
NWPC LAW GAZETTE

NWPC Case No. E-12-005

5. EXHAUSTION OF ADMINISTRATIVE REMEDIES

NWPC Case No. E-12-005

28 December 2012

[Case No. W.O. NCR-17-d (76)]

IN RE: APPLICATION FOR EXEMPTION FROM WAGE
ORDER NO. NCR-17

SAMAHAN NG MANGGAGAWA SA FOREMOST FARM
(SMFF-ANGLO-KMU), Appellant Union,

FOREMOST FARMS, INCORPORATED, Applicant-Appellee.

Wage Order, Application For Exemption; Appeal Only A Statutory Privilege. - The Supreme Court held in *UP v. CSC*, 46 SCAD 570, 288 SCRA 297 [1993] that appeal is not part of due process, but a statutory privilege which may be exercised only in the manner and within the period prescribed by law. And where the law does grant a right to appeal, such remedy cannot be invoked.

Same; Same; Manner and Period To File An Appeal Is Mandatory And Jurisdictional. - In *Miranda v. Guazon*, 92 Phil. 168 [1952]; *Galina v. CA*, 16 SCRA 141 [1966]; *People v. Tamani*, 55 SCRA 153 [1974], the Supreme Court declared that statutes or rules prescribing the time for litigants to take certain actions or to appeal from an adverse decision is generally mandatory. Likewise, in *Gutierrez vs. CA*, 26 SCRA 32 [1968], the Supreme Court ruled that the provisions of the law and the rules concerning the manner and the period of taking appeal are mandatory and jurisdictional, compliance with which is essential to enable the appellate agency or court to take cognizance of the appeal.

NWPC LAW GAZETTE

NWPC Case No. E-12-005

Same; Same; Final And Executory Judgement Can No Longer Be Appealed. _ Final judgment is one not subject to appeal, either because of a statutory determination or because the time for appeal has expired (P331, Philippine Legal Encyclopedia by Jose Agaton R. Sibal). In *Galima vs. Court of Appeals*, 16 SCRA 140, the Supreme Court likewise declared that if an appeal be not taken within the reglementary period, the judgment becomes final and the court loses all jurisdiction over the case and it has no alternatives but to order the execution of the final judgment.

Same; Same, Doctrine Of Immutability Of Judgments. - The time honored doctrine of immutability of judgments states that except for correction of clerical errors, final and executory judgments can neither be amended nor altered. Nothing is more settled in law than that once a judgment attains finality, it thereby becomes immutable and unalterable. It may no longer be modified in any respect, except to correct clerical errors or mistakes, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact and law, and regardless of whether the modification is attempted to be made by the court rendering it, or by the highest court of the land. Otherwise, there would be no end to litigation and would set to naught the main role of courts of justice to assist in the enforcement of the rule of law and the maintenance of peace and order by setting justiciable controversies with finality. Any amendment or alteration which substantially affects a final and executory judgment is null and void for lack of jurisdiction. (*Swire Agricultural Products, Inc. vs. Hyndai Corporation*, G.R. No. 193934, 9 June 2005; *Lorenzana Food Workers Union, Etc., Petitioner vs. National Wages and Productivity Commission, et. al., Respondents* (CA-G.R. SP. No. 78093, 29 November 2005).

Same; Same; Exhaustion Of Administrative Remedies. - In *Gerona v. Datinggaling*, 398 SCRA 148 citing *Halimao v.*

NWPC LAW GAZETTE

NWPC Case No. E-12-005

Villanueva, 253 SCRA 1; Philippine Administrative Law, 2007 Ed., p. 161, by Carlo L. Cruz, the Supreme Court declared that indeed, the filing of a motion for reconsideration is in fact encouraged before resort is made to the courts as a matter of exhaustion of administrative remedies, to afford the agency rendering the judgment an opportunity to correct any error it may have committed through misapprehension of facts or misappreciation of the evidence. In *Abe-Abe vs. Manta*, 90 SCRA 525; Philippine Legal Encyclopedia, Pp. 306-307, by Jose Agaton R. Sibal, the Supreme Court stated that the rule on exhaustion of administrative remedies before resorting to the court means that there should be an orderly procedure which favors a preliminary administrative sifting process, particularly with respect to matters peculiarly within the competence of the administrative agency, avoidance of interference with functions of the administrative agency by withholding judicial action until the administrative process has run its course, and prevention of attempts to swamp the courts by a resort to them in the first instance. In *Cadwallader vs. Abeleda*, 98 SCRA 123; Philippine Legal Encyclopedia, p.307, by Jose Agaton R. Sibal, the Supreme Court held that where the statute specifically prescribes administrative steps before resort to the courts may be made, it is sound government and public policy to make the parties adhere to it unless somewhere in the process a denial of due process occurs calling for immediate judicial intervention.

