

**DOLLY A. OCAMPO, MARIO S. VERONA, ISAGANI O. DAWAL, JOSE
ARCADIO R. RELOVA, ARISTOPHANE PALENCIA AND ARMANDO
HERNANDEZ, PETITIONERS, VS. THE HONORABLE COURT OF
APPEALS (FORMER S...**

G.R. No. 150334. March 20, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court seeking to set aside the March 28, 2001 Decision[1] of the Court of Appeals (CA), and its October 12, 2001 Resolution[2] in CA-G.R. SP No. 60886. The appellate court, in its assailed decision and resolution, affirmed the July 28, 2000 Resolution[3] issued by Bureau of Labor Relations (BLR) Director Benedicto Ernesto R. Bitonio, Jr., which, in turn, affirmed the June 15, 2000 Decision[4] of the Department of Labor and Employment-National Capital Region (DOLE-NCR) Director Maximo B. Lim nullifying the election of officers of the Philippine Airlines Employees Association (PALEA) held on February 17 to 24, 2000, and ordering a new election of officers for PALEA.

The factual antecedents of this case follow.

The PALEA-International Transport Workers' Federation-Trade Union Congress of the Philippines (ITF-TUCP) is the sole and exclusive collective bargaining representative of all regular and rank-and-file employees of Philippine Airlines (PAL).

On February 17, 21, 23 and 24, 2000, a general election of PALEA officers was conducted following the expiration of the term of office of its set of incumbent officers. After the casting of the ballots, the PALEA Commission on Election (Comelec) proceeded to count and canvass the same except some 500 ballots that had been segregated pursuant to a circular which provides that segregated ballots "apply only to voters casting their ballots [in] precinct other than their own and upon canvassing, the same would be double checked against official voters list assigned in their respective area to avoid double balloting." Three (3) ballot boxes containing ballots from the PALEA precinct and the precincts from Cubao and Padre Faura were likewise questioned.

Without waiting for the final result of the canvass, Nida Villagrancia, one of the candidates for union president, and her group filed, on March 7, 2000, a petition asking the DOLE-NCR to assume jurisdiction and to complete the canvassing of votes, with prayer for the issuance of a temporary restraining order (TRO) and/or writ of preliminary injunction against the PALEA Comelec. The case was docketed as Case No. NCR-OD-0003-004-IRD.

On March 16, 2000, while Villagrancia's petition was still pending, PALEA Comelec declared the segregated ballots and the ballots contained in the three unopened ballot boxes as invalid, and proclaimed the following candidates as the duly elected union officers:

President: Jose T. Peñas III

Vice President: Avelino G. Capili

Secretary: Isagani O. Dawal

Treasurer: Dolly A. Ocampo

Board of Directors:

- Aristophane Palencia

- Nelson F. Menes

- Rosemarie L. Flores

- Noel S. Tria

- Armando Hernandez

- Lope Dollesin

- Joselito O. Rodrigo

- Jaime O. Bautista

- Jorge P. Dela Rosa

- Mario S. Verona

- Jose Arcadio R. Relova

- Manuel C. Belda

- Ronaldo C. Ramos

- Carlos V. Bandalao

- Eutiquio C. Bulambot

- Alexander Ubano

- Vincent Francisco Casimiro[5]

On March 30, 2000, Villagrancia's petition was dismissed due to prematurity and for failure to exhaust the administrative remedies provided for in Article XIX, Section VI of the PALEA Constitution and By-laws.[6] On that same day, herein private respondent Edgardo Oredina, also a candidate for union president, together with his group, filed a petition to declare a failure of election, with an urgent prayer for the issuance of a TRO and/or writ of preliminary injunction. The petition was docketed as Case No. NCR-OD-0003-010-IRD. A Decision[7] was rendered by DOLE-NCR on June 15, 2000, granting the Oredina petition, thereby nullifying the results of the PALEA election and the proclamation of the winners made by the Comelec. The decision also ordered PALEA Comelec to conduct a new election of union officers, this time under the direct supervision of the DOLE.

