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FIRST DIVISION**[G.R. No. 187418, September 28, 2015]****RAPID MANPOWER CONSULTANTS, INC., PETITIONER, VS.
EDUARDO P. DE GUZMAN, RESPONDENT.****R E S O L U T I O N****PEREZ, J.:**

This Petition for Review on *Certiorari*^[1] seeks to annul the Resolutions dated 8 December 2008^[2] and 20 March 2009^[3] of the Court of Appeals, Former Fifth Division in CA-G.R. SP No. 106386 dismissing the case due to the failure of petitioner Rapid Manpower Consultants, Inc. (Rapid Manpower) to file with the National Labor Relations Commission (NLRC) a motion for reconsideration before resorting to a petition for *certiorari* before the Court of Appeals.

Respondent Eduardo P. de Guzman (De Guzman) was employed as an air conditioner and refrigerator technician by Omar Ahmed Bin Bichr in Saudi Arabia, through its agent, petitioner Rapid Manpower. The parties entered into a 2-year employment contract wherein De Guzman shall be paid a monthly salary of SR1,500.00. He was deployed from 18 May 2000-18 May 2002.^[4]

On 18 September 2002, De Guzman filed a complaint for nonpayment of salaries/wages from October 2001 to June 2002, vacation pay, underpayment of salaries/wages (from SR1,500 to SR1,300), and travel expenses.^[5]

On 16 November 2004, Labor Arbiter Clarito D. Demaala, Jr. rendered a Decision^[6] in favor of De Guzman, the dispositive portion of which provides:

WHEREFORE, premises considered, judgment is hereby rendered ordering respondents to pay complainant jointly and severally the amount of SR8,000.00 or its Philippine peso equivalent, representing complainant's underpayment of salaries plus the amount of SR9,000.00 or its Philippine peso equivalent representing complainant's unpaid wages from October 2001 to May 2002 plus 10% as attorney's fees.

Other monetary claims are dismissed for lack of merit.^[7]

On appeal, the NLRC reversed the Decision of the Labor Arbiter on 18 August 2005.^[8] According to the NLRC, De Guzman failed to substantiate his claim for non-payment and underpayment of wages.^[9]

De Guzman filed a motion for reconsideration^[10] from the NLRC's Decision. By holding that the employer has the burden to prove that he paid the correct wages, the NLRC in its Resolution^[11] dated 24 September 2008 granted the motion for reconsideration filed by De Guzman and reinstated the Decision of the Labor Arbiter.^[12]

Aggrieved, Rapid Manpower filed a petition for *certiorari* with prayer for issuance of Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction before the Court of Appeals.^[13]

On 8 December 2008, the Court of Appeals rendered its Resolution^[14] dismissing the petition on the ground of failure on the part of Rapid Manpower to file a motion for reconsideration of the 24 September 2008 Resolution of the NLRC granting De Guzman's motion for reconsideration.

Rapid Manpower moved for reconsideration but it was denied in a Resolution dated 20 March 2009.^[15]

Hence, Rapid Manpower filed this petition for review raising the following errors committed by the Court of Appeals:

I.

IN DISMISSING ITS PETITION ON THE GROUND OF ITS SUPPOSED FAILURE TO FILE A MOTION FOR RECONSIDERATION BEFORE PUBLIC RESPONDENT NLRC ON ITS RESOLUTION DATED SEPTEMBER 24, 2008

II.

BY DISMISSING ITS PETITION, IN EFFECT UPHOLDING THE ERRONEOUS DECISIONS AND/OR RESOLUTIONS OF PUBLIC RESPONDENTS IN RULING THAT PRIVATE RESPONDENT IS ENTITLED TO HIS CLAIM OF UNPAID AND/OR UNDERPAYMENT OF SALARIES

III.

BY DISMISSING ITS PETITION, IN EFFECT UPHOLDING THE ERRONEOUS DECISIONS AND/OR RESOLUTIONS OF PUBLIC RESPONDENTS IN RULING THAT PRIVATE RESPONDENT IS ENTITLED TO ATTORNEY'S FEES

IV.

BY DISMISSING ITS PETITION, IN EFFECT UPHOLDING THE ERRONEOUS DECISIONS AND/OR RESOLUTIONS OF PUBLIC RESPONDENTS THAT BESILDA I. FELIPE BE HELD JOINTLY AND SEVERALLY LIABLE FOR THE MONETARY CLAIMS OF PRIVATE RESPONDENT^[16]

Rapid Manpower submits that the Court of Appeals had at times given due course to a petition for *certiorari* even if no motion for reconsideration had been filed where

substantial issues were raised and there was substantial compliance with the requirements for filing of the petition.^[17] Rapid Manpower explains that it honestly believed that NLRC would no longer have any reason to deviate from its latest findings considering that the findings are in the motion for reconsideration filed by De Guzman.^[18] Rapid Manpower then argues that there is no factual nor legal basis in awarding the claim for underpayment and/or unpaid salaries because the burden to prove underpayment and non-payment rests on the employee alleging it. Rapid Manpower claims that De Guzman failed to substantiate his claims. It avers that the award of attorney's fees likewise has no factual and legal justification. Finally, Rapid Manpower maintains that Besilda Felipe, being the general manager of Rapid Manpower, cannot be held personally accountable for any liability which may arise from De Guzman's employment overseas.^[19]

