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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PHILTRANCO SERVICE ENTERPRISES, INC., represented by its Vice-President for Administration, M/GEN. NEMESIO M. SIGAYA, *Petitioner,*	**G.R. No. 180962**
- versus -	Present:
PHILTRANCO WORKERS UNION-ASSOCIATION OF GENUINE LABOR ORGANIZATIONS (PWU-AGLO), represented by JOSE JESSIE OLIVAR, *Respondent.*	CARPIO, *Chairperson,* DEL CASTILLO, PEREZ, PERLAS-BERNABE, *and* LEONEN,* *JJ.*
	Promulgated: FEB 26 2014

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DECISION

DEL CASTILLO, *J.*:

While a government office[1] may prohibit altogether the filing of a motion for reconsideration with respect to its decisions or orders, the fact remains that *certiorari* inherently requires the filing of a motion for reconsideration, which is the tangible representation of the opportunity given to the office to correct itself. Unless it is filed, there could be no occasion to rectify. Worse, the remedy of *certiorari* would be unavailing. Simply put, regardless of the proscription against the filing of a motion for reconsideration, the same may be filed on the assumption that rectification of the decision or order must be obtained, and before a petition for *certiorari* may be instituted.

This Petition for Review on *Certiorari*[2] seeks a review and setting aside of the September 20, 2007 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP

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* Per Raffle dated February 5, 2014.

1 Or person, tribunal, or board.

2 *Rollo*, pp. 11-62.

3 Id. at 64-67; penned by Associate Justice Rosalinda Asuncion-Vicente and concurred in by Associate Justices Remedios A. Salazar-Fernando and Enrico A. Lanzanas.

No. 100324,[4] as well as its December 14, 2007 Resolution[5] denying petitioner's Motion for Reconsideration.

Factual Antecedents

On the ground that it was suffering business losses, petitioner Philtranco Service Enterprises, Inc., a local land transportation company engaged in the business of carrying passengers and freight, retrenched 21 of its employees. Consequently, the company union, herein private respondent Philtranco Workers Union-Association of Genuine Labor Organizations (PWU-AGLU), filed a Notice of Strike with the Department of Labor and Employment (DOLE), claiming that petitioner engaged in unfair labor practices. The case was docketed as NCMB-NCR CASE No. NS-02-028-07.

Unable to settle their differences at the scheduled February 21, 2007 preliminary conference held before Conciliator-Mediator Amorsolo Aglibut (Aglibut) of the National Conciliation and Mediation Board (NCMB), the case was thereafter referred to the Office of the Secretary of the DOLE (Secretary of Labor), where the case was docketed as Case No. OS-VA-2007-008.

After considering the parties' respective position papers and other submissions, Acting DOLE Secretary Danilo P. Cruz issued a Decision[6] dated June 13, 2007, the dispositive portion of which reads, as follows:

> WHEREFORE, premises considered, we hereby ORDER Philtranco to:
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> 1. REINSTATE to their former positions, without loss of seniority rights, the ILLEGALLY TERMINATED 17 "union officers", x x x, and PAY them BACKWAGES from the time of termination until their actual or payroll reinstatement, provided in the computation of backwages among the seventeen (17) who had received their separation pay should deduct the payments made to them from the backwages due them.
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> 2. MAINTAIN the status quo and continue in full force and effect the terms and conditions of the existing CBA – specifically, Article VI on Salaries and Wages (commissions) and Article XI, on Medical and Hospitalization – until a new agreement is reached by the parties; and
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> 3. REMIT the withheld union dues to PWU-AGLU without

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4 Entitled "*Philtranco Service Enterprises, Inc., represented by its Vice President for Administration M/Gen. Nemesio M. Sigaya, petitioner, versus The Honorable Secretary of the Department of Labor and Employment (DOLE) and Philtranco Workers Union-Association of Genuine Labor Organizations, represented by Jose Jessie Olivar, respondents.*"

5 *Rollo*, pp. 69-71.

6 Id. at 109-127.

unnecessary delay.

The PARTIES are enjoined to strictly and fully comply with the provisions of the existing CBA and the other dispositions of this Decision.

SO ORDERED.[7]

Petitioner received a copy of the above Decision on June 14, 2007. It filed a Motion for Reconsideration on June 25, 2007, a Monday. Private respondent, on the other hand, submitted a "Partial Appeal."

