

**AMA COMPUTER COLLEGE-SANTIAGO CITY, INC., Petitioner, vs.
CHELLY P. NACINO, substituted by the Heirs of Chelly P. Nacino,
Respondent.**

G.R. No. 162739. February 12, 2008

Ponente: NACHURA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-162739/>

NACHURA, J.:

Before this Court is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Civil Procedure seeking the reversal of the Court of Appeals (CA) Resolution[2] dated June 23, 2003, the dispositive portion of which provides:

WHEREFORE, for being procedurally flawed, this petition for certiorari is hereby DENIED DUE COURSE, and consequently DISMISSED. Needless to say, the prayer for temporary restraining order, being merely an adjunct to the main suit, must be pro tanto DENIED.

SO ORDERED.

and of the CA Resolution[3] dated March 3, 2004 which denied petitioner's motion for reconsideration.

Petitioner AMA Computer College – Santiago City, Inc. (AMA) employed Chelly P. Nacino (Nacino) as Online Coordinator of the college. On October 30, 2002, ostensibly upon inspection, the Human Resources Division Supervisor, Mariziel C. San Pedro (San Pedro) found Nacino absent from his post. On the same day, San Pedro issued a Memorandum[4] requiring Nacino to explain his absence. Nacino filed with San Pedro a written explanation[5] claiming that he had to rush home at 1315 hours (1:15 PM) because he was suffering from LBM (loose bowel movement) and that the facilities in the school were inadequate and inefficient, but he had gone back to the school at 1410 hours (2:10 PM). Not satisfied with the explanation, San Pedro sought another explanation because the earlier explanation “does not conform to a previous investigation conducted.”[6] Nacino furnished San Pedro the same written explanation he had earlier submitted. San Pedro then filed a formal complaint against Nacino for false testimony, in addition to the charge of abandonment. An Investigating Committee[7] was constituted to investigate the complaint and, pending investigation, Nacino was placed under preventive suspension for a maximum of thirty (30) days, effective November 8, 2002.[8] The Investigating Committee found Nacino guilty as charged, and was dismissed from the service on December 5, 2002.[9]

Aggrieved, Nacino filed on December 13, 2002 a Complaint[10] for Illegal Suspension and Termination before the National Conciliation and Mediation Board (NCMB) in Tuguegarao City. On January 10, 2003, Maria Luanne M. Jali-jali (Jali-jali), AMA's representative, signed the submission Agreement, accepting the jurisdiction of Voluntary Arbitrator Nicanor Y. Samaniego (Voluntary Arbitrator) over the controversy.

Before the Voluntary Arbitrator, the parties agreed to settle the case amicably, with Nacino discharging and releasing AMA from all his claims in consideration of the sum of P7,719.81. The Decision[11] embodying the Compromise Agreement and the corresponding Quitclaim and Release,[12] both dated February 21, 2003, were

duly prepared and signed, but the check in payment of the consideration for the settlement had yet to be released.

On April 1, 2003, Nacino died in an accident. On April 15, 2003, the Voluntary Arbitrator rendered the assailed Decision,[13] ordering Nacino's reinstatement and the payment of his backwages and 13[th] month pay. Therein, the Voluntary Arbitrator manifested that, due to AMA's failure to pay the sum of P7,719.81, Nacino withdrew from the Compromise Agreement, as shown by the conduct of a hearing on March 15, 2003 where both parties appeared and were directed to file their position papers. The Voluntary Arbitrator also stated that Nacino complied, but AMA failed to file its position paper and to appear before him despite summons. On May 7, 2003, the Voluntary Arbitrator issued a Writ of Execution[14] upon motion of Nacino's surviving spouse, one Bernadeth V. Nacino. AMA filed a Motion to Quash the said Writ but the Voluntary Arbitrator allegedly refused to receive the same.[15] Thus, on May 22, 2003, the heirs of Nacino were able to garnish AMA's bank deposits in the amount of P52,021.70.

