



Republic of the Philippines  
**Supreme Court**  
 Manila

SUPREME COURT OF THE PHILIPPINES  
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**SECOND DIVISION**

**FLUOR DANIEL, INC. -  
 PHILIPPINES,**

Petitioner,

**G.R. No. 212895**

Present:

- versus -

PERLAS-BERNABE, J.,  
*Chairperson,*  
 REYES, A., JR.,  
 HERNANDO,  
 INTING, and  
 ZALAMEDA, JJ.

**FIL-ESTATE PROPERTIES,  
 INC.,**

Respondent.

Promulgated:  
**27 NOV 2019**

X-----X

**DECISION**

**REYES, A., JR., J.:**

The present petition for review<sup>1</sup> under Rule 45 of the Revised Rules of Court dated August 1, 2014 assails the Resolutions dated February 24, 2014<sup>2</sup> and June 3, 2014<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 133922, which denied Fluor Daniel, Inc. - Philippines' (FDIP) Motion for Additional Time to File Petition for *Certiorari*.

The facts are as follows:

On April 26, 2000, the Construction Industry Arbitration Commission (CIAC) issued a Notice of Award<sup>4</sup> in CIAC Case No. 42-98, which was captioned "*Fluor Daniel, Inc. - Phils., Claimant, versus Fil-Estate Properties, Inc. (FEPI), Respondent.*" Attached to the Notice of Award was a Decision<sup>5</sup> ordering FEPI to pay FDIP the amount of ₱13,579,599.57, plus interest.

<sup>1</sup> Rollo, pp. 12-30.

<sup>2</sup> Penned by Associate Justice Fernanda Lampas Peralta, with Associate Justices Myra V. Garcia-Fernandez, and Nina G. Antonio-Valenzuela concurring; id. at 38-41.

<sup>3</sup> Id. at 43-44.

<sup>4</sup> Id. at 45.

<sup>5</sup> Id. at 46-91.

*Reyes*

The matter was then raised before the appellate courts. The CIAC decision was affirmed by the CA on December 21, 2001, and by this Court on June 18, 2008. Said judgment attained finality on April 17, 2009 upon the issuance of an Entry of Judgment<sup>6</sup> by this Court. Perforce, the CIAC issued a writ of execution. FEPI offered real properties as satisfaction for the judgment debt, but FDIP refused, on the ground that it is a foreign-owned corporation which cannot own real property in this jurisdiction. After further investigation, FDIP discovered that FEPI owned shares of stock in another corporation, Fil-Estate Industrial Park, Inc. (FEIP). The existence of these shares was relayed to the sheriff, and they were garnished in July 2012. On December 7, 2012, the shares were auctioned and awarded to FDIP as the highest bidder.

However, FDIP subsequently discovered that FEIP had ceased operations, thereby rendering its shares worthless. FDIP, thus, decided not to pay the sheriff's commission, and as such, the corresponding certificate of sale was not executed. Deeming the award unsatisfied, FDIP filed with the CIAC a Motion for Issuance of Alias Writ of Execution dated July 24, 2013, which the CIAC denied in an Order dated December 6, 2013. On December 27, 2013, FDIP filed a motion for reconsideration. On January 27, 2014, the CIAC issued a Declaration reiterating the denial of FDIP's motion for an alias writ of execution.<sup>7</sup> Nevertheless, on February 10, 2014, FDIP filed its Motion for Additional Time to File Petition for *Certiorari* with the CA, requesting for an additional period of 15 days, or until February 25, 2014, within which to file a petition for *certiorari*. FDIP filed its petition for *certiorari* dated February 19, 2014.

On February 24, 2014, the CA issued the first assailed Resolution,<sup>8</sup> ruling that there was no showing of exceptional and meritorious circumstances that would enable the appellate court to exercise its discretion to grant an extension of time to file a petition for *certiorari*. The appellate court further held that if FDIP's case was really highly meritorious, it should have promptly utilized the 60-day reglementary period to conduct its investigation into FEPI's assets. The CA also noted that there was no showing that FDIP filed a motion for reconsideration of the CIAC's Order dated December 6, 2013 and there is no other plain, speedy, and adequate remedy in the ordinary course of law. As a result, the CA, in a Resolution dated February 28, 2014, simply considered FDIP's petition for *certiorari* as noted.

FDIP filed a motion for reconsideration on March 20, 2014.

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<sup>6</sup> Id. at 92.

<sup>7</sup> Comment/Opposition of FEPI, id. at 170-171.

