Republic of the Philippines
Supreme Court
Manila

EN BANC

GUAGUA NATIONAL COLLEGES, Petitioner,	**G.R. NO. 188492**
	Present:
	LEONARDO-DE CASTRO, *C.J.*, CARPIO, PERALTA, BERSAMIN, DEL CASTILLO, PERLAS-BERNABE, LEONEN, JARDELEZA, CAGUIOA, TIJAM, REYES, JR., GESMUNDO, and REYES, JR., *JJ.*
- *versus* -	
COURT OF APPEALS, GNC FACULTY AND LABOR UNION and GNC NON-TEACHING MAINTENANCE LABOR UNION, Respondents.	Promulgated: August 28, 2018

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D E C I S I O N

BERSAMIN, *J.*:

This case focuses on the correct period for appealing the decision or award of the Voluntary Arbitrator or Panel of Arbitrators. The issue arises because the decision or award of the Voluntary Arbitrator or Panel of Arbitrators is appealable to the Court of Appeals (CA) by petition for review under Rule 43 of the *Rules of Court*, which provides a period of 15 days from notice of the decision or award within which to file the petition for

review. On the other hand, Article 262-A (now Article 276)[1] of the *Labor Code* sets 10 days as the period within which the appeal is to be made.

The Case

Petitioner Guagua National Colleges (GNC) hereby assails by petition for *certiorari* the resolution promulgated on December 15, 2008,[2] whereby the Court of Appeals (CA) denied its *Motion to Dismiss* filed vis-à-vis the respondents' petition for *certiorari* in the following manner:

> This Court resolves:
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> 1. x x x
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> 2. To **Deny**:
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> a) respondent's **Motion to Dismiss** dated 22 July 2008. While it is true that ***Coca-Cola Bottlers Philippines, Inc., Sales Force Union-PTGWO-Balais vs. Coca-Cola Bottlers Philippines, Inc.*** held in part:
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> > "x x x [U]nder Section 6, Rule VII of the same guidelines implementing Article 262-A of the Labor Code, this Decision, as a matter of course, would become final and executory after ten (10) calendar days from receipt of copies of the decision by the parties x xx unless, in the meantime, a motion for reconsideration or a petition for review to the Court of Appeals under Rule 43 of the Rules of Court is filed within the same 10-day period. x xx;",
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> We, more importantly recognize the pronouncement of the Supreme Court in ***Manila Midtown vs. Borromeo*** which reads in part:
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> > "Upon receipt of a copy of the Voluntary Arbitrator's Decision, *petitioner should have filed with the Court of Appeals, within the 15-day reglementary period, a petition for review* x xx"
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> ***Coca-Cola Bottlers*** is not in direct conflict with ***Manila Midtown*** as there is no categorical ruling in the former that the petition for review under Rule 43 of the Rules of Court assailing the decision of the Voluntary Arbitrator should be filed within ten (10) days from receipt thereof and not the customary reglementary period of fifteen (15) days. Likewise, ***Leyte IV Electric Cooperative, Inc. vs. LEYECO IV Employees Unio-ALU***, reiterating the landmark **Case of *Luzon Development Bank vs.***

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[1] See DOLE Department Advisory No. 01, Series of 2015.

[2] *Rollo*, pp. 32-35; penned by Associate Justice Vicente S.E. Veloso, with Associate Justice Rebecca De Guia-Salvador and Associate Justice Ricardo R. Rosario concurring.

> ***Association of Luzon Development Bank Employees***, declared that the proper remedy from the award of a voluntary arbitrator **is a petition for review to the CA**, following Revised Administrative Circular No. 1-95, which in turn provides for a reglementary period of fifteen (15) days within which to appeal.
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> Keeping in mind Article 4 of the Labor Code which mandates that all doubts in the implementation and interpretation of its provisions, including its implementing rules and regulations, should be resolved in favor of labor and considering that technicalities are not supposed to stand in the way of equitably and completely resolving the rights and obligations of labor and capital, We rule that the Petition for Review was seasonably filed. Moreso that We have already granted petitioners' Urgent Motion for Extension.
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> 3. x x x
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> **SO ORDERED**.

Antecedents

Under Section 5(2)[3] of Republic Act No. 6728 (*Government Assistance To Students and Teachers In Private Education Act*), 70% of the increase in tuition fees shall go to the payment of salaries, wages, allowances and other benefits of the teaching and non-teaching personnel. Pursuant to this provision, the petitioner imposed a 7% increase of its tuition fees for school year 2006-2007.[4]

Shortly thereafter, and in order to save the depleting funds of the petitioner's Retirement Plan, its Board of Trustees approved the funding of the retirement program out of the 70% net incremental proceeds arising from the tuition fee increases.[5] Respondents GNC-Faculty Labor Union and GNC

