SUPREME COURT
SECOND DIVISION

LOPEZ DELA ROSA DEVELOPMENT CORPORATION and GLORIA DELA ROSA LOPEZ,
***Petitioners*,**

-versus-

G.R. No. 148470
April 29, 2005

HON. COURT OF APPEALS, NATIONAL LABOR RELATIONS COMMISSION, LABOR ARBITER VICENTE LAYAWEN and ARIEL CHAVEZ,
***Respondents*.**
x----------x

D E C I S I O N

CHICO-NAZARIO, *J.*:

Before Us is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, seeking the reversal of the Decision[1] of the Court of Appeals dated 12 February 2001 and its Resolution[2] dated 31 May 2001 denying petitioners' motion for reconsideration.

A complaint[3] for illegal dismissal, wage differential, nonpayment of legal holiday pay, nonpayment of premiums for rest day pay, nonpayment of 13th month pay, nonpayment of 5-day service incentive leave pay, nonpayment of overtime pay, nonpayment of night-shift differential pay and nonpayment of salary from December 1-8, 1994 was filed by respondent Ariel Chavez against petitioners Lopez Dela Rosa Development Corporation and Gloria Dela Rosa Lopez before the Department of Labor and Employment, National Capital Region, on 09 December 1994. The case was docketed as NLRC-NCR-CASE NO. 00-12-08961-94.

The facts that gave rise to the aforesaid complaint are stated in the Decision of the Court of Appeals quoting the decision of respondent Labor Arbiter Vicente Layawen, to wit:

> The factual antecedents, as found by Labor Arbiter Layawen in his decision of June 7, 1999, are as follows:
>
> As culled from the position paper, testimonial evidence of the witnesses of both parties as well as from their other pleadings, the material antecedent facts are as follows:
>
> Complainant alleges that:
>
> (1) On June 1, 1993, complainant was employed by respondent Ms. Gloria Lopez of Lopez de la Rosa Development Corporation as employee in charge of building maintenance. Respondent Gloria Lopez is engaged in the business of renting apartment units.
>
> (2) The parties verbally agreed on the terms of employment. During the period of his employment, complainant reported to work everyday and was paid a salary of PHP120.00 per day. From the period of June 1, 1993 to December 31, 1993, complainant worked from 7:00 AM to 10:00 PM everyday (Mondays to Sundays) but was not paid overtime pay. From the period of January 1, 1994, complainant

worked from 7:00 AM to 7:00 PM everyday, also without overtime pay.

(3) Likewise, complainant was not given his 13th month pay, sick leave, holiday pay, night shift differentials, days-off for 1993 and 1994. His salary remained at PHP 120.00 per day despite repeated assurances from Gloria Lopez that she should be increasing such to conform to the minimum wage.

(4) On December 6, 1994, complainant sent a request for a cash advance, through Ms. Lopez's secretary. As there was no response yet, complainant called the respondent on December 8, 1994, at around 8:00 PM. Ms. Lopez did not agree to the request for a cash advance, complainant then reminded Ms. Lopez about the adjustment in his salary so as to reach the minimum wage as required by law. Ms. Lopez simply remained silent. At around 10:00 PM Ms. Lopez called the complainant and informed him that he was fired. Without the benefit of due notice and hearing, complainant was illegally terminated on December 8, 1994 for allegedly stealing two (2) refrigerators.

(5) On December 9, 1994, Chavez lodged a complaint with the NLRC. On December 12, 1994, complainant was requested by respondent to drop the charges on the assurance that she would give in to all his demands as stated in the complaint. On December 14, 1994, respondent only offered to give complainant PhP460.00 only.

In their answer, respondents denied the charge of complainant for illegal dismissal, underpayment of wages, non-payment of eight (8) days salaries, overtime pay, premium pay for holiday,

rest day, night shift differential pay, holiday, service incentive leave pay and 13th month pay.