The principal issue in this case is whether the petition for *certiorari* before the Court of Appeals should be dismissed for failure to file a motion for reconsideration before the NLRC. As a general rule, a motion for reconsideration is an indispensable condition before an aggrieved party can resort to the special civil action for *certiorari* under Rule 65 of the Rules of Court. The rationale for the rule is that the law intends to afford the NLRC an opportunity to rectify such errors or mistakes it may have committed before resort to courts of justice can be had.^[20] However, jurisprudence allows exceptions to the rule in the following cases:

- 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 petition 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 proceeding was *ex parte* or in which the petitioner had no opportunity to object; and
- i) where the issue raised is one purely of law or public interest is involved.^[21]

The second exception applies in the instant case. The NLRC, in its 24 September 2008 Resolution was given the opportunity to reevaluate its findings and reconsider its ruling when De Guzman himself filed a motion for reconsideration assailing the 18 August 2005 NLRC resolution denying his monetary claims. The issues raised in the *certiorari* proceedings are similar to those passed upon and considered by the NLRC.

Furthermore, the issue raised is not exactly novel. This very same issue was set forth in the case of *Abraham v. NLRC*^[22] which is in all fours with this case. In said case, Abraham filed a complaint for illegal dismissal against respondent Philippine Institute of Technical Education (PITE). The Labor Arbiter dismissed the complaint for lack of merit. The NLRC initially reversed the ruling of the Labor Arbiter. But when respondent moved for reconsideration, the NLRC granted the motion and reinstated the order of dismissal by the Labor Arbiter. Abraham directly filed a petition for *certiorari* before the Court of Appeals. The appellate court dismissed Abraham's petition on the ground that she failed to file a motion for reconsideration of the Resolution of the NLRC reconsidering its previous Resolution. The appellate court held that the filing of a motion for reconsideration is a condition *sine qua non* before a petition for *certiorari* may be given due course. We reversed the appellate court on this point. We ruled that "the NLRC was already given the opportunity to review its ruling and correct itself when the respondent filed its motion for reconsideration of the NLRC's initial ruling in favor of petitioner. In fact, it granted the motion for reconsideration filed by the respondent and reversed its previous ruling and reinstated the decision of the Labor Arbiter dismissing the complaint of the petitioner. It would be an exercise in futility to require the petitioner to file a motion for reconsideration since the very issues raised in the petition for *certiorari*, *i.e.* whether or not the petitioner was constructively dismissed by the respondent and whether or not she was entitled to her money claims, were already duly passed upon and resolved by the NLRC. Thus the NLRC had more than one opportunity to resolve the issues of the case and in fact reversed itself upon a reconsideration. It is highly improbable or unlikely under the circumstances that the Commission would reverse or set aside its resolution granting a reconsideration."^[23]

We apply said ruling in the case under consideration. The NLRC Resolution subject of the petition for *certiorari* was in response to a motion for reconsideration filed by De Guzman. To require Rapid Manpower to file another motion for reconsideration would be futile because the very issues raised in the motion for reconsideration had already been evaluated by the NLRC.

Based on the foregoing, we remand the case to the Court of Appeals to give it the opportunity to pass upon the factual issues raised in this case.

WHEREFORE, the twin Resolutions of the Court of Appeals dated 8 December 2008 and 20 March 2009 in CA-G.R. SP No. 106386 dismissing the petition for *certiorari* filed by Rapid Manpower Consultants, Inc. are hereby **REVERSED** and **SET ASIDE**. The case is remanded to the Court of Appeals for further proceedings.

SO ORDERED.

Sereno, C. J., (Chairperson), Leonardo-De Castro, Bersamin, and Jardeleza,^{*} JJ., concur.

^{*} Acting Member per Special Order No. 2188 dated 16 September 2015.

[1] *Rollo*, pp. 3-20.

[2] *Id.* at 21-22; Penned by Associate Justice Remedios A. Salazar-Fernando with Associate Justices Rosalinda Asuncion-Vicente and Ramon M. Bato, Jr. concurring.

[3] *Id.* at 25-28.

[4] *Id.* at 71.

[5] *Id.*

[6] *Id.* at 53-58.

[7] *Id.* at 57-58.

[8] *Id.* at 70-73.

[9] *Id.* at 72-73.

[10] *Id.* at 74-85.

[11] *Id.* at 86-89.

[12] *Id.* at 88.

[13] *Id.* at 90-108.

[14] *Id.* at 21-22.

[15] *Id.* at 25-28.

[16] *Id.* at 6.

[17] *Id.* at 10.

[18] *Id.*

[19] *Id.* at 11-17.

[20] *Republic v. Pantranco North Express*, G.R. No. 178593, 15 February 2012, 666 SCRA 199, 205-206 citing *Audi v. Mejia*, 555 Phil. 348, 353 (2007); *Sim v. NLRC*, 560 Phil. 762, 768 (2007).

[21] *Id.*

[22] 406 Phil. 310 (2001).

[23] Id. at 317.



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