Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

GENPACT SERVICES, INC., and DANILO SEBASTIAN REYES, Petitioners,	**G.R. No. 227695**
- versus -	Present:
MARIA KATRINA SANTOS-FALCESO, JANICE ANN* M. MENDOZA, and JEFFREY S. MARIANO, Respondents.	SERENO, *C.J.*, Chairperson, LEONARDO-DE CASTRO, DEL CASTILLO, PERLAS-BERNABE, and CAGUIOA, *JJ.*
	Promulgated: JUL 31 2017

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DECISION

PERLAS-BERNABE, *J.*:

Assailed in this petition for review on *certiorari*[1] filed by petitioners Genpact Services, Inc. (Genpact) and Danilo Sebastian Reyes (Reyes; collectively, petitioners) are the Decision[2] dated May 13, 2016 and the Resolution[3] dated October 12, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 136878 which dismissed outright the petition for *certiorari* they filed before the CA solely on procedural grounds.

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* "Janice M. Mendoza" in some parts of the *rollo*.

1 *Rollo*, pp. 10-25.

2 Id. at 46-55. Penned by Associate Justice Pedro B. Corales with Associate Justices Sesinando E. Villon and Rodil V. Zalameda concurring.

3 Id. at 57-59.

The Facts

Genpact is engaged in business process outsourcing, particularly servicing various multinational clients, including Allstate Insurance Company (Allstate).[4] On different dates spanning the years 2007 to 2011, Genpact hired respondents Maria Katrina Santos-Falceso, Janice Ann M. Mendoza, and Jeffrey S. Mariano (respondents) to various positions to service its Allstate account.[5] However, on April 19, 2012, Allstate ended its account with Genpact,[6] resulting in respondents being placed on floating status, and eventually, terminated from service.[7] This prompted respondents to file a complaint[8] before the National Labor Relations Commission (NLRC), docketed as NLRC-NCR-Case No. 12-18013-12 for illegal dismissal, non-payment of separation pay, damages, and attorney's fees against Genpact and/or its Country Manager, Reyes. Respondents alleged that after Allstate terminated its contract with Genpact, they were initially placed on "benching" status with pay, and after five (5) months, Genpact gave them the option to either "voluntarily resign" or to "be involuntarily terminated on the ground of redundancy" with severance pay of one-half (½) month basic salary for every year of service, in either case. Left without the option to continue their employment with Genpact, respondents chose the latter option and were made to sign quitclaims as a condition for receiving any and all forms of monetary benefits.[9] In this light, respondents argued that the termination of Genpact and Allstate's agreement neither amounted to a closure of business nor justified their retrenchment. Respondents further contended that Genpact failed to observe the requirements of procedural due process as there was no showing that the latter served proper notice to the Department of Labor and Employment (DOLE) thirty (30) days before they were terminated from service, and that they were not accorded the chance to seek other employment opportunities.[10]

In their defense, petitioners justified respondents' termination of employment on the ground of closure or cessation of Allstate's account with Genpact as part of the former's "[g]lobal [d]ownsizing due to heavy losses caused by declining sales in North America."[11] Further, petitioners claimed that they incessantly pursued efforts to retain respondents within their organization, but the same proved futile, thus, leaving them with no other choice but to provide respondents with the option to either resign or be separated on account of redundancy – an option which they reported to the DOLE and resorted to in the exercise of management prerogative with utmost good faith.[12] Lastly, petitioners pointed out that respondents were

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4 Id. at 13 and 47.
5 See id. at 47 and 155-156.
6 See id. at 128-129.
7 See Notices of Termination Due to Closure/Cessation of Operation of the Establishment/Undertaking dated September 28, 2012, id. at 240-245.
8 Dated December 12, 2012. Id. at 208-209.
9 See id. at 47-48 and 131-132.
10 Id. at 48 and 135.
11 Id. at 48.
12 Id. at 48.

properly given separation pay, as well as unpaid allowances and 13th month pay, thus, rendering the latter's monetary claims bereft of merit.[13]

The Labor Arbiter's Ruling

In a Decision[14] dated September 23, 2013, the Labor Arbiter (LA) dismissed respondents' complaint for lack of merit. The LA found that respondents' termination from service was due to the untimely cessation of the operations of Genpact's client, Allstate, wherein respondents were assigned.[15] In this regard, the LA pointed out that Genpact tried to remedy respondents' situation by assigning them to other accounts, but such efforts proved futile as respondents were hired specifically to match the needs of Allstate.[16] Furthermore, the LA took Genpact's act of paying respondents their separation pay computed at one-half (½) month pay for every year of service as a sign of good faith. Thus, the LA concluded that there was an authorized cause in terminating respondents' services, and that Genpact complied with DOLE's reportorial requirements in doing so.[17]

Aggrieved, respondents appealed[18] to the NLRC, docketed as NLRC LAC No. 11-003359-13.

