



Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

HEIRS OF RAMON B. GAYARES,
 represented by Emelinda Gayares
 and Rhayan Gayares in their
 capacity as legal heirs of the late
 Ramon Gayares,

Petitioners,

- versus -

PACIFIC ASIA OVERSEAS
 SHIPPING CORPORATION, and
 KUWAIT OIL TANKER, CO.,
 S.A.K.,

Respondents.

G.R. No. 178477

Present:

BERSAMIN,*

Acting Chairperson

DEL CASTILLO,

ABAD,**

VILLARAMA, JR., *and*

PERLAS-BERNABE,*** *JL*

Promulgated:

16 JUL 2012

DECISION

DEL CASTILLO, *J.*:

Heavy workload, standing alone, is not considered a compelling reason to justify a request for extension of time to file a petition for *certiorari* under Rule 65 of the Rules of Court.

Assailed in this Petition for Review on *Certiorari*¹ is the March 13, 2007 Resolution² of the Court of Appeals (CA) in CA-G.R. SP No. 98133 which denied petitioners' Motion for Extension of Time. Also assailed is the June 1, 2007 Resolution³ denying petitioners' motion for reconsideration for lack of merit. *M. de*

¹ Per Special Order No. 1251 dated July 12, 2012.

² Per Special Order No. 1252 dated July 12, 2012.

³ Per Special Order No. 1227 dated May 30, 2012.

Rollo, pp. 11-21.

CA *rollo*, pp. 8-9; penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by Associate Justices Jose C. Mendoza (now a Member of this Court) and Ramon M. Bato, Jr.

Id. at 219, 250.

Factual Antecedents

In February 1998, Ramon B. Gayares (Gayares) was hired by Pacific Asia Overseas Shipping Corporation on behalf of its principal, Kuwait Oil Tanker Co., S.A.K., as an Able Seaman aboard its vessel M/T A1 Awdah. The contract was for a period of nine months with a monthly salary of US\$ 499.00.⁴ Prior to his embarkation on March 12, 1998,⁵ Gayares underwent medical examination and was found “fit to work” by the examining physician.⁶ However, on April 22, 1998, he was repatriated to the Philippines for medical reasons.⁷

On December 18, 1998, Gayares filed a complaint for disability/medical benefits, illness allowance, damages and attorney’s fees against herein respondents.

Ruling of the Labor Arbiter

On February 24, 2000, the Labor Arbiter rendered a Decision⁸ ordering respondents to pay Gayares disability benefits, sickness allowance, and attorney’s fees. According to the Labor Arbiter, Gayares’ disability of “blephasrospasm with oramandibular dystonia” was contracted during his employment⁹ and not pre-existing as contended by the respondents considering that he was diagnosed “fit to work” by the company-physician.¹⁰

Aggrieved, respondents filed an appeal with the National Labor Relations Commission (NLRC).¹¹

⁴ See Contract of Employment, Id. at 102.

⁵ Id. at 105 and 107.

⁶ Id. at 111.

⁷ Id. at 101.

⁸ Id. at 99-100; penned by Labor Arbiter Donato G. Quinto, Jr.

⁹ Id. at 98.

¹⁰ Id.

¹¹ Id. at 162-184.

On June 12, 2004, or during the pendency of the appeal, Gayares died¹² and was substituted by his heirs, herein petitioners.

Ruling of the National Labor Relations Commission

On February 10, 2006, the NLRC rendered its Decision¹³ deleting the award of disability benefits but affirming the award of sickness allowance and 10% thereof as attorney's fees.¹⁴ The NLRC held that Gayares is not entitled to disability benefits because he miserably failed to show that: "(a) the cause of his illness was reasonably connected with his work; or (b) the sickness for which he claimed disability benefit is an accepted occupational disease; or (c) his working conditions increased the risk of contracting the disease."¹⁵ The NLRC also opined that Gayares could not have contracted the illness during the term of his employment contract, it having manifested a mere 22 days after embarkation and considering that the said disease is hereditary.¹⁶ Neither was there any proof that Gayares' employment contributed or even aggravated his illness.¹⁷

On the other hand, the NLRC opined that Gayares is entitled to receive sickness allowance benefits. The NLRC noted that the company-designated physician failed to assess his degree of disability after his repatriation or to declare him fit to work after subjecting him to medical examinations.¹⁸ Besides, sickness allowance benefit is separate and distinct from disability benefit and is not dependent on whether it is work-connected or not.

Petitioners' motion for reconsideration was denied in a Resolution¹⁹ dated November 30, 2006.

