



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**THENAMARIS PHILIPPINES,
INC. (Formerly INTERMARE
MARITIME AGENCIES, INC.)/
OCEANIC NAVIGATION LTD.
and NICANOR B. ALTARES,**

Petitioners,

- versus -

**COURT OF APPEALS and
AMANDA C. MENDIGORIN
(In behalf of her deceased husband
GUILLERMO MENDIGORIN),**

Respondents.

G.R. No. 191215

Present:

CARPIO, *Chairperson,*
BRION,
DEL CASTILLO,
PEREZ, *and*
PERLAS-BERNABE, *JJ.*

Promulgated:

FEB 03 2014 *HON Cabalag Perfecto*

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DECISION

DEL CASTILLO, J.:

This Petition for *Certiorari* filed under Rule 65 of the Rules of Court assails the Resolution¹ dated November 20, 2009 of the Court of Appeals (CA) in CA-G.R. SP No. 110808 for allegedly having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction. The CA, through the said Resolution, entertained private respondent's Petition for *Certiorari*² despite having been filed 15 days late and allowed her to correct the technical infirmities therein. Also assailed is the CA's February 10, 2010 Resolution³ denying petitioners' Motion for Reconsideration with Prayer to Dismiss⁴ and giving private respondent another chance to cure the remaining deficiencies of the petition. *Mom*

¹ CA rollo, pp. 98-100; penned by Associate Justice Hakim S. Abdulwahid and concurred in by Associate Justices Sesinando E. Villon and Michael P. Elbinias.

² Id. at 9-27.

³ Id. at 184.

⁴ Id. at 106-114.

Factual Antecedents

This case stemmed from a complaint for death benefits, unpaid salaries, sickness allowance, refund of medical expenses, damages and attorney's fees filed by Amanda C. Mendigorin (private respondent) against petitioner Thenamaris Philippines, Inc., formerly Intermare Maritime Agencies, Inc./Oceanic Navigation Ltd., (Thenamaris), represented by its general manager, Capt. Nicanor B. Altares (petitioner), filed with the Labor Arbiter (LA). Private respondent is the widow of seafarer Guillermo M. Mendigorin (Guillermo) who was employed by Thenamaris for 27 years as an oiler and eventually, as second engineer in the latter's vessels. Guillermo was diagnosed with and died of colon cancer during the term of the employment contract between him and Thenamaris.

Ruling of the Labor Arbiter

Ultimately, the LA promulgated his Decision⁵ dated January 29, 2008 in favor of private respondent. Thus:

WHEREFORE, the foregoing considered, judgment is hereby rendered in favor of the complainant [herein private respondent] and finding respondents [herein petitioners] liable to pay jointly and severally: (a) death benefits amounting to US \$50,000.00 at its peso equivalent at the time of actual payment; (b) reimbursement of medical expenses amounting to ₱102,759.74; [(c)] moral and exemplary damages amounting to ₱100,000.00 and ₱50,000.00 respectively; and (d) attorney's fees in the [amount of] ten percent (10%) of the total monetary award.

All other claims are DENIED.⁶

Ruling of the National Labor Relations Commission (NLRC)

On appeal, the NLRC reversed⁷ the LA's Decision.

⁵ Id. at 80-93; penned by Labor Arbiter Enrique L. Flores, Jr. The LA, however, disallowed private respondent's claim for unpaid salaries corresponding to the unexpired portion of Guillermo's employment contract for lack of basis as the same is only awarded in illegal dismissal cases.

⁶ Id. at 93.

⁷ See Decision dated March 31, 2009, id. at 28-36; penned by Commissioner Gregorio O. Bilog III and concurred in by Commissioner Pablo C. Espiritu, Jr. Presiding Commissioner Lourdes C. Javier took no part.

The NLRC disagreed with the LA's application of the provisions of the 1996 POEA SEC and, instead, held that it is the 2000 POEA SEC that is controlling in this case as the employment contract was executed between petitioners and Guillermo on September 20, 2004 and Guillermo's deployment was on October 22, 2004. While the 1996 POEA SEC covers all injuries or illnesses occurring during the term of the contract and there need not be a showing that the injury or illness is work-related, the 2000 POEA SEC requires that the death, injury or illness occurring during the term of the contract must be work-related.

