

C. COURT OF APPEALS DECISIONS

CA-G.R. SP No. 124337

23 October 2013

MURASE HOTELCARE CORPORATION, Petitioner

vs.

NATIONAL WAGES AND PRODUCTIVITY COMMISSION
and SAMAHAN NG MGA MANGGAGAWA SA MURASE
HOTELCARE CORPORATION, Respondents.

Wage Order; Appeal; Exemption; Burden of Proof of Grave Abuse of Discretion. – It is well-settled that in a petition for certiorari, the burden is on the part of the petitioner to prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent issuing the impugned order. Mere abuse of discretion is not enough; it must be grave. The term grave abuse of discretion is defined as a capricious and whimsical exercise of judgment so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, as where the power is exercised in an arbitrary and despotic manner because of passion or hostility.

Same; Same; Same; Petition for Certiorari is not a Substitute for a Lost Appeal. – It is elementary in remedial law that a petition for certiorari is not a substitute for a lost appeal. This is due to the nature of a Rule 65 petition for certiorari which lies only where there is “no appeal,” and “no plain, speedy and adequate remedy in the ordinary course of law.” Otherwise stated, certiorari cannot be allowed when a party to a case fails to appeal a judgment despite the availability of that remedy, certiorari not being a substitute for lost appeal, especially if one’s own negligence or error in one’s choice of remedy occasioned such loss or lapse. The remedies of appeal and certiorari are mutually exclusive and not

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alternative or successive. Evidently, petitioner used the Rule 65 modality as a substitute for a lost appeal and this fact is made plainly manifest by: a) its filing the said petition twenty-one (21) days after the expiration of the 10-day reglementary period for filing an appeal; and b) its petition which makes specious allegations of grave abuse of discretion but asserts the failure of public respondent to properly appreciate facts and conclusions of law.

Same; Same; Same; Writ of Certiorari Does not Deal with Errors of Judgment. – It is basic in law that a petition for the writ of certiorari does not deal with errors of judgment. Nor does it include a mistake in the appreciation of the contending parties' respective evidence or the evaluation of their relative weight. Verily, the errors ascribed by petitioner are not proper subjects of a petition for certiorari.

FACTS:

RTWPB issued Wage Order No. IVA-14 providing a P17.00 per day basic wage increase to all minimum wage workers and employees in the private sector in the region. In compliance with the Wage Order, Petitioner began paying its employees P315.00 per day but subsequently filed with RTWPB an application for exemption as a distressed establishment. Finding substantial compliance with the required documents, RTWPB granted Petitioner one (1) year exemption for which the latter reduced the wages of its workers to P298.00 per day.

On Union's motion for reconsideration, RTWPB reversed its Decision and ordered Petitioner to pay its employees P315.00 per day from the effectivity of the Wage Order on the grounds of non-disclosure of information: Implementation of wage increase

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prior to application; that the company is unionized; and for failure to meet the requirement of proof of notice to the union.

Petitioner appealed but NWPC dismissed it for filing beyond the reglementary period and directed the former to pay all its covered workers the minimum wage of P315.00 per day prescribed under Wage Order No. IVA-14 plus simple interest of one (1) percent per month pursuant to Section 4.c of R.A. 6727 and Section 11, NWPC Guidelines No. 2, series of 2007.

Hence, this petition.

ISSUES:

1. Whether or not public respondent acted with grave abuse of discretion resulting in the lack of, or in excess of its jurisdiction in reversing its original Decision dated February 18, 2011;
2. Whether or not petitioner has legal and factual basis in the application for exemption and qualifies as a distressed establishment; and
3. Whether or not private respondent was duly notified of the application filed by petitioner.

RULING:

The Court ruled in the negative declaring that it is well-settled that in a petition for certiorari, the burden is on the part of the petitioner to prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent issuing the impugned order. Mere abuse of discretion is not enough; it must be grave. The term grave abuse of discretion is defined as a capricious and whimsical exercise of judgment so patent and gross as to amount to an evasion of a

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positive duty or a virtual refusal to perform a duty enjoined by law, as where the power is exercised in an arbitrary and despotic manner because of passion or hostility.

