

**METRO TRANSIT ORGANIZATION, INC., AND JOSE L. CORTEZ, JR.,
PETITIONERS, VS. PIGLAS NFWU-KMU, SAMMY MALUNES, ROMULO
QUIGAO, RODULFO CAMERINO, BRENDON MAKILING, MAXIMO
VITANGCOL, P...**

G.R. No. 175460. April 14, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Assailed in the instant Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure is the Resolution[1] dated 24 August 2006 of the Court of Appeals in CA-G.R. SP. No. 95665, as well as its Resolution[2] dated 14 November 2006 dismissing petitioners' Motion for Reconsideration thereof.

Petitioner Metro Transit Organization, Inc. (MTO) is a government owned and controlled corporation which entered into a Management and Operations Agreement (MOA) with the Light Rail Transit Authority (LRTA) for the operation of the Light Rail Transit (LRT) Baclaran-Monumento Line. Petitioner Jose L. Cortez, Jr. was sued in his official capacity as then Undersecretary of the Department of Transportation and Communications and Chairman of the Board of Directors of petitioner MTO.

For purposes of collective bargaining agreement (CBA), petitioner MTO's rank and file employees formed the Pinag-isang Lakas ng Manggagawa sa Metro, Inc.-National Federation of Labor (PIGLAS). Meanwhile, its managerial and supervisory employees created their own union bearing the name Supervisory Employees Association of Metro (SEAM).

Petitioners MTO and PIGLAS entered into a CBA covering the period of 13 February 1995 to 13 February 2000. SEAM similarly negotiated with petitioner MTO under a separate CBA. Allegedly disgruntled with PIGLAS, some rank and file employees formed another union under the umbrella of the Philippine Transport Group Workers Organization-Trade Union Congress of the Philippines (PTGWO-TUCP), which negotiated with management for certification as the new bargaining agent. The aforesaid intra-union dispute was settled through a certification election which PIGLAS won. Thereafter, PIGLAS renegotiated the CBA demanding higher benefits.

On 25 July 2000, due to a bargaining deadlock, PIGLAS filed a Notice of Strike before the National Conciliation and Mediation Board (NCMB). On the same date, PIGLAS staged a strike. Consequently, Hon. Bienvenido E. Laguesma, then Secretary of the Department of Labor and Employment (DOLE), issued an Order of Assumption of Jurisdiction/Return to Work,[3] dated 25 July 2000, directing the striking employees to immediately return to work, and petitioner MTO to take them back under the same terms and conditions of employment prevailing prior to the strike. The Order of Assumption of Jurisdiction/Return to Work was published in newspapers of general circulation. The striking employees refused to receive a copy of said Order; hence, copies thereof were posted in the stations and terminals of the LRT.

The striking PIGLAS members refused to accede to the Return to Work Order. Following their continued

non-compliance, on 28 July 2000, the LRTA formally informed petitioner MTO that it had issued a Board Resolution which: (1) allowed the expiration after 31 July 2000 of LRTA's MOA with petitioner MTO; and (2) directed the LRTA to take over the operations and maintenance of the LRT Line. By virtue of said Resolution, petitioner MTO sent termination notices to its employees, including herein respondents.

Resultantly, respondents filed with the Labor Arbiter Complaints[4] against petitioners and the LRTA for the following: (1) illegal dismissal; (2) unfair labor practice for union busting; (3) moral and exemplary damages; and (4) attorney's fees.

On 13 September 2004, the Labor Arbiter rendered judgment in favor of respondents. The decretal portion of the Labor Arbiter's Decision, states:

WHEREFORE, premises considered, judgment is hereby rendered declaring the dismissal of the complainants as illegal and ordering respondents Metro Transit Organization, Inc. and Light Rail Transit Authority to jointly and severally pay complainants their separation pay and backwages in the amounts indicated opposite their respective names as shown in Annexes "A" to "A-5" of this decision or in the total amount of P208,235,682.72.

