

WILLIAM R. WENCESLAO, VIVENCIO B. RODRIGO, JR., NOEL N. DAMIASAN, VIRGILIO B. CRISTOBAL, JEMYLITO M. APIAG, JOVENAL P. ATAG, ARNULFO S. DASCO, CARLITO E. INFANTE, ALFREDO T. VIS...

G.R. No. 230696. August 30, 2017

Ponente: MARTIRES, J.

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MARTIRES, J.:

For failure to attach the certified true copies of the assailed National Labor Relations Commission (NLRC) Decisions and Resolutions as well as the other portions of the case records, the Court of Appeals (CA) dismissed the Petition for Certiorari in CA-G.R. SP No. 147009 entitled William R. Wenceslao v. Makati Development Corporation in the Resolutions dated 26 January 2016[1] and 23 August 2017.[2] Hence, the petitioners brought before the Court this Petition for Review on Certiorari assailing the CA resolutions.

THE FACTS[3]

The case stemmed from a Complaint for Illegal Dismissal and Monetary Claims filed by the petitioners against private respondent Makati Development Corporation (MDC) before the Labor Arbiter.[4] Records show that the petitioners were former construction workers of MDC.[5] In their complaint, the petitioners claimed that they were regular employees of MDC and were illegally dismissed for refusing to apply and be transferred to another contractor, Asiapro Multi-Purpose Cooperative.[6] In due course, the Labor Arbiter dismissed the complaint for lack of merit. In affirming the status of the petitioners as project employees, the Labor Arbiter relied on the evidence of MDC showing that the petitioners had worked in several of its other projects before being engaged in the West Tower @ One Serendra Project and the North Triangle Building Project.[7] The Labor Arbiter ruled that repeated re-employment does not make a project employee a regular employee.[8] The dispositive portion of the Decision of the Labor Arbiter reads:

WHEREFORE, premises considered, the complaint for illegal dismissal is DISMISSED for lack of merit. Respondent Makati Development Corporation, however, is directed to pay the aggregate sum of ONE HUNDRED EIGHTEEN THOUSAND THREE HUNDRED FOURTEEN & 78/100 PESOS (P118,314.78) representing complainants' prorated 13[th] month pay for 2015, as follows:

WILLIAM R. WENCESLAO

-

Php 5,725.72

JEMYLITO M. APIAG

-

5,484.52

JOVENAL P. ATAG

-

5,484.52

ARNULFO S. DASCO

-

5,690.23

CARLITO E. INFANTE

-

5,563.84

RENATO A. GUINUE

-

5,725.72

ZACARIAS G. TALABOC, JR.

-

5,484.52

GEORGE N. TAGUIAM

-

5,484.52

RANDY D. ABRENCILLO

-

5,484.52

MELECIO B. QUINIMON

-

5,243.33

CESAR B. JARANILLA

-

5,484.52

RIZALDE R. BARILE

-

5,484.52

HERICO A. BUENAVENTE

-

5,484.52

JERSON A. TATOY

-

5,484.52

MICHAEL L. CASIANO

-

5,830.58

FELIX M. DINIA Y

-

7,340.66

PEDRO C. DELA CRUZ, JR.

-

5,484.52

JHOSEL BOY G. ABAYON

-

5,484.52

AUGUSTO L. OCENAR

-

5,690.23

MARIO M. FUNELAS

-

5,484.52

AVELINO T. QUINONES

-

5,690.23

All other claims, including those of complainants Virgilio B. Cristobal, Noel N. Damiasan, James M. Real, Vivencio B. Rodrigo and Alfredo T. Visaya, are hereby denied for lack of merit. The computation hereto attached is made an integral part hereof.[9]

On appeal, the National Labor Relations Commission (NLRC) Fourth Division affirmed[10] in toto the decision[11] of the Labor Arbiter. The dispositive portion of the NLRC Decision dated 31 May 2016, states:

WHEREFORE, considering the foregoing, the appeal filed by the 21 complainants is DENIED for lack of merit.

Accordingly, the decision rendered by Labor Arbiter Raymund M. Celino on 29[th] February 2016 is hereby AFFIRMED in toto.[12]

The petitioners sought reconsideration of the said decision but it was denied by the NLRC in its Resolution,[13] dated 26 July 2016.