Citing *Gau Sheng Phils., Inc. v. Joaquin* (481 Phil. 222, 234 [2004]), the NLRC ruled that for death compensation benefits to be awarded, there must be substantial evidence showing that:

- a) The cause of death was reasonably connected with the work of the deceased; or
- b) The sickness for which he died is an accepted occupational disease; or

Private respondent moved for reconsideration.⁸ In a Resolution⁹ dated June 29, 2009, however, her motion was denied for lack of merit.

Private respondent, through counsel, received the June 29, 2009 Resolution of the NLRC on July 8, 2009. Sixty-two days thereafter, or on September 8, 2009, she filed a Motion for Extension of Time to File Petition for *Certiorari*¹⁰ before the CA. Private respondent alleged that she had until September 7, 2009 (as September 6, 2009, the actual last day for filing, fell on a Sunday) within which to file a petition for *certiorari*. However, as her counsel was then saddled and occupied with equally important cases, it would be impossible for him to file the petition on time, especially since the case involves voluminous documents necessary in the preparation thereof. Accordingly, private respondent asked for an extension of 15 days from September 7, 2009, or until September 22, 2009, within which to file the petition.

On September 22, 2009, private respondent filed her Petition for *Certiorari*¹¹ before the CA.

Action of the Court of Appeals

In a Resolution¹² dated November 20, 2009, the CA noted that private respondent's Petition for *Certiorari* was filed 15 days late and suffers from procedural infirmities. Nonetheless, in the interest of substantial justice, the CA entertained the petition and directed private respondent to cure the technical flaws in her petition. Thus:

The Court, in the interest of justice, resolved to **NOTE** the petition for *certiorari* filed on September 22, 2009, albeit the same was filed fifteen (15) days late.

A perusal of the instant petition reveals the following procedural infirmities, namely:

c) His working conditions increased the risk of contracting the disease for which he died.

In this case, the CA found that colon cancer is not included in the list of occupational diseases under Sec. 32-A of the 2000 POEA SEC. Private respondent must, therefore, show a reasonable connection between the work of her deceased husband and the cause of his death or show that the risk of contracting colon cancer is increased by the seaman's working conditions. Private respondent was unable to prove any of these. Thus, as Guillermo's death was not work-related, the CA ruled that the hospital and medical expenses incurred by Guillermo after May 22, 2005 (the date when the company-designated physician proclaimed that Guillermo's illness is not work-related) could not be passed on to petitioners. Likewise, the award of moral and exemplary damages and attorney's fees was not proper.

⁸ See Motion for Reconsideration, *id.* at 37-42.

⁹ *Id.* at 43-44; penned by Commissioner Gregorio O. Bilog III and concurred in by Presiding Commissioner Alex A. Lopez and Commissioner Pablo C. Espiritu, Jr.

¹⁰ *Id.* at 3-6.

¹¹ *Id.* at 9-27.

¹² *Id.* at 98-100.

- (1) The attached *Verification/Certification of Non-Forum Shopping* does not conform with the requirements under Section 12, Rule II of the 2004 Rules of Notarial Practice, as a Community Tax Certificate is no longer considered competent evidence of an affiant's identity; and
- (2) Except for the copy of the *Motion for Reconsideration* filed with the National Labor Relations Commission, no other copies of pertinent and relevant pleadings/documents are attached therewith, such as petitioner's *Complaint*, respondent's *Memorandum of Appeal*, petitioner's *Opposition to Respondent's Appeal*, if any, all of which may aid this Court in judiciously resolving the issues raised in the petition.

ACCORDINGLY, this Court, in line with the rule that cases should be determined on the merits, after full opportunity to all parties for ventilation of their causes and defenses have been given, rather than on technicality or some procedural imperfections, resolved to **DIRECT** petitioner to submit anew a *Verification/Certification of Non-Forum Shopping* which complies with the requirements of the rules, and clear and legible copies of the aforementioned pleadings/documents, within ten (10) days from receipt of notice hereof.