Respondents are further ordered to pay the sum equivalent to ten (10%) percent of the judgment award as and by way of attorney's fees or in the amount of P20,823,568.27.

The claim of complainant Ronald Lovedoreal is ordered dismissed without prejudice.

All other claims are ordered dismissed for lack of merit.[5]

Petitioners appealed to the National Labor Relations Commission (NLRC). In a Resolution dated 19 May 2006, the NLRC dismissed petitioners' appeal for non-perfection since it failed to post the required bond. The NLRC ratiocinated:

Section 6, Rule VI of the Rules of Procedure of the National Labor Relations Commission, as amended by Resolution No. 01-02, Series of 2002 provides, to wit:

"SECTION 6 BOND. In case the decision of the Labor Arbiter or the Regional Director involves a monetary award, an appeal by the employer may be perfected only upon the posting of a cash or surety bond. The appeal bond shall either be in cash or surety in an amount equivalent to the monetary award, exclusive of damages and attorney's fees."

In this case [petitioners] filed a property bond, and applying a liberal interpretation of the above Rule and finding support in the Supreme Court pronouncement in the case of UERM-Memorial Medical Center, et al. vs. NLRC, et al., G.R. No. 110419, March 3, 1997, we conditionally accepted the property bond subject to the submission of the requirements specified in the Order. Moreover, [petitioners] were directed to comply with the requirements within ten (10) days from receipt of the Order with a warning that failure to comply will result in the dismissal of the appeal for non-perfection thereof.

It appears that to date, which is more than a month from receipt of the Order, [petitioners] failed to comply with the conditions required in the posting of the property bond, this Commission is therefore constrained to dismiss the appeal for non-perfection thereof.[6]

The NLRC thus disposed:

WHEREFORE, premises considered, an order is hereby issued DISMISSING the appeal of [petitioners] for non-perfection thereof and the Decision dated 13 September 2004 has become final.

The Motion for Reconsideration filed by complainants-appellees and the motion to suspend proceedings filed

by [petitioners] are both DENIED for lack of merit.

No further motion of similar nature shall be entertained.[7]

Without filing a Motion for Reconsideration of the afore-quoted NLRC Resolution, petitioners filed a Petition for Certiorari with the Court of Appeals assailing the same.

On 24 August 2006, the Court of Appeals issued a Resolution dismissing the Petition. It ruled:

The petitioners have filed this petition for certiorari against the resolution of the NLRC dated May 19, 2006 dismissing the appeal for non-perfection. They have not, however, filed a motion for reconsideration of the ruling prior to filing the petition. This renders the petition fatally defective. The motion for reconsideration has been held to be a condition sine qua non for certiorari, the rationale being that the lower court should be given the opportunity to correct its error before recourse to the higher court is made. [Yau] vs. Manila Banking Corp. 384 SCRA 340. The [acknowledged] exceptions to the rule find no application here. The order of dismissal is issued by the NLRC in the exercise of its discretionary authority to fix the requirements of the property bond for appeal, and the finding that the petitioners failed to perfect the appeal for non-compliance with these conditions is both a factual and legal issue. We have a perfect textbook example of an order that is amenable to a motion for reconsideration.[8]

Petitioners moved for the reconsideration of the appellate court's dismissal of its Petition. The Court of Appeals, however, in a Resolution dated 14 November 2006 found no cogent reason to disturb its original conclusions.