Undaunted, the petitioners filed before the CA a Petition for Certiorari alleging grave abuse of discretion amounting to lack or excess of jurisdiction of the NLRC for issuing the order affirming the decision of the Labor Arbiter.

The CA Ruling

The CA dismissed the petition on two grounds:

(1)

the petition is non-compliant with Section 3, Rule 46 of the Rules of Court; and

(2)

the petition, on its face, lacks merit for failing to illustrate public respondent's grave abuse of discretion amounting to lack or excess of jurisdiction in rendering the assailed 31 May 2016 Decision and 26 July 2016 Resolution.[14]

The CA cited the following defects in the petition:

- the public respondent's assailed 31 May 2016 Decision and 26 July 2016 Resolution are mere photocopies of purported certified true copies thereof;
- the allegation as to material dates is incomplete;
- the Labor Arbiter's Decision, the Petitioner's Appeal Memorandum and Motion for Reconsideration which are all referred to in the petition are not attached thereto; and
- other relevant pleadings and/or documents necessary to aid the Court in ascertaining the facts of the case upon which the assailed 31 May 2016 Decision is based are not attached to the petition.[15]

The dispositive portion of the CA Resolution dated 23 August 2016, reads:

WHEREFORE, premises considered, the instant Petition for Certiorari is hereby DISMISSED.[16]

The petitioners moved for reconsideration[17] but to no avail.[18] On 24 February 2017, they received the assailed resolution denying their motion for reconsideration.[19] After two motions for extension to file a petition for review on certiorari,[20] the petitioners filed the instant petition on 10 April 2017.

Even before this Court could take action on the petition, private respondents MDC and Dante Abando (Abando) filed on 18 May 2017, a "Motion for Leave (To File Comment to Petition for Review)"[21] and on 8 June 2017, another Motion for Leave (To Admit Manifestation).[22]

We address first the procedural matters.

We grant the two motions for extension filed by the petitioners after finding these to be in order.

Likewise, given that MDC and Abando had already attached their "Comment" in the "Motion for Leave (To File Comment to Petition for Review)," we resolve to consider this petition as submitted for decision. In resolving this case, the Manifestation, dated 8 June 2017, filed by the MDC and Abando is duly considered.

The Petitioners' Arguments

The petitioners allege before the Court that the CA committed grave abuse of discretion for denying their petition on mere technicality, viz:

WITH DUE RESPECT, THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DISMISSING THE PETITIONER'S PETITION AND SUBSEQUENTLY, ITS MOTION FOR RECONSIDERATION DUE TO NON-SUBMISSION OF MATERIAL DOCUMENTS NEEDED TO ASCERTAIN THE FACTS OF THE CASE.[23]

To buttress their claim, the petitioners cited *Air Philippines Corporation v. Zamora*[24] in determining the necessity of attaching pleadings and portions of the records to the petition, to wit:

First, not all pleadings and parts of the case records are required to be attached to the petition. Only those which are relevant and pertinent must accompany it. The test of relevancy is whether the document in question will support the material allegations in the petition, whether said document will make out a prima facie case of

grave abuse of discretion as to convince the court to give due course to the petition.

Second, even if a document is relevant and pertinent to the petition, it need not be appended if it is shown that the contents thereof can also [be] found in another document already attached to the petition. Thus, if the material allegations in a position paper are summarized in a questioned judgment, it will suffice that only a certified true copy of the judgment is attached.

Third, a petition lacking an essential pleading or part of the case record may still be given due course or reinstated (if earlier dismissed) upon showing that petitioner later submitted the documents required, or that it will serve the higher interests of justice that the case be decided on the merits.[25]

The petitioners contend that the Appeal Memorandum and the Motion for Reconsideration (from the NLRC decision) attached to the petition already sufficed to enable the CA to resolve the petition even without the pleadings and other records.[26]

In addition, the petitioners also invoke the liberal application of the rules, arguing that the CA should have required them first to submit the lacking documents in the petition instead of dismissing it outright based on a technicality.[27]

The Private Respondents' Arguments

In their comment, the MDC and Abando argue that the petitioners do not deserve the liberality of the CA absent a showing that there has been a substantial or subsequent compliance with the procedural requirements or that it will serve the higher interests of justice if the petition be given due course or be decided on the merits.[28] They insist that Air Philippines is not apropos because the petitioners had totally omitted to append the relevant and material portions of the case records.[29] They also point out that the petitioners are mistaken in their notion that the attachments may be dispensed with when the material allegations and arguments are already set forth in the petition for certiorari and other attachments such as their Appeal Memorandum and Motion for Reconsideration.[30]

