

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
EN BANC**

**NOEL F. CIACICO,
*Petitioner,***

-versus-

**G.R. No. 137113
August 30, 1999**

**NATIONAL LABOR RELATIONS
COMMISSION, HONORABLE LABOR
ARBITER FATIMA JAMBARO-FRANCO
and TOYOTA MOTORS PHIL. CORP.,
*Respondents.***

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RESOLUTION

GONZAGA-REYES, J.:

This refers to the Motion for Reconsideration filed by petitioner from this Court's Resolution dated March 3, 1999 which dismissed his Petition for *Certiorari* "for having been filed late and the docket fees having been paid late."

In his motion, petitioner alleges that on September 14, 1998, he received the NLRC Decision dated July 28, 1998 and not the Resolution denying his motion for reconsideration as stated in this Court's Resolution of March 3, 1999. The petition was filed on

January 28, 1999 and petitioner is of the view that his petition was filed within the prescriptive period of sixty (60) days.

The motion is devoid of merit.

As alleged by petitioner in his petition, he received the copy of the NLRC Decision on September 14, 1998.^[1] He filed a Motion for Reconsideration thereto on September 24, 1998.^[2] He received the copy of the Resolution denying his motion for reconsideration on December 4, 1998.^[3]

Section 4 of Rule 65, as amended by Circular No. 39-98^[4] provides:

“SECTION 4. Where petition filed. — The petition may be filed not later than sixty (60) days from notice of the judgment, order or resolution sought to be assailed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, or 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 jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, and unless otherwise provided by law or these Rules, the petition shall be filed in and cognizable only by the Court of Appeals.

If the petitioner has 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.” (Emphasis supplied)

Thus, applying the rule on computation of time under Rule 22^[5] when petitioner received the NLRC decision on September 14, 1998 and filed the motion for reconsideration on September 24, 1998, nine (9)

days were already consumed of the 60-day prescriptive period to file the petition. When petitioner received on December 4, 1998 the Resolution denying his motion for reconsideration, he had fifty-one (51) days remaining within which to file the petition. He filed the petition on January 28, 1999 (Thursday) or after fifty-five (55) days, which is way beyond the period prescribed by the rules.

WHEREFORE, for lack of merit, the motion for reconsideration is hereby **DENIED WITH FINALITY**.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena and Ynares-Santiago, JJ., concur.

[1] Par. b), thereof, p. 4, Rollo.

[2] Annex "I" of the Petition, p. 132, Rollo.

[3] Par. c), Petition, p. 4, Rollo.

[4] Effective September 1, 1998.

[5] SEC. 1. How to compute time. — In computing any period prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day or the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day.

SEC. 2. Effect of interruption. — Should an act be done which effectively interrupts the running of the period, the allowable period after such interruption shall start to run on the day after notice of the cessation of the cause thereof.

The day of the act that caused the interruption shall be excluded in the computation of the period.