Hence, petitioners come to this Court, challenging the dismissal by the Court of Appeals of its Petition.[9]

It must be primarily established that petitioners contravened the procedural rule for the extraordinary remedy of certiorari. The rule is, for the writ to issue, it must be shown that there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law.[10]

The settled rule is that a motion for reconsideration is a condition sine qua non for the filing of a petition for certiorari.[11] Its purpose is to grant an opportunity for the court to correct any actual or perceived error attributed to it by the re-examination of the legal and factual circumstances of the case.[12] The rationale of the rule rests upon the presumption that the court or administrative body which issued the assailed order or resolution may amend the same, if given the chance to correct its mistake or error.[13]

We have held that the "plain," "speedy," and "adequate remedy" referred to in Section 1, Rule 65 of the Rules of Court[14] is a motion for reconsideration of the questioned Order or Resolution. As we consistently held in numerous cases, a motion for reconsideration is indispensable for it affords the NLRC an opportunity to rectify errors or mistakes it might have committed before resort to the courts can be had.[15]

In the case at bar, petitioners directly went to the Court of Appeals on certiorari without filing a motion for reconsideration with the NLRC. The motion for reconsideration would have aptly furnished a plain, speedy, and adequate remedy. As a rule, the Court of Appeals, in the exercise of its original jurisdiction, will not take cognizance of a petition for certiorari under Rule 65, unless the lower court has been given the opportunity to correct the error imputed to it.[16] The Court of Appeals correctly ruled that petitioners' failure to file a motion for reconsideration against the assailed Resolution of the NLRC rendered its petition for certiorari before the appellate court as fatally defective.

We agree in the Court of Appeals' finding that petitioners' case does not fall under any of the recognized exceptions to the filing of a motion for reconsideration, to wit: (1) when the issue raised is purely of law; (2) when public interest is involved; (3) in case of urgency;[17] or when the questions raised are the same as those that have already been squarely argued and exhaustively passed upon by the lower court.[18] As the Court of Appeals

reasoned, the issue before the NLRC is both factual and legal at the same time, involving as it does the requirements of the property bond for the perfection of the appeal, as well as the finding that petitioners failed to perfect the same. Evidently, the burden is on petitioners seeking exception to the rule to show sufficient justification for dispensing with the requirement.[19] Certiorari cannot be resorted to as a shield from the adverse consequences of petitioners' own omission of the filing of the required motion for reconsideration.[20]

Nonetheless, even if we are to disregard the petitioners' procedural faux pas with the Court of Appeals, and proceed to review the propriety of the 19 May 2006 NLRC Resolution, we still arrive at the conclusion that the NLRC did not err in denying petitioners' appeal for its failure to file a bond in accordance with the Rules of Procedure of the NLRC.[21]

In cases involving a monetary award, an employer seeking to appeal the decision of the Labor Arbiter to the NLRC is unconditionally required by Article 223[22] of the Labor Code to post a cash or surety bond equivalent to the amount of the monetary award adjudged.[23] It should be stressed that the intention of lawmakers to make the bond an indispensable requisite for the perfection of an appeal by the employer is underscored by the provision that an appeal by the employer may be perfected only upon the posting of a cash or surety bond.[24] The word "only" makes it perfectly clear that the lawmakers intended the posting of a cash or surety bond by the employer to be the exclusive means by which an employer's appeal may be perfected.[25] Moreover, it bears stressing that the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but jurisdictional,[26] and failure to conform to the rules will render the judgment sought to be reviewed final and unappealable.[27] It cannot be overemphasized that the NLRC Rules, akin to the Rules of Court, promulgated by authority of law, have the force and effect of law.[28]

As borne by the records, petitioners filed a property bond which was conditionally accepted by the NLRC subject to the following conditions specified in its 24 February 2006 Order:

The conditional acceptance of petitioner's property bond was subject to the submission of the following: 1) Certified copy of Board Resolution or a Certificate from the Corporate Secretary of Light Rail Transit Authority stating that the Corporation President is authorized by a Board Resolution to submit title as guarantee of judgment award; 2) Certified Copy of the Titles issued by the Registry of Deeds of Pasay City; 3) Certified Copy of the current tax declarations of Titles; 4) Tax clearance from the City Treasurer of Pasay City; 5) Appraisal report of an accredited appraisal company attesting to the fair market value of property within ten (10) days from receipt of this Order. Failure to comply therewith will result in the dismissal of the appeal for non-perfection thereof.[29]

In the same Order, the NLRC warned that failure of the petitioners to comply with the conditions would result in the dismissal of the appeal for non-perfection thereof. Petitioners were directed to comply with its given conditions within 10 days from receipt of the Order with a caveat that their failure will result in the dismissal of the appeal. Subsequently, in its 19 May 2006 Resolution, the NLRC finally made a factual finding that petitioners failed to comply with the conditions attached to their posting of the property bond. Thus, the NLRC dismissed petitioners' appeal for non-perfection thereof.