On the substantive aspect, the private respondents contend that the petition does not demonstrate the NLRC's grave abuse of discretion,[31] nor does it show that the NLRC's factual findings are not supported by substantial evidence. Significantly, such factual findings coincided with the Labor Arbiter's own findings.[32] The private respondents invoke the basic postulate that the labor tribunals' rulings, factual findings and the conclusions from these findings are generally accorded respect by the courts because of the tribunals' expertise in their fields, and are accorded not only respect but finality if supported by substantial evidence.[33] Thus, the CA, the private respondents argue, did not err in upholding the unanimous findings of the labor tribunals.

The Issue

The threshold issue is whether the CA was justified in dismissing the petition for certiorari due to the failure of the petitioners to attach the pertinent records of the case.

OUR RULING

First, the matter concerning the nature of the petition.

While the pleading filed by the petitioners is denominated as "Petition for Review on Certiorari" pursuant to Rule 45 of the Rules of Court, its contents, however, particularly the ground raised and supporting arguments, assert grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the CA, an averment apposite in a petition for certiorari under Rule 65 of the Rules of Court. The seeming inconsistency of the petition's style and substance must be resolved as its proper characterization, on whether it is pursued under Rule 45 or Rule 65

of the Rules of Court, would objectively determine its outright dismissal for being the wrong remedy.

Accordingly, if the petition is to be treated as a petition for certiorari under Rule 65, then it should appropriately be dismissed because there is a plain, adequate, and speedy remedy available under the circumstances. It is settled that a special civil action for certiorari under Rule 65 is an original or independent action based on grave abuse of discretion amounting to lack or excess of jurisdiction; and it will lie only if there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law.[34] In this case, what the petitioners seek to be annulled are the resolutions of the CA dismissing their petition for certiorari and the motion for reconsideration from such dismissal being, without a doubt, a final order for the complete disposition of such petition. Consequently, the petitioner's right and available legal recourse to assail such resolutions is an appeal by certiorari under Rule 45 instead of a special civil action for certiorari under Rule 65.

The Court in *Malayang Manggagawa ng Stayfast Phils., Inc. v. NLRC*,[35] announced:

The proper remedy to obtain a reversal of judgment on the merits, final order or resolution is appeal. This holds true even if the error ascribed to the court rendering the judgment is its lack of jurisdiction over the subject matter, or the exercise of power in excess thereof, or grave abuse of discretion in the findings of fact or of law set out in the decision, order or resolution. The existence and availability of the right of appeal prohibits the resort to certiorari because one of the requirements for the latter remedy is that there should be no appeal.[36] (emphasis supplied)

Consistent with *Malayang Manggagawa*, and in the spirit of liberality of the application of the rules, we can treat the present petition as an appeal by certiorari under Rule 45 despite allegations of grave abuse of discretion being ascribed to the CA in issuing the assailed resolutions. The intention of the petitioners to file an appeal by certiorari instead of a special civil action for certiorari is, in any event, clearly manifested by the two motions for extension of time to file a petition for review on certiorari under Rule 45 of the Rules of Court.

Proceeding to the merits, we find that the CA did not err, much less commit grave abuse of discretion amounting to lack of or excess of jurisdiction, in dismissing the petition for certiorari due to procedural lapses and lack of substantive merit of the said petition. The CA pointed to the petitioners' failure to state the material dates and to attach the certified true copies of the assailed decision and resolution of the NLRC as well as the other pertinent documents referred to in the petition, such as the labor arbiter's decision, the petitioner's Appeal Memorandum and Motion for Reconsideration.[37] The CA also determined that the petition, on its face, did not establish the whimsical exercise of discretion which the NLRC supposedly had committed.[38]

While the CA invoked several grounds in dismissing the petition, the petitioners raised before this Court only the issue on the necessity of attaching to the petition relevant portions of the case records.

We quote here the pertinent provisions of the Rules of Court that, in part, became the basis for the dismissal of the petition:

RULE 46

Original Cases

Section 3. Contents and filing of petition; effect of noncompliance with requirements. - x x x

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.

x x x x

The failure of the petitioner to comply with any of the requirements shall be sufficient ground for the dismissal of the petition.