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[3] Section 5. Tuition Fee Supplement for Students in Private High School. (1) x x x
(a) x x x
(b) x x x
(2) Assistance under paragraph (1), subparagraphs (a) and (b) shall be granted and tuition fees under subparagraph (c) may be increased, on the condition that seventy percent (70%) of the amount subsidized allotted for tuition fee or of the tuition fee increases shall go to the payment of salaries, wages, allowances and other benefits of teaching and non-teaching personnel except administrators who are principal stockholders of the school, and may be used to cover increases as provided for in the collective bargaining agreements existing or in force at the time when this Act is approved and made effective: *Provided*, That government subsidies are not used directly for salaries of teachers of non-secular subjects. At least twenty percent (20%) shall go to the improvement or modernization of buildings, equipment, libraries, laboratories, gymnasia and similar facilities and to the payment of other costs of operation. For this purpose, school shall maintain a separate record of accounts for all assistance received from the government, any tuition fee increase, and the detailed disposition and use thereof, which record shall be made available for periodic inspection as may be determined by the State Assistance Council, during business hours, by the faculty, the non-teaching personnel, students of the school concerned, the Department of Education, Culture and Sports and other concerned government agencies.

[4] *Rollo*, p. 43.

[5] Id. at 43-44.

Non-Teaching Maintenance Labor Union challenged the petitioner's unilateral decision by claiming that the increase violated Section 5(2) of R.A. No. 6728.

The parties referred the matter to voluntary arbitration after failing to settle the controversy by themselves.[6]

Decision of the Voluntary Arbitrator

After hearing the parties, Voluntary Arbitrator Froilan M. Bacungan rendered his decision dated June 16, 2008 in favor of GNC,[7] holding that retirement benefits fell within the category of "*other benefits*" that could be charged against the 70% net incremental proceeds pursuant to Section 5(2) of R.A. No. 6728.

After receiving a copy of the decision on June 16, 2008, the respondents filed an *Urgent Motion for Extension* praying that the CA grant them an extension of 15 days from July 1, 2008, or until July 16, 2008, within which to file their petition for review.[8]

Ruling of the CA

On July 2, 2008, the CA issued a resolution granting the *Urgent Motion for Extension*.[9] The respondents filed the petition for review[10] on July 16, 2008.[11]

Subsequently, the petitioner filed its *Motion to Dismiss*,[12] asserting that the decision of the Voluntary Arbitrator had already become final and executory pursuant to Article 276 of the *Labor Code* and in accordance with the ruling in *Coca-Cola Bottlers Philippines, Inc. Sales Force Union-PTGWO-Balais v. Coca-Cola Bottlers Philippines, Inc.*[13]

The CA acted on the *Motion to Dismiss* on December 15, 2008 through the now assailed resolution denying the *Motion to Dismiss*.[14]

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6 Id. at 57.
7 Id. at 42-52.
8 Id. at 6.
9 Id. at 55.
10 Id. at 56-78.
11 Id. at 7.
12 Id. at 79-81.
13 G.R. No. 155651, July 28, 2005, 464 SCRA 507.
14 *Rollo*, pp. 32-35.

The petitioner sought reconsideration,[15] but the CA denied the motion for reconsideration on January 30, 2009.[16]

Hence, the petitioner instituted its petition for *certiorari*.

Issue

The petitioner submits the lone issue that—

> THE COURT OF APPEALS, WITH ALL DUE RESPECT, IS ACTING WITHOUT OR IN EXCESS OF ITS JURISDICTION IN CA-G.R. SP NO. 104109 CONSIDERING THAT THE DECISION OF THE VOLUNTARY ARBITRATOR IN AC-025-RB3-04-01-03-2007, FOLLOWING RULE [276] OF THE LABOR CODE AND THE DECISION OF THE HONORABLE COURT IN COCA-COLA BOTTLERS PHILIPPINES, INC. SALES FORCE UNION-PTGWO-BALAIS v. COCA-COLA BOTTLERS PHILIPPINES, INC. XXXX, HAD ALREADY BECOME FINAL AND EXECUTORY, HENCE UNCHALLENGEABLE SINCE THE "URGENT MOTION FOR EXTENSION" DATED 30 JUNE 2008 AND 16 JULY 2008 RESPECTIVELY, OR TEN (10) DAYS AFTER THE UNIONS AND THEIR COUNSEL OF RECORD WERE PERSONALLY SERVED THE VOLUNTARY ARBITRATOR'S DECISION ON 16 JUNE 2008.[17]

The petitioner argues that the CA went beyond its jurisdiction when it denied the *Motion to Dismiss* despite the finality of the decision of the Voluntary Arbitrator pursuant to Article 276 of the *Labor Code*; that following the pronouncement in *Coca-Cola Bottlers Philippines, Inc. Sales Force Union-PTGWO-Balais v. Coca-Cola Bottlers Philippines, Inc.*,[18] the CA was no longer authorized to exercise its appellate jurisdiction;[19] that the CA's reliance on the rulings in *Manila Midtown Hotel v. Borromeo*[20] and *Leyte IV Electric Cooperative, Inc. v. Leyeco IV Employees Union-ALU*[21] was misplaced because said rulings did not define the reglementary period to appeal the decision or award of the Voluntary Arbitrator;[22] and that the CA misapplied the rule on equity in the absence of strong or compelling reasons to suspend the rules of procedure.[23]

The petitioner emphasizes the need to harmonize Rule 43 of the *Rules of Court* with Article 276 of the *Labor Code* in view of their conflicting provisions on the period for the appeal from the decision of the Voluntary

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15 Id. at 95-104.
16 Id. at 38-39.
17 Id. at 8-9.
18 Supra, note 13.
19 *Rollo*, p. 9.
20 G.R. No. 138305, September 22, 2004, 438 SCRA 653.
21 G.R. No. 157775, October 19, 2007, 537 SCRA 154
22 *Rollo*, pp. 14-17.
23 Id. at 20-21.