The NLRC Ruling

In a Decision[19] dated May 20, 2014, the NLRC affirmed the LA ruling. It held that Allstate's pullout from Genpact does not mean an automatic termination of the employees assigned to the Allstate account, such as respondents, but purports that the employees assigned to the withdrawing client would be "benched" or placed on floating status as contemplated in Article 286 (now Article 301)[20] of the Labor Code, as amended. In fact, the NLRC pointed out that Genpact recognized the applicability of the said provision in the case of respondents, as well as other similarly-situated employees, considering that: (*a*) it embarked on a Retention Effort Program which resulted in the redeployment of more or less

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13 Id. at 48-49.

14 Id. at 72-80. Penned by Executive Labor Arbiter Fatima Jambaro-Franco.

15 See id. at 77-78.

16 See id. at 78.

17 See id. at 79.

18 See Memorandum of Appeal dated November 15, 2013; id. at 338-358.

19 Id. at 127-148. Penned by Commissioner Isabel G. Panganiban-Ortiguerra with Presiding Commissioner Joseph Gerard E. Mabilog and Commissioner Nieves E. Vivar-De Castro concurring.

20 See Department Advisory No. 01, Series of 2015, entitled "Renumbering of the Labor Code of the Philippines, as Amended." Article 286 (now Article 301) of the Labor Code reads:

> Article 301. [286]. *When Employment not Deemed Terminated.* – The bona fide suspension of the operation of a business or undertaking for a period not exceeding six (6) months, or the fulfilment by the employee of a military or civic duty shall not terminate employment. In all such cases, the employer shall reinstate the employee to his former position, without loss of seniority rights if he indicates his desire to resume his work not later than one (1) month from the resumption of operations of his employer or from his relief from the military or civic duty.

100 of its employees affected by Allstate's pullout; (*b*) it placed respondents and the other similarly-situated employees on "benching" status with full pay; (*c*) it only resorted to termination after alleged incessant efforts to find a suitable position for respondents proved unsuccessful; and (*d*) such terminations were done during the six (6)-month period within which employees were allowed to be placed on floating status. Thus, Genpact's acts of placing respondents on "benching" or floating status, and thereafter, terminating their employment were made in the exercise of its management prerogative in good faith and in accordance with internal hiring procedures. As such, it cannot be said that respondents were illegally dismissed from service.[21]

Respondents moved for reconsideration,[22] which was partly granted by the NLRC in a Resolution[23] dated June 30, 2014, and accordingly, increased respondents' entitlement to separation pay to one (1) month salary for every year of service. In said Resolution, the NLRC held that since respondents' positions were rendered superfluous by the closure of the Allstate account, then it follows that they were terminated on account of redundancy pursuant to Article 286 (now Article 301), in relation to Article 283 (now Article 298) of the Labor Code. As such, they should be paid separation pay amounting to one (1) month salary for every year of service, instead of the one-half (½) month salary for every year of service.[24] Notably, the NLRC Resolution explicitly stated that "**[n]o further motion of similar import shall be entertained**."[25]

Dissatisfied, petitioners filed a petition for *certiorari*[26] before the CA.

The CA Ruling

In a Decision[27] dated May 13, 2016, the CA dismissed outright the petition for *certiorari* purely on procedural grounds. It held that petitioners' failure to file a motion for reconsideration before the NLRC prior to elevating the case to the CA is a fatal infirmity which rendered their petition for *certiorari* before the latter court dismissible, further noting that petitioners did not present any plausible justification nor concrete, compelling, and valid reason for dispensing with the requirement of a prior motion for reconsideration.[28]

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21 *Rollo*, pp. 142-148.
22 See Motion for Reconsideration dated June 6, 2014; id. at 407-414.
23 Id. at 150-152.
24 Id. at 151.
25 Id.; emphasis and underscoring supplied.
26 Dated August 28, 2014. Id. at 81-102.
27 Id. at 46-55.
28 See id. at 52-54.

Petitioners moved for reconsideration[29] which was, however, denied in a Resolution[30] dated October 12, 2016; hence, this petition.[31]

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly dismissed outright the *certiorari* petition filed by petitioners before it on procedural grounds.

The Court's Ruling

The petition is meritorious.