In addition, they adopted the affidavits of Gloria de la Rosa Lopez, Mario Peralta de la Cruz and Nenita Apilado Nunez wherein they averred as follows:

1. Gloria de la Rosa alleges that:

> That I am the President of Lopez de la Rosa Development Corporation (Corporation) whose principal place of business is located at 1114 J. Barlin Street, Sampaloc, Manila, Metro Manila, Philippines. That as President of Corporation, I have the power to direct the daily management of the business and operations of the Corporation.
>
> That as pursuant to this power, I hired Ariel Chavez, complainant, on behalf of corporation. Respondent, under a Labor Agreement dated December 1, 1993 on a day, no work, no pay basis.
>
> That on January 3, 1994, an Employment Contract was executed between Complainant and Respondent hiring Complainant as an all-around Building Maintenance for the period of January 2, 1994 to December 31, 1994.
>
> That based on this Employment Contract, respondent has the option to terminate the Employment Contract in the event that Complainant shall have been continuously unable to or unwillingly or have failed to perform his duties for three (3) consecutive days.
>
> That Complainant was legally terminated/discharged on December 14, 1994 due to his willful and intentional failure to report for work from December 8, 1994 to December 14, 1994.
>
> That based on this Employment Contract, Complainant is subject to the rules and regulations of the Corporation

established for the conduct of its business and may be discharged for failure to perform his duty or obligations directed by the corporation.

That prior to complainant's discharge, Complainant was given a warning by Respondent for his failure to abide to (sic) the rules and regulations of corporation and for his incompetence in his work performance to which a written promise to abide was given by complainant to Respondent.

That based on this Employment Contract, complainant is entitled to free housing with light, water, cooking gas and a daily one kilo rice ration valued at market price for a total monthly benefit of Five Thousand Six Hundred Eighty Pesos (PHP5,680.00).

That based on this Employment Contract which covers a no work, no pay contract, Complainant is not entitled to Premium pay for Holiday, Rest Day and Night Shift; and 5-day Service Incentive leave pay unless complainant actually worked on the aforesaid days as his salary is calculated daily on a non work, no pay basis as provided for by the Employment Contract.

That Complainant is not entitled to overtime pay and a night shift pay since:

"A. Respondent has no information and no knowledge that Complainant has ever worked overtime and or at night; and

"B. Complainant has not at anytime prior to the filing of this Complaint ever (1) requested for overtime or night shift work; (2) filed a verbal and or written report for overtime work or night shift work performed; (3) filed a verbal and or written request for payment for any overtime or night time work performed.

The complainant is not entitled to his 8 day salary from December 1, 1994 to December 8, 1994 and to his thirteenth (13th) month salary for the year 1994 unless and until Respondent is given an accounting and credit for the following:

(1) Cash advances and other benefits advanced to Complainant by Respondent;

(2) Return and or payment by Complainant of a five (5) cubic feet white refrigerator valued at Two Thousand Five Hundred Pesos (PHP2,500.00) taken by Complainant and his wife, Dolor Chavez, from Respondent's office without the consent and knowledge of Respondent.

That complainant had in the past taken and sold properties of Respondent without Respondent's consent and or knowledge for which respondent had to buy back from Mr. Allan Constantino.

That Complainant has no basis under the January 3, 1994 Employment Contract to seek entitlement to a Separation Pay benefit as no contract for same exist between complainant and respondent and that no written modification of the aforesaid contract has been executed to give complainant a Separation Pay benefit.

That complainant has no legal basis to claim that he has paid for the five (5) cubic feet white refrigerator in the amount of One Thousand Five Hundred Pesos (PHP1,500.00) since the payment he made was for a fourteen (14) cubic feet and said payment was made on behalf of his brother-in-law, Arnold Montanez, to which he owed money in the amount of One Thousand Five Hundred Pesos (PHP1,500.00).

That based on the foregoing Respondent legally terminated complainant and is entitled to an accounting/credit from complainant.

> The affidavits of the other witnesses merely corroborated the Affidavit of Gloria de la Rosa Lopez except on some minor matters.[4]
>
> In his decision dated 07 June 1999, respondent Labor Arbiter Layawen disposed of the case as follows:
>
> > WHEREFORE, in view of all the foregoing, we find sufficient evidence to establish that complainant was illegally dismissed.

Consequently, respondents are hereby directed to reinstate complainant to his former position without loss of seniority rights and benefits and to pay him his backwages from December 8, 1994 until his actual reinstatement which backwages up to the rendition of this decision, have amounted to:

> (PLEASE SEE ATTACHED COMPUTATION)[5]
>
> Likewise, respondents are ordered to pay complainant his salary from December 1 to 8, 1994 and his 13th month pay for that year plus attorney's fees equivalent to 10% of the total monetary awards.
>
> All other claims are dismissed for lack of merit.[6]

Petitioners appealed the decision of respondent Labor Arbiter to respondent National Labor Relations Commission (NLRC) filing an Appeal with Memorandum of Appeal with Prayer to Reduce Bond on 12 July 1999. Petitioners posted a surety bond in the amount of P100,000.00 on 16 August 1999.