On June 16, 2003, AMA filed a Petition[16] for Certiorari under Rule 65 before the CA. On June 23, 2003, the CA dismissed the said petition because it was a wrong mode of review. It held that the proper remedy was an appeal by way of Rule 43 of the Rules of Civil Procedure. Accordingly, the CA opined, an erroneous appeal shall be dismissed outright pursuant to Section 2, Rule 50 of the Rules of Civil Procedure.

AMA filed its Motion for Reconsideration but the CA denied it in its Resolution dated March 3, 2004.

Hence, this petition based on the sole ground that:

THE COURT OF APPEALS COMMITTED SERIOUS ERROR OF LAW IN DISMISSING THE PETITION FOR CERTIORARI UNDER RULE 65 OF THE 1997 RULES OF CIVIL PROCEDURE FILED BY HEREIN PETITIONER.

AMA claims that Jali-jali was misinformed and misled in signing the Submission Agreement, subjecting AMA to the jurisdiction of the Voluntary Arbitrator; that the Voluntary Arbitrator's Decision was issued under the Labor Code and, as such, the same is not appealable under Rule 43, as provided for by Section 2[17] thereof, but under Rule 65 of the Rules of Civil Procedure; and that the petition for certiorari is the only plain, speedy and adequate remedy in this case since the Voluntary Arbitrator acted with grave abuse of discretion in disregarding the parties' compromise agreement, in rendering the assailed Decision, and in issuing the Writ of Execution without affording AMA its right to due process.

On the other hand, the heirs of Nacino refused to receive this Court's Resolution requiring them to file their Comment[18] and, as such, were considered to have waived their right to file the same.[19]

The instant petition lacks merit.

Pertinent is our ruling in *Centro Escolar University Faculty and Allied Workers Union-Independent v. Court of Appeals*,[20] where we held:

We find that the Court of Appeals did not err in holding that petitioner used a wrong remedy when it filed a special civil action on certiorari under Rule 65 instead of an appeal under Rule 43 of the 1997 Rules of Civil Procedure. The Court held in *Luzon Development Bank v. Association of Luzon Development Bank Employees* that decisions of the voluntary arbitrator under the Labor Code are appealable to the Court of Appeals. In that case, the Court observed that the Labor Code was silent as regards the appeals from the decisions of the voluntary arbitrator, unlike those of the Labor Arbiter which may be appealed to the National Labor Relations Commission. The Court noted, however, that the voluntary arbitrator is a government instrumentality within the contemplation of Section 9 of Batas Pambansa Blg. (BP) 129 which provides for the appellate jurisdiction of the Court of Appeals. The decisions of the voluntary arbitrator are akin to those of the Regional Trial Court, and, therefore, should first be appealed to the Court of Appeals before being elevated to

this Court. This is in furtherance and consistent with the original purpose of Circular No. 1-91 to provide a uniform procedure for the appellate review of adjudications of all quasi-judicial agencies not expressly excepted from the coverage of Section 9 of BP 129. Circular No. 1-91 was later revised and became Revised Administrative Circular No. 1-95. The Rules of Court Revision Committee incorporated said circular in Rule 43 of the 1997 Rules of Civil Procedure. The inclusion of the decisions of the voluntary arbitrator in the Rule was based on the Court's pronouncements in *Luzon Development Bank v. Association of Luzon Development Bank Employees*. Petitioner's argument, therefore, that the ruling in said case is inapplicable in this case is without merit.

We are not unmindful of instances when certiorari was granted despite the availability of appeal, such as (a) when public welfare and the advancement of public policy dictates; (b) when the broader interest of justice so requires; (c) when the writs issued are null and void; or (d) when the questioned order amounts to an oppressive exercise of judicial authority. [21] However, none of these recognized exceptions attends the case at bar. AMA has sadly failed to show circumstances that would justify a deviation from the general rule.

