



REPUBLIC OF THE PHILIPPINES
 SUPREME COURT
 Manila
 SECOND DIVISION

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NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 10 December 2014 which reads as follows:

G.R. No. 215291: E. GARDIOLA CONSTRUCTION/ELAINE GARDIOLA v. ISIAS D. GARTALLA, CHARLES G. CALUBIRAN, EDWIN G. GERODIAS, GEORGE F. LEPITIN, DIONEL D. TIANIA, RYAN CORPUZ, AMANCIO ROSALES, EPIFANIO CATALON, LARRY SAYGO

x-----x

This court resolves the petition for review (with prayer for the issuance of a temporary restraining order and/or preliminary injunction)¹ under Rule 45 of the 1997 Rules of Civil Procedure of the resolution of the Court of Appeals Eighth Division.

In a resolution² dated August 8, 2014, the Court of Appeals dismissed petitioners' petition for certiorari³ under Rule 65 of the 1997 Rules of Civil Procedure for being fatally defective due to the following:

- (1) There is no allegation as to when petitioners filed a motion for reconsideration of the assailed Decision [of the National Labor Relations Commission Fourth Division] dated March 28, 2014. *Apropos* is *Hilario S. Ramirez vs. Court of Appeals, et al.*,⁴ wherein the Supreme Court upheld the dismissal by the Court of Appeals of the petition for certiorari for failure to state therein the material dates...⁵
- (2) The addresses of private respondents indicated in the petition are not specific.⁶
- (3) Copies of pertinent pleadings/documents and such material portions of the records like the complaint, answer, position papers, motion for reconsideration, memorandum of appeal, among others, are not attached as annexes to the petition.⁷
- (4) The issues raised in the petition pertain to the findings of public respondent NLRC that petitioner E. Gardiola Construction was properly summoned and represented before the labor arbiter, and private respondents were illegally dismissed from employment. These are factual matters which are beyond the province of the

¹ *Rollo*, p. 3.

² *Id.* at 134.

³ *Id.* at 35.

⁴ 622 Phil. 782 (2009) [Per J. Chico-Nazario, Third Division].

⁵ *Rollo*, p. 135.

⁶ *Id.*

⁷ *Id.*

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Court in a special civil action on certiorari.

Petitioners, under a new counsel, filed a motion for reconsideration⁸ explaining and correcting the cited defects in its petition for certiorari. In a resolution⁹ dated October 29, 2014, the Court of Appeals denied petitioners' motion for reconsideration on the ground that it "fail[ed] to present any new and substantial matter or any compelling and cogent reason which would justify a reversal of the Court's ruling."¹⁰

Petitioners filed its petition for review on certiorari with prayer for the issuance of a temporary restraining order and/or preliminary injunction¹¹ on November 26, 2014.

In *Peñoso v. Dona*,¹² this court held that:

The court has the discretion to dismiss or not to dismiss an appellant's appeal. It is a power conferred on the court, not a duty. The "discretion must be a sound one, to be exercised in accordance with the tenets of justice and fair play, having in mind the circumstances obtaining in each case." *Technicalities, however, must be avoided. The law abhors technicalities that impede the cause of justice. The court's primary duty is to render or dispense justice. "A litigation is not a game of technicalities."* "Lawsuits unlike duels are not to be won by a rapier's thrust. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts." Litigations must be decided on their merits and not on technicality. Every party litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the unacceptable plea of technicalities. *Thus, dismissal of appeals purely on technical grounds is frowned upon where the policy of the court is to encourage hearings of appeals on their merits and the rules of procedure ought not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure, not override substantial justice. It is a far better and more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal to attain the ends of justice rather than dispose of the case on technicality and cause a grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.*¹³
(Citation omitted; emphasis supplied)

The main issue in this case pertains to the alleged illegality of

⁸ *Rollo*, p. 116.

⁹ *Id.* at 285.

¹⁰ *Id.*

¹¹ *Id.* at 3.

¹² 549 Phil. 39-49 (2007) [Per J. Austria-Martinez, Third Division].

¹³ *Id.* at 45-46.

respondents' dismissal. The legal and factual issues could have been properly resolved before the Court of Appeals had it not denied petitioners the opportunity to be heard on appeal. It appears that the counsel for petitioners was able to correct the formal deficiencies and the better part of caution would be to accord the litigants their full right to be heard on appeal. Liberality on procedural rules should have been extended to avoid delay.

WHEREFORE, this court resolves to **REMAND THE CASE TO THE COURT OF APPEALS FOR ITS PROPER DISPOSITION.**
(Brion, J., on leave; Villarama, Jr., J., designated acting member per S.O. No. 1888 dated November 28, 2014.)

SO ORDERED.

Very truly yours,


MA. LOURDES O. PERFECTO
Division Clerk of Court 12/11/13

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