Same; Same; Filing Of MR/Appeal Cures The Defect Or Irregularity In The Proceeding; Due Process of Law. - Anent, the alleged irregularity in the Board's proceeding, even assuming *arguendo* that the Appellant Union indeed has not been duly notified of the filing of application for exemption, the filing of Appellant's Appeal cures the defect or irregularity in the lack of said notice. In *Valderama and Sons, Inc. vs. Drilon*, G.R. No. 78212, January 22, 1990; Handbook on Investigation of Administrative Disciplinary Cases in the Philippine Civil Service, by Angelito G. Conde, the Supreme Court ruled that denial of due process cannot be

NWPC LAW GAZETTE

NWPC Case No. E-12-005

successfully invoked where a party was given the chance to be heard on his motion for reconsideration. Petitioners' appeal and their subsequent motion for reconsideration have the effect of curing whatever irregularity committed in the proceedings. In *Associated Labor Unions v. NLRC*, G.R. No. 83886-87, September 20, 1990, Third Division, Gutierrez, Jr., J., the Supreme Court declared that elementary is the rule that it is not the denial of the right to be heard but the denial of the opportunity to be heard that violates due process. In *Villareal v. CA*, 219 SCRA 293 [1993]; *Agpalo's Legal Words and Phrases*, 1997 Ed., p. 242, by Ruben E. Agpalo, the Supreme Court declared also that the essence of due process is simply the opportunity to be heard or as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling taken. A formal trial or hearing is not always the earmark of due process. The requirements of due process are satisfied when the parties are afforded a fair and reasonable opportunity to explain and air their side.

FACTS:

The Board approved the exemption application of Applicant-Appellee for a period of 1 year on the basis of the submitted financial statements showing that the latter incurred deficits of P387,566,149 and P289,363,814 for the periods ending December 31, 2011 and 2010, thereby impairing its paid up capital by 65.28% and 44.59% respectively. A copy of the said decision was received by the Applicant-Appellee through Mr. Isidro De Guzman Jr. (per Notice of Decision) on November 15, 2012 and by the Appellant on November 24, 2012 (per Appeal). Thus, the appeal filed by the Appellant Union on December 5, 2012.

NWPC LAW GAZETTE

NWPC Case No. E-12-005

ISSUE:

WHETHER OR NOT THE APPEAL MAY BE GRANTED EVEN IF IT WAS FILED LATE AND THERE WAS EXHAUSTION OF ADMINISTRATIVE REMEDIES

HELD:

Appeal dismissed on procedural grounds: late filing of appeal and failure to exhaust administrative remedies.

On late filing of appeal

The appeal was filed beyond the 10-day reglementary period provided under Section 9.D of the NWPC Amended Rules on Exemption. It appeared from the records that the Appellant received a copy of the Board's Decision on 24 November 2012. As such, it had only until 4 December 2012 within which to file the appeal. Having been filed on 5 December 2012, the appeal was out of time.

The Supreme Court held in *UP v. CSC*, 46 SCAD 570, 288 SCRA 297 [1993] that appeal is not part of due process, but a **statutory privilege** which may be exercised only in the manner and within the period prescribed by law. And where the law does grant a right to appeal, such remedy cannot be invoked. In *Miranda v. Guazon*, 92 Phil. 168 [1952]; *Galina v. CA*, 16 SCRA 141 [1966]; *People v. Tamani*, 55 SCRA 153 [1974], the Supreme Court declared that statutes or rules prescribing the time for litigants to take certain actions or to appeal from an adverse decision is generally mandatory. Likewise, in *Gutierrez vs. CA*, 26 SCRA 32 [1968], the Supreme Court ruled that the provisions of the law and the rules concerning the manner and the period of taking appeal are mandatory and jurisdictional, compliance with

NWPC LAW GAZETTE

NWPC Case No. E-12-005

which is essential to enable the appellate agency or court to take cognizance of the appeal.

The Board's Decision dated 4 October 2012 has become final and executory with no appeal filed within the prescribed period. Final judgment is one not subject to appeal, either because of a statutory determination or because the time for appeal has expired (P331, Philippine Legal Encyclopedia by Jose Agaton R. Sibala). In *Galima vs. Court of Appeals, 16 SCRA 140*, the Supreme Court likewise declared that if an appeal be not taken within the reglementary period, the judgment becomes final and the court loses all jurisdiction over the case and it has no alternatives but to order the execution of the final judgment.