Aggrieved, Jose Peñas III and herein petitioners, all of whom had been previously declared by the PALEA Comelec as the winning candidates, filed an appeal with the BLR. On July 28, 2000, the BLR, through a Resolution,[8] denied the appeal for lack of merit. Separate motions for reconsideration were filed by petitioners, Peñas and the PALEA Comelec, but the same were denied in a Resolution[9] issued on August 24, 2000.

Only Peñas went further to challenge the BLR Resolution by filing a petition for certiorari[10] with the CA. Peñas argued that both the DOLE-NCR and the BLR did not have jurisdiction over the controversy, because the action filed by Oredina and his group was premature for failure to exhaust the administrative remedies provided for in

PALEA's constitution and by-laws.

On March 28, 2001, the CA promulgated the assailed Decision[11] affirming the resolution of the BLR. A motion for reconsideration was filed by Peñas but the same was denied by the CA through a Resolution[12] dated October 12, 2001.

Peñas did nothing more. Instead, the herein petitioners, who were Peñas' co-respondents in the original action filed before the DOLE-NCR, lodged this petition for review on certiorari with this Court on November 29, 2001, asserting the same arguments raised by Peñas in his previous appeal before the CA.

In his comment,[13] private respondent Oredina argued that petitioners were not proper parties to appeal the CA decision because they were not parties to the case before the CA. Only Peñas, acting on his own, filed a petition for certiorari before the appellate court challenging the BLR Resolutions. Oredina reasoned further that since Peñas failed to elevate the CA decision to this Court within the prescribed period, the same had thus acquired finality.

The sole issue for us to resolve is whether petitioners - who were not parties to the case before the CA, but co-respondents of Peñas in the original action before the DOLE-NCR and before the BLR - are proper parties to file this petition for review on certiorari.

We answer in the negative.

Basic is the rule that when a party to an original action fails to question an adverse judgment or decision by not filing the proper remedy within the period prescribed by law, he loses the right to do so, and the judgment or decision, as to him, becomes final and binding.[14]

In this case, we are mindful that petitioners are among the several respondents in the cases decided by the DOLE-NCR and later on appealed to and upheld by the BLR. Notably, however, as pointed out by Oredina, petitioners did not take any further action after the BLR issued its Resolution denying their motion for reconsideration. When Peñas challenged the BLR Resolutions by filing a petition for certiorari with the CA, petitioners did not join him. Such was a serious procedural lapse that tolled the finality of the BLR Resolutions as against them, thus, warranting the dismissal of the instant petition.

As admitted by petitioners, their counsel received the copy of the BLR Resolution[15] dated August 24, 2000 denying their Motion for Reconsideration on 31 August 2000. Petitioners, therefore, had sixty (60) days,[16] or until 30 October 2000, to file a petition under Rule 65 before the CA,[17] This, petitioners failed to do.

For failing to file a petition for certiorari with the CA, petitioners are deemed to have acquiesced to the adverse BLR judgment. There is, therefore, no cogent reason why petitioners should be allowed to come before this Court to assail the decision rendered by the CA when they were never parties to the said action.

In *Siliman University v. Fontelo-Paalan*[18] and *Itogon-Suyoc Mines Inc. v. NLRC, et al.*,[19] we have explained that:

The rule is well-settled that a party cannot impugn the correctness of a judgment not appealed from by him; and while he may make counter assignment of errors, he can do so only to sustain the judgment on other grounds but not to seek modification or reversal thereof, for in such case, he must appeal.[20]

Petitioners must understand that a petition for review on certiorari under Rule 45 is an appeal and, as such, it is merely a continuation of an original suit.[21] The original suit is the case appealed from and, in the case at bench, it is the petition for certiorari filed by Peñas before the CA that would have given rise to the suit in which the decision is the subject of petitioners' appeal. Not being parties to that original suit, they have no personality to

continue the same through an appeal.

While we may relax procedural rules to serve substantial justice, we do so only on exceptional grounds or under extraordinary circumstances.[22] Here, we find no exceptional ground or extraordinary circumstance that would warrant the relaxation of procedural rules. Neither did petitioners provide any justifiable reason for their failure to question the adverse BLR resolutions within the reglementary period or to join Peñas in the certiorari petition before the appellate court.