Essentially, the failure of petitioners to comply with the conditions for the posting of the property bond is tantamount to a failure to post the bond as required by law. What is even more salient is the fact that the NLRC had stressed that petitioners had, for more than a month from receipt of its 24 February 2006 Order, to comply with the conditions set forth therein for the posting of the property bond. It cannot be gainsaid that the NLRC had given petitioners a period of 10 days from receipt of the Order with a warning that non-compliance would result in the dismissal of their appeal for failure to perfect the same. Petitioners therefore disregarded the rudiments of the law in the perfection of their appeal. We are without recourse but to take petitioners' failure against their

interest.

WHEREFORE, the Petition is DENIED. The Resolutions dated 24 August 2006 and 14 November 2006 of the Court of Appeals in CA-G.R. SP. No. 95665 are AFFIRMED. Costs against petitioners.

SO ORDERED.

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

[1] Penned by Associate Justice Mario L. Guariña III with Associate Justices Roberto A. Barrios and Lucenito N. Tagle, concurring; rollo, pp. 52-53.

[2]Id. at 55.

[3]The Order disposed, thus:

WHEREFORE, foregoing premises considered, this Office hereby assumes jurisdiction over the labor dispute at the Metro Transit Organization, Inc., pursuant to Article 263(g) of the Labor Code, as amended.

Accordingly, all striking employees are hereby directed to return to work immediately upon receipt of this Order and for the Company to accept them back under the same terms and conditions of employment prevailing prior to the strike.

The parties are further directed to cease and desist from committing any act that will exacerbate the situation.

Likewise, to expedite resolution of the dispute, the parties are directed to submit their respective position papers and evidence to this Office within TEN (10) days from receipt hereof.

Finally, to ensure compliance of this Order, PNP Chief Superintendent Edgardo Aglipay, NCR is hereby deputized to assist in the peaceful and orderly implementation of this Order. (Id. at 194.)

[4] Id. at 197-209.

[5] CA rollo, pp. 135-136.

[6] Id. at 36.

[7]Id. at 37.

[8] Rollo, p. 52.

[9] Petitioner raises the following:

I. THE HONORABLE COURT OF APPEALS ERRED IN NOT DECLARING THAT THE PETITION FOR CERTIORARI FALLS UNDER ANY OF THOSE INSTANCES WHERE A MOTION FOR RECONSIDERATION NEED NOT BE FILED BEFORE A PETITION FOR CERTIORARI CAN BE INSTITUTED.

II. THE HONORABLE COURT OF APPEALS ERRED IN IGNORING THE FACT THAT PUBLIC RESPONDENT HAS NO JURISDICTION AND COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT ALSO ASSUMED JURISDICTION OVER THE PRESENT CASE DESPITE THE FACT THAT IT IS THE SECRETARY OF LABOR WHICH HAS JURISDICTION OVER THE PRESENT CASE.

III. ASSUMING PUBLIC RESPONDENT NLRC HAS JURISDICTION OVER THE PRESENT CASE, THE

HONORABLE COURT OF APPEALS ERRED IN IGNORING THE FACT THAT PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OR IN EXCESS OF JURISDICTION WHEN IT DID NOT GIVE LRTA AND PETITIONER SUFFICIENT TIME TO COMPLY WITH ITS ORDER TO SUBMIT THE DOCUMENTATION FOR THE APPEAL BOND.