The time honored doctrine of immutability of judgments states that except for correction of clerical errors, final and executory judgments can neither be amended nor altered. Nothing is more settled in law than that once a judgment attains finality, it thereby becomes immutable and unalterable. It may no longer be modified in any respect, except to correct clerical errors or mistakes, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact and law, and regardless of whether the modification is attempted to be made by the court rendering it, or by the highest court of the land. Otherwise, there would be no end to litigation and would set to naught the main role of courts of justice to assist in the enforcement of the rule of law and the maintenance of peace and order by setting justiciable controversies with finality. Any amendment or alteration which substantially affects a final and executory judgment is null and void for lack of jurisdiction. (Swire Agricultural Products, Inc. vs. Hyndai Corporation, G.R. No. 193934, 9 June 2005; Lorenzana Food Workers Union, Etc., Petitioner vs. National Wages and Productivity Commission, et. al., Respondents (CA-G.R. SP. No. 78093, 29 November 2005).

On failure to exhaust administrative remedies

Appellant Union did not file a motion for reconsideration with the Board, but instead it directly appealed the Board's decision to the Commission.

In *Gerona v. Datinggaling*, 398 SCRA 148 citing *Halimao v. Villanueva*, 253 SCRA 1; *Philippine Administrative Law*, 2007 Ed., p. 161, by Carlo L. Cruz, the Supreme Court declared that indeed, the filing of a motion for reconsideration is in fact encouraged before resort is made to the courts as a matter of exhaustion of administrative remedies, to afford the agency rendering the judgment an opportunity to correct any error it may have committed through misapprehension of facts or misappreciation of the evidence. In *Abe-Abe vs. Manta*, 90 SCRA 525; *Philippine Legal Encyclopedia*, Pp. 306-307, by Jose Agaton R. Sibal, the Supreme Court stated that the rule on exhaustion of administrative remedies before resorting to the court means that there should be an orderly procedure which favors a preliminary administrative sifting process, particularly with respect to matters peculiarly within the competence of the administrative agency, avoidance of interference with functions of the administrative agency by withholding judicial action until the administrative process has run its course, and prevention of attempts to swamp the courts by a resort to them in the first instance. In *Cadwallader vs. Abeleda*, 98 SCRA 123; *Philippine Legal Encyclopedia*, p.307, by Jose Agaton R. Sibal, the Supreme Court held that where the statute specifically prescribes administrative steps before resort to the courts may be made, it is sound government and public policy to make the parties adhere to it unless somewhere in the process a denial of due process occurs calling for immediate judicial intervention.

NWPC LAW GAZETTE

NWPC Case No. E-12-005

Anent, the alleged irregularity in the Board's proceeding, even assuming *arguendo* that the Appellant Union indeed has not been duly notified of the filing of application for exemption, the filing of Appellant's Appeal cures the defect or irregularity in the lack of said notice. In *Valderama and Sons, Inc. vs. Drilon*, G.R. No. 78212, January 22, 1990; *Handbook on Investigation of Administrative Disciplinary Cases in the Philippine Civil Service*, by Angelito G. Conde, the Supreme Court ruled that denial of due process cannot be successfully invoked where a party was given the chance to be heard on his motion for reconsideration. Petitioners' appeal and their subsequent motion for reconsideration have the effect of curing whatever irregularity committed in the proceedings. In *Associated Labor Unions v. NLRC*, G.R. No. 83886-87, September 20, 1990, Third Division, Gutierrez, Jr., J., the Supreme Court declared that elementary is the rule that it is not the denial of the right to be heard but the denial of the opportunity to be heard that violates due process. In *Villareal v. CA*, 219 SCRA 293 [1993]; *Agpalo's Legal Words and Phrases*, 1997 Ed., p. 242, by Ruben E. Agpalo, the Supreme Court declared also that the essence of due process is simply the opportunity to be heard or as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling taken. A formal trial or hearing is not always the earmark of due process. The requirements of due process are satisfied when the parties are afforded a fair and reasonable opportunity to explain and air their side.

The appeal filed by Samahan Ng Manggagawa Sa Foremost Farm (SMFF-ANGLO-KMU) is hereby **DISMISSED** for lack of jurisdiction the decision being assailed having become final and executory due to the expiration of the period to appeal and for failure to exhaust administrative remedies.

NWPC LAW GAZETTE

NWPC Case No. E-12-005

Trasmonte (Chairman Designate), Balisacan (Vice-Chairman), Bagtas, Floro, Diwa, Rondain (Commissioners), Lagunzad III (Member) voted unanimously to dismiss the appeal.

----- o0o -----