In an August 15, 2007 Order[8] which petitioner received on August 17, 2007, the Secretary of Labor declined to rule on petitioner's Motion for Reconsideration and private respondent's "Partial Appeal", citing a DOLE regulation[9] which provided that voluntary arbitrators' decisions, orders, resolutions or awards shall not be the subject of motions for reconsideration. The Secretary of Labor held:

WHEREFORE, the complainant's and the respondent's respective pleadings are hereby NOTED as pleadings that need not be acted upon for lack of legal basis.

SO ORDERED.[10]

The Assailed Court of Appeals Resolutions

On August 29, 2007, petitioner filed before the CA an original Petition for *Certiorari* and Prohibition, and sought injunctive relief, which case was docketed as CA-G.R. SP No. 100324.

On September 20, 2007, the CA issued the assailed Resolution which decreed as follows:

WHEREFORE, premises considered, the instant Petition for *Certiorari* and Prohibition with Prayer for Temporary Restraining Order and Preliminary Injunction is hereby DISMISSED. Philtranco's pleading entitled "Reiterating Motion for The Issuance of Writ of Preliminary Injunction and/or Temporary Restraining Order" is NOTED.

SO ORDERED.[11]

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7 Id. at 127.
8 Id. at 28; penned by then Secretary of Labor Arturo D. Brion (now a Member of this Court).
9 DEPARTMENT ORDER NO. 40-03, Rule XIX, Section 7.
10 *Rollo*, p. 128.
11 Id. at 67.

The CA held that, in assailing the Decision of the DOLE voluntary arbitrator, petitioner erred in filing a petition for *certiorari* under Rule 65 of the 1997 Rules, when it should have filed a petition for review under Rule 43 thereof, which properly covers decisions of voluntary labor arbitrators.[12] For this reason, the petition is dismissible pursuant to Supreme Court Circular No. 2-90.[13] The CA added that since the assailed Decision was not timely appealed within the reglementary 15-day period under Rule 43, the same became final and executory. Finally, the appellate court ruled that even assuming for the sake of argument that *certiorari* was indeed the correct remedy, still the petition should be dismissed for being filed out of time. Petitioner's unauthorized Motion for Reconsideration filed with the Secretary of Labor did not toll the running of the reglementary 60-day period within which to avail of *certiorari*; thus, from the time of its receipt of Acting Labor Secretary Cruz's June 13, 2007 Decision on June 14 or the following day, petitioner had until August 13 to file the petition – yet it filed the same only on August 29.

Petitioner filed a Motion for Reconsideration, which was denied by the CA through the second assailed December 14, 2007 Resolution. In denying the motion, the CA held that the fact that the Acting Secretary of Labor rendered the decision on the voluntary arbitration case did not remove the same from the jurisdiction of the NCMB, which thus places the case within the coverage of Rule 43.

Issues

In this Petition,[14] the following errors are assigned:

> THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT THE PETITIONER AVAILED OF THE ERRONEOUS REMEDY IN FILING A PETITION FOR *CERTIORARI* UNDER RULE 65 INSTEAD OF

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[12] Rule 43, Section 1. Scope.

> This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. Among these agencies are the Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Department of Agrarian Reform under Republic Act No. 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Inventions Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and **voluntary arbitrators authorized by law**. (Emphasis supplied)

[13] GUIDELINES TO BE OBSERVED IN APPEALS TO THE COURT OF APPEALS AND TO THE SUPREME COURT, which provides that:

> 4. Erroneous Appeals. – An appeal taken to either the Supreme Court or the Court of Appeals by the wrong or inappropriate mode shall be dismissed. x x x

[14] In a February 13, 2008 Resolution, the Court initially denied the petition for failure to sufficiently show that the appellate court committed any reversible error. But on motion for reconsideration, the Court, in an August 27, 2008 Resolution, reconsidered, and reinstated the Petition. *Rollo*, pp. 389, 452.

UNDER RULE 43 OF THE RULES OF COURT.

THE HONORABLE COURT OF APPEALS ERRED WHEN IT HELD THAT THE PETITION FOR *CERTIORARI* WAS FILED OUT OF TIME.