Arbitrator. It maintains that unless Congress amends Article 276 of the *Labor Code*, the reglementary period within which to appeal the decision or award of the Voluntary Arbitrator is 10 days following the ruling in *Coca-Cola Bottlers Philippines, Inc. Sales Force Union-PTGWO-Balais v. Coca-Cola Bottlers Philippines, Inc.*, instead of 15 days under Rule 43 of the *Rules of Court*.

In contrast, the respondents insist that they have a meritorious case because the controversy involves the interpretation of Section 5(2) of R.A. No. 6728 on the disposition of the tuition fee increase;[24] that the CA did not abuse its discretion given the rule on the liberal application of rules of procedure to achieve substantial justice, and the policy on the liberal construction of laws in favor of labor;[25] that a long line of jurisprudence[26] set the remedy of appeal under Rule 43 of the *Rules of Court* as applicable in challenging the decisions or awards of the Voluntary Arbitrator.

Did the CA gravely abuse its discretion in denying the petitioner's *Motion to Dismiss* despite the finality of the decision of the Voluntary Arbitrator pursuant to Article 276 of the *Labor Code*?

Ruling of the Court

We dismiss the petition for *certiorari*.

I
The petition for review shall be filed within 15 days pursuant to Section 4, Rules 43 of the *Rules of Court*; the 10-day period under Article 276 of the *Labor Code* refers to the filing of a motion for reconsideration vis-à-vis the Voluntary Arbitrator's decision or award

In resolving whether or not the CA committed grave abuse of discretion, the Court has first to determine which between the two periods found in Article 276 of the *Labor Code* and Section 4 of Rule 43 of the *Rules of Court* governs the appeal from the decision or award by the Voluntary Arbitrator or Panel of Arbitrators.

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[24] Id. at 125.

[25] Id. at 137.

[26] Notably: *Oceanic Bic Division (FFW) v. Romero*, No. L-43890, July 16, 1984, 130 SCRA 392; *Mantrade/FMMC Division Employees and Workers' Union v. Bacungan*, No. L-48437, September 30, 1986, 144 SCRA 510; *Continental Marble Corp. v. NLRC*, No. L-43825, May 9, 1988, 161 SCRA 151; *Luzon Development Bank v. Association of Luzon Development Bank Employees*, G.R. No. 120319, October 6, 1995, 249 SCRA 162; *National Steel Corporation v. Court of Appeals*, G.R. No. 134468, August 29, 2002, 388 SCRA 85; *Mora v. Avesco Marketing Corporation*, G.R. No. 177414, November 14, 2008, 571 SCRA 226; *Samahan ng mga Manggagawa sa Hyatt-NUWHRAIN-APL v. Bacungan,* G.R. No. 149050, March 25, 2009, 582 SCRA 369; and *Manila Midtown Hotel v. Borromeo*, G.R. No. 138305, September 22, 2004, 438 SCRA 653.

The petitioner posits that the appeal from the decision or award of the Voluntary Arbitrator should be filed within 10 days in view of Article 276 of the *Labor Code* which reads in full:

> Article 276. Procedures. – The Voluntary Arbitrator or panel of Voluntary Arbitrators shall have the power to hold hearings, receive evidences and take whatever action is necessary to resolve the issue or issues subject of the dispute, including efforts to effect a voluntary settlement between parties.
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> All parties to the dispute shall be entitled to attend the arbitration proceedings. The attendance of any third party or the exclusion of any witnessfrom the proceedings shall be determined by the Voluntary Arbitrator or panel of Voluntary Arbitrators. Hearings may be adjourned for cause or upon agreement by the parties.
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> Unless the parties agree otherwise, it shall be mandatory for the Voluntary Arbitrator or panel of Voluntary Arbitrators to render an award or decision within twenty (20) calendar days from the date of submission of the dispute to voluntary arbitration.
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> **The award or decision of the Voluntary Arbitrator or panel of Voluntary Arbitrators shall contain the facts and the law on which it is based. It shall be final and executory after ten (10) calendar days from receipt of the copy of the award or decision by the parties.**
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> Upon motion of any interested party, the Voluntary Arbitrator or panel of Voluntary Arbitrators or the Labor Arbiter in the region where the movant resides, in case of the absence or incapacity of the Voluntary Arbitrator or panel of Voluntary Arbitrators, for any reason, may issue a writ of execution requiring either the sheriff of the Commission or regular courts or any public official whom the parties may designate in the submission agreement to execute the final decision, order or award. (Bold underscoring supplied for emphasis)

