



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

**VIRGILIO S. SUELO, JR.,**  
Petitioner,

**G.R. No. 252914**

Present:

- versus -

**MST MARINE SERVICES  
(PHILS.), INC., THOME SHIP  
MANAGEMENT PTE. LTD.,  
and ERNANDO A. RODIO,**  
Respondents.

**PERLAS-BERNABE, S.A.J.,**  
Chairperson,  
**GESMUNDO,  
LAZARO-JAVIER,  
LOPEZ, and  
ROSARIO,\* JJ.**

Promulgated:

09 NOV 2020

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**DECISION**

**PERLAS-BERNABE, J.:**

Before the Court is a petition for review on *certiorari*<sup>1</sup> filed by petitioner Virgilio S. Suelo, Jr. (petitioner) assailing the Resolutions<sup>2</sup> dated September 3, 2019 and March 6, 2020 of the Court of Appeals (CA) in CA-G.R. SP No. 161699, which dismissed his petition for review under Rule 43 of the Rules of Court (Rules) due to several procedural infirmities.

\* Designated Additional Member per Special Order No. 2797 dated November 5, 2020.

<sup>1</sup> *Rollo*, pp. 3-39.

<sup>2</sup> *Id.* at 44-45 and 46-48, respectively. Penned by Associate Justice Marlene Gonzales-Sison with Associate Justices Pedro B. Corales and Ronaldo Roberto B. Martin, concurring.

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### The Facts

On May 10, 2016, petitioner was hired by respondent MST Marine Services (Phils.), Inc. (respondent) as Second Engineer for a six (6)-month contract on board the vessel "*Janesia Asphalt V*," with a basic monthly package of \$1,551.00 as salary, \$1,155.00 as overtime pay, and \$466.00 vacation leave pay, among others. On May 28, 2016, he boarded the vessel and commenced his duties as Second Engineer.<sup>3</sup>

On October 29, 2016, he was brought to Singapore General Hospital due to severe headache, slurring of speech, neck pain, and a recent history of loss of consciousness. Upon evaluation, he was diagnosed with uncontrolled hypertension. His X-ray results revealed degenerative change at C5-6 and C6-7 levels. Subsequently, he was given medications, declared unfit for all marine duties, and signed off in Singapore on medical grounds. He arrived in the Philippines on November 4, 2016 and immediately flew to his hometown in Iloilo.<sup>4</sup>

On November 7, 2016, he reported to respondent's branch office in Iloilo. He alleged that respondent did not allow him to report to its Manila office and refused to refer him to a company-designated physician. Instead, respondent allegedly asked him to seek medical treatment subject to reimbursement. However, he averred that when he submitted his request for reimbursement, respondent denied the same.<sup>5</sup> Accordingly, he filed a complaint for permanent and total disability benefits, damages, and attorney's fees before the National Conciliation and Mediation Board (NCMB).

For their part, respondent argued that it was petitioner who refused to undergo treatment with the company-designated physician, thereby forfeiting his right to claim disability benefits and sick wages. Moreover, petitioner was not entitled to sickness allowance, damages, and attorney's fees in the absence of bad faith from respondent's end.<sup>6</sup>

### The VA Ruling

In a Decision<sup>7</sup> dated February 18, 2019, the Panel of Voluntary Arbitrators (VA) denied petitioner's claim, rejecting his allegation that respondent asked him to seek medical treatment subject to reimbursement. The VA found that the medical abstract he submitted, which was dated two (2) years from the time of his disembarkation from the vessel, revealed that

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<sup>3</sup> *CA rollo*, pp. 42-43.

<sup>4</sup> *Id.* at 43.

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

<sup>6</sup> *Id.* at 43-44.