SO ORDERED.¹³ (Emphasis in the original)

Petitioners filed a Motion for Reconsideration with Prayer to Dismiss,¹⁴ strongly opposing private respondent's Motion for Extension to File Petition for *Certiorari* for being an absolutely prohibited pleading. Citing *Laguna Metts Corporation v. Court of Appeals*,¹⁵ petitioners argued that A.M. No. 07-7-12-SC¹⁶ effectively rendered the 60-day period for filing a petition for *certiorari* non-extendible after it deleted portions of Rule 65 pertaining to extension of time to file petition. Thus, as the rule now stands, petitions for *certiorari* must be filed strictly within 60 days from notice of judgment or from the order denying a motion for reconsideration.¹⁷

Petitioners also contended that even assuming that an extension is still allowable, private respondent's motion for extension is nevertheless a useless piece of paper as it was filed beyond the 60-day period for filing a petition for *certiorari*.

Lastly, petitioners asserted that as private respondent's motion for extension is a prohibited pleading, as well as one filed outside of the reglementary period,

¹³ Id.

¹⁴ Id. at 106-114.

¹⁵ G.R. No. 185220, July 27, 2009, 594 SCRA 139.

¹⁶ AMENDMENTS TO RULES 41, 45, 58 AND 65 OF THE RULES OF COURT.

¹⁷ In *Laguna Metts Corporation v. Court of Appeals*, supra at 146, we stated that:

In granting the private respondent's motion for extension of time to file petition for *certiorari*, the Court of Appeals disregarded A.M. No. 07-7-12-SC. The action amounted to a modification, if not outright reversal, by the Court of Appeals of A.M. No. 07-7-12-SC. In so doing, the Court of Appeals arrogated to itself a power it did not possess, a power that only this Court may exercise. For this reason, the challenged resolutions x x x were invalid as they were rendered by the Court of Appeals in excess of its jurisdiction.

then private respondent's Petition for *Certiorari* is a mere scrap of paper with no remedial value whatsoever. Consequently, the Decision of the NLRC has become final and executory and is beyond the ambit of judicial review.

In the meantime, private respondent submitted her Compliance¹⁸ with the CA's Resolution of November 20, 2009. Nevertheless, she still failed to attach thereto copies of her Complaint filed before the LA and Memorandum filed with the NLRC.

In a Resolution¹⁹ dated February 10, 2010, the CA denied petitioners' motion and, instead, gave private respondent one last opportunity to fully comply with its November 20, 2009 Resolution by submitting clear and legible copies of the still lacking pleadings within five days from notice thereof.

Thus, the present Petition for *Certiorari*.

Entry of Judgment²⁰ was already issued by the NLRC on August 13, 2009. Per NLRC Rules, the June 29, 2009 Resolution became final and executory on July 18, 2009 and was recorded in the Book of Entries of Judgment.

Issues

1. THE PUBLIC RESPONDENT CA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT NOTED THE PETITION FOR CERTIORARI FILED BY THE PRIVATE RESPONDENT INSTEAD OF DISMISSING IT OUTRIGHT FOR HAVING BEEN FILED BEYOND THE MANDATORY AND JURISDICTIONAL 60-DAY PERIOD REQUIRED BY SECTION 4, RULE 65 OF THE RULES OF COURT, AS AMENDED BY A.M. NO. 07-7-12-SC.
2. THE PUBLIC RESPONDENT CA COMMITTED GRAVE ABUSE OF DISCRETION WHEN, IN NOTING THE VERY LATE PETITION FILED BY THE PRIVATE RESPONDENT, IT GROSSLY IGNORED THIS HONORABLE COURT'S VERY RECENT RULING IN LAGUNA METTS CORPORATION v. COURT OF APPEALS, ARIES C. CAALAM AND GERALDINE ESGUERRA (G.R. NO. 185220, JULY 27, 2009), WHICH **DISALLOWED ANY MOTIONS FOR EXTENSION OF TIME TO FILE A PETITION FOR CERTIORARI UNDER RULE 65.**²¹ (Underscoring and emphasis in the original)

¹⁸ CA *rollo*, pp. 115-183.

¹⁹ Id. at 184.

²⁰ *Rollo*, p. 99.

²¹ Id. at 10-11.

Our Ruling

There is merit in the petition.