Article 276 is an amendment introduced by R.A. No. 6715.[27] Prior to the effectivity of the amendment on March 21, 1989,[28] Article 262 (the predecessor provision) stated that voluntary arbitration decisions or awards would be *final*, *unappealable* and *executory*. Despite such immediately executory nature of the decisions and awards of the Voluntary Arbitrators, however, the Court pronounced in *Oceanic Bic Division (FFW) v. Romero*[29] that the decisions or awards of the Voluntary Arbitrators involving

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[27] Entitled *An Act to Extend Protection To Labor, Strengthen The Constitutional Rights Of Workers To Self-Organization, Collective Bargaining And Peaceful Concerted Activities, Foster Industrial Peace and Harmony, Promote The Preferential Use Of Voluntary Modes Of Settling Labor Disputes, And Reorganize The National Labor Relations Commission, Amending For These Purposes Certain Provisions Of Presidential Decree No. 442, As Amended, Otherwise Known As The Labor Code Of The Philippines, Appropriating Funds Therefore And For Other Purposes.*

[28] See *Omnibus Rules Implementing the Labor Code.*

[29] G.R. No. L-43890, July 16, 1984, 130 SCRA 392.

interpretations of law were within the scope of the Court's power of review. The Court explained:

> x x x x We agree with the petitioner that the decisions of voluntary arbitrators must be given the highest respect and as a general rule must be accorded a certain measure of finality. This is especially true where the arbitrator chosen by the parties [enjoys] the first rate credentials of Professor Flerida Ruth Pineda Romero, Director of the U.P. Law Center and an academician of unquestioned expertise in the field of Labor Law. It is not correct, however, that this respect precludes the exercise of judicial review over their decisions. Article 262 of the Labor Code making voluntary arbitration awards final, inappealable, and executory except where the money claims exceed ₱100,000.00 or 40% of paid-up capital of the employer or where there is abuse of discretion or gross incompetence refers to appeals to the National Labor Relations Commission and not to judicial review.
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> Inspite of statutory provisions making "final" the decisions of certain administrative agencies, we have taken cognizance of petitions questioning these decisions where want of jurisdiction, grave abuse of discretion, violation of due process, denial of substantial justice, or erroneous interpretation of the law were brought to our attention. There is no provision for appeal in the statute creating the Sandiganbayan but this has not precluded us from examining decisions of this special court brought to us in proper petitions. Thus, we have ruled:
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> > "Yanglay raised a jurisdictional question which was not brought up by respondent public officials. He contends that this Court has no jurisdiction to review the decisions of the NLRC and the Secretary of Labor `under the principle of separation of powers' and that judicial review is not provided for in Presidential Decree No. 21.
> >
> > "That contention is a flagrant error, it is generally understood that as to administrative agencies exercising quasi-judicial or legislative power there is an underlying power in the courts to scrutinize the acts of such agencies on questions of law and jurisdiction even though no right of review is given by statute' (73 C.J.S. 506, note 56).
> >
> > "The purpose of judicial review is to keep the administrative agency within its jurisdiction and protect substantial rights of parties affected by its decisions' (73 C.J.S. 507, Sec. 165). It is part of the system of checks and balances which restricts the separation of powers and forestalls arbitrary and unjust adjudications.
> >
> > "Judicial review is proper in case of lack of jurisdiction, grave abuse of discretion, error of law, fraud or collusion (Timbancaya vs. Vicente, 62 O.G. 9424; Macatangay vs. Secretary of Public Works and Communications, 63 O.G. 11236; Ortua vs. Singson Encarnacion, 59 Phil. 440).
> >
> > "`The courts may declare an action or resolution of an administrative authority to be illegal (1) because it violates or

> fails to comply with some mandatory provision of the law or (2) because it is corrupt, arbitrary or capricious' (Borromeo vs. City of Manila and Rodriguez Lanuza, 62 Phil. 512, 516; Villegas vs. Auditor General, L-21352, November 29, 1966, 18 SCRA 877, 891). [San Miguel Corporation v. Secretary of Labor, 64 SCRA 60].
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> xxx xxx xxx
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> "It is now settled rule that under the present Labor Code, (Presidential Decree No. 442, as amended [1974] if lack of power or arbitrary or improvident exercise of authority be shown, thus giving rise to a jurisdictional question, this Court may, in appropriate certiorari proceedings, pass upon the validity of the decisions reached by officials or administrative agencies in labor controversies. So it was assumed in Maglasang v. Ople, (L-38813, April 29, 1975, 63 SCRA 508). It was explicitly announced in San Miguel Corporation v. Secretary of Labor, (L-39195, May 16, 1975, 64 SCRA 56) the opinion being penned by Justice Aquino. Accordingly, cases of that character continue to find a place in our docket. (Cf. United Employees Union of Gelmart Industries v. Noriel, L-40810, Oct. 3, 1975, 67 SCRA 267) The present suit is of that category. [Kapisanan ng mga Manggagawa sa La Suerte-Foitaf vs. Noriel, 77 SCRA 415-416].
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> A voluntary arbitrator by the nature of her functions acts in a quasi-judicial capacity. There is no reason why her decisions involving interpretation of law should be beyond this Court's review. Administrative officials are presumed to act in accordance with law and yet we do not hesitate to pass upon their work where a question of law is involved or where a showing of abuse of authority or discretion in their official acts is properly raised in petitions for *certiorari*.[30]

