

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**UNITY FISHING DEVELOPMENT
CORP. and/or ANTONIO DEE,
*Petitioners,***

-versus-

**G.R. No. 145415
February 2, 2001**

**COURT OF APPEALS, NATIONAL
LABOR RELATIONS COMMISSION and
DOMINADOR LAGUIN,
*Respondents.***

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RESOLUTION

GONZAGA-REYES, J.:

The present Petition arose from the Resolution dated January 31, 2000 issued by the Court of Appeals dismissing the petition for certiorari for being out of time. A Motion for Reconsideration thereto was likewise denied in the Resolution of July 12, 2000. The Court of Appeals applied the earlier amendment which considered only the remaining period from receipt of the order denying the motion for reconsideration in reckoning the reglementary period to file the petition.

It appears that a complaint for illegal dismissal, underpayment of wages, overtime pay, premium pay for holidays and rest days, 13th month pay, service incentive leave pay, separation pay and for moral damages was filed by respondent Dominador Laguin against petitioners Unity Fishing Development Corporation and/or Antonio Dee before the Labor Arbiter. The Labor Arbiter rendered judgment on August 3, 1998 declaring the dismissal of respondent as illegal and ordering herein petitioners to pay the former backwages, separation pay and salary differential. Respondent's other claims were dismissed, for lack of merit. On appeal, the National Labor Relations Commission (NLRC) affirmed the judgment. Petitioners filed a motion for reconsideration therefrom. The NLRC-resolution denying petitioners' motion for reconsideration was received by petitioners on October 6, 1999. Thus, on December 6, 1999, petitioners filed, by registered mail, a petition for certiorari with the Court of Appeals. In its Resolution dated January 31, 2000, the Court of Appeals dismissed the petition for having been filed "eleven (11) days past its due date." The Court of Appeals did not rule on the merits of the case. The motion for reconsideration was likewise denied in the Resolution dated July 12, 2000, which resolution was received by petitioners on August 1, 2000.^[1]

Hence, the present petition for certiorari. Petitioners invoke the recent amendment to Section 4, Rule 65 where the period of sixty (60) days is reckoned from receipt of the order denying the motion for reconsideration. Petitioners argue that this amendment must be applied retroactively.

In the instant petition, petitioners invoke A.M. No. 00-2-03-SC, which took effect on September 1, 2000, particularly amending Section 4, Rule 65 of the 1997 Rules of Civil Procedure wherein the sixty-day (60) period is reckoned from receipt of the resolution denying the motion for reconsideration. Thus, applying said amendment, considering that petitioners received on October 6, 1999 the resolution denying the motion for reconsideration, the filing of the petition for certiorari with the Court of Appeals on December 6, 1999 would have been within the reglementary period.

Petitioners argue that the new rule gives a party whose motion for reconsideration has been denied a fresh 60-day period to file a

petition for certiorari. This rule, according to petitioners, must apply retroactively. Petitioners further allege that the Court of Appeals Resolution dated July 12, 2000 denying their motion for reconsideration was received on August 1, 2000 but the present petition was filed with this Court on October 2, 2000, because September 29, 2000, although the 60th day, is a Saturday.

On November 20, 2000, this Court issued a Resolution requiring respondents to comment on the petition.

Respondent Dominador Laguin filed his Comment alleging that the amendment in Section 4, Rule 65 took effect on September 1, 2000 and thus cannot be applied retroactively.

A.M. No. 00-2-03-SC amending Section 4, Rule 65 of the 1997 Rules of Civil Procedure (as amended by the Resolution of July 21, 1998) took effect on September 1, 2000 and provides, to wit:

“SECTION 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.”

As we have ruled in the case of Systems Factors Corporation and Modesto Dean vs. NLRC, et al., G.R. No. 143789 (promulgated on November 27, 2000), the amendment under A.M. No. 00-2-03-SC wherein the sixty-day period to file a petition for certiorari is reckoned from receipt of the resolution denying the motion for reconsideration should be deemed applicable. We reiterate that remedial statutes or statutes relating to remedies or modes of procedure, which do not create new or take away vested rights, but only operate in furtherance of the remedy or confirmation of rights already existing, do not come within the legal conception of a retroactive law, or the general rule against retroactive operation of statutes.^[2] Statutes regulating the procedure of the courts will be construed as applicable to actions pending and undetermined at the time of their passage. Procedural laws are retroactive in that sense and to that extent. The retroactive application of procedural laws is not violative of any right of a person who may feel that he is adversely affected.^[3] The reason is that as a general rule, no vested right may attach to nor arise from procedural laws.^[4]

The above conclusion is consonant with the provision in Section 6, Rule 1 of the 1997 Rules of Civil Procedure that “(T)hese Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding.”

As alleged in the petition, the NLRC-Resolution denying their motion for reconsideration was received by petitioners on October 6, 1999 and the petition for certiorari was filed on December 6, 1999, a Monday.^[5] Applying the amendment to Section 4, Rule 65, the last day for filing the petition for certiorari should have been December 5, 1999. December 5 being a Sunday, the time shall not run until the next working day pursuant to Rule 22.^[6] Hence, when petitioners filed with the Court of Appeals the petition for certiorari on December 6, 1999, the same was still within the reglementary period.

WHEREFORE, the assailed Resolutions dated January 31, 2000 and July 12, 2000 are hereby **SET ASIDE** and the case is **REMANDED** to the Court of Appeals for further proceedings.

SO ORDERED.

**Melo, Vitug, Panganiban, and Sandoval-Gutierrez, JJ.,
concur.**

[1] Par. 1. (a), p. 2 of the Petition, p. 4, Rollo.

[2] Castro vs. Sagales, 94 Phil. 208.

[3] Gregorio vs. Court of Appeals, 26 SCRA 229; Tinio vs. Mina, 26 SCRA 512.

[4] Billones vs. CIR, 14 SCRA 674.

[5] Par. 3.5, Petitioner, p. 8, Rollo.

[6] Section 1, Rule 22: How to compute time. — In computing any period of time prescribed or allowed by these rules, or by order of the court, or by any applicable statute, the day of 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.