In *Republic v. St. Vincent de Paul Colleges, Inc.*²² we had the occasion to settle the seeming conflict on various jurisprudence touching upon the issue of whether the period for filing a petition for *certiorari* may be extended. In said case we stated that the general rule, as laid down in *Laguna Metts Corporation v. Court of Appeals*,²³ is that a petition for *certiorari* must be filed strictly within 60 days from notice of judgment or from the order denying a motion for reconsideration. This is in accordance with the amendment introduced by A.M. No. 07-7-12-SC²⁴ where no provision for the filing of a motion for extension to file a petition for *certiorari* exists, unlike in the original Section 4 of Rule 65²⁵ which allowed the filing of such a motion but only for compelling reason and in no case exceeding 15 days.²⁶ Under exceptional cases, however, and as held in *Domdom v. Third and*

²² G.R. No. 192908, August 22, 2012, 678 SCRA 738, 747-750.

²³ Supra note 15 at 144-146.

In that case, we held that:

As a rule, an amendment by the deletion of certain words or phrases indicates an intention to change its meaning. It is presumed that the deletion would not have been made if there had been no intention to effect a change in the meaning of the law or rule. The amended law or rule should accordingly be given a construction different from that previous to its amendment.

If the Court intended to retain the authority of the proper courts to grant extensions under Section 4 of Rule 65, the paragraph providing for such authority would have been preserved. The removal of the said paragraph under the amendment by A.M. No. 07-7-12-SC of Section 4, Rule 65 simply meant that there can no longer be any extension of the 60-day period within which to file a petition for *certiorari*.

x x x **As the Rule now stands, petitions for certiorari must be filed strictly within 60 days from notice of judgment or from the order denying a motion for reconsideration** (Emphasis supplied)

²⁴ Section 4 of Rule 65, as amended by A.M. No. 07-7-12-SC, now reads:

Sec. 4. *When and where petition filed.* – The petition shall be filed not later than sixty (60) days from notice of the judgment 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 notice of the denial of the motion.

If the petition relates to an act or omission of a municipal trial court or of a corporation, a board, an officer or a person, it shall be filed with the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed with the Court of Appeals or with the Sandiganbayan, whether or not the same is in aid of the court's appellate jurisdiction. If the petition involves an act or omission of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed with and be cognizable only by the Court of Appeals.

In election cases involving an act or an omission of a municipal or a regional trial court, the petition shall be filed exclusively with the Commission on Elections, in aid of its appellate jurisdiction.

²⁵ Section 4 of Rule 65 originally provides:

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)

²⁶ In *Laguna Metts Corporation v. Court of Appeals*, supra note 15, we explained that the amendments were necessary to prevent the use (or abuse) of the petition for *certiorari* under Rule 65 to delay a case or even

Fifth Divisions of the Sandiganbayan,²⁷ the 60-day period may be extended subject to the court's sound discretion. In *Domdom*, we stated that the deletion of the provisions in Rule 65 pertaining to extension of time did not make the filing of such pleading absolutely prohibited. "If such were the intention, the deleted portion could just have simply been reworded to state that 'no extension of time to file the petition shall be granted.' Absent such a prohibition, motions for extension are allowed, subject to the court's sound discretion."²⁸

Then in *Labao v. Flores*,²⁹ we laid down some of the exceptions to the strict application of the 60-day period rule, thus:

[T]here are recognized exceptions to their strict observance, such as: (1) most persuasive and weighty reasons; (2) to relieve a litigant from an injustice not commensurate with his failure to comply with the prescribed procedure; (3) good faith of the defaulting party by immediately paying within a reasonable time from the time of the default; (4) the existence of special or compelling circumstances; (5) the merits of the case; (6) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (7) a lack of any showing that the review sought is merely frivolous and dilatory; (8) the other party will not be unjustly prejudiced thereby; (9) fraud, accident, mistake or excusable negligence without appellant's fault; (10) peculiar legal and equitable circumstances attendant to each case; (11) in the name of substantial justice and fair play; (12) importance of the issues involved; and (13) exercise of sound discretion by the judge guided by all the attendant circumstances. Thus, there should be an effort on the part of the party invoking liberality to advance a reasonable or meritorious explanation for his/her failure to comply with the rules.