¹² Id. at 82.

¹³ Id. at 78-90; penned by Commissioner Romeo C. Lagman and concurred in by Presiding Commissioner Lourdes C. Javier and Commissioner Tito F. Genilo.

¹⁴ Id. at 89-90.

¹⁵ Id. at 85.

¹⁶ Id.

¹⁷ Id. at 87.

¹⁸ Id. 87-88.

¹⁹ Id. at 31-32

Petitioners received on January 3, 2007²⁰ a copy of the November 30, 2006 NLRC Resolution denying their motion for reconsideration. However, instead of filing a Petition for *Certiorari*, petitioners opted to file a Motion for Extension of Time²¹ which was received by the CA on March 5, 2007.²²

Ruling of the Court of Appeals

On March 13, 2007, the CA issued a Resolution²³ which denied petitioners' Motion for Extension of Time and dismissed the case. According to the CA, requests for extension of time under Section 4, Rule 65 of the Rules of Court may only be allowed for "compelling reason."²⁴ The CA observed that mere pressure and volume of work cannot be considered "compelling reason" to justify a request for extension. Consequently, when petitioners filed their Petition for *Certiorari*, the CA merely noted the same in the Resolution²⁵ dated March 27, 2007.

Petitioners moved for reconsideration.²⁶ Finding no justifiable ground to warrant the reversal of its earlier ruling, the CA denied the motion for lack of merit in a Resolution²⁷ dated June 1, 2007.

Hence, this petition.

Issues

In their Petition for Review on *Certiorari*,²⁸ petitioners submitted the sole issue of whether:

THE COURT OF APPEALS GRAVELY ERRED IN DENYING
PETITIONERS' MOTION FOR EXTENSION OF TIME TO FILE PETITION

²⁰ Id. at 2.

²¹ Id. at 2-6.

²² Id. at 2.

²³ Id. at 8-9.

²⁴ Id. at 8.

²⁵ Id. at 222.

²⁶ Id. at 223-228.

²⁷ Id. at 249-250.

²⁸ *Rollo*, pp. 11-24

FOR CERTIORARI DATED MARCH 5, 2007 NOTWITHSTANDING THAT THERE ARE COMPELLING REASONS STATED IN THE SAID MOTION IN ACCORDANCE WITH SECTION 4, RULE 65 OF THE RULES OF COURT, AS AMENDED.²⁹

In their Memorandum,³⁰ however, petitioners presented the following issues of whether:

- A. THE COURT OF APPEALS GRAVELY ERRED IN DENYING PETITIONERS' MOTION FOR EXTENSION OF TIME TO FILE PETITION FOR CERTIORARI DATED MARCH 5, 2007 NOTWITHSTANDING THAT THERE ARE COMPELLING REASONS STATED IN THE SAID MOTION IN ACCORDANCE WITH SECTION 4, RULE 65 OF THE RULES OF COURT, AS AMENDED.
- B. THE APPEAL OF PETITIONER IS CLEARLY MERITORIOUS [IN] THAT TECHNICALITIES, IF ANY, SHALL GIVE WAY TO SUBSTANTIAL JUSTICE.³¹

Petitioners' Arguments

Petitioners argue that the CA gravely erred in denying their motion for extension of time and, consequently, in dismissing outright their petition for *certiorari* for having been filed late. They insist that their counsel's heavy workload is compelling reason to grant their request for additional time to file their petition.³² They also claim that since this is a labor case,³³ the worker's welfare should be given preference in "carrying out and interpreting the Labor Code's provisions and its implementing regulations."³⁴

Notably, petitioners absolutely failed to discuss in their petition the substantial merits of their case. It is only in their Memorandum that petitioners

²⁹ Id. at 17.

³⁰ Id. at 131-146.

³¹ Id. at 135.

³² Id. at 19 and 137.

³³ Id. at 18 and 136.

³⁴ Id. at 137.

assert that their appeal is meritorious. They allege that Gayares' illness was acquired during his employment and aggravated by the nature of his work.³⁵

Respondents' Arguments

Respondents, on the other hand, maintain that petitioners have no inherent right to expect that their motion for additional time will be granted as the same rests on the discretion of the court. Respondents also stress that no compelling reason was presented by petitioners as basis for such request. Respondents maintain that Gayares is not entitled to disability benefits as he was repatriated just 22 days into his contract and his illness was neither acquired during the period of his employment with respondents nor aggravated by his work.

Our Ruling

The petition lacks merit.

The general rule is to file the petition for certiorari within the 60-day reglementary period. A 15-day extension is the exception to the rule and the request may only be granted for compelling reason.