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. (emphasis supplied)

Based on the foregoing rules, we rule that the CA was justified in initially dismissing the petition based on the petitioners' failure to attach to the petition the certified true copies of the assailed decision and resolution of the NLRC, as well as other portions of the records of the case. As noted by the CA, only photocopies, not the certified true copies, of the NLRC decision and resolution complained of were attached; neither were the pleadings and other papers filed before the labor arbiter and the NLRC appended. Absent such required documents, the CA correctly opined that it would have no basis to determine whether the NLRC gravely abused its discretion in finding the petitioners as project employees and that their termination was not illegal. On the necessity of attaching legible duplicate original or certified true copy of the judgment, order, resolution or ruling subject of the petition, we explained in *Pinakamasarap Corporation v. NLRC*[39] that:

There is a sound reason behind this policy and it is to ensure that the copy of the judgment or order sought to be reviewed is a faithful reproduction of the original so that the reviewing court would have a definitive basis in its determination of whether the court, body or tribunal which rendered the assailed judgment or order committed grave abuse of discretion.[40]

On motion for reconsideration, however, the petitioners rectified their error by attaching the certified true copies of the NLRC decision and resolution, as well as legible copies of the Appeal Memorandum and Motion for Reconsideration (from the NLRC decision). Yet, the CA still denied their motion.

The petitioners bewail such denial of their motion for reconsideration arguing that the Appeal Memorandum and Motion for Reconsideration (from the NLRC decision) are sufficient to enable the CA to resolve their petition even without the pleadings and other portions of the records. Citing *Air Philippines*, the petitioners assert that the other portions of the case records need not be appended alluding to the so-called guideposts in determining the necessity of attaching pleadings and portions of the records to the petition.

The petitioners are correct that not all pleadings or papers need to be appended. As in *Air Philippines*, only such portions of the case records as may be relevant in resolving the issues before the court are necessary to accompany the petition. The court before whom the petition is filed has, at first instance, the opportunity to determine which of these portions of the case records are material to the resolution of the issue, that is, whether the public respondent committed grave abuse of discretion. Should the court find that the copies of the essential pleadings or portions of the case records are lacking, it may dismiss the petition.[41] But if such copies of the pleadings and case records are later submitted, the court may, in the exercise of sound discretion, reinstate the case and decide the same on the merits.

In this case, however, the petitioners, after their petition was dismissed, submitted the certified true copies of the NLRC decision and resolution as well as their Appeal Memorandum and Motion for Reconsideration. After due consideration of the petition with the attached documents, and, consistent with *Air Philippines*, the CA could have reinstated and decided the case on the merits; but the CA brushed it off, and after a careful review of the records, we find that its refusal to proceed was justified.

Even with copies of portions of the case records attached, the petitioners still failed to address the lacking statement of the material dates despite clear notice of such violation together with the other grounds for the dismissal of the petition set forth in the first assailed CA resolution. Indeed, the failure to state the material dates in a petition for certiorari is sufficient ground to dismiss it under Section 3, Rule 46 in relation to Rule 65 of the Rules of Court.

Section 3 of Rule 46 provides three material dates that must be stated in a petition for certiorari brought under Rule 65: the date when notice of the judgment or final order or resolution was received; the date when a motion for new trial or for reconsideration was filed; and the date when notice of the denial thereof was received.[42] In this case, the petition filed with the CA failed to state the first and second dates.[43] Thus, the CA rightfully dismissed the petition. Our pronouncement in *Santos v. Court of Appeals*[44] is apt:

The requirement of setting forth the three (3) dates in a petition for certiorari under Rule 65 is for the purpose of determining its timeliness. Such a petition is required to be filed not later than sixty (60) days from notice of the judgment, order or Resolution sought to be assailed. Therefore, that the petition for certiorari was filed forty-one (41) days from receipt of the denial of the motion for reconsideration is hardly relevant. The Court of Appeals was not in any position to determine when this period commenced to run and whether the motion for reconsideration itself was filed on time since the material dates were not stated.[45] x x x (emphasis in the original)

When they filed their motion for reconsideration of the dismissal of their CA petition, the petitioners could have easily supplied the missing dates, i.e., when they received the NLRC decision and when they filed their motion for reconsideration thereof. However, they failed to do so. As it is, the CA still could not determine the timeliness of the motion for reconsideration from the NLRC decision. Thus, the CA fittingly affirmed the dismissal of the petition for certiorari in the second assailed resolution for noncompliance with the rule on stating the material dates in a petition.