THE HONORABLE COURT OF APPEALS ERRED WHEN IT DISMISSED THE PETITION OUTRIGHT ON THE BASIS OF PURE TECHNICALITY.[15]

Petitioner's Arguments

In its Petition and Reply,[16] petitioner argues that a petition for *certiorari* under Rule 65 – and not a petition for review under Rule 43 – is the proper remedy to assail the June 13, 2007 Decision of the DOLE Acting Secretary, pointing to the Court's pronouncement in *National Federation of Labor v. Hon. Laguesma*[17] that the remedy of an aggrieved party against the decisions and discretionary acts of the NLRC as well as the Secretary of Labor is to timely file a motion for reconsideration, and then seasonably file a special civil action for *certiorari* under Rule 65 of the 1997 Rules of Civil Procedure.

Petitioner adds that, contrary to the CA's ruling, NCMB-NCR CASE No. NS-02-028-07 is not a simple voluntary arbitration case. The character of the case, which involves an impending strike by petitioner's employees; the nature of petitioner's business as a public transportation company, which is imbued with public interest; the merits of its case; and the assumption of jurisdiction by the Secretary of Labor – all these circumstances removed the case from the coverage of Article 262,[18] and instead placed it under Article 263,[19] of the Labor Code.

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15 Id. at 24.

16 Id. at 485-495.

17 364 Phil. 44, 58 (1999).

18 ART. 262. Jurisdiction over other labor disputes. - The Voluntary Arbitrator or panel of Voluntary Arbitrators, upon agreement of the parties, shall also hear and decide all other labor disputes including unfair labor practices and bargaining deadlocks.

19 ART. 263. Strikes, picketing and lockouts. - (a) It is the policy of the State to encourage free trade unionism and free collective bargaining.

(b) Workers shall have the right to engage in concerted activities for purposes of collective bargaining or for their mutual benefit and protection. The right of legitimate labor organizations to strike and picket and of employers to lockout, consistent with the national interest, shall continue to be recognized and respected. However, no labor union may strike and no employer may declare a lockout on grounds involving inter-union and intra-union disputes.

(c) In case of bargaining deadlocks, the duly certified or recognized bargaining agent may file a notice of strike or the employer may file a notice of lockout with the Department at least 30 days before the intended date thereof. In cases of unfair labor practice, the period of notice shall be 15 days and in the absence of a duly certified or recognized bargaining agent, the notice of strike may be filed by any legitimate labor organization in behalf of its members. However, in case of dismissal from employment of union officers duly elected in accordance with the union constitution and by-laws, which may constitute union busting where the existence of the union is threatened, the 15-day cooling-off period shall not apply and the union may take action immediately.

(d) The notice must be in accordance with such implementing rules and regulations as the [Secretary] of Labor and Employment may promulgate.

(e) During the cooling-off period, it shall be the duty of the [Department] to exert all efforts at mediation and conciliation to effect a voluntary settlement. Should the dispute remain unsettled until the

Besides, Rule 43 does not apply to judgments or final orders issued under the Labor Code.[20]

On the procedural issue, petitioner insists that it timely filed the Petition for *Certiorari* with the CA, arguing that Rule 65 fixes the 60-day period within which to file the petition from notice of the denial of a timely filed motion for reconsideration, whether such motion is required or not. It cites the Court's

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lapse of the requisite number of days from the mandatory filing of the notice, the labor union may strike or the employer may declare a lockout.

(f) A decision to declare a strike must be approved by a majority of the total union membership in the bargaining unit concerned, obtained by secret ballot in meetings or referenda called for that purpose. A decision to declare a lockout must be approved by a majority of the board of directors of the corporation or association or of the partners in a partnership, obtained by secret ballot in a meeting called for that purpose. The decision shall be valid for the duration of the dispute based on substantially the same grounds considered when the strike or lockout vote was taken. The Department may, at its own initiative or upon the request of any affected party, supervise the conduct of the secret balloting. In every case, the union or the employer shall furnish the [Department the results of] the voting at least seven days before the intended strike or lockout, subject to the cooling-off period herein provided.

