

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
FIRST DIVISION**

**JUANITA NARZOLES, PERLITA  
GUTIERREZ, MYLENE GERONAGA,  
LETICIA M. FORNAL, ARNEL  
DIMALIBOT, MARITES SAGUID,  
IREEN MARCENE, ABRAM  
GERONAGA, ROLANDO LU,  
MARIBETH HERNANDEZ, CORAZON  
AGARAP, PATRICIA ROSARIO,  
BERNADETTE LU, ANGELES MANGUL  
and JOSEFINA MARTE,**

*Petitioners,*

*-versus-*

**G.R. No. 141959  
September 29, 2000**

**NATIONAL LABOR RELATIONS  
COMMISSION, EASTERN MINDORO  
INSTITUTE OF TECHNOLOGY AND  
SCIENCES (EMITS), AND MR.  
MARCIAL S. SEMILLA,**

*Respondents.*

X-----X

**RESOLUTION**

**KAPUNAN, J.:**

Section 4, Rule 65, as amended by Circular No. 39-98, provides that the 60-day period for filing a petition for certiorari shall be interrupted by the filing of a motion for reconsideration or new trial. In the event of the denial of the motion, the petitioner only has the remaining period within which to file the petition. Does the amendment apply to cases where the motion for reconsideration was filed before the amendment although the petition was filed after the amendment took effect? This is the question originally raised by the instant petition.

From the adverse decision of the Labor Arbiter dismissing their complaint for illegal dismissal, petitioner-employees appealed to the National Labor Relations Commission. The NLRC modified the decision of the Labor Arbiter and ordered respondents to reinstate petitioners “but without backwages.” Petitioners received the NLRC decision on 23 July 1998, and filed a motion for reconsideration on 3 August 1998. (The last day for filing said motion was on 2 August 1998, a Sunday.)

On September 1, 1998, the amendment to Section 4, Rule 65 took effect per Circular No. 39-98. The amendment added another paragraph to said Section, and reads:

If the petitioner had 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.

Previous to the amendment, Section 4, Rule 65 provided in the lone paragraph that “(t)he 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.”

On 19 October 1998, petitioners received a copy of the NLRC Resolution denying their motion for reconsideration. Petitioners filed

a Petition for Certiorari in this Court on 17 December 1998. The Court referred the case to the Court of Appeals pursuant to the ruling in *St. Martin Funeral Homes vs. NLRC*.<sup>[1]</sup>

Acting on the petition, the Court of Appeals denied the same for late filing. Apparently, the CA applied Section 4, Rule 65, as amended by Circular No. 39-98, in computing the period for the filing of the petition for certiorari. It held:

The reglementary period to file petition for certiorari is sixty (60) days from notice of the accrual of the cause for certiorari (Sec. 4, Rule 65, 1997 Rules of Civil Procedure).

Petitioner's last day to file their petition for certiorari is December 8, 1998. The petition was filed before the Honorable Supreme Court on December 17, 1998. Consequently, this Court hereby **RESOLVES TO DISMISS** the petition for having been filed beyond the reglementary period.<sup>[2]</sup>

Their motion for reconsideration having been denied by the CA, petitioners filed the present petition for review.

There is no question that the amendments brought about by Circular No. 39-98, which took effect on September 1, 1998, were already in force, and therefore applicable when petitioners filed their petition. Statutes regulating the procedure of the courts are applicable to actions pending and undetermined at the time of their passage. Procedural laws are retroactive in that sense.<sup>[3]</sup> No vested rights attach to procedural laws.<sup>[4]</sup> Consequently, the CA, in accordance with Circular No. 39-98, correctly deducted the 16 days (the fifteenth day was a Sunday) it took for petitioners to file their motion for reconsideration from the 60 day reglementary period. As petitioners only had the remaining period of 44 days from 19 October 1998, when it received a copy of the resolution denying reconsideration, to file the petition for certiorari, or until 8 December 1998, the filing of the petition on 17 December 1998 was nine (9) days too late.

