



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

RUBEN O. OLIVEROS and G.R. No. 240084  
HOMER HENRY S. SANCHEZ,

*Petitioners,*

- versus -

Present:

PERLAS-BERNABE, S.A.J.,  
CARANDANG,\*  
INTING,  
DELOS SANTOS, and  
BALTAZAR-PADILLA,\*\* JJ.

THE HON. COURT OF APPEALS,  
FIRST LAGUNA ELECTRIC  
COOPERATIVE (FLECO), RAMIL  
F. DE JESUS, ARIES M. LLANES,  
GABRIEL C. ADEFUIN,  
RICHARD B. MONDEZ and  
HERMINIA A. DANDO,

*Respondents.*

Promulgated:

16 SEP 2020

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RESOLUTION

INTING, J.:

This Petition<sup>1</sup> for *Certiorari* under Rule 65 of the Rules of Court seeks to set aside and nullify the Resolution<sup>2</sup> dated October 27, 2017 of the Court of Appeals (CA) dismissing the Petition<sup>3</sup> for *Certiorari* under Rule 65 of the Rules of Court in CA-G.R. SP No. 147168 on the ground of procedural defects, violation of Rule 65 of the Rules of Court, and failure of Ruben O. Oliveros (Oliveros) and Homer Henry S. Sanchez (Sanchez) (collectively, petitioners) to comply with the CA Resolutions of September 22, 2016<sup>4</sup> and

\* Designated additional member per Raffle dated November 27, 2019.

\*\* On leave.

<sup>1</sup> *Rollo*, pp. 3-17.

<sup>2</sup> *Id.* at 20-21-A; penned by Associate Justice Myra V. Garcia-Fernandez with Associate Justices Romeo F. Barza and Ramon Paul L. Hernando (now a member of the Court), concurring.

<sup>3</sup> *Id.* at 108-130.

<sup>4</sup> *Id.* at 133.

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February 8, 2017.<sup>5</sup> Also challenged is the CA Resolution<sup>6</sup> dated April 13, 2018 denying petitioners' Motion for Reconsideration.<sup>7</sup>

### *The Antecedents*

Prior to their termination, petitioners held the positions of distribution system analyst and system planning and design engineer, respectively, at First Laguna Electric Cooperative (FLECO), a cooperative franchised to retail electricity to certain towns in Laguna.<sup>8</sup> While they were still under its employ, FLECO received the following text message from an unknown source:

“[R]ubeno oliveros and henry homer sanchez owner of sergio paulo contractor services, that is not allowed in any electric cooperative.”<sup>9</sup>

Acting on the text message, FLECO's Officer-in-Charge, Ramil F. De Jesus, issued a Memorandum<sup>10</sup> dated April 30, 2015 asking petitioners of any conflict of interest between their personal business and that of FLECO. The memorandum further indicated that FLECO had verified that petitioners had business interests in Sergio Paulo Contractor Services (Sergio Paulo), which was an accredited contractor of FLECO and engaged in the electrical work services within the latter's area coverage. Attached in the memorandum were documents supporting the charge against petitioners such as the: (1) Organizational Chart of Sergio Paulo; and (2) its Accomplishments and Projects.

In their Second Explanation Letter,<sup>11</sup> petitioners averred that there was nothing in the Code of Ethics of FLECO which allowed the management to act on any anonymous text. Conversely, they asserted that a sworn written complaint was necessary and the right to cross-examine the complainant must be accorded to them. They also requested to be informed of the extent of

<sup>5</sup> *Id.* at 137.

<sup>6</sup> *Id.* at 23-24.

<sup>7</sup> *Id.* at 153-162.

<sup>8</sup> As culled from the Decision dated December 2, 2015 of the National Labor Relations Commission (NLRC) in NLRC Case No. RAB-IV 08-01002-15-L, *id.* at 40-41.

<sup>9</sup> *Id.* at 43.

<sup>10</sup> *Id.* at 25-26.

<sup>11</sup> *Id.* at 27-28.

damage they caused to FLECO for them to properly explain their position on the matter.