Accordingly, the decisions and awards of Voluntary Arbitrators, albeit immediately final and executory, remained subject to judicial review in appropriate cases through petitions for *certiorari*.[31]

Such was the state of things until the promulgation in 1995 of the ruling in *Luzon Development Bank v. Association of Luzon Development Bank Employees*.[32] Therein, the Court noted the silence of R.A. No. 6715 on the availability of appeal from the decisions or awards of the Voluntary Arbitrators. In declaring the Voluntary Arbitrators or Panels of Voluntary Arbitrators as quasi-judicial instrumentalities, *Luzon Development Bank v. Association of Luzon Development Bank Employees* pronounced the decisions or awards of the Voluntary Arbitrators to be appealable to the CA, *viz.*:

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30 G.R. No. L-43890, July 16, 1984, 130 SCRA 392, 399-401.

31 *Sime Darby Pilipinas, Inc. v. Magsalin*, G.R. No. 90426, December 15, 1989, 180 SCRA 177, 182.

32 G.R. No. 120319, October 6, 1995, 249 SCRA 162.

It will thus be noted that the jurisdiction conferred by law on a voluntary arbitrator or a panel of such arbitrators is quite limited compared to the original jurisdiction of the labor arbiter and the appellate jurisdiction of the National Labor Relations Commission (NLRC) for that matter. The state of our present law relating to voluntary arbitration provides that "(t)he award or decision of the Voluntary Arbitrator x x x shall be final and executory after ten (10) calendar days from receipt of the copy of the award or decision by the parties," while the "(d)ecision, awards, or orders of the Labor Arbiter are final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards, or orders." Hence, while there is an express mode of appeal from the decision of a labor arbiter, Republic Act No. 6715 is silent with respect to an appeal from the decision of a voluntary arbitrator.

Yet, past practice shows that a decision or award of a voluntary arbitrator is, more often than not, elevated to the Supreme Court itself on a petition for *certiorari,* in effect equating the voluntary arbitrator with the NLRC or the Court of Appeals. In the view of the Court, this is illogical and imposes an unnecessary burden upon it.

In *Volkschel Labor Union, et al. v. NLRC, et al.,* on the settled premise that the judgments of courts and awards of [quasi-judicial] agencies must become final at some definite time, this Court ruled that the awards of voluntary arbitrators determine the rights of parties; hence, their decisions have the same legal effect as judgments of a court. In *Oceanic Bic Division (FFW), et al. v. Romero, et al.,* this Court ruled that "a voluntary arbitrator by the nature of her functions acts in a quasi-judicial capacity." Under these rulings, it follows that the voluntary arbitrator, whether acting solely or in a panel, enjoys in law *the status of a quasi-judicial agency* but independent of, and apart from, the NLRC since his decisions are not appealable to the latter.

Section 9 of B.P. Blg. 129, as amended by Republic Act No. 7902, provides that the Court of Appeals shall exercise:

> "xxx xxx xxx (3) Exclusive appellate jurisdiction over *all* final judgments, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, *instrumentalities*, boards or commissions, including the Securities and Exchange Commission, the Employees' Compensation Commission and the Civil Service Commission, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the Labor Code of the Philippines under Presidential Decree No. 442, as amended, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948.
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> xxx xxx xxx"

Assuming arguendo that the voluntary arbitrator or the panel of voluntary arbitrators may not strictly be considered as a [quasi-judicial] agency, board or commission, still both he and the panel are comprehended within the concept of a "quasi-judicial instrumentality." It may even be stated that it was to meet the very situation presented by the

quasi-judicial functions of the voluntary arbitrators here, as well as the subsequent arbitrator/arbitral tribunal operating under the Construction Industry Arbitration Commission, that the broader term "instrumentalities" was purposely included in the above-quoted provision.

An "instrumentality" is anything used as a means or agency. Thus, the terms governmental "agency" or "instrumentality" are synonymous in the sense that either of them is a means by which a government acts, or by which a certain government act or function is performed. The word "instrumentality," with respect to a state, contemplates an authority to which the state delegates governmental power for the performance of a state function. An individual person, like an administrator or executor, is a judicial instrumentality in the settling of an estate, in the same manner that a sub-agent appointed by a bankruptcy court is an instrumentality of the court, and a trustee in bankruptcy of a defunct corporation is an instrumentality of the state.

The voluntary arbitrator no less performs a state function pursuant to a governmental power delegated to him under the provisions therefor in the Labor Code and he falls, therefore, within the contemplation of the term "instrumentality" in the aforequoted Sec. 9 of B.P. 129. The fact that his functions and powers are provided for in the Labor Code does not place him within the exceptions to said Sec. 9 since he is a quasi-judicial instrumentality as contemplated therein. It will be noted that, although the Employees' Compensation Commission is also provided for in the Labor Code, Circular No. 1-91, which is the forerunner of the present Revised Administrative Circular No. 1-95, laid down the procedure for the appealability of its decisions to the Court of Appeals under the foregoing rationalization, and this was later adopted by Republic Act No. 7902 in amending Sec. 9 of B.P. 129.