In this case, counting 60 days from her counsel's receipt of the June 29, 2009 NLRC Resolution on July 8, 2009, private respondent had until September 7, 2009 to file her petition or a motion for extension, as September 6, 2009, the last day for filing such pleading, fell on a Sunday. However, the motion was filed only on September 8, 2009.³⁰ It is a fundamental rule of remedial law that a motion for extension of time must be filed before the expiration of the period sought to be

defeat the ends of justice. Besides, the 60-day period provided under the Rules for filing a petition is already sufficient time for a party to ponder over the case and to prepare a petition imputing grave abuse of discretion on the part of the lower court or tribunal.

²⁷ G.R. Nos. 182382-83, February 24, 2010, 613 SCRA 528.

²⁸ Id. at 535.

²⁹ G.R. No. 187984, November 15, 2010, 634 SCRA 723, 732.

³⁰ This fact was also reflected, and is readily evident, in private respondent's petition for *certiorari* filed with the CA where it was stated that:

On 29 June 2009, the Honorable National Labor Relations Commission (NLRC, for brevity) issued a **Resolution, which was received by petitioner through counsel on 08 July 2009**, x x x

x x x x

On 08 September, 2009, and within the reglementary period, **petitioner, through counsel, filed a Motion for Extension of Time to File Petition for Certiorari before this Honorable Court** by registered mail and paid the corresponding legal fees as evinced by the herein attached original copy of the aforesaid Motion marked as Annexes "D" to "D-2[.]" the Registry Return Cards marked as Annexes "E" and "E-1[.]" and the Postal Money Order Remitter's Receipts marked as Annexes "F" to "F-3" bearing numbers J1350278464, J1350278465, A1320379229 and A1320379230 in the total amount of PhP4,530.00, Philippine currency. CA *rollo*, pp. 10-11. (Emphasis supplied)

extended; otherwise, the same is of no effect since there would no longer be any period to extend, and the assailed judgment or order will have become final and executory.³¹

Additionally, as cited earlier in *Labao*, there should be an effort on the part of the litigant invoking liberality to satisfactorily explain why he or she was unable to abide by the rules.³² Here, the reason offered for availing of the motion for extension is the heavy workload of private respondent's counsel, which is hardly a compelling or meritorious reason as enunciated in *Labao*. Time and again, we have held that the excuse of "[h]eavy workload is relative and often self-serving. Standing alone, it is not a sufficient reason to deviate from the 60-day rule."³³ Thus, private respondent's motion for extension should have been denied outright.

Notably, the CA's November 20, 2009 Resolution refrained from ruling on the timeliness of private respondent's motion for extension. Instead, it directly ruled on the Petition for *Certiorari* as seen by its statement "[t]he Court x x x resolved to NOTE the petition for certiorari x x x, albeit the same was filed fifteen (15) days late." To our mind, the foregoing pronouncement is an indirect acknowledgment on the part of the CA that the motion for extension was indeed filed late. Yet it opted to still entertain and "note" the Petition for *Certiorari*, justifying its action as being "in the interest of justice."

We do not approve of the CA's ruling on the matter because, as the motion for extension should have been denied outright, it necessarily follows that the Petition for *Certiorari* is, in the words of petitioners, a "mere scrap of paper with no remedial value whatsoever."

In *Negros Slashers, Inc. v. Teng*,³⁴ which likewise dealt with the late filing of a petition for *certiorari*, we recognized that although procedural rules ought to be strictly enforced by courts in order to impart stability in the legal system, we have, nonetheless, relaxed the rigid application of the rules of procedure in several cases to afford the parties the opportunity to fully ventilate their cases on the merits. This is because the ends of justice would be better served if the parties were given the chance to argue their causes and defenses. We are likewise constantly reminded that the general objective of procedure is to facilitate the application of justice to the opposing claims of the competing parties and always be guided by the principle that procedure must not hinder but, rather, promote the administration of justice. Concomitant thereto:

³¹ *Vda. de Victoria v. Court of Appeals*, 490 Phil. 210, 221-222.

³² See also *Vda. de Victoria v. Court of Appeals*, id. at 224.

³³ *Laguna Metts Corporation v. Court of Appeals*, supra note 15 at 146.

³⁴ G.R. No. 187122, February 22, 2012, 666 SCRA 629, 639.