On May 27, 2015, petitioners received another Memorandum<sup>12</sup> with attached sworn statements of its managers<sup>13</sup> attesting that petitioners indeed had business interest in Sergio Paulo. On even date, FLECO issued another memorandum furnishing petitioners with another documentary evidence against them—a Housewiring Report which stated that petitioners supposedly inspected the work done by Sergio Paulo.<sup>14</sup>

In their Explanation,<sup>15</sup> petitioners stated that the sworn statements were hearsay because those who executed them had no personal knowledge of the matters stated therein. They maintained that they did not compete with the business of FLECO and they did not, directly or through Sergio Paulo, enter into any contract with FLECO. They added that they did not own Sergio Paulo and never used company time to engage in personal business.

On June 26, 2015, a hearing was held on the charges against petitioners. Later and upon the eventual recommendation of the Grievance Committee,<sup>16</sup> FLECO terminated them effective July 31, 2015.<sup>17</sup> Consequently, petitioners filed a case for illegal dismissal and money claims against FLECO as well as Aries M. Llanes, Chairman of the Grievance Committee, and Gabriel C. Adefuin, Richard B. Mondez and Herminia A. Dando, Members of the Grievance Committee.

#### *Ruling of the Labor Arbiter (LA)*

On December 8, 2015, the LA declared that petitioners were illegally terminated as their employer violated their right to due process and failed to establish the basis for their dismissal. Accordingly, the LA ordered their

<sup>12</sup> *Id.* at 29.

<sup>13</sup> Emelyn C. Icarangal, Manager of First Laguna Electric Cooperative (FLECO) Institutional Services Department; Belinda A. Lugmao, Manager of FLECO's Audit Department, and Jessie R. Zuñiga, Chief of FLECO's Administrative Division; *id.* at 30-31, 32-34.

<sup>14</sup> *Id.* at 95; as culled from the NLRC Decision dated May 31, 2016.

<sup>15</sup> *Id.* at 35-37.

<sup>16</sup> *Id.* at 38-39.

<sup>17</sup> *Id.* at 39.

reinstatement and payment of full backwages, moral damages in the amount of ₱100,000.00, exemplary damages in the amount of ₱50,000.00, and attorney's fees at the rate of 10% of the total award.<sup>18</sup>

*Ruling of the National Labor Relations Commission (NLRC)*

On appeal, the NLRC reversed<sup>19</sup> the LA Decision dismissing the complaint for lack of merit.

The NLRC ruled that FLECO did not violate petitioners' right to due process emphasizing that a notice of their infraction and an opportunity to be heard were given them. It also ratiocinated that FLECO was justified in terminating petitioners considering that they violated its rule against conflict of interest. It added that there was an obvious link between petitioners and Sergio Paulo as petitioners admitted ownership of the vehicles used by Sergio Paulo in its private contracts. The vehicles were included as assets of Sergio Paulo and cited as tools and equipment under its company profile. It also stressed on the standing of petitioners in Sergio Paulo noting that the latter's company profile indicated Sanchez as planning supervisor, while Oliveros as project supervisor; and its organizational chart placed them as second and third, respectively, to its President.

Thereafter, the NLRC denied petitioners' motion for reconsideration prompting them to file a Petition<sup>20</sup> for *Certiorari* under the Rules of Court with the CA.

Meanwhile, in its Resolution<sup>21</sup> dated September 22, 2016, the CA required petitioners to submit material portions of the record pursuant to Section 3, Rule 46, in relation to Rule 65 of the Rules of Court within five days from notice, among other matters.

<sup>18</sup> *Id.* at 40-62; penned by Labor Arbiter Napoleon V. Fernando.

<sup>19</sup> *Id.* at 63-107; penned by Commissioner Mercedes R. Posada-Lacay with Presiding Commissioner Grace E. Maniquiz-Fan and Commissioner Dolores M. Peralta-Belcy, concurring.

<sup>20</sup> *Id.* at 108-130.

<sup>21</sup> *Id.* at 133.

However, instead of submitting a compliance, petitioners filed a Manifestation and Urgent Motion for Extension<sup>22</sup> requesting for an extension of 30 days within which to comply with the CA Resolution of September 22, 2016. On February 8, 2017, the CA issued another Resolution<sup>23</sup> noting petitioners' manifestation and motion and directed their counsel to show cause why no disciplinary action be imposed against him for failure to comply with the Resolution dated September 22, 2016 despite the motion for extension he submitted for petitioners.

Thereafter, petitioners submitted their "Compliance with Motion for Leave to Submit Additional Annexes."<sup>24</sup> Petitioners filed therewith Annexes "G" to "J"<sup>25</sup> of its Petition for *Certiorari* as well as additional annexes (Annex "K" - MN Electro Certification and Annex "L" - Excerpt from FLECO security logbook).<sup>26</sup>

#### *Ruling of the CA*

On October 27, 2017, the CA dismissed the petition for *certiorari*.