The petitioners cannot justifiably insist that the CA should have required them first to submit the lacking documents in the petition before giving due course to their petition and resolving the case on the merits because the failure to comply with any of the requirements under Section 3 of Rule 46, such as the statement of the material dates, is sufficient ground to dismiss the petition. They cannot likewise demand preferential treatment by the CA based on the liberal application of the rules. Twice were they given the chance to comply with the requirement pertaining to the material dates; and twice were they remiss in complying with the rules. As observed by the CA, the petitioners had "haphazardly filed their petition in grave disregard of the rules of procedure" and are, therefore, "not entitled to the liberality thereof considering that the petition is only partially rectified." [46]

Moreover, we find that the CA had actually considered the merits of the petition together with the attachments. Even in the first assailed resolution, wherein it was noted that the petition did not append the certified true copies of the NLRC decision and resolution as well as the other pertinent records of the case, the CA had made a preliminary determination regarding the status of employment of the petitioners and the validity of their termination from service. From the first assailed resolution, the CA had affirmed the factual findings of the NLRC that the petitioners were project employees and were not illegally terminated. We quote the CA:

In the first place, the issue of whether or not petitioners are project or non-project employees, in contemplation

of Section 2.1 of DOLE Order No. 19, Series of 1993, is not discussed in the petition. Petitioners readily conclude that they are "regular employees" without debunking public respondent's finding that they were hired on a per-project basis in view of MDC's compliance with the indicators of project employment under Section 2.2 of DOLE Order No. 19, Series of 1993.

Second, petitioner's entitlement to separation pay primarily hinges on their employment status. As earlier discussed, petitioners merely offered a self-serving conclusion that they are "regular employees" based on the factual allegation contained in the petition. Petitioners' allegation has no weight or persuasive effect upon this Court absent any evidence to support the same.

To be circumspect, it is worth pointing out that a project employee may nevertheless receive separation pay. Under Section 3.2 of DOLE Order No. 19, Series of 1993, project employee's entitlement to separation pay is qualified by certain conditions, to wit:

3.2. Project employees not entitled to separation. - The project employees contemplated by paragraph 2.1. hereof are not by law entitled to separation pay if their services are terminated as a result of the completion of the project or any phase thereof in which they are employed. Likewise, project employees whose services are terminated because they have no more work to do or their services are no longer needed in the particular phase of the project are not by law entitled to separation pay.

3.3. Project employees entitled to separation pay. -

a) Project employees whose aggregate period of continuous employment in a construction company is at least one year shall be considered regular employees, in the absence of a "day certain" agreed upon by the parties for the termination of their relationship. Project employees who have become regular shall be entitled to separation pay.

x x x x

b) If the project or the phase of the project the employee is working on has not yet been completed and his services are terminated without just cause or unauthorized cause and there is no showing that his services are unsatisfactory, the project employee is entitled to reinstatement with backwages to his former position or substantially equivalent position. If the reinstatement is no longer possible, the employee is entitled to his salaries for the unexpired portion of the agreement.

In the case at bench, the petitioners did not present any evidence, by way of contract of employment or other relevant proof which would establish the facts pertaining to their tenure. Without basis to rule on the same, this Court can only rely on the findings of public respondent adjudging them to be not entitled to separation pay.

It bears stressing that the factual findings of administrative or quasi-judicial bodies, which are deemed to have acquired expertise in matters within their respective jurisdictions, are generally accorded not only respect but even finality, and bind the Court when supported by substantial evidence.[47] (emphasis supplied)

The petitioners' argument that the CA should have proceeded in the resolution of the case must fail.

As noted, the dismissal by the CA of the petition for certiorari was not purely on a technicality but also on a ruling on the substantive merits of the case. However, we will not dwell on the disquisition of the CA as to the nature of the employment of the petitioners and their subsequent termination for two reasons: first, the only issue raised before this Court concerns the failure to attach the material documents in the petition for certiorari; second, the determination on whether the petitioners were project employees and whether they were illegally dismissed would necessarily require us to inquire into the factual matters which the Court cannot do in a petition for review on certiorari under Rule 45 of the Rules of Court. Moreover, factual findings of quasi-judicial agencies like the NLRC, when affirmed by the Court of Appeals, are conclusive upon the parties and binding on this Court.[48]

In fine, we find no compelling reason to set aside the dismissal by the CA of this petition for certiorari.