On 29 November 1999, respondent NLRC issued a resolution[7] dismissing the appeal for failure to perfect the appeal within the statutory period, the dispositive portion of which reads:

> WHEREFORE, premises considered, respondents' appeal is hereby DISMISSED for failure to perfect appeal within the statutory period. The Motion to Reduce Bond is likewise DISMISSED for lack of merit.

On 25 January 2000, the Deputy Executive Clerk of the Third Division of the NLRC issued an entry of judgment and forwarded the records of the case to the arbitration branch of origin for the execution of judgment.[8]

At the execution conference at the arbitration branch, petitioners filed a Manifestation and Motion asking that the execution conference be held in abeyance in view of the pending Motion for Reconsideration which has not been acted upon by the NLRC. Thus, the Labor Arbiter issued an order elevating the records to the NLRC for appropriate action.

Respondent NLRC, in its resolution dated June 30, 2000, explained:

> Before the Commission now is respondents (sic) Opposition and Manifestation to Resolve their Motion for Reconsideration. A scrutiny of the records indicate (sic) that respondents received a copy of our Resolution on December 20, 1999. (Rollo, p. 452). Respondents alleges (sic) that it (sic) had filed a Motion for Reconsideration on January 3, 2000. However, records indicate otherwise. A check with the records show (sic) that no motion for reconsideration has been filed with the Docket and Records Section of the Commission. Furthermore, in the motion for reconsideration allegedly filed with this office and submitted by respondents as Annex "A", the official stamp of the Docket section of the Commission is absent. Hence, we cannot give due course to the Motion for Reconsideration.[9]

Thus, it disposed of the case as follows:

> WHEREFORE PREMISES CONSIDERED, the Motion for Reconsideration cannot be given due course. Let the records herein be REMANDED to Arbitration Branch of origin for appropriate proceedings.[10]

Petitioners appealed to the Court of Appeals via petition for certiorari under Rule 65 of the Rules of Court.[11]

On 25 August 2000, the Court of Appeals dismissed the petition for failure of petitioners to state the date when they filed the motion for reconsideration of the NLRC resolution dated 29 November 1999.[12] On 13 September 2000, petitioners moved for the reconsideration of the dismissal.[13] On 16 November 2000, the Court of Appeals reinstated the petition.[14]

In his comment dated 01 December 2000,[15] private complainant stated, among other things, that the petition should not be given due course because the decision of Labor Arbiter Vicente R. Layawen had already become final and executory on 13 January 2000 when they did not file a motion for reconsideration of the resolution of the NLRC dated 29 November 1999 that dismissed their appeal. Private complainant likewise informed the Court of Appeals that petitioners did not include in their petition that an entry of judgment had already been issued on 25 January 2000 by Atty. Catalino R. Laderas, Deputy Executive Clerk, Third Division, NLRC.[16] Petitioners did not file a Reply.[17]

On 12 February 2001, the Court of Appeals rendered its decision[18] dismissing the petition. The decision reads in part:

> We shall first address the consequence/s of petitioners' inaction after their receipt on December 20, 1999 of the resolution dated November 29, 1999. As found by the NLRC, and as indeed reflected in the records, no motion for reconsideration of the aforesaid resolution had been filed by the petitioners with the said public respondent. It should be stressed here that the implementing rules of respondent NLRC are unequivocal in requiring that a motion for reconsideration of the order, resolution or decision of respondent Commission should be seasonably filed as a precondition for pursuing any further or subsequent recourse, otherwise, the order, resolution or decision would become final and executory after ten (10) calendar days from receipt thereof. Obviously, the rationale therefore is that the law intends to afford the NLRC an opportunity to rectify such errors or mistakes it may have committed before resort to courts of justice can be had. This merely adopts the rule that the function of a motion for reconsideration is to point out to the court the error it may have

> committed and to give it a chance to correct itself. As no motion for reconsideration had been seasonably filed by the petitioners herein, the resolution handed down by the NLRC on November 29, 1999 had undoubtedly become final and executory.