A fortiori, the decision or award of the voluntary arbitrator or panel of arbitrators should likewise be appealable to the Court of Appeals, in line with the procedure outlined in Revised Administrative Circular No. 1-95, just like those of the quasi-judicial agencies, boards and commissions enumerated therein.

This would be in furtherance of, and consistent with, the original purpose of Circular No. 1-91 to provide a uniform procedure for the appellate review of adjudications of all quasi-judicial entities not expressly excepted from the coverage of Sec. 9 of B.P. 129 by either the Constitution or another statute. Nor will it run counter to the legislative intendment that decisions of the NLRC be reviewable directly by the Supreme Court since, precisely, the cases within the adjudicative competence of the voluntary arbitrator are excluded from the jurisdiction of the NLRC or the labor arbiter.[33]

In other words, the remedy of appeal by petition for review under Rule 43 of the *Rules of Court* became available to the parties aggrieved by the decisions or awards of the Voluntary Arbitrators or Panels of Arbitrators.

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[33] Id. at 167-171.

In the 2004 ruling in *Sevilla Trading Company v. Semana*,[34] the Court ruled that the decision of the Voluntary Arbitrator became final and executory after the expiration of the 15-day reglementary period within which to file the petition for review under Rule 43. *Manila Midtown Hotel v. Borromeo*[35] also ruled so. The 15-day period was likewise adverted to in the ruling in *Nippon Paint Employees Union-Olalia v. Court of Appeals*,[36] promulgated in November 2004.

In 2005, the Court promulgated the decision in *Coca-Cola Bottlers Philippines, Inc., Sales Force Union-PTGWO-Balais v. Coca-Cola Bottlers Philippines, Inc.*,[37] wherein it made reference for the first time to the 10-day period for the filing of the petition for review vis-à-vis decisions or awards of the Voluntary Arbitrator provided in Article 262-A (now Article 276).[38] Within the same year, *Philex Gold Philippines, Inc. v. Philex Bulawan Supervisors Union*[39] applied the period of 10 days in declaring the appeal to have been timely filed.

Thereafter, the Court has variantly applied either the 15-day or the 10-day period as the time within which to appeal the decisions or awards of the Voluntary Arbitrators or Panels of Arbitrators. Thus, in the 2007 ruling in *Leyte IV Electric Cooperative, Inc. v. Leyeco IV Employees Union-ALU*,[40] the Court recognized the 15-day reglementary period under Rule 43. This was reiterated in *AMA Computer College-Santiago City, Inc. v. Nacino* (2008),[41] *Mora v. Avesco Marketing Corporation*[42] (2008), *Samahan Ng Mga Manggagawa sa Hyatt-NUWHRAIN-APL v. Bacungan* (2009),[43] *Saint Luis University, Inc. v. Cobarrubias*[44] (2010), *Samahan ng mga Manggagawa sa Hyatt (SAMASAH-NUWHRAIN) v. Magsalin*[45] (2011) and *Royal Plant Workers Union v. Coca Cola Bottlers Philippines, Inc.-Cebu Plant* (2013).[46]

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34 G.R. No. 152456, April 28, 2004, 428 SCRA 239.
35 G.R. No. 138305, September 22, 2004, 438 SCRA 653.
36 G.R. No. 159010, November 19, 2004, 443 SCRA 286.
37 G.R. No. 155651, July 28, 2005, 464 SCRA 507.
38 The Court declared: "[T]he Decision of the Panel was in the form of a dismissal of petitioner's complaint. Naturally, this dismissal was contained in the main decision and not in the dissenting opinion. Thus, under Section 6, Rule VII of the same guidelines implementing Article 262-A of the Labor Code, this Decision, as a matter of course, would become final and executory after ten (10) calendar days from receipt of copies of the decision by the parties even without receipt of the dissenting opinion unless, in the meantime, a motion for reconsideration or a petition for review to the Court of Appeals under Rule 43 of the Rules of Court is filed within the same 10-day period. (Id., pp. 515-516)
39 G.R. No. 149758, August 25, 2005, 468 SCRA 111.
40 G.R. No. 157775, October 19, 2007, 537 SCRA 154.
41 G.R. No. 162739, February 12, 2008, 544 SCRA 502.
42 G.R. No. 177414, November 14, 2008, 571 SCRA 226.
43 G.R. No. 149050, March 25, 2009, 582 SCRA 369.
44 G.R. No. 187104, August 3, 2010, 626 SCRA 649.
45 G.R. No. 164939, June 6, 2011, 650 SCRA 445.
46 G.R. No. 198783, April 15, 2013, 696 SCRA 357.