IV. ASSUMING PUBLIC RESPONDENT NLRC HAS JURISDICTION OVER THE PRESENT CASE, THE HONORABLE COURT OF APPEALS ERRED IN IGNORING THE FACT THAT PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OR IN EXCESS OF JURISDICTION WHEN IT DID NOT RESOLVE ON THE MERITS THE FOLLOWING ISSUES:

A) The complaints state no cause of action because the non-renewal of the MOA between petitioner and LRTA caused private respondents' unemployment status.

B) The claims of private respondents are CBA related which CBA was entered into by and between petitioner and PIGLAS or SEAM.

C) The unemployed status of private respondents was not caused by illegal dismissal.

D) Petitioner was not a labor-only contractor.

[10] *Solidum v. Court of Appeals*, G.R. No. 161647, 22 June 2006, 492 SCRA 261, 270.

[11] *Office of the Ombudsman v. Laja*, G.R. No. 169241, 2 May 2006, 488 SCRA 574, 580.

[12] *Id.*

[13] *Republic v. Sandiganbayan*, G.R. No. 141796, 15 June 2005, 460 SCRA 146, 158. The Court ruled that the strict application of [Section 1 of Rule 65] will also prevent unnecessary and premature resort to appellate proceedings.

[14] 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.

[15] *Lagera v. National Labor Relations Commission*, 385 Phil. 1087, 1091 (2000).

[16] *Yau v. Manila Banking Corporation*, 433 Phil. 701, 709-710 (2002).

[17] *Government of the United States of America v. Purganan*, 438 Phil. 417, 437 (2002).

[18] *Id.*

[19] *Seagull Shipmanagement and Transport, Inc. v. National Labor Relations Commission*, 388 Phil. 906, 912 (2000).

[20] *Id.*

[21] Section 6, Rule VI of the Rules of Procedure of the National Labor Relations Commission, provides:

Section 6. Bond. - In case the decision of the Labor Arbiter, the Regional Director or his duly authorized Hearing Officer involves a monetary award, an appeal by the employer shall be perfected only upon the posting of a cash or surety bond, which shall be in effect until final disposition of the case, issued by a reputable bonding company

duly accredited by the Commission or the Supreme Court in an amount equivalent to the monetary award, exclusive of damages, and attorney's fees.

The employer, his counsel, as well as the bonding company, shall submit a joint declaration under oath attesting that the surety bond posted is genuine.

The Commission may, in justifiable cases and upon Motion of the Appellant, reduce the amount of the bond. The filing of the motion to reduce bond shall not stop the running of the period to perfect appeal.

[22] The pertinent portion of Article 223 of the Labor Code, states:

ART. 223. Appeal. - x x x

In case of a judgment involving a monetary award, an appeal by the employer may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Commission in the amount equivalent to the monetary award in the judgment appealed from.

[23] Calabash Garments, Inc. v. National Labor Relations Commission, 329 Phil. 227, 233 (1996).

[24] Navarro v. National Labor Relations Commission, 383 Phil. 765, 774 (2000).

[25] Id.

[26] Tan v. Court of Appeals, G.R. No. 157194, 20 June 2006, 491 SCRA 452, 459; Dela Cruz v. Golar Maritime Services, Inc., G.R. No. 141277, 16 December 2005, 478 SCRA 173, 184; FILIPINAS (Pre-fabricated Bldg.) Systems "Filsystems," Inc. v. National Labor Relations Commission, 463 Phil. 813, 818-819 (2003).

[27] Philippine Transmarine Carriers, Inc. v. Cortina, 461 Phil. 422, 428 (2003), citing Imperial Textile Mills, Inc. v. National Labor Relations Commission, G.R. No. 101527, 19 January 1993, 217 SCRA 237, 246.

[28] Corporate Inn Hotel v. Lizo, G.R. No. 148279, 27 May 2004, 429 SCRA 573, 577.

[29] Rollo, p. 171.

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