<sup>8</sup> Id. at 38-41.

*Meyer*

On June 3, 2014, the CA issued the second assailed Resolution<sup>9</sup> denying FDIP's motion for reconsideration. The appellate court found no merit in the motion and reiterated the findings it made in the first assailed resolution.

FDIP now seeks redress before this Court, arguing that the appellate court erred in rejecting its Motion for Additional Time to File Petition for *Certiorari*. FDIP asserts that there are exceptional circumstances warranting the grant of additional time to file a petition for *certiorari*. *First*, FDIP had no plain, speedy and adequate remedy from the CIAC's Order dated December 6, 2013, since a motion for reconsideration was prohibited under the CIAC Rules. *Second*, FDIP will suffer manifest injustice as it will no longer have any recourse from the failed execution of the arbitral award that it had obtained more than ten years ago. *Third*, FDIP needed additional time to conduct its investigation into FEPI's properties since the latter was forcing FDIP to receive payment in a form that it cannot hold. *Fourth*, FDIP needed more time to find other suitable assets of FEPI, so that FDIP may determine if it would be worth the trouble of getting back to court. It was only after the conduct of such investigation that FDIP was able to determine that the only way to legally recover the award due to it was through another litigation of the matter before the courts; but by that time, FDIP was left with no choice but to ask for additional time to seek the proper remedy before the proper court.

In its Comment/Opposition,<sup>10</sup> FEPI disputes FDIP's claim that its case was exceptional and meritorious enough to warrant the exercise of the CA's discretion to grant an extension of time to file a petition for *certiorari*. FEPI asserts that, as the CA held, FDIP should have promptly utilized the 60-day reglementary period in conducting its investigation into the merits of continuing the litigation of the matter. FEPI, likewise, asserts that FDIP showed grave disregard for procedural rules by filing both a motion for reconsideration before the CIAC and a petition for *certiorari* before the CA. FDIP had no one to blame but itself when it bought the allegedly worthless shares because it failed to observe due diligence in ascertaining the true value of the FEIP shares, since the principle of *caveat emptor* applies with equal force to auction sales. Lastly, FEPI argues that the resort to an alias writ of execution was correctly rejected by the CIAC, as FDIP cannot prevent the consummation of the auction sale by refusing to pay the sheriff's fees and costs.

The essential issue in this petition is whether or not the CA erred in denying FDIP's Motion for Additional Time to File Petition for *Certiorari*.

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<sup>9</sup> Id. at 43-44.

<sup>10</sup> Id. at 159-176.

*Mejia*

### Ruling of the Court

The petition is meritorious.

Under the Rules of Court currently in force, a petition for *certiorari* must be filed not later than 60 days from notice of the judgment, order or resolution complained of. If a motion for reconsideration or new trial was timely filed, the petition must be filed not later than 60 days from notice of the denial of the motion.<sup>11</sup> Under the amendment introduced by A.M. No. 00-2-03-SC in 2000, motions for extension of time to file petitions for *certiorari* were allowed for compelling reasons only. In *Yutingco v. Court of Appeals*,<sup>12</sup> the Court held that “the 60-day-period ought to be considered inextendible[.]” because this period “is deemed reasonable and sufficient time for a party to mull over and to prepare a petition asserting grave abuse of discretion by a lower court. The period was specifically set to avoid any unreasonable delay that would violate the constitutional rights of parties to a speedy disposition of their case.”<sup>13</sup> Nevertheless, it was held in that same case that “it is a familiar and fundamental rule that a motion for extension of time to file a pleading is best left to the sound discretion of the court and an extension will not be allowed except for good and sufficient reason and only if the motion is filed before the expiration of the time sought to be extended.”<sup>14</sup>

This has been the prevailing rule ever since, even after the amendments introduced by A.M. No. 07-7-12-SC in 2007. The strict proscription against motions for extension in *Laguna Metts Corp. v. Court of Appeals, et al.*<sup>15</sup> was subsequently qualified in *Domdom v. Third and Fifth Divisions of the Sandiganbayan, et al.*,<sup>16</sup> *Labao v. Flores, et al.*,<sup>17</sup> and *Mid-Islands Power Generation Corp. v. Court of Appeals, et al.*,<sup>18</sup> all of which held that motions for extension may be granted, subject to the discretion of the court and for compelling and meritorious reasons. These rulings were harmonized in *Rep. of the Phils. v. St. Vincent de Paul Colleges, Inc.*,<sup>19</sup> viz.:

What seems to be a “conflict” is actually more apparent than real. A reading of the foregoing rulings leads to the simple conclusion that *Laguna Metts Corporation* involves a strict application of the general rule that petitions for *certiorari* must be filed strictly within sixty (60) days from notice of judgment or from the order denying a motion for reconsideration.