While it is true that, in accordance with the liberal spirit which pervades the Rules of Court and in the interest of justice, a petition for certiorari may be treated as having been filed under Rule 45, the petition for certiorari filed by petitioner before the CA cannot be treated as such, without the exceptional circumstances mentioned above, because it was filed way beyond the 15-day reglementary period within which to file the Petition for Review.[22] AMA received the assailed Decision of the Voluntary Arbitrator on April 15, 2003 and it filed the petition for certiorari under Rule 65 before the CA only on June 16, 2003.[23] By parity of reasoning, the same reglementary period should apply to appeals taken from the decisions of Voluntary Arbitrators under Rule 43. Based on the foregoing disquisitions, the assailed Decision of the Voluntary Arbitrator had already become final and executory and beyond the purview of this Court to act upon.[24]

Verily, rules of procedure exist for a noble purpose, and to disregard such rules in the guise of liberal construction would be to defeat such purpose. Procedural rules are not to be disdained as mere technicalities. They may not be ignored to suit the convenience of a party. Adjective law ensures the effective enforcement of substantive rights through the orderly and speedy administration of justice. Rules are not intended to hamper litigants or complicate litigation. But they help provide for a vital system of justice where suitors may be heard following judicial procedure and in the correct forum. Public order and our system of justice are well served by a conscientious observance by the parties of the procedural rules.[25]

WHEREFORE, the instant Petition is DENIED for lack of merit. The assailed Court of Appeals Resolutions dated June 23, 2003 and March 3, 2004 are hereby AFFIRMED. Costs against the petitioner.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Corona, and Reyes, JJ., concur.

* In lieu of Associate Justice Minita V. Chico-Nazario per Special Order No. 484 dated January 11, 2008.

[1] Dated April 27, 2004; rollo, pp. 8-39.

[2] Particularly docketed as CA-G.R. SP No. 77508, penned by Associate Justice Renato C. Dacudao (retired), with Associate Justices Godardo A. Jacinto and Danilo B. Pine (both retired), concurring; id. at 48.

[3] Id. at 43-45.

[4] Memorandum, id. at 83.

- [5] Written Explanation; id. at 84.
- [6] Memorandum, dated November 5, 2002; id. at 85.
- [7] Memorandum, dated November 7, 2002; id. at 88.
- [8] Rollo, p. 89.
- [9] Memorandum, id. at 91.
- [10] Rollo, p. 93.
- [11] Decision in NCMB-RB2-VA Case No. 01-001-2003; id. at 95-96.
- [12] Rollo, p. 94.
- [13] Id. at 76-79.
- [14] Id. at 80-81.
- [15] Affidavit of one Dennis Salvador, messenger of AMA dated March 19, 2003; id. at 82.
- [16] Id. at 51-74.
- [17] Rule 43, SEC. 2. Cases not covered. - This Rule shall not apply to judgments or final orders issued under the Labor Code of the Philippines.
- [18] Resolution, April 11, 2005; rollo, p. 117.
- [19] Resolution, August 15, 2005; id. at 123.
- [20] G.R. No. 165486, May 31, 2006, 490 SCRA 61, 69-70, citing *Luzon Development Bank v. Association of Luzon Development Bank Employees*, 249 SCRA 162 (1995).
- [21] *Chua v. Santos*, G.R. No. 132467, October 18, 2004, 440 SCRA 365, 374-375.
- [22] *First Corporation v. Former Sixth Division of the Court of Appeals*, G.R. No. 171989, July 4, 2007.
- [23] *Supra* note 16, at 53-54.
- [24] *Zacate v. Commission on Elections*, G.R. No. 144678, March 1, 2001, 353 SCRA 441, 449.
- [25] *Audi Ag v. Hon. Jules A. Mejia*, in his capacity as Executive Judge of the Regional Trial Court, Alaminos City; *Auto Prominence Corporation*; and *Proton Pilipinas Corporation*, G.R. No. 167533, July 27, 2007.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.