<sup>7</sup> *Id.* at 42-48. Signed by MVA Edgar P. Fernando, MVA Raul T. Aquino, and MVA Rosario C. Cruz.

he sought medical treatment almost a year after such disembarkation, or around August 2017. Moreover, the VA ruled that petitioner cannot claim medical reimbursement since he failed to submit any evidence of his medical expenses. On the other hand, it found that respondent was able to prove through substantial evidence that it was petitioner who actually refused to be referred to a company-designated physician because he believed that his condition was already cured.<sup>8</sup>

Aggrieved, petitioner filed a motion for reconsideration,<sup>9</sup> which was denied in a Resolution<sup>10</sup> dated June 28, 2019. Petitioner, through counsel, received the copy of the order of the denial of the MR on **July 12, 2019**. On **July 22, 2019**, petitioner moved for a twenty (20)-day extension within which to file a petition for review before the CA, or until **August 11, 2019**.<sup>11</sup> On **August 9, 2019**, petitioner filed a petition for review under Rule 43 of the Rules (Rule 43 Petition) before the CA.<sup>12</sup>

### The CA Ruling

In a Resolution<sup>13</sup> dated September 3, 2019, the CA dismissed the Rule 43 Petition outright citing the following procedural infirmities: (a) it was filed two (2) days late, and (b) the affidavit of service was inaccurate, since it stated that the service of the copy of the petition upon the adverse parties was done personally, when in fact it was served through registered mail. With respect to the *first* ground, the CA explained that since petitioner received the VA's June 28, 2019 Decision denying his motion for reconsideration on **July 12, 2019**, he only had until **August 7, 2019**, reckoned from July 22, 2019 (or ten [10] days from July 12, 2019), within which to file the Rule 43 Petition before the CA. However, he belatedly filed the same on August 9, 2019 in violation of Section 4, Rule 43 of the Rules of Court. Anent the *second* ground, the CA ruled that the inaccuracy in the affidavit of service was in violation of Section 13, Rule 13 of the same Rules.<sup>14</sup>

Dissatisfied, petitioner moved for reconsideration.<sup>15</sup> He admitted that he had only fifteen (15) days from July 12, 2019, or until July 27, 2019, within which to file the Rule 43 Petition before the CA. However, believing that he had only ten (10) days to do so, he opted to file a motion for extension of the period to file the Rule 43 Petition, thus asking for an additional twenty (20) days or until August 11, 2019, to file the same. He

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<sup>8</sup> This was evidenced by a handwritten statement executed and signed by petitioner willingly, wherein he waived his "sick wages, medical and hospitalization at the company's expense, and disability benefits." See *id.* at 161-163.

<sup>9</sup> *Id.* at 51-61.

<sup>10</sup> *Id.* at 49-50.

<sup>11</sup> *Rollo*, p. 46.

<sup>12</sup> *CA rollo*, p. 8.

<sup>13</sup> *Rollo*, pp. 44-45.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 216-224.

likewise admitted that he inadvertently stated in his explanation that the copy of the petition was served to the adverse party through personal service.<sup>16</sup>

In a Resolution<sup>17</sup> dated March 6, 2020, the CA denied petitioner's motion for reconsideration, holding that the right to appeal is not a natural right as it is merely a statutory privilege to be exercised only in accordance with the law. Although the law admits exceptions, as the Rules may be relaxed to save litigants from injustice commensurate with his failure to comply with the prescribed rules, the CA found said exception to be wanting in this case. Consequently, the VA's Decision became final and executory, and thus, immutable and unalterable.<sup>18</sup>

Hence, the present petition.

### The Issue Before the Court

The issue for the Court's resolution is whether or not the CA erred in dismissing the Rule 43 Petition on procedural grounds.

### The Court's Ruling

The appeal is meritorious.

In the recent case of *Chin v. Maersk-Filipinas Crewing, Inc.*,<sup>19</sup> (*Chin*) citing *Guagua National Colleges v. CA*,<sup>20</sup> (*Guagua National Colleges*) the Court categorically declared that the correct period to appeal the decision or award of the Voluntary Arbitrators or Panel of Arbitrators to the CA via a Rule 43 petition for review is the fifteen (15)-day period set forth in Section 4<sup>21</sup> thereof reckoned from the notice or receipt of the VA's resolution on the motion for reconsideration, and that the ten (10)-day period provided in

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<sup>16</sup> Id. at 46.

<sup>17</sup> Id. at 46-47.

<sup>18</sup> Id.

<sup>19</sup> See G.R. No. 247338, September 2, 2020.

<sup>20</sup> See G.R. No. 188482, August 28, 2018.