<sup>11</sup> RULES OF COURT, Rule 65, Section 4.

<sup>12</sup> 435 Phil. 83 (2002).

<sup>13</sup> Id. at 91.

<sup>14</sup> Id.

<sup>15</sup> 611 Phil. 530 (2009).

<sup>16</sup> 627 Phil. 341 (2010).

<sup>17</sup> 649 Phil. 213 (2010).

<sup>18</sup> 683 Phil. 325 (2012).

<sup>19</sup> 693 Phil. 145 (2012).



*Domdom*, on the other hand, relaxed the rule and allowed an extension of the sixty (60)-day period subject to the Court's sound discretion.

x x x x

Note that *Labao* explicitly recognized the general rule that the sixty (60)-day period within which to file a petition for *certiorari* under Rule 65 is non-extendible, only that there are certain exceptional circumstances, which may call for its non-observance. x x x.

In *Laguna Metts Corporation v. Court of Appeals*, we explained that the reason behind the amendments under A.M. No. 07-7-12-SC was to prevent the use or abuse of the remedy of petition for *certiorari* in order to delay a case or even defeat the ends of justice. We thus deleted the clause that allowed an extension of the period to file a Rule 65 petition for compelling reasons. Instead, we deemed the 60-day period to file as reasonable and sufficient time for a party to mull over the case and to prepare a petition that asserts grave abuse of discretion by a lower court. The period was specifically set and limited in order to avoid any unreasonable delay in the dispensation of justice, a delay that could violate the constitutional right of the parties to a speedy disposition of their case. x x x.

Nevertheless, in the more recent case of *Domdom v. Sandiganbayan*, we ruled that the deletion of the clause in Section 4, Rule 65 by A.M. No. 07-7-12-SC did not, *ipso facto*, make the filing of a motion for extension to file a Rule 65 petition absolutely prohibited. We held in *Domdom* that if absolute proscription were intended, the deleted portion could have just simply been reworded to specifically prohibit an extension of time to file such petition. Thus, because of the lack of an express prohibition, we held that motions for extension may be allowed, subject to this Court's sound discretion, and only under exceptional and meritorious cases.

x x x x

To reiterate, under Section 4, Rule 65 of the Rules of Court and as applied in *Laguna Metts Corporation*, the general rule is that a petition for *certiorari* must be filed within sixty (60) days from notice of the judgment, order, or resolution sought to be assailed. Under exceptional circumstances, however, and subject to the sound discretion of the Court, said period may be extended pursuant to *Domdom*, *Labao* and *Mid-Islands Power* cases.<sup>20</sup> (Citations omitted)

Following this rule, the Court has relaxed the 60-day requirement in the following instances: when the assailed decision was contradictory to the evidence presented;<sup>21</sup> in a motion for consolidation of several criminal cases, when the relief sought would be more in keeping with law and equity, and to facilitate a speedy trial, considering that there was substantial identity in the informations filed and the witnesses to be presented;<sup>22</sup> where paramount public

<sup>20</sup> Id. at 154-157.

<sup>21</sup> *Bacarra v. NLRC*, 510 Phil. 353, 359 (2005).

<sup>22</sup> *Domdom v. Third and Fifth Divisions of the Sandiganbayan, et al.*, supra note 16, at 348-349.

Mejia

interest necessitated that the dispute involving the operation of a major power plant be resolved on the merits;<sup>23</sup> where the case involved the expropriation of private property to build a major highway and no undue prejudice or delay will be caused to either party in admitting the petition;<sup>24</sup> and when the appellate court had already granted an extension but later reversed itself.<sup>25</sup> Furthermore, in *Castells, et al. v. Saudi Arabian Airlines*,<sup>26</sup> the Court enumerated the following instances when the period to file a petition for *certiorari* may be extended:

(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.<sup>27</sup> (Citation omitted and underscoring ours)

Given the law, the Court recapitulates the material facts. The assailed CIAC order was issued on December 6, 2013. FDIP's motion for reconsideration was filed on December 27, 2013. The CIAC reiterated the denial in its Declaration dated January 27, 2014. FDIP filed its Motion for Additional Time to File Petition for *Certiorari* with the CA on February 10, 2014; and its petition for *certiorari* was dated February 19, 2014.