The CA ruled that despite their motion for extension and their eventual "Compliance with Motion for Leave to Submit Additional Annexes," petitioners still failed to submit material portions of the record including (1) the Organizational Chart of Sergio Paulo; (2) its list of accomplishments (Company Profile); and (3) the Statement of Account and Material Costing and Housewiring Report dated November 6, 2013. It, thus, decreed that the petition must be dismissed on the ground of formal defects, for violation of the Rules of Court, and for failure of petitioners to comply with its Resolutions of September 22, 2016 and February 8, 2017.

On April 13, 2018, the CA denied petitioners' Motion for Reconsideration.

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<sup>22</sup> *Id.* at 134-136.

<sup>23</sup> *Id.* at 137.

<sup>24</sup> *Id.* at 138-141.

<sup>25</sup> *Id.* at 143-149.

<sup>26</sup> *Id.* at 150-151.

Hence, this petition.

*Issue*

Whether the CA committed grave abuse of discretion in dismissing the petition for *certiorari*.

*Petitioners' Arguments*

Petitioners contended that the CA acted with grave abuse of discretion in dismissing their *certiorari* petition as it did not specifically require them to submit the Organizational Chart of Sergio Paulo, its list of accomplishments, and its Statement of Account and Material Costing. They asserted that the documents did not have any bearing on the arguments they raised before the CA. They argued that there was no sworn complaint against them, but FLECO engaged in a fishing expedition after receiving the above-mentioned text message against petitioners.

*Respondents' Arguments*

On the other hand, respondents countered that the instant Petition for *Certiorari* is a wrong remedy because the proper recourse to assail the dismissal of the Rule 65 petition filed with the CA is through a petition for review on *certiorari* under Rule 45 of the Rules of Court. They added that even if the Court treats the petition as one under Rule 45, it must still be dismissed for having been filed late and by reason of which, the assailed CA Resolutions already attained finality. At the same time, they argued that even assuming that this petition may be available, it must fail since the CA committed no grave abuse of discretion in dismissing the Petition for *Certiorari* filed therewith.

*Our Ruling*

The petition must fail for being a wrong remedy.



Under Section 1, Rule 45 of the Rules of Court, it is explicitly stated that a judgment or a final order or resolution of the CA may be appealed with the Court *via* a verified petition for review on *certiorari*.<sup>27</sup> On the other hand, Section 1, Rule 65 provides that for *certiorari* to prosper, (i) the writ must be issued against a tribunal, board, or any officer exercising judicial or quasi-judicial functions; (ii) the tribunal, board or officer committed grave abuse of discretion; and, (iii) there is no appeal, or any plain, speedy and adequate remedy in the ordinary course of law.<sup>28</sup>

The availability of the right to appeal is a bar to one's resort to a petition under Rule 65 for the apparent reason that a special civil action for *certiorari* may be pursued when there is no appeal that may be resorted to. *Certiorari* is not and cannot be a substitute for a lapsed or lost appeal, which loss was due to a party's fault or negligence or where a person fails, without justifiable ground, to interpose an appeal despite its accessibility. Indeed, where the rules provide for a specific remedy for the vindication of rights, the remedy should be availed of.<sup>29</sup>

Here, the assailed issuances are final resolutions considering that the CA disposed of the petition for *certiorari* leaving the court with nothing more to do. This being so, the appropriate remedy for petitioners to challenge the CA's dismissal of their petition is through an appeal under Rule 45 of the Rules of Court. However, despite this remedy, petitioners opted to file a petition for *certiorari*, which is an improper recourse and therefore, must be dismissed.

<sup>27</sup> Section 1, Rule 45 of the Rules of Court provides:

SECTION 1. *Filing of Petition with Supreme Court.* — A party desiring to appeal by *certiorari* from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. x x x

<sup>28</sup> Section 1, Rule 65 of the Rules of Court

SECTION 1. *Petition for Certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

<sup>29</sup> *Malayang Manggagawa ng Stayfast Phils., Inc. v. NLRC, et al.*, 716 Phil. 500, 512 (2013).