More importantly, we cannot condone the practice of parties who, either by their own or their counsel's inadvertence, have allowed a judgment to become final and executory and, after the same has become immutable, seek iniquitous ways to assail it. The finality of a decision is a jurisdictional event which cannot be made to depend on the convenience of the parties.[23]

In any event, the intra-union controversy has already been rendered moot and academic. The five-year term of office contested by the parties has already expired.[24] Moreover, petitioners are estopped from further pursuing this petition and are deemed to have abandoned the same when they actively participated in the formulation of PALEA election guidelines with the DOLE-NCR, following the order of the BLR for the union to conduct a new election.[25] In fact, petitioner Ocampo even filed her certificate of candidacy as president of PALEA after the DOLE set the date for the new election on April 5, 2002.[26]

WHEREFORE, the petition is hereby DENIED for lack of merit. Costs against petitioners.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Tinga[*], and Peralta, JJ., concur.

[*] Additional member in lieu of Associate Justice Minita V. Chico-Nazario per Special Order No. 590 dated March 17, 2009.

[1] Penned by Associate Justice Romeo A. Brawner, with Associate Justices Cancio C. Garcia (now a retired member of this Court) and Andres B. Reyes, Jr., concurring; rollo, pp. 161-171.

[2] Id. at 173-177.

[3] Id. at 196-211.

[4] Id. at 182-193.

[5] Id. at 163.

[6] Art. XIX, Sec. VI of the PALEA Constitution and By-Laws provides in full:

Section 6. In cases where a situation arises, whereby the losing candidate does not concede to the result of the election, he may, if he so desires, submit in writing, his protest to the Commission on Elections within thirty (30) days after the proclamation of the winning candidates, and the Commission on Elections sitting en banc, shall hear and decide such protest within ninety (90) days from the date the protest was filed provided, however, that all expenditures involving his protest shall be shouldered by him.

[7] Rollo, p. 182-193.

[8] Id. at 196-211.

[9] Id. at 214-218.

[10] Id. at 219-313.

[11] Supra note 1.

[12] Supra note 2.

[13] Rollo, p. 556.

[14] See *Anadon v. Herrera*, G.R. No. 159153, July 9, 2007, 527 SCRA 90, 95, citing *Neypes v. Court of Appeals*, G.R. No. 141524, September 14, 2005, 469 SCRA 633, 638.

[15] Rollo, p. 235.

[16] RULES OF COURT, Rule 65, Secs. 1 and 4 pertinently provide:

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, nor 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.

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SEC. 4. When and where position 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 said motion.

The petition shall be filed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan, if it is in aid of its appellate jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed in and cognizable only by the Court of Appeals.

No extension of time to file the petition shall be granted except for compelling reason and in no case exceeding fifteen (15) days.

[17] *St. Martin Funeral Home v. NLRC*, G.R. No. 130866, September 16, 1998, 295 SCRA 494, 509.

[18] G.R. No. 170948, June 26, 2007, 525 SCRA 759.

[19] 202 Phil. 850 (1982).

[20] *Siliman University v. Fontelo-Paalan*, supra note 18, at 771; *Itogon-Suyoc Mines Inc. v. NLRC, et al.*, id. at 854-855.

[21] *Madrigal Transport, Inc. v. Lapanday Holdings Corporation*, G.R. No. 156067, August 11, 2004, 436 SCRA 123; *Sy v. Commission on Settlement of Land Problems*, 417 Phil. 378 (2001).

[22] *Republic v. Court of Appeals*, 379 Phil. 92, 98-99 (2000).

[23] *Spouses Aguilar v. Court of Appeals*, 369 Phil. 655, 665 (1999).

[24] *Rollo*, p. 707; see *Lanuza, Jr. v. Yuchengco*, G.R. No. 157033, March 28, 2005, 454 SCRA 130, 138.

[25] TSN, May 14, 2002, pp. 57-59.

[26] *Rollo*, p. 710.

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