Section 4,³⁶ Rule 65 of the Rules of Court provides:

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.

X X X X

³⁵ Id. at 140.

³⁶ Before its amendment by A.M. No. 07-7-12-SC, December 27, 2007. The above version applies at the time petitioners filed their Motion for Extension of Time before 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.

It is thus explicit from the foregoing that as a general rule, the petition shall be filed within the 60-day reglementary period. As an exception, an extension of time may be granted but only for a compelling reason and only for 15 days. More important, the discretion to grant or deny said request lies solely in the court. Hence, the party requesting such extension must not expect that his request will be granted as he has no inherent right to the same.

Petitioners did not cite any compelling reason to justify their request for extension.

In the instant case, petitioners sought a 15-day extension from the CA since they failed to file their petition within the 60-day reglementary period. In their Motion for Extension of Time,³⁷ they averred thus:

X X X X

4. Petitioners intend to elevate the matter to this Honorable Court through a Petition for Certiorari under Rule 65 of the 1997 Rules of Civil Procedure, thus they have until today, March 5, 2007 within which to file a Petition for Certiorari with this Honorable Court.

5. However, due to heavy pressure of work on the part of the undersigned counsel, consisting in the preparation of various pleadings, briefs and memoranda in other equally important cases, aggravated by almost daily court appearances and the fact that he is one of the counsels in the case entitled "People of the Philippines vs. Jose Antonio Leviste", docketed as Crim. Case No. 07-179, pending before the Regional Trial Court of Makati City, Branch 150, wherein he has to prepare various urgent pleadings, he would need an additional period of fifteen (15) days from today, March 5, 2007 or until March 20, 2007 within which to file the said petition with this Honorable Court.³⁸

In short, petitioners cite "heavy pressure of work" as the sole reason for their failure to file their petition on time. Unfortunately for them, the CA found

³⁷ CA *rollo*, pp. 2-6.

³⁸ Id. at 2-3.

the same “not a compelling reason” and thus pronounced in its assailed March 13, 2007 Resolution³⁹ thus:

Considering that the 15-day extension allowable under Section 4 of the Rule 65 of the 1997 Revised Rules of Civil Procedure is strictly conditioned on “compelling reason” advance[d] by the movant and mere pressure and volume of work has already been held by the Supreme Court as not a compelling reason to justify an extension, the petitioners’ Motion for Extension of Time dated March 5, 2007 is hereby DENIED.

Accordingly, this case is ordered OUTRIGHTLY DISMISSED for failure to file the petition for certiorari within the 60-day reglementary period which expired on March 3, 2007.

SO ORDERED.

We agree with the CA.

It is settled jurisprudence that heavy pressure of work is not considered compelling reason to justify a request for an extension of time to file a petition for *certiorari*. “Heavy workload is relative and often self-serving. Standing alone, it is not a sufficient reason to deviate from the 60-day rule.”⁴⁰ In *Yutingco v. Court of Appeals*,⁴¹ therein petitioners’ counsel cited heavy workload in seeking the court’s leniency. However, the same was rebuffed by the Court ratiocinating that such “circumstance alone does not provide the court sufficient reason to merit allowance of an extension of the 60-day period to file the petition for *certiorari*. Heavy workload x x x ought to be coupled with more compelling reasons such as illness of counsel or other emergencies that could be substantiated by affidavits of merit.”⁴²

In the instant case, petitioners’ counsel merely referred to “heavy pressure of work”, nothing more, in asking for additional time. Incidentally, he also mentioned that he is one of the counsels of the accused in *People v. Jose Antonio*

³⁹ Id. at 8-9.

⁴⁰ *Laguna Metts Corporation v. Court of Appeals*, G.R. No. 185220, July 27, 2009, 594 SCRA 139, 146.

⁴¹ 435 Phil. 83 (2002).

⁴² Id. at 91-92.

Leviste then pending before the Makati Regional Trial Court. However, we note that he is merely “one of the counsels” in the said criminal case. As such, any task must have been distributed among the counsels. Besides, counsel should bear in mind that in accepting new cases, he should not deprive his “older” cases of the same competence and efficiency he devotes on these new cases, or cause prejudice to them in one way or another. In *Miwa v. Atty. Medina*,⁴³ we had occasion to “remind lawyers to handle only as many cases as they can efficiently handle. For it is not enough that a practitioner is qualified to handle a legal matter, he is also required to prepare adequately and give the appropriate attention to his legal work.”⁴⁴ “[M]embers of the bar must take utmost care of the cases they handle for they owe fidelity to the cause of their clients.”⁴⁵ Petitioners must also do well to remember that “motions for extension are not granted as a matter of right but in the sound discretion of the court, and lawyers should never presume that their motions for extension or postponement will be granted or that they will be granted for the length of time they pray for.”⁴⁶

Petitioners belatedly raised the issue on the substantial merits of their case.