The Court is mindful that there are recognized situations where *certiorari* was granted even if appeal is available, such as “(a) when public welfare and the advancement of public policy dictates; (b) when the broader interest of justice so requires; (c) when the writs issued are null and void; or (d) when the questioned order amounts to an oppressive exercise of judicial authority.”<sup>30</sup> However, none of the exceptions to the rule was established in this case.

It is also noteworthy that even if the Court treats the instant petition as one under Rule 45, it must still be dismissed for late filing.

Time and again, the Court has stressed that the right to appeal is a statutory right and any person who seeks to make use of it must comply with the rules for its perfection. It, thus, follows that an appeal must be made in the manner and within the period set by law to do so. It is noteworthy that in the case, petitioners filed their petition beyond the 15 days reglementary period and as such, they did not observe the rules governing the filing of a petition under Rule 45. As a result, the CA Resolutions already attained finality, which precludes the Court from acquiring jurisdiction to review them.<sup>31</sup>

Moreover, even if assuming, just for the sake of argument, that the present petition for *certiorari* is the proper recourse, it still deserves scant consideration as there is no showing that the CA committed grave abuse of discretion in dismissing the petition filed therewith.

By grave abuse of discretion, we refer to the capricious, whimsical, or arbitrary exercise of jurisdiction of the respondent court which is equivalent to lack of jurisdiction. Further, to amount to grave abuse of discretion, the abuse must be so patent and gross tantamount to an evasion of a positive duty or to a virtual refusal to carry out an

<sup>30</sup> *AMA Computer College-Santiago City, Inc. v. Nucino*, 568 Phil. 465, 470 (2008).

<sup>31</sup> See *Albor v. Court of Appeals, et al.*, 823 Phil. 901, 912 (2018), citing *Prieto v. CA*, 688 Phil. 21, 29 (2012).



obligation that the law requires, as where power is exercised arbitrarily by reason of one's hostility and passion.<sup>32</sup>

In the case at bench, the CA's dismissal of the petition for *certiorari* is without abuse of discretion. It has justifiable ground in so doing considering that petitioners failed to abide by the requirement to submit material portions of the record pursuant to Section 3, Rule 46, in relation to Rule 65 of the Rules of Court. That the subject documents were material is highlighted by the fact that they served as the relevant documents considered by the NLRC in ruling against petitioners. The documents would be necessary for the CA to in turn rule on the substantive issues of petitioners' *certiorari* proceedings before it. However, despite the extension of time they prayed to comply, petitioners still failed to submit the relevant documents supporting, and thus, the CA properly dismissed their *certiorari* petition.

In sum, *certiorari* will issue only to correct errors of jurisdiction, not errors in the findings or conclusions of the lower court. Since the CA acted within its jurisdiction, then the Court has no reason to overturn its decision to dismiss the petition for *certiorari*. "As long as the court *a quo* acts within its jurisdiction, any alleged errors committed in the exercise of its discretion will amount to nothing more than mere errors of judgment, correctible by an appeal or a petition for review under Rule 45 of the Rules of Court."<sup>33</sup>

As a final note, the Court once again elucidates that rules of procedure must not be viewed as mere technicalities that may be brushed aside to suit a party's convenience. They must be conscientiously observed as they guarantee the enforcement of substantive rights through speedy and orderly administration of justice.<sup>34</sup> Finding no grave abuse of discretion on the part of the CA, there is no basis for the issuance of a writ of *certiorari*.


**WHEREFORE**, the Petition for *Certiorari* is **DISMISSED**.

<sup>32</sup> *Intec Cebu, Inc., et al. v. Court of Appeals, et al.*, 788 Phil. 31, 42 (2016), citing *Tan v. Spouses Antazo*, 659 Phil. 400, 404 (2011).

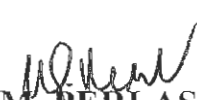
<sup>33</sup> *Albor v. Court of Appeals, et al.*, *supra* note 31 at 910. Citations omitted.

<sup>34</sup> *AMA Computer College-Santiago City, Inc. v. Nacino*, *supra* note 33 at 471.

**SO ORDERED.**

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

WE CONCUR:

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


  
**ROSMARIE D. CARANDANG**  
*Associate Justice*

  
**EDGARDO L. DELOS SANTOS**  
*Associate Justice*

(On leave)  
**PRISCILLA J. BALTAZAR-PADILLA**  
*Associate Justice*

**ATTESTATION**

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

  
**ESTELA M. PERLAS-BERNABE**  
*Senior 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 Resolution 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*