Petitioners, however, claim exception to the retroactive application of Circular No. 39-98 since it would work injustice to them.<sup>[5]</sup> We do not

deem it necessary to rule on this contention in view of further amendments to Section 4, Rule 65.

The Court has observed that Circular No. 39-98 has generated tremendous confusion resulting in the dismissal of numerous cases for late filing. This may have been because, historically, i.e., even before the 1997 revision to the Rules of Civil Procedure, a party had a fresh period from receipt of the order denying the motion for reconsideration to file a petition for certiorari. Were it not for the amendments brought about by Circular No. 39-98, the cases so dismissed would have been resolved on the merits. Hence, the Court deemed it wise to revert to the old rule allowing a party a fresh 60-day period from notice of the denial of the motion for reconsideration to file a petition for certiorari. Earlier this year, the Court resolved, in A.M. No. 00-2-03-SC, to further amend Section 4, Rule 65 to read as follows:

Sec. 4. When and where petition filed. — The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.

The petition shall be filed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, 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 appellate jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed in and cognizable only by the Court of Appeals.

No extension of time to file the petition shall be granted except for compelling reason and in no case exceeding fifteen (15) days. (*Emphasis supplied*)

The latest amendments took effect on September 1, 2000, following its publication in the Manila Bulletin on August 4, 2000 and in the Philippine Daily Inquirer on August 7, 2000, two newspapers of general circulation.

In view of its purpose, the Resolution further amending Section 4, Rule 65 can only be described as curative in nature, and the principles governing curative statutes are applicable.

Curative statutes are enacted to cure defects in a prior law or to validate legal proceedings which would otherwise be void for want of conformity with certain legal requirements.<sup>[6]</sup> They are intended to supply defects, abridge superfluities and curb certain evils. They are intended to enable persons to carry into effect that which they have designed or intended, but has failed of expected legal consequence by reason of some statutory disability or irregularity in their own action. They make valid that which, before the enactment of the statute was invalid. Their purpose is to give validity to acts done that would have been invalid under existing laws, as if existing laws have been complied with.<sup>[7]</sup> Curative statutes, therefore, by their very essence, are retroactive.<sup>[8]</sup>

Accordingly, while the Resolution states that the same “shall take effect on September 1, 2000, following its publication in two (2) newspapers of general circulation,” its retroactive application cannot be denied. In short, the filing of the petition for certiorari in this Court on 17 December 1998 is deemed to be timely, the same having been made within the 60-day period provided under the curative Resolution. We reach this conclusion bearing in mind that the substantive aspects of this case involves the rights and benefits, even the livelihood, of petitioner-employees.

As regards the contention of respondents that the case ought to be dismissed, considering that only three of the fifteen petitioners verified the petition for certiorari originally filed in this Court, the same is best resolved by the Court of Appeals, where the records of the case remain.

**IN VIEW OF THE FOREGOING**, the Court Resolved to **GIVE DUE COURSE** to, and **GRANT**, the petition. The case is hereby **REMANDED** to the Court of Appeals for further proceedings.

**SO ORDERED.**

**Davide, Jr., C.J., Puno, Pardo and Ynares-Santiago, JJ., concur.**

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[1] 295 SCRA 494 (1998).

[2] Rollo, p. 33.

[3] *Diu vs. Court of Appeals*, 251 SCRA 472 (1995).

[4] *Alindao vs. Joson*, 264 SCRA 211 (1996).

[5] Quoting I O. HERRERA, *REMEDIAL LAW* 173 (1994), which cites *Atlas Consolidated Mining and Development Corporation vs. Court of Appeals*, 201 SCRA 51 (1991).

[6] *Erectors, Inc. vs. National Labor Relations Commission*, 256 SCRA 629 (1996).

[7] *Batong Buhay Gold Mines, Inc. vs. Dela Serna*, 312 SCRA 22 (1999).

[8] *Municipality of San Narciso, Quezon vs. Mendez, Sr.*, 239 SCRA 11 (1994).