<sup>21</sup> Sec. 4, Rule 43 of the Rules provides:

SEC. 4. *Period of appeal.* — The appeal shall be taken within **fifteen (15) days from notice of the award, judgment, final order or resolution**, or from the date of its last publication, if publication is required by law for its effectivity, or **of the denial of petitioner's motion for new trial or reconsideration** duly filed in accordance with the governing law of the court or agency *a quo*. Only one (1) motion for reconsideration shall be allowed. Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, **the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.** (Emphases supplied)

Article 276 of the Labor Code refers to the period within which an aggrieved party may file said motion for reconsideration, *viz.*:

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.**<sup>22</sup> (Emphasis and underscoring supplied)

Moreover, under Section 4, Rule 43 of the Rules of Court, upon proper motion and the payment of the full amount of the docket fees before the expiration of the reglementary period, **the CA may grant an additional period of fifteen (15) days only within which to file the petition for review**, and no further extension shall be granted except for the most compelling reason and in no case shall it exceed fifteen (15) days.

In this case, records reveal that petitioner received a copy of the VA's Decision denying his motion for reconsideration on **July 12, 2019**. Thus, he had fifteen (15) days therefrom or until **July 27, 2019** within which to file the petition, *or* to move for a 15-day extension of time to file the same. Assuming that an extension is granted, he had until **August 11, 2019**, reckoned from the expiration of the reglementary period on July 27, 2019, within which to file his petition.

Indeed, petitioner filed a motion for extension of time to file his Rule 43 Petition within the allowable period or on **July 22, 2019**. Although the Rules allow only for a 15-day extension or until August 11, 2019, he was able to file his petition on **August 9, 2019**, also clearly within the allowable extended period. Hence, in both instances, petitioner filed his pleadings on time. Moreover, petitioner's error in the affidavit of service stating that he served copies of the Rule 43 Petition to the adverse parties through personal service instead of registered mail appears to have been an honest mistake. In any case, the inaccuracy in the statement of the manner of service appears inconsequential considering that, after all, he was able to serve copies of the petition to the adverse parties.

In sum, the Court finds that the CA erred in dismissing outright the Rule 43 Petition based solely on procedural grounds; therefore, a remand of the case for a resolution on the merits is warranted. Finally, following the Court's recent disposition in *Chin*, the reminder to the Department of Labor and Employment and the NCMB to revise or amend the Revised Procedural Guidelines in the Conduct of Voluntary Arbitration Proceedings to reflect the ruling in the *Guagua National Colleges* case is hereby reiterated.

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<sup>22</sup> See G.R. No. 247338, September 2, 2020.

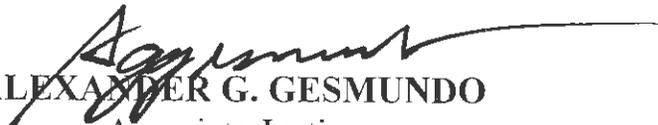


**WHEREFORE**, the petition is **GRANTED**. The Resolutions dated September 3, 2019 and March 6, 2020 of the Court of Appeals in CA-G.R. SP No. 161699 are hereby **REVERSED** and **SET ASIDE**. Accordingly, the present case is **REMANDED** to the Court of Appeals for resolution on the merits.

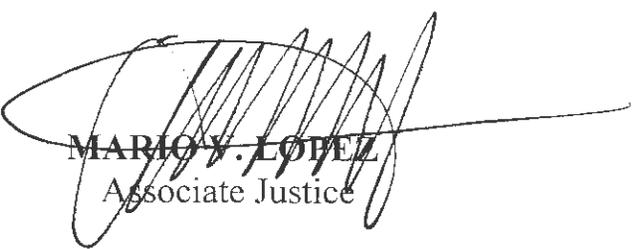
**SO ORDERED.**

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

**WE CONCUR:**

  
**ALEXANDER G. GESMUNDO**  
Associate Justice

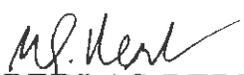
  
**AMY C. LAZARO-JAVIER**  
Associate Justice

  
**MARIO V. LOPEZ**  
Associate Justice

  
**RICARDOR. ROSARIO**  
Associate Justice

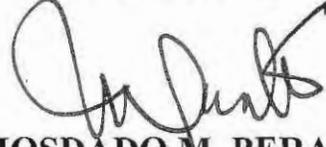
**ATTESTATION**

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.

  
**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