WHEREFORE, finding no reversible error, the Petition for Review on Certiorari dated 10 April 2017, is DENIED. The 23 August 2016 and 26 January 2017 Resolutions of the Court of Appeals in CA-G.R. SP No. 147009 are hereby AFFIRMED.

SO ORDERED.

Velasco, Jr., (Chairperson), Bersamin, and Leonen, JJ., concur.
Gesmundo, J., on leave.

October 2, 2017

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on August 30, 2017 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on October 2, 2017 at 11:20 a.m.

Very truly yours,

(SGD)

WILFREDO V. LAPITAN

Division Clerk of Court

[1] Rollo, Vol. I, pp. 26-31; penned by Associate Justice Canllelita Salandanan-Manahan, and concurred in by Associate Justices Japar B. Dimaampao and Franchito N. Diamante.

[2] Id. at 32-37.

[3] The material facts are taken from the NLRC Decision, dated 31 May 2016.

[4] Rollo, Vol. I, p. 58.

[5] Id.

[6] Id. at 61-62.

[7] Id. at 64-65.

[8] Id. at 65.

[9] Id. at 133-134.

[10] Id. at 100-115.

[11] Id. at 116-134.

[12] Id. at 114.

[13] Id. at 92-99.

[14] Id. at 37.

[15] Id. at 33.

[16] Id. at 37.

[17] Rollo, Vol. II, pp. 878-885; The Motion for Reconsideration with Motion to Admit Attachment was filed on 15 September 2016.

[18] Rollo, Vol. I, pp. 26-31; The CA denied the motion for reconsideration through the assailed Resolution, dated 26 January 2017.

[19] Id. at 15.

[20] The first motion for extension of 15 days was filed on 10 March 2017, or on the last day of the 15-day reglementary period for filing a petition for review on certiorari. The second motion for extension of 15 days was filed on 24 March 2017.

[21] Rollo, Vol. II, pp. 886-935.

[22] Id. at 941-953.

[23] Rollo, Vol. I, p. 18.

[24] 529 Phil. 718 (2006).

[25] Rollo, Vol. I, p. 19.

[26] Id. at 20.

[27] Id.

[28] Rollo, Vol. II, p. 897.

[29] Id. at 896.

[30] Id. at 897.

[31] Id. at 902.

[32] Id. at 910.

[33] Id. at 904.

[34] See *Vda. de Mendez v. CA*, 687 Phil. 185, 193 (2012).

[35] 716 Phil. 500 (2013).

[36] Id. at 512-513, citing *Bugarin v. Palisoc*, 513 Phil. 59, 66 (2005).

[37] Rollo, Vol. I, p. 33; CA Resolution, dated 23 August 2016.

[38] Id. at 34-36.

[39] 534 Phil. 222 (2006).

[40] Id. at 230, citing *Durban Apartments Corporation v. Catacutan*, 514 Phil. 187, 194 (2005); *Quintana v.*

NLRC, 487 Phil. 412, 423 (2004).

[41] *Air Philippines Corporation v. Zamora*, supra note 21, citing *De los Santos, v. CA*, 522 Phil. 313, 322 (2006); *Lanzaderas v. Amethyst Security and General Services, Inc.*, 452 Phil. 621, 632 (2003); *Sea Power Shipping Enterprises, Inc. v. CA*, 412 Phil. 603, 611 (2001).

[42] *Santos v. CA*, 413 Phil. 41, 53 (2001).

[43] See Petition for Certiorari under heading "Nature and Timeliness of the Petition," rollo, vol. I, p. 38.

[44] Supra note 39.

[45] *Id.* at 53-54.

[46] See Resolution, dated 26 January 2017, rollo, vol. I, p. 30.

[47] Rollo, Vol, I, pp. 34-36.

[48] *Fuji Television Network, Inc. v. Espiritu*, 749 Phil. 388, 414 (2014), citing *San Miguel Corporation v. Secretary of Labor*, 159-A Phil. 346 (1975); *Scott v. Inciong*, 160-A Phil. 1107 (1975); *Bordeos v. NLRC*, 330 Phil. 1003 (1996).

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