(g) When, in his opinion, there exists a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to the national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and decide it or certify the same to the Commission for compulsory arbitration. Such assumption or certification shall have the effect of automatically enjoining the intended or impending strike or lockout as specified in the assumption or certification order. If one has already taken place at the time of assumption or certification, all striking or locked out employees shall immediately return-to-work and the employer shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike or lockout. The Secretary of Labor and Employment or the Commission may seek the assistance of law enforcement agencies to ensure the compliance with this provision as well as with such orders as he may issue to enforce the same.

In line with the national concern for and the highest respect accorded to the right of patients to life and health, strikes and lockouts in hospitals, clinics and similar medical institutions shall, to every extent possible, be avoided, and all serious efforts, not only by labor and management but government as well, be exhausted to substantially minimize, if not prevent, their adverse effects on such life and health, through the exercise, however legitimate, by labor of its right to strike and by management to lockout. In labor disputes adversely affecting the continued operation of such hospitals, clinics or medical institutions, it shall be the duty of the striking union or locking-out employer to provide and maintain an effective skeletal workforce of medical and other health personnel, whose movement and services shall be unhampered and unrestricted, as are necessary to insure the proper and adequate protection of the life and health of its patients, most especially emergency cases, for the duration of the strike or lockout. In such cases, therefore, the Secretary of Labor and Employment may immediately assume, within twenty four (24) hours from knowledge of the occurrence of such a strike or lockout, jurisdiction over the same or certify it to the Commission for compulsory arbitration. For this purpose, the contending parties are strictly enjoined to comply with such orders, prohibitions and/or injunctions as are issued by the Secretary of Labor and Employment or the Commission, under pain of immediate disciplinary action, including dismissal or loss of employment status or payment by the locking-out employer of backwages, damages and other affirmative relief, even criminal prosecution against either or both of them.

The foregoing notwithstanding, the President of the Philippines shall not be precluded from determining the industries that, in his opinion, are indispensable to the national interest, and from intervening at any time and assuming jurisdiction over any such labor dispute in order to settle or terminate the same.

(h) Before or at any stage of the compulsory arbitration process, the parties may opt to submit their dispute to voluntary arbitration.

(i) The Secretary of Labor and Employment, the Commission or the voluntary arbitrator shall decide or resolve the dispute within thirty (30) calendar days from the date of the assumption of jurisdiction or certification or submission of the dispute, as the case may be. The decision of the President, the Secretary of Labor and Employment, the Commission or the voluntary arbitrator shall be final and executory ten (10) calendar days after receipt thereof by the parties.

[20] Citing Section 2 of the Rule, thus:

Sec. 2. Cases not covered.

This Rule shall not apply to judgments or final orders issued under the Labor Code of the Philippines.

pronouncement in *ABS-CBN Union Members v. ABS-CBN Corporation*[21] that "before a petition for *certiorari* under Rule 65 of the Rules of Court may be availed of, the filing of a motion for reconsideration is a condition *sine qua non* to afford an opportunity for the correction of the error or mistake complained of" and since "a decision of the Secretary of Labor is subject to judicial review only through a special civil action of *certiorari* x x x [it] cannot be resorted to without the aggrieved party having exhausted administrative remedies through a motion for reconsideration".

Respondent's Arguments

In its Comment,[22] respondent argues that the Secretary of Labor decided Case No. OS-VA-2007-008 in his capacity as voluntary arbitrator; thus, his decision, being that of a voluntary arbitrator, is only assailable via a petition for review under Rule 43. It further echoes the CA's ruling that even granting that *certiorari* was the proper remedy, the same was filed out of time as the filing of a motion for reconsideration, which was an unauthorized pleading, did not toll the running of the 60-day period. Finally, it argues that on the merits, petitioner's case could not hold water as it failed to abide by the requirements of law in effecting a retrenchment on the ground of business losses.

Our Ruling

The Court grants the Petition.

It cannot be said that in taking cognizance of NCMB-NCR CASE No. NS-02-028-07, the Secretary of Labor did so in a limited capacity, *i.e.*, as a voluntary arbitrator. The fact is undeniable that by referring the case to the Secretary of Labor, Conciliator-Mediator Aglibut conceded that the case fell within the coverage of Article 263 of the Labor Code; the impending strike in Philtranco, a public transportation company whose business is imbued with public interest, required that the Secretary of Labor assume jurisdiction over the case, which he in fact did. By assuming jurisdiction over the case, the provisions of Article 263 became applicable, any representation to the contrary or that he is deciding the case in his capacity as a voluntary arbitrator notwithstanding.

