Resolutions SET ASIDE. The case is REMANDED to the Court of Appeals for further proceedings. No costs.

**SO ORDERED.**

Melo, (Chairman), Vitug, Sandoval-Gutierrez, and Carpio, JJ., concur.

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[1] Both penned by Justice Buenaventura J. Guerrero, chairman of the Seventh Division; with the concurrence of JJ Hilarion L. Aquino and Mercedes Gozo-Dadole, members.

[2] Rollo, p. 21.

[3] Rollo p. 23.

[4] Rollo, p. 29.

[5] May 18, 2000 Resolution, pp. 1-2; Rollo, pp. 20-21.

[6] The case was deemed submitted for decision on May 30, 2001, upon this Court’s receipt of the Memorandum for Petitioners. The Memorandum for Respondents, signed by Respondents Yga?a, Villaflor and Cardinales, was filed on April 5, 2001.

[7] The Memorandum for Petitioners was signed by Atty. Edgardo L. Flores Jr. of Juanitas Perez Bolos & Associates.

[8] Rollo, p. 64.

[9] Circular No. 39-98, August 19, 1998.

[10] Circular No. 56-2000, September 5, 2000.

[11] Systems Factors Corporation v. National Labor Relations Commission, GR No. 143789, November 27, 2000, p. 5; Unity Fishing Development Corp. v. Court of Appeals, GR No. 145415, February 2, 2001, p. 4; and Pfizer Inc. v. Galan, GR No. 143389, May 25, 2001, pp. 6-7.

[12] Ibid.

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