But in *Philippine Electric Corporation (PHILEC) v. Court of Appeals*[47] (2014), *Baronda v. Court of Appeals*[48] (2015), and *NYK-FIL Ship Management, Inc. v. Dabu*[49] (2017), the Court, citing Article 276 of the *Labor Code*, applied the 10-day period. Notably, the Court opined in *Philippine Electric Corporation (PHILEC) v. Court of Appeals* that despite the period provided in Rule 43, the 10-day period should apply in determining the timeliness of appealing the decision or award of the Voluntary Arbitrator or Panel of Arbitrators, to wit:

> Despite Rule 43 providing for a 15-day period to appeal, we rule that the Voluntary Arbitrator's decision must be appealed before the Court of Appeals within 10 calendar days from receipt of the decision as provided in the Labor Code.
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> Appeal is a "statutory privilege," which may be exercised "only in the manner and in accordance with the provisions of the law." "Perfection of an appeal within the reglementary period is not only mandatory but also jurisdictional so that failure to do so rendered the decision final and executory, and deprives the appellate court of jurisdiction to alter the final judgment much less to entertain the appeal."
>
> We ruled that Article 262-A of the Labor Code allows the appeal of decisions rendered by Voluntary Arbitrators. Statute provides that the Voluntary Arbitrator's decision "shall be final and executory after ten (10) calendar days from receipt of the copy of the award or decision by the parties." Being provided in the statute, this 10-day period must be complied with; otherwise, no appellate court will have jurisdiction over the appeal. This absurd situation occurs when the decision is appealed on the 11th to 15th day from receipt as allowed under the Rules, but which decision, under the law, has already become final and executory.
>
> Furthermore, under Article VIII, Section 5 (5) of the Constitution, this court "shall not diminish, increase, or modify substantive rights" in promulgating rules of procedure in courts. The 10-day period to appeal under the Labor Code being a substantive right, this period cannot be diminished, increased, or modified through the Rules of Court.
>
> In *Shioji v. Harvey*, this Court held that the "rules of court, promulgated by authority of law, have the force and effect of law, if not in conflict with positive law." Rules of Court are "subordinate to the statute." In case of conflict between the law and the Rules of Court,"the statute will prevail."
>
> The rule, therefore, is that a Voluntary Arbitrator's award or decision shall be appealed before the Court of Appeals within 10 days from receipt of the award or decision. Should the aggrieved party choose to file a motion for reconsideration with the Voluntary Arbitrator, the motion must be filed within the same 10-day period since a motion for reconsideration is filed "within the period for taking an appeal."[50]

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47 G.R. No. 168612, December 10, 2014, 744 SCRA 361.
48 G.R. No. 161006, October 14, 2015, 772 SCRA 276.
49 G.R. No. 225142, September 13, 2017.
50 *Philippine Electric Corporation (PHILEC) v. Court of Appeals*, G.R. No. 168612, December 10, 2014, 744 SCRA 361, 387-389.

The ratiocination in *Philippine Electric Corporation (PHILEC) v. Court of Appeals* backstopped the ruling in *NYK-FIL Ship Management, Inc. v. Dabu.*

Given the variable rulings of the Court, what should now be the period to be followed in appealing the decisions or awards of the Voluntary Arbitrators or Panel of Arbitrators?

In the 2010 ruling in *Teng v. Pagahac*,[51] the Court clarified that the 10-day period set in Article 276 of the *Labor Code* gave the aggrieved parties the opportunity to file their motion for reconsideration, which was more in keeping with the principle of exhaustion of administrative remedies, holding thusly:

> In the exercise of its power to promulgate implementing rules and regulations, an implementing agency, such as the Department of Labor, is restricted from going beyond the terms of the law it seeks to implement; it should neither modify nor improve the law. The agency formulating the rules and guidelines cannot exceed the statutory authority granted to it by the legislature.
>
> **By allowing a 10-day period, the obvious intent of Congress in amending Article 263 to Article 262-A is to provide an opportunity for the party adversely affected by the VA's decision to seek recourse via a motion for reconsideration or a petition for review under Rule 43 of the Rules of Court filed with the CA. Indeed, a motion for reconsideration is the more appropriate remedy in line with the doctrine of exhaustion of administrative remedies. For this reason, an appeal from administrative agencies to the CA *via* Rule 43 of the Rules of Court requires exhaustion of available remedies as a condition precedent to a petition under that Rule.**
>
> The requirement that administrative remedies be exhausted is based on the doctrine that in providing for a remedy before an administrative agency, every opportunity must be given to the agency to resolve the matter and to exhaust all opportunities for a resolution under the given remedy before bringing an action in, or resorting to, the courts of justice. Where Congress has not clearly required exhaustion, sound judicial discretion governs, guided by congressional intent.
>
> **By disallowing reconsideration of the VA's decision, Section 7, Rule XIX of DO 40-03 and Section 7 of the 2005 Procedural Guidelines went directly against the legislative intent behind Article 262-A of the Labor Code. These rules deny the VA the chance to correct himself and compel the courts of justice to prematurely intervene with the action of an administrative agency entrusted with the adjudication of controversies coming under its special knowledge, training and specific field of expertise.** In this era of clogged court

[51] G.R. No. 169704, November 17, 2010, 635 SCRA 173.