On 31 May 2001, it denied the motion for reconsideration filed by petitioners.[19]

On 29 June 2001, petitioners filed the instant Petition for Review on Certiorari[20] with the following assignment of errors:

> THE HONORABLE COURT OF APPEALS, IN AFFIRMING THE PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION (NLRC), FAILED TO UPHOLD THE RULINGS OF THE HONORABLE SUPREME COURT IN STAR ANGEL HANDICRAFT VS. NLRC [G.R. No. 108914], GLOBE GENERAL SERVICES & SECURITY AGENCY VS. NLRC [G.R. No. 106477], AND CORAL POINT DEVELOPMENT CORPORATION VS. NLRC [G.R. No. 129761], WHERE THE HONORABLE SUPREME COURT HAD EMPHASIZED THAT:
>
> > **FIRST**: BEING A QUASI-JUDICIAL AGENCY NOT BOUND BY THE STRICT TECHNICALITIES OF LAW AND PROCEDURE, THE HONORABLE PUBLIC RESPONDENT SHOULD HAVE RELAXED THE RULE ON ACTUAL POSTING OF BOND ESPECIALLY IN THE INSTANT CASE WHERE PETITIONERS FILED A "MOTION TO REDUCE BOND" WITHIN THE REGLEMENTARY PERIOD, WHICH PUBLIC RESPONDENT NLRC SHOULD HAVE FIRST RESOLVED BEFORE IT DISMISSED THE APPEAL.
> >
> > **SECOND**: TECHNICALITY SHOULD NOT BE ALLOWED TO HINDER THE ADMINISTRATION OF JUSTICE WHEN THE HONORABLE PUBLIC RESPONDENTS HAD COMMITTED SERIOUS ERRORS AND PALPABLE GRAVE ABUSE OF DISCRETION IN RENDERING THE ASSAILED DECISION, AND AWARDED SEVERAL MONEY CLAIMS IN FAVOR OF

THE PRIVATE RESPONDENT DESPITE THE CLEAR CONTRARY PROVISIONS OF LAW.

On 10 August 2001, private complainant Ariel Chavez opposed petitioners' appeal by certiorari.[21] He filed his comment on the petition on 24 October 2001.[22] He argued that contrary to the allegations of petitioners, the Court of Appeals correctly held that the NLRC found that no motion for reconsideration was filed by petitioners on 03 January 2000 as borne by the records. He explained that the Motion for Reconsideration[23] allegedly filed by petitioners with the NLRC lacked the official stamp of the Docket Section of the Commission. In the instant petition, he disclosed that petitioners did not state when they allegedly filed the Motion for Reconsideration. He added that petitioners tried to trick the NLRC into resolving the issues raised in the non-existent Motion for Reconsideration, and the Court of Appeals by raising the very same arguments in their petition for certiorari.

In their Reply[24] dated 16 January 2002, petitioners attached a photocopy of said motion for reconsideration bearing the corresponding registry receipt which was earlier submitted to the Court of Appeals. They argued that the lack of the official stamp of the Docket Section of the NLRC was not their fault because same was duly received initially by the Second Division by reason of the erroneous indication of the Division Number, and which was later forwarded to the Third Division. They maintain that technicality should not be allowed to stand in the way of equitably and completely resolving the rights and obligations of the parties.

On 10 July 2002, the Court resolved to give due course to the petition and required the parties to submit their respective memoranda within thirty (30) days from receipt of notice.[25]

The petition is DENIED.

After reviewing the evidence on hand, we find that the resolution of respondent NLRC dated 29 November 1999 dismissing the appeal of petitioners became final and executory on 13 January 2000 as

evidenced by an Entry of Judgment issued by Atty. Catalino R. Laderas, Deputy Executive Clerk, Third Division, NLRC.[26] This fact has not been rebutted. Apparently, petitioners deliberately omitted this information in their petitions before the Court of Appeals and before this Court.

Respondent NLRC's resolution dated 29 November 1999 became final and executory because no motion for reconsideration was filed. Respondent NLRC explained in its resolution dated 30 June 2000 that no motion for reconsideration has been filed with its Docket and Record Section as shown by the records. It said that the motion for reconsideration allegedly filed and submitted as Annex "A" did not contain the official stamp of the Docket Section. Thus, the same cannot be given due course. Said finding was affirmed by respondent Court of Appeals in its decision dated 12 February 2001.