It is worthy of note that in their Petition for Review on *Certiorari* filed before this Court, the only issue raised by the petitioners was the alleged error of the CA in denying their motion for extension of time. They focused and limited their discussion on the fact that their counsel’s heavy workload should have compelled the CA to be lenient towards their cause. Thus, when respondents were required by this Court to file their comment, they aptly observed that “[t]he sole issue raised by the petitioners in their present petition concerns the denial by the Honorable Court of Appeals of their Motion for Extension of Time to file their Petition for *Certiorari* x x x.”⁴⁷ As a necessary consequence, respondents likewise

⁴³ 458 Phil. 920 (2003).

⁴⁴ *Id.* at 928.

⁴⁵ *Degamo v. Avantgarde Shipping Corp. and/or Levy Rabamontan*, 512 Phil. 317, 323-324 (2005).

⁴⁶ *Ramos v. Atty. Dajoyag, Jr.*, 428 Phil. 267, 278 (2002).

⁴⁷ *Rollo*, p. 61.

limited their discussion on debunking the claim of petitioners that ‘heavy workload’ constitutes compelling reason to grant a request for extension.

We likewise reviewed petitioners’ Reply⁴⁸ and we note that the discussion therein referred only to the denial of the motion for extension. No discussion whatsoever was made as regards the substantial merits of the case. In fact, as we have mentioned before, it was only in petitioners’ Memorandum where they raised for the first time the issue that their appeal is meritorious.

This is not only unfair to the respondents who were deprived of the opportunity to propound their arguments on the issue. It is likewise not allowed by the rules. In the June 23, 2008 Resolution,⁴⁹ the Court reminded the parties that “[n]o new issues may be raised by a party in the memorandum.”⁵⁰ The rationale for this was explained by the Court in *Heirs of Cesar Marasigan v. Marasigan*,⁵¹ thus:

This Court significantly notes that the first three issues, alleging lack of jurisdiction and cause of action, are raised by petitioners for the first time in their Memorandum. No amount of interpretation or argumentation can place them within the scope of the assignment of errors they raised in their Petition.

The parties were duly informed by the Court in its Resolution dated September 17, 2003 that *no new issues may be raised by a party in his/its Memorandum and the issues raised in his/its pleadings but not included in the Memorandum shall be deemed waived or abandoned*. The raising of additional issues in a memorandum before the Supreme Court is irregular, because said memorandum is supposed to be in support merely of the position taken by the party concerned in his petition, and the raising of new issues amounts to the filing of a petition beyond the reglementary period. The purpose of this rule is to provide all parties to a case a fair opportunity to be heard. No new points of law, theories, issues or arguments may be raised by a party in the Memorandum for the reason that to permit these would be offensive to the basic rules of fair play, justice and due process.

Petitioners failed to heed the Court’s prohibition on the raising of new issues in the Memorandum.⁵²

⁴⁸ Id. at 77-81.

⁴⁹ Id. at 84-85.

⁵⁰ Id. at 84.

⁵¹ G.R. No. 156078, March 14, 2008, 548 SCRA 409.

⁵² Id. at 431-432.

Based on the foregoing, we find no necessity to discuss the second issue which was raised by the petitioners for the first time only in their Memorandum.

WHEREFORE, based on the foregoing, the Petition for Review on *Certiorari* is **DENIED**. The Resolution of the Court of Appeals in CA-G.R. SP No. 98133 dated March 13, 2007 denying petitioners' Motion for Extension of Time and the Resolution dated June 1, 2007 denying reconsideration thereof are **AFFIRMED**.

SO ORDERED.

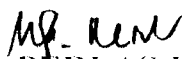

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


LUCAS T. BERSAMIN
Associate Justice
Acting Chairperson


ROBERTO A. ABAD
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

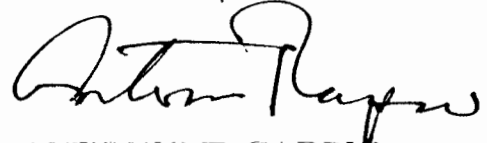
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


LUCAS P. BERSAMIN
Associate Justice
Acting Chairperson

CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.


ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)

M. de