SUPREME COURT
SECOND DIVISION

MACARIO D. ZAPATA,
***Petitioner*,**

-versus-

G.R. No. 77827
July 5, 1989

NATIONAL LABOR RELATIONS COMMISSION and PEDRO T. SICCION,
***Respondents*.**
x----------x

D E C I S I O N

REGALADO, *J.*:

The antecedent facts of this case, as chronologized by the Solicitor General and based on the findings of respondent National Labor Relations Commission (NLRC, for brevity), are as follows:

> "1. Private respondent Pedro T. Siccion started working as a laborer since December 1958 with Celilu Manufacturing Corporation, owned and managed by herein petitioner, Macario D. Zapata.
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> "2. In 1960, when Celilu transferred to Cainta, Rizal, private respondent was promoted to inspector, determining the quality of the finished wire products until Celilu closed shop in 1976.

"3. However, private respondent continued working with the petitioner in the manufacture of wire products and also as security guard in 1978 when the regular security guard was dismissed.

"4. On September 15, 1983, he was informed of the loss of a heavy-duty Singer Sewing machine for which he was advised as terminated by September 30, 1983 with termination pay, which the petitioner complied with although he was not given the promised termination pay.

"5. This prompted the private respondent to file on October 11, 1983 the instant complaint against the petitioner with the National Capital Region of the Ministry of Labor, for illegal dismissal and overtime pay.

"6. After the parties had filed their respective position papers and supporting documentary evidence, the Labor Arbiter rendered a decision on December 28, 1984, the dispositive portion of which reads:

> 'IN VIEW OF THE FOREGOING, respondent Macario D. Zapata should be, as he is hereby directed to pay complainant Pedro T. Siccion the amount of Two Thousand (2,000.00) Pesos as separation pay. The complaint for overtime pay is dismissed without prejudice for lack of basis.'

"7. However, on appeal by private respondent, the respondent Commission promulgated on February 4, 1987 a Decision modifying the afore-quoted Labor Arbiter's decision, by ordering the petitioner to pay the private respondent a separation pay at the rate of one month salary for every year of service starting from 1958 up to 1983, and overtime pay from the year 1978 up to 1983."[1]

Hence, this petition for certiorari to set aside said decision of respondent commission.[2]

Petitioner avers that public respondent committed a grave abuse of discretion in modifying the labor arbiter's decision by granting separation pay at the rate of one month salary for every year of service for the period from 1958 to 1983, and granting overtime pay from 1978 to 1983.

We find this petition meritless both substantively and procedurally.

A careful perusal of the records of this case yields the irresistible conclusion that respondent NLRC was correct in holding that private respondent is entitled to and should be granted his aforesaid separation pay and overtime pay.

Respondent commission correctly justified such award for separation pay from 1958 to 1983, thus:

> "It is not disputed that complainant was previously employed in 1958 as laborer of Celilu Manufacturing Corporation, a company owned and managed by herein respondent Macario D. Zapata. Evidence submitted showed that Celilu closed shop in 1976. Complainant, however, continued working with respondent Macario D. Zapata in the manufacture of wire products and as security guard when the regular security guard was dismissed in 1978.
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> "As for the cause of complainant's dismissal, respondent accused the former of having stolen some properties of the latter. This accusation has no factual basis. In respondent's own position paper, Zapata alleges that one Singer sewing machine, 20 pieces of G.I. pipes and 22 rolls of canvass were missing. However, in his affidavit, he enumerates the loss of one sewing machine, one adding machine and one chair. These contradictory assertion (sic) would reflect respondent's doubtful and weak averments. Inferentially, it could be deduced that the alleged pilferage is based merely on assumption of fact without substantial evidence in support thereof. On this score, the dismissal in question is illegal for which complainant is entitled to reinstatement with backwages. Considering, however, complainant's prayer is one for payment of separation pay, the same should be, as it is hereby ordained to be

> computed from 1958 up to the date of his dismissal." (Italics supplied).[3]

The grant of overtime pay was likewise not without basis, for as categorically found by said public respondent —

> "Complainant further claims that the Arbiter committed an error in concluding that he (complainant) failed to ventillate (sic) his claims for overtime compensation. Accordingly, the Arbiter dismissed the claims without prejudice. However, it is noted that complainant categorically stated in his sworn statement (sinumpaang salaysay) that from 1978 he acted as security guard from 5:00 a.m. up to 8:00 in the evening. This specific allegation was never denied nor controverted by the respondent who merely posed the defense of complainant's househelper employment status."[4]

It is evident, therefore, that respondent commission did not fall into error in the exercise of its discretion, much less did it commit a grave abuse thereof. There is nothing arbitrary, capricious, or oppressive, as to amount to lack of jurisdiction, in the decision of said public respondent. Said decision being based on substantial evidence with no infirmity or circumstance in the factual findings which would detract from the conclusiveness thereof, We are without authority to amend or otherwise revoke the same. Whatever flaw could conceivably be attributed to respondent NLRC would, at most, be a mere error of judgment which the Court has consistently ruled, because Rule 65 so mandates, cannot be a proper subject of the special civil action for certiorari. Consequently, the extraordinary writ prayed for will not lie.

Furthermore, fatal to this action is petitioner's failure to move for the reconsideration of the assailed decision on the dubious pretext that it will be a mere rehash of the arguments and issues previously raised in his position paper, but which stratagem conveniently skirts as a consequence the reglementary period therefor, especially if the same has already expired. 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 calendar days from receipt thereof.[5] 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.[6]

Petitioner cannot, on its bare and self-serving representation that reconsideration is unnecessary, unilaterally disregard what the law requires and deny respondent NLRC its right to review its pronouncements before being haled to court to account therefor. On policy considerations, such prerequisite would provide an expeditious termination to labor disputes and assist in the decongestion of court dockets by obviating improvident and unnecessary recourse to judicial proceedings. The present case exemplifies the very contingency sought to be, and which could have been, avoided by the observance of said rules.

ACCORDINGLY, the petition is **DISMISSED** and the decision of respondent National Labor Relations Commission is hereby **AFFIRMED** in toto. This decision is immediately executory.

SO ORDERED.

Melencio-Herrera, *J.*, *(Chairman)*, Paras, Padilla and Sarmiento, *JJ.*, concur.

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[1] Comment, 1-3; Rollo, 51-53.
[2] NLRC-NCR-Case No. 10-4534-83; penned by Presiding Commissioner Daniel M. Lucas, Jr., with the concurrence of Commissioners Domingo M. Zapanta and Oscar N. Abella.
[3] Rollo, 22-23.
[4] Ibid., 23.
[5] Sec. 9, Rule X and Sec. 2, Rule XI, New Rules of the NLRC.
[6] Gonzales vs. Santos, 1 SCRA 1151 (1961); Luzon Stevedoring Co., Inc. et al. vs. Court of Industrial Relations, et al., 8 SCRA 447 (1963); Guerra Enterprises Company, Inc. vs. Court of First Instance of Lanao del Sur, et al., 32 SCRA 314

(1970); Phil. Advertising Counsellors Inc. vs. Revilla, et al., 52 SCRA 246 (1973); Siy vs. Court of Appeals, et al. 138 SCRA 536 (1985).