Time and again, this Court has been emphatic in ruling that the seasonable filing of a motion for reconsideration within the 10-day reglementary period following the receipt by a party of any order, resolution or decision of the NLRC, is a mandatory requirement to forestall the finality of such order, resolution or decision. The statutory bases for this are found in Article 223[27] of the Labor Code and Section 14,[28] Rule VII of the New Rules of Procedure of the NLRC. (Silva vs. NLRC, G.R. No. 110226, June 19, 1997, 274 SCRA 159, 167).[29] The implementing rules of respondent NLRC are unequivocal in requiring that a motion for reconsideration of the order, resolution, or decision of respondent Commission should be seasonably filed as a precondition for pursuing any further or subsequent remedy; otherwise, the said order, resolution, or decision, shall become final and executory after ten (10) calendar days from receipt thereof. Obviously, the rationale therefor is that the law intends to afford the NLRC an opportunity to rectify such errors or mistakes it may have lapsed into before resort to the courts of justice can be had. This merely adopts the rule that the function of a motion for reconsideration is to point out to the court the error that it may have committed and to give it a chance to correct itself.[30]

It is settled doctrine that the NLRC, as an administrative and quasi-judicial body, is not bound by the rigid application of technical rules of procedure in the conduct of its proceedings. However, the filing of

a motion for reconsideration and filing it on time are not mere technicalities of procedure. These are jurisdictional and mandatory requirements which must be strictly complied with. (Silva vs. NLRC, G.R. No. 110226, June 19, 1997, 274 SCRA 159, 167).[31] Although there are exceptions[32] to said rule, the case before us presents no valid reason to deviate from the rule.

Petitioners would like to make the NLRC, the Court of Appeals and this Court believe they filed a Motion for Reconsideration from the resolution of the NLRC dismissing their appeal. They claimed they filed the motion for reconsideration on 03 January 2000 and explained that the absence of the official stamp of the Docket and Record Section of the NLRC thereon was not their fault because said motion was received initially by the Second Division by reason of the erroneous indication of the Division Number, and which was subsequently forwarded to the Third Division.

We do not subscribe to their lame excuses. The fact that the alleged motion for reconsideration did not contain the official stamp of the Docket and Record Section of the NLRC is sufficient indication that same was never filed. Even assuming arguendo that the motion was wrongly addressed to the Second Division of the NLRC, the Docket and Record Section will still put a stamp as to when it received the same. It is simply incredible, assuming that a motion has indeed been filed, that no one will acknowledge receipt thereof by putting a stamp thereon. Moreover, if a motion for reconsideration was truly filed by petitioners, why did private complainant never receive a copy of the same? Failure to furnish the adverse party a copy of the motion for reconsideration is tantamount to non-filing, because furnishing the adverse party is a requirement before the motion can be entertained under the New Rules of Procedure of the NLRC.[33] Service of a copy of the motion on the opposing lawyers and an indication of the time and place of hearing are mandatory requirements.[34] Proof of service is mandatory. Without such proof of service to the adverse party, a motion is nothing but an empty formality deserving no judicial cognizance.[35]

Petitioners clearly failed to file the required motion for reconsideration. Their undoing made the NLRC resolution become final and executory even before they filed their petition for certiorari

with respondent Court of Appeals. On this ground alone, the instant petition must perforce be dismissed.

Finally, petitioners' utter failure to bring up the matter concerning the motion for reconsideration in the instant petition only shows that they are evading the issue.

In light of the foregoing, we find no need to discuss the errors allegedly committed by respondent Court of Appeals.

WHEREFORE, premises considered, the petition for review is hereby **DENIED**.

SO ORDERED.

PUNO, *J.*, *(Chairman)*, AUSTRIA-MARTINEZ, CALLEJO, SR., and TINGA, *JJ.*, concur.

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[1] CA Rollo, pp. 307-316; Penned by Associate Justice Renato C. Dacudao with Associate Justices Romeo J. Callejo, Sr. (now Supreme Court Associate Justice) and Bienvenido L. Reyes, concurring.
[2] Id., at 361.
[3] Rollo, p. 62.
[4] CA Rollo, pp. 307-310.
[5] RE: COMPUTATION OF BACKWAGES AND OTHER MONETARY AWARD PURSUANT TO THE DECISION OF HON. LABOR ARBITER VICENTE R. LAYAWEN DATED APR. 16, 1999.