Based on the facts obtaining in the case, the Court failed to see any grave abuse of discretion amounting to lack or excess of jurisdiction on the part of public respondent in denying Petitioner's appeal and consequently affirming the RTWPB's Decision since it is shown that per registry return receipt, Petitioner received the RTWPB's Decision reversing its original Decision granting the application for exemption on November 11, 2011. Hence, Petitioner had until November 21, 2011 within which to file an appeal. As it was, Petitioner filed a Notice of Appeal/Memorandum of Appeal only on December 12, 2011, or twenty-one (21) days after the expiration of the 10-day reglementary period for filing an appeal. Consequently therefore, the denial of its appeal was in order as it was properly in accord with the Rules, thus negating an act of grave abuse of discretion on the part of the public respondent.

But still, in an attempt to reinstate its case, Petitioner filed the petition for certiorari against public respondent. The Court said that ironically, what Petitioner pointed out as the alleged grave abuse of discretion of public respondent was an act which public respondent had nothing to do with. This was made evident in the first issue raised by petitioner: whether or not public respondent acted with grave abused of discretion resulting in the lack of, or in excess of its jurisdiction in reversing its original Decision dated February 18, 2011. It was not the public respondent which reversed the Decision dated February 18, 2011 but the RTWPB. On this ground alone, the petition deserved outright dismissal since no cause of action existed against public respondent.

Plainly, Petitioner committed the mistake of filing the present petition against the wrong party and it can only be correctly

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surmised that Petitioner availed of this remedy to salvage its lost appeal which is not allowed by the Rules. It is elementary in remedial law that a petition for certiorari is not a substitute for a lost appeal. This is due to the nature of a Rule 65 petition for certiorari which lies only where there is “no appeal,” and “no plain, speedy and adequate remedy in the ordinary course of law.” Otherwise stated, certiorari cannot be allowed when a party to a case fails to appeal a judgment despite the availability of that remedy, certiorari not being a substitute for lost appeal, especially if one’s own negligence or error in one’s choice of remedy occasioned such loss or lapse. The remedies of appeal and certiorari are mutually exclusive and not alternative or successive. Evidently, petitioner used the Rule 65 modality as a substitute for a lost appeal and this fact is made plainly manifest by: a) its filing the said petition twenty-one (21) days after the expiration of the 10-day reglementary period for filing an appeal; and b) its petition which makes specious allegations of grave abuse of discretion but asserts the failure of public respondent to properly appreciate facts and conclusions of law.

Admittedly, while there are cases wherein this Court disregarded procedural infirmities to pave the way for substantial justice, petitioner failed to specifically cite any justification how and why a normal application of procedural rules would frustrate its quest for justice. Petitioner has not provided this Court any valid or compelling reason why the mandate of the Rules of Court should be disregarded. The other two (2) issues likewise render this petition dismissible. As mentioned earlier, the arguments set forth in the petition clearly revolve around facts and circumstances surrounding the RTWPB’s Decision and has nothing to do with the public respondent’s Decision.

But even assuming arguendo that said issues arose from the NWPC’s Decision, this petition must, just the same, fail. This is so

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because petitioner is specifically arguing that the assailed decisions are void for lack of factual and legal bases. It is basic in law that a petition for the writ of certiorari does not deal with errors of judgment. Nor does it include a mistake in the appreciation of the contending parties' respective evidence or the evaluation of their relative weight. Verily, the errors ascribed by petitioner are not proper subjects of a petition for certiorari.

Petition is DISMISSED. The Decision of the Regional Tripartite Wages and Productivity Board Region IVA dated October 3, 2011 and the Decision of the National Wages and Productivity Commission dated January 30, 2012 STAND.

Inting, J., ponente.

Reyes, Jr., Reyes-Carpio, JJ., concur.

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