It has long been settled that the remedy of an aggrieved party in a decision or resolution of the Secretary of Labor is to timely file a motion for reconsideration as a precondition for any further or subsequent remedy, and then seasonably file a special civil action for *certiorari* under Rule 65 of the 1997 Rules

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21 364 Phil. 133, 141 (1999).
22 *Rollo*, pp. 454-469.

on Civil Procedure.[23] There is no distinction: when the Secretary of Labor assumes jurisdiction over a labor case in an industry indispensable to national interest, "he exercises great breadth of discretion" in finding a solution to the parties' dispute.[24] "[T]he authority of the Secretary of Labor to assume jurisdiction over a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to national interest includes and extends to all questions and controversies arising therefrom. The power is plenary and discretionary in nature to enable him to effectively and efficiently dispose of the primary dispute."[25] This wide latitude of discretion given to the Secretary of Labor may not be the subject of appeal.

Accordingly, the Secretary of Labor's Decision in Case No. OS-VA-2007-008 is a proper subject of *certiorari*, pursuant to the Court's pronouncement in *National Federation of Labor v. Laguesma*,[26] thus:

> Though appeals from the NLRC to the Secretary of Labor were eliminated, presently there are several instances in the Labor Code and its implementing and related rules where an appeal can be filed with the Office of the Secretary of Labor or the Secretary of Labor issues a ruling, to wit:
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> x x x x
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> (6) Art. 263 provides that the Secretary of Labor shall decide or resolve the labor dispute [over] which he assumed jurisdiction within thirty (30) days from the date of the assumption of jurisdiction. His decision shall be final and executory ten (10) calendar days after receipt thereof by the parties.
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> From the foregoing we see that the Labor Code and its implementing and related rules generally do not provide for any mode for reviewing the decision of the Secretary of Labor. It is further generally provided that the decision of the Secretary of Labor shall be final and executory after ten (10) days from notice. Yet, like decisions of the NLRC which under Art. 223 of the Labor Code become final after ten (10) days, decisions of the Secretary of Labor come to this Court by way of a petition for certiorari even beyond the ten-day period provided in the Labor Code and the implementing rules but within the reglementary period set for Rule 65 petitions under the 1997 Rules of Civil Procedure. x x x
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> x x x x
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> In fine, we find that it is procedurally feasible as well as practicable that

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23 *Barairo v. Office of the President*, G.R. No. 189314, June 15, 2011, 652 SCRA 356, 358; *Masada Security Agency, Inc. v. Department of Labor and Employment*, G.R. No. 158750, September 27, 2010 (Resolution); *Philippine Long Distance Telephone Co. Inc. v. Manggagawa ng Komunikasyon sa Pilipinas*, 501 Phil. 704, 716 (2005); *Manila Pearl Corporation v. Manila Pearl Independent Workers Union*, 496 Phil. 158, 162-163 (2005); *University of Immaculate Concepcion v. Secretary of Labor and Employment*, 476 Phil. 704, 711-712 (2004).

24 *Steel Corporation of the Philippines v. SCP Employees Union-National Federation of Labor Unions*, G.R. Nos. 169829-30, April 16, 2008, 551 SCRA 594, 609.

25 *LMG Chemicals Corporation v. Secretary of Labor*, 408 Phil. 701, 711 (2001).

26 *National Federation of Labor v. Hon. Laguesma*, supra note 16.

> petitions for *certiorari* under Rule 65 against the decisions of the Secretary of Labor rendered under the Labor Code and its implementing and related rules be filed initially in the Court of Appeals. Paramount consideration is strict observance of the doctrine on the hierarchy of the courts, emphasized in *St. Martin Funeral Homes v. NLRC*, on "the judicial policy that this Court will not entertain direct resort to it unless the redress desired cannot be obtained in the appropriate courts or where exceptional and compelling circumstances justify availment of a remedy within and calling for the exercise of our primary jurisdiction."[27]