> dockets, the need for specialized administrative agencies with the special knowledge, experience and capability to hear and determine promptly disputes on technical matters or intricate questions of facts, subject to judicial review, is indispensable. In *Industrial Enterprises, Inc. v. Court of Appeals*, we ruled that relief must first be obtained in an administrative proceeding before a remedy will be supplied by the courts even though the matter is within the proper jurisdiction of a court.[52] (Emphasis supplied)

Hence, the 10-day period stated in Article 276 should be understood as the period within which the party adversely affected by the ruling of the Voluntary Arbitrators or Panel of Arbitrators may file a motion for reconsideration. Only after the resolution of the motion for reconsideration may the aggrieved party appeal to the CA by filing the petition for review under Rule 43 of the *Rules of Court* within 15 days from notice pursuant to Section 4 of Rule 43.

The Court notes that despite the clarification made in *Teng v. Pagahac*, the Department of Labor and Employment (DOLE) and the National Conciliation and Mediation Board (NCMB) have not revised or amended the *Revised Procedural Guidelines in the Conduct of Voluntary Arbitration Proceedings* insofar as its Section 7 of Rule VII[53] is concerned. This inaction has obviously sown confusion, particularly in regard to the filing of the motion for reconsideration as a condition precedent to the filing of the petition for review in the CA. Consequently, we need to direct the DOLE and the NCMB to cause the revision or amendment of Section 7 of Rule VII of the *Revised Procedural Guidelines in the Conduct of Voluntary Arbitration Proceedings* in order to allow the filing of motions for reconsideration in line with Article 276 of the *Labor Code*.

II
Certiorari does not lie in assailing the CA's denial of a motion to dismiss

Generally, the denial of a motion to dismiss cannot be assailed by petition for *certiorari*. As we indicated in *Biñan Rural Bank v. Carlos*:[54]

> The denial of a motion to dismiss generally cannot be questioned in a special civil action for *certiorari*, as this remedy is designed to correct only errors of jurisdiction and not errors of judgment. Neither can a denial of a motion to dismiss be the subject of an appeal which is available only after a judgment or order on the merits has been rendered. Only when the denial of the motion to dismiss is tainted with grave abuse of discretion can the grant of the extraordinary remedy of *certiorari* be justified.

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[52] *Teng v. Pagahac*, G.R. No. 169704, November 17, 2010, 635 SCRA 173, 184-185.

[53] Section 7. Motions for Reconsideration. The decision of the voluntary arbitrator is not subject of a motion for reconsideration.

[54] G.R. No. 193919, June 15, 2015, 757 SCRA 459, 463.

Although it admits being aware of this rule, the petitioner insists on the propriety of its petition for *certiorari* based on its belief that the CA had gravely abused its discretion in assuming jurisdiction over the respondents' petition. It argues that the decision rendered by Voluntary Arbitrator Bacungan had already become final pursuant to Article 276 of the *Labor Code*, and, accordingly, the CA could no longer exercise its appellate jurisdiction.

The petitioner is mistaken.

Grave abuse of discretion means either that the judicial or quasi-judicial power was exercised in an arbitrary or despotic manner by reason of passion or personal hostility, or that the respondent judge, tribunal or board evaded a positive duty, or virtually refused to perform the duty enjoined or to act in contemplation of law, such as when such judge, tribunal or board exercising judicial or quasi-judicial powers acted in a capricious or whimsical manner as to be equivalent to lack of jurisdiction.[55]

Here, the CA did not act arbitrarily in denying the petitioner's *Motion to Dismiss*. It correctly noted that *Coca-Cola Bottlers Philippines, Inc. Sales Force Union-PTGWO-Balais v. Coca-Cola Bottlers Philippines, Inc.* did not make a definitive ruling on the correct reglementary period for the filing of the petition for review. Given the varying applications of the periods defined in Article 276 and Section 4 of Rule 43, the CA could not be objectively held to be guilty of grave abuse of discretion in applying the equitable rule on construction in favor of labor. To be underscored is that the underlying aim for the requirement of strict adherence to procedural rules, particularly on appeals, should always be the prevention of needless delays that could enable the unscrupulous employers to wear out the efforts and meager resources of their workers to the point that the latter would be constrained to settle for less than what were due to them.[56]

ACCORDINGLY, the Court **DISMISSES** the unmeritorious petition for *certiorari*; **AFFIRMS** the decision promulgated on December 15, 2008 by the Court of Appeals; and **DIRECTS** the Department of Labor and Employment and the National Conciliation and Mediation Board to revise or amend the *Revised Procedural Guidelines in the Conduct of Voluntary Arbitration Proceedings* to amend the *Revised Procedural Guidelines in the Conduct of Voluntary Arbitration Proceedings* to reflect the foregoing ruling herein.

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[55] *Biñan Rural Bank v. Carlos,* G.R. No. 193919, June 15, 2015, 757 SCRA 459, 463; *Bordomeo v. Court of Appeals*, G.R. No. 161596, February 20, 2013, 691 SCRA 269, 289.

[56] *Opinaldo v. Ravina*, G.R. No. 196573, October 16, 2013, 707 SCRA 545, 557.

No pronouncement on costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

TERESITA J. LEONARDO-DE CASTRO
Chief Justice

ANTONIO T. CARPIO
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

NOEL GIMENEZ TIJAM
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

JOSE C. REYES, JR.
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.

Teresita Leonardo de Castro

TERESITA J. LEONARDO-DE CASTRO
Chief Justice