Courts have the prerogative to relax procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to speedily put an end to litigation and the parties' right to due process. In numerous cases, this Court has allowed liberal construction of the rules when to do so would serve the demands of substantial justice and equity. x x x ³⁵

Here, even assuming that the late filing of the petition would merit relaxation of the rules, the CA's resolution would have only been acceptable had private respondent shown respect for the rules by submitting a petition for *certiorari* which is sufficient in form. In contrast, what private respondent filed was a petition plagued by several infirmities. Worse, when the CA allowed petitioner to cure the deficiencies, she failed to fully comply such that she had to be given, albeit undeservingly, *one last chance* to submit the still lacking copies of the pertinent pleadings required of her by the CA.

More importantly, the CA should have dismissed the petition outright in view of the fact that the June 29, 2009 Resolution of the NLRC denying private respondent's Motion for Reconsideration had already become final and executory as of July 18, 2009.³⁶ Thus, it has no jurisdiction to entertain the petition, except to order its dismissal. In *Labao*, we held that:

The NLRC's resolution became final ten (10) days after counsel's receipt, and the respondent's failure to file the petition within the required (60)-day period rendered it impervious to any attack through a Rule 65 petition for *certiorari*. Thus, no court can exercise jurisdiction to review the resolution.

Needless to stress, a decision that has acquired finality becomes immutable and unalterable and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact or law and whether it will be made by the court that rendered it or by the highest court of the land. All the issues between the parties are deemed resolved and laid to rest once a judgment becomes final and executory; execution of the decision proceeds as a matter of right as vested rights are acquired by the winning party. Just as a losing party has the right to appeal within the prescribed period, the winning party has the correlative right to enjoy the finality of the decision on the case. After all, a denial of a petition for being time-barred is tantamount to a decision on the merits. Otherwise, there will be no end to litigation, and this will set to naught the main role of courts of justice to assist in the enforcement of the rule of law and the maintenance of peace and order by settling justiciable controversies with finality.³⁷

In sum, the CA committed grave abuse of discretion when it extended underserved and unwarranted liberality to private respondent. "There is grave abuse of discretion when there is an evasion of a positive duty or a virtual refusal

³⁵ Id., citing *Ong Lim Sing, Jr. v. FEB Leasing & Finance Corporation*, G.R. No. 168115, June 8, 2007, 524 SCRA 333, 343.

³⁶ *Rollo*, p. 99. Annex "I."

³⁷ *Supra* note 29 at 734-735.

to perform a duty enjoined by law or to act in contemplation of law as when the judgment rendered is not based on law and evidence but on caprice, whim and despotism x x x.”³⁸ Such is present here as shown by the CA’s obstinate refusal to dismiss the case despite the late filing of the motion for extension and the flimsy excuse for the extension sought, the late filing of the petition and the numerous infirmities attending the same, and private respondent’s continued defiance of its directive. These circumstances serve to highlight private respondent’s propensity to disregard the very rules that the courts, the litigants and the lawyers are duty-bound to follow.

WHEREFORE, the petition is hereby **GRANTED**. The assailed Court of Appeals Resolutions dated November 20, 2009 and February 10, 2010 are **REVERSED and SET ASIDE** for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction. The Petition for *Certiorari* filed by private respondent Amanda C. Mendigorim in CA-G.R. SP No. 110808 is **DISMISSED**.

SO ORDERED.

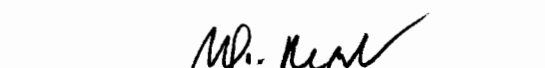

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


ARTURO D. BRION
Associate Justice

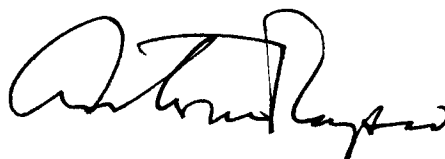

JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. BERLAS-BERNABE
Associate Justice

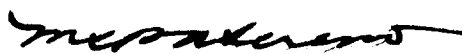
³⁸ *Sugar Regulatory Administration v. Tormon*, G.R. No. 195640, December 4, 2012, 686 SCRA 854, 868.

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.

**ANTONIO T. CARPIO***Associate Justice**Chairperson***CERTIFICATION**

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

**MARIA LOURDES P. A. SERENO***Chief Justice*