The pleadings, evidence, and arguments on record make a meritorious case for granting FDIP's motion for additional time to file its petition for *certiorari*.

At this point, it must be emphasized that FDIP's petition for *certiorari* is directed at the Order dated December 6, 2013 of the CIAC, which denied FDIP's motion for alias writ of execution. FDIP sought an alias writ of execution after it discovered that the FEIP shares it bought on auction were worthless. FEPI faults FDIP for filing both a motion for reconsideration and a petition for *certiorari* against the CIAC Order dated December 6, 2013. The parties devote most of their pleadings to these two core issues. Regarding the

<sup>23</sup> *Mid-Islands Power Generation Corp. v. Court of Appeals, et al.*, supra note 18, at 337-338.

<sup>24</sup> *Rep. of the Phils. v. St. Vincent de Paul Colleges, Inc.*, supra note 19, at 157.

<sup>25</sup> *Castells, et al. v. Saudi Arabian Airlines*, 716 Phil. 667 (2013).

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 673-674.

*Meza*

merits of the issuance of the alias writ of execution, FDIP asserts that it is entitled to such relief because the auction sale where it bought the FEIP shares should be considered void; while FEPI argues that FDIP is bound by the principle of *caveat emptor* and should have therefore conducted due diligence before buying the FEIP shares. Regarding the alleged procedural fault committed by FDIP, it argues that the filing of its motion for reconsideration of the CIAC Order dated December 6, 2013 was unintentional. According to FDIP, the motion was filed by its former counsel who was under the impression that it was still engaged by FDIP when in fact, FDIP had already engaged another law firm to prosecute the case. FEIP counters that such explanation is unacceptable, since FDIP's former counsel did not file a withdrawal of appearance; while its current counsel did not enter its appearance in substitution of the former counsel. Furthermore, despite its position that a motion for reconsideration is a prohibited pleading under the CIAC rules, FDIP did not withdraw its motion for reconsideration of the CIAC Order dated December 6, 2013 even after it filed a petition for *certiorari* before the CA.

The foregoing questions involve mixed issues of fact and law which are best litigated by the CA. The fact remains that up to now, FDIP has not collected a single centavo of the 13 million-peso award that was rendered in its favor almost 20 years ago. On the other hand, FEPI has been successfully evading its legal obligation for almost 20 years by the simple expedient of a denial of a motion for additional time to file a petition for *certiorari*. There is no showing that FEPI will be prejudiced or unjustly deprived of any benefit if FDIP's motion is granted. To settle the matter once and for all, substantial justice dictates that the issues raised by the parties before this Court be litigated in the proper forum – the CA. This pronouncement in *Bacarra v. NLRC*<sup>28</sup> is apropos:

The emerging trend in the rulings of this Court is to afford every party-litigant the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities. This is in line with the time-honored principle that cases should be decided only after giving all the parties the chance to argue their causes and defenses. For, it is far better to dispose of a case on the merits which is a primordial end rather than on a technicality, if it be the case that may result in injustice.<sup>29</sup> (Underscoring ours)

**IN VIEW OF THE FOREGOING**, the instant petition is **GRANTED**. The Resolutions dated February 24, 2014 and June 3, 2014 of the Court of Appeals in CA-G.R. SP No. 133922 are hereby **REVERSED** and **SET ASIDE**. The Court of Appeals is ordered to **REINSTATE** and **ADMIT** the petition for *certiorari* filed by petitioner Fluor Daniel, Inc. - Philippines in CA-G.R. SP No. 133922 and to proceed with the case with dispatch.

<sup>28</sup> 510 Phil. 353 (2005).

<sup>29</sup> Id. at 361.

*Mejia*

**SO ORDERED.**

*Reyes*  
**ANDRES B. REYES, JR.**  
Associate Justice

**WE CONCUR:**

*M. Bernabe*  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice  
Chairperson

*R. Hernandez*  
**RAMON PAUL L. HERNANDO**  
Associate Justice

*H. Inting*  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

*R. Zalameda*  
**RODIL V. ZALAMEDA**  
Associate Justice

**ATTESTATION**

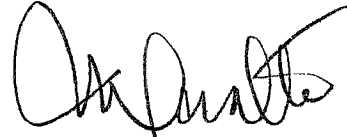
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

*M. Bernabe*  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice  
Chairperson, Second Division



**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.



**DIOSDADO M. PERALTA**  
Chief Justice