A petition for *certiorari* under Rule 65 of the Rules of Court is a special civil action that may be resorted to only in the absence of appeal or any plain, speedy, and adequate remedy in the ordinary course of law. It is adopted to correct errors of jurisdiction committed by the lower court or quasi-judicial agency, or when there is grave abuse of discretion on the part of such court or agency amounting to lack or excess of jurisdiction.[32]

Given the special and extraordinary nature of a Rule 65 petition, the general rule is that a motion for reconsideration must first be filed with the lower court prior to resorting to the extraordinary remedy of *certiorari*, since a motion for reconsideration may still be considered as a plain, speedy, and adequate remedy in the ordinary course of law. The rationale for the pre-requisite is to grant an opportunity for the lower court or agency to correct any actual or perceived error attributed to it by the re-examination of the legal and factual circumstances of the case.[33] This notwithstanding, the foregoing rule admits of well-defined exceptions, such as: (*a*) where the order is a patent nullity, as where the court *a quo* has no jurisdiction; (*b*) where the questions raised in the *certiorari* proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (*c*) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; (*d*) **where, under the circumstances, a motion for reconsideration would be useless**; (*e*) **where petitioner was deprived of due process and there is extreme urgency for relief**; (*f*) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (*g*) where the proceedings in the lower court are a nullity for lack of due process; (*h*) where the proceedings were *ex*

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29 Not attached to the *rollo*.
30 *Rollo*, pp. 57-59.
31 Id. at 10-25.
32 See *Hilbero v. Morales, Jr.*, G.R. No. 198760, January 11, 2017; citation omitted.
33 See *Carpio Morales v. CA*, G.R. Nos. 217126-27, November 10, 2015, 774 SCRA 431, 467, citing *Republic v. Bayao*, 710 Phil. 279, 287-288 (2013).

parte or in which the petitioner had no opportunity to object; and (*i*) where the issue raised is one purely of law or where public interest is involved.[34]

A judicious review of the records reveals that the exceptions in items (*d*) and (*e*) are attendant in this case.

The dispositive portion of the NLRC's June 30, 2014 Resolution[35] – which partially granted respondents' motion for reconsideration, and accordingly, increased their entitlement to separation pay to one (1) month salary per year of service – reads in its entirety:

> WHEREFORE, premises considered, the motion for reconsideration is partly granted. The assailed Decision is modified in that GENPACT Services LLC is ordered to pay complainants separation pay of one month salary per year of service. The amounts already received by complainants shall be deducted from the amounts due.
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> **No further motion of similar import shall be entertained**.
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> SO ORDERED.[36] (Emphasis and underscoring supplied)

Otherwise worded, the highlighted portion explicitly warns the litigating parties that the NLRC shall no longer entertain any further motions for reconsideration. Irrefragably, this circumstance gave petitioners the impression that moving for reconsideration before the NLRC would only be an exercise in futility in light of the tribunal's aforesaid warning.

Moreover, Section 15, Rule VII[37] of the 2011 NLRC Rules of Procedure, as amended, provides, among others, that the remedy of filing a motion for reconsideration may be availed of **once by each party**. In this case, only respondents had filed a motion for reconsideration before the NLRC. Applying the foregoing provision, petitioners also had an opportunity to file such motion in this case, should they wish to do so. However, the tenor of such warning effectively deprived petitioners of such opportunity, thus, constituting a violation of their right to due process.

All told, petitioners were completely justified in pursuing a direct recourse to the CA through a petition for *certiorari* under Rule 65 of the

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34 Id.

35 *Rollo*, pp. 150-152.

36 Id. at 151.

37 Section 15, Rule VII of the 2011 NLRC Rules of Procedure, approved on May 31, 2011, states:

> Section 15. *Motions for Reconsideration.* – Motion for reconsideration of any decision, resolution or order of the Commission shall not be entertained except when based on palpable or patent errors; provided that the motion is filed within ten (10) calendar days from receipt of decision, resolution or order, with proof of service that a copy of the same has been furnished, within the reglementary period, the adverse party; and provided further, that only one such motion from the same party shall be entertained.

Rules of Court. To rule otherwise would be clearly antithetical to the tenets of fair play, not to mention the undue prejudice to petitioners' rights.[38] Thus, in light of the fact that the CA dismissed outright the petition for *certiorari* before it solely on procedural grounds, a remand of the case for a resolution on the merits is warranted.

WHEREFORE, the petition is **GRANTED**. The Decision dated May 13, 2016 and the Resolution dated October 12, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 136878 are hereby **REVERSED** and **SET ASIDE**. The instant case is **REMANDED** to the CA for a resolution on the merits.

SO ORDERED.

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
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.

MARIA LOURDES P. A. SERENO
Chief Justice

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[38] See *Castells v. Saudi Arabian Airlines*, 716 Phil. 667, 675 (2013).