On the question of whether the Petition for *Certiorari* was timely filed, the Court agrees with petitioner's submission. Rule 65 states that where a motion for reconsideration or new trial is timely filed, **whether such motion is required or not**, the petition shall be filed not later than 60 days counted from the notice of the denial of the motion.[28] This can only mean that even though a motion for reconsideration is not required or even prohibited by the concerned government office, and the petitioner files the motion just the same, the 60-day period shall nonetheless be counted from notice of the denial of the motion. **The very nature of *certiorari*** – which is an extraordinary remedy resorted to only in the absence of plain, available, speedy and adequate remedies in the course of law – requires that the office issuing the decision or order be given the **opportunity to correct itself**. Quite evidently, **this opportunity for rectification does not arise if no motion for reconsideration has been filed**. This is precisely what the Court said in the *ABS-CBN Union Members* case, whose essence continues to this day. Thus:

> Section 8, Rule VIII, Book V of the Omnibus Rules Implementing the Labor Code, provides:
>
> > "The Secretary shall have fifteen (15) calendar days within which to decide the appeal from receipt of the records of the case. The decision of the Secretary shall be final and inappealable." x x x
>
> The aforecited provision cannot be construed to mean that the Decision of the public respondent cannot be reconsidered since the same is reviewable by *writ of certiorari* under Rule 65 of the Rules of Court. As a rule, the law requires a motion for reconsideration to enable the public respondent to correct his mistakes, if any. In *Pearl S. Buck Foundation, Inc., vs. NLRC*, this Court held:
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> > "Hence, the only way by which a labor case may reach the Supreme Court is through a petition for *certiorari* under Rule 65 of the Rules of Court alleging lack or excess of jurisdiction or grave abuse of discretion. Such petition may be filed within a reasonable time from receipt of the resolution denying the

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27 Id. at 54-58.

28 Sec. 4. When and where to file the petition. 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 petition shall be filed not later than sixty (60) days counted from the notice of the denial of the motion.
x x x x

> motion for reconsideration of the NLRC decision." x x x
>
> Clearly, before a petition for *certiorari* under Rule 65 of the Rules of Court may be availed of, the filing of a motion for reconsideration is a condition *sine qua non* to afford an opportunity for the correction of the error or mistake complained of.
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> So also, considering that a decision of the Secretary of Labor is subject to judicial review only through a special civil action of *certiorari* and, as a rule, cannot be resorted to without the aggrieved party having exhausted administrative remedies through a *motion for reconsideration*, the aggrieved party, must be allowed to move for a reconsideration of the same so that he can bring a special civil action for *certiorari* before the Supreme Court.[29]

Indeed, what needs to be realized is that while a government office may prohibit altogether the filing of a motion for reconsideration with respect to its decisions or orders, the fact remains that *certiorari* inherently requires the filing of a motion for reconsideration, which is the tangible representation of the opportunity given to the office to correct itself. Unless it is filed, there could be no occasion to rectify. Worse, the remedy of *certiorari* would be unavailing. Simply put, regardless of the proscription against the filing of a motion for reconsideration, the same may be filed on the assumption that rectification of the decision or order must be obtained, and before a petition for *certiorari* may be instituted.

Petitioner received a copy of the Acting Secretary of Labor's Decision on June 14, 2007. It timely filed a Motion for Reconsideration on June 25, which was a Monday, or the first working day following the last day (Sunday, June 24) for filing the motion. But for lack of procedural basis, the same was effectively denied by the Secretary of Labor via his August 15, 2007 Order which petitioner received on August 17. It then filed the Petition for *Certiorari* on August 29, or well within the fresh 60-day period allowed by the Rules from August 17. Given these facts, the Court finds that the Petition was timely filed.

Going by the foregoing pronouncements, the CA doubly erred in dismissing CA-G.R. SP No. 100324.

WHEREFORE, the Petition is **GRANTED**. The assailed September 20, 2007 and December 14, 2007 Resolutions of the Court of Appeals are **REVERSED** and **SET ASIDE**. The Petition in CA-G.R. SP No. 100324 is ordered **REINSTATED** and the Court of Appeals is **DIRECTED** to **RESOLVE** the same with **DELIBERATE DISPATCH**.

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[29] *ABS-CBN Union Members v. ABS-CBN Corporation*, supra note 21 at 140-141.

SO ORDERED.

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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's Division.

ANTONIO T. CARPIO
Acting Chief Justice