A. BACKWAGES: DEC. 8, 1994 UP TO JUNE 04, 1999:

1. BASIC SALARY:

P E R I O D		NO. OF MOS	RATE		AMOUNT
12/08/94	02/01/96	13.77	145.00	(P145.00 x 26 days x 13.77)	51,912.90
02/02/96	04/30/96	2.96	161.00	(P161.00 x 26 days x 2.96)	12,390.56
05/01/96	02/05/97	9.13	165.00	(P165.00 x 26 days x 9.13)	39,167.70
02/06/97	04/30/97	2.80	180.00	(P180.00 x 26 days x 2.8)	13,104.00
05/01/97	02/05/98	9.13	185.00	(P185.00 x 26 days x 9.13)	43,915.30
02/06/98	06/04/99	15.93	198.00	(P198.00 x 26 days x 15.93)	82,007.64

S U B – T O T A L					242,498.10
2. 13TH MONTH PAY P242,498.10 X 1/12:					20,208.18

B. UNPAID SALARY FOR THE PERIOD FROM DEC. 01-08, 1994:

1. Basic Salary		
Seven days x P145.00/day	1015.00	
2. 13th Month Pay: P1,015 x 1/12	84.58	1,099.58
TOTAL MONETARY AWARD		263,805.86

C. ADD: 10% ATTORNEY'S FEES	26,380.536

G R A N D T O T A L	290,186.44
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[6] CA Rollo, pp. 30-32.
[7] Rollo, pp. 45-47.
[8] CA Rollo, p. 231.
[9] Rollo, p. 43.
[10] Id.
[11] CA Rollo, pp. 2-157.
[12] Id., at 159.
[13] Id., at 160-178.
[14] Id., at 180-181.
[15] Id., at 182-302.
[16] Id., at 231.
[17] Id., at 303.
[18] Id., at 307-316.
[19] Id., at 361.
[20] Rollo, pp. 3- 20.
[21] Id., at 208-216.
[22] Id., at 223-230.
[23] CA Rollo, pp. 167-176.
[24] Rollo, pp. 233-256.
[25] Id., at 258.
[26] CA Rollo, p. 231.
[27] ART. 223. The Commission shall decide all cases within twenty (20) calendar days from the receipt of the answer of the appellee. The decision of the Commission shall be final and executory after ten (10) calendar days from receipt thereof by the parties.
[28] Section 14. Motions for Reconsideration. – Motions for reconsideration of any order, resolution or decision of the Commission shall not be entertained except when based on palpable or patent errors, provided that the motion is under oath and filed within ten (10) calendar days from receipt of the order, resolution, or decision with proof of service that a copy of the same has been furnished within the reglementary period the adverse party and provided further, that only one such motion from the same party shall be entertained.
[29] Silva vs. NLRC, G.R. No. 110226, 19 June 1997, 274 SCRA 159, 167.
[30] PAL Employees Savings and Loan Association, Inc. vs. NLRC, G.R. No. 105963, 22 August 1996, 260 SCRA 758, 768-769, citing Zapata vs. NLRC, G.R. No. 77827, 05 July 1989, 175 SCRA 56, 60.
[31] Silva vs. NLRC, supra, Note 29.
[32] Generally, certiorari as a special civil action will not lie unless a motion for reconsideration is filed before the respondent tribunal to allow it an opportunity to correct its imputed errors. However, the following have been recognized as exceptions to the rule:
(a) where the order is a patent nullity, as where the court a quo has no jurisdiction;

(b) where the questions raised in the certiorari proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court;
(c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or the petitioner or the subject matter of the action is perishable;
(d) where, under the circumstances, a motion for reconsideration would be useless;
(e) where petitioner was deprived of due process and there is extreme urgency for relief;
(f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable;
(g) where the proceedings in the lower court are a nullity for lack of due process;
(h) where the proceedings was ex parte or in which the petitioner had no opportunity to object; and
(i) where the issue raised is one purely of law or where public interest is involved. (Abraham vs. NLRC, G.R. No. 143823, 06 March 2001, 353 SCRA 739, 744-745)

[33] Section 14, Rule VII.

[34] Sembrano vs. Ramirez, G.R.. No. L-45447, 28 September 1988, 166 SCRA 30, 35.

[35] Cruz vs. Court of Appeals, G.R. No. 123340, 29 August 2002, 388 SCRA 72, 80.