Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

DORELCO EMPLOYEES UNION–ALU-TUCP, Petitioner,	**G.R. No. 240130**
	Present:
– *versus* –	PERLAS-BERNABE, *S.A.J.*, *Chairperson*, GESMUNDO, LAZARO-JAVIER, LOPEZ, and ROSARIO, *JJ.*
DON ORESTES ROMUALDEZ ELECTRIC COOPERATIVE (DORELCO), INC., Respondent.	
	Promulgated: MAR 15 2021

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R E S O L U T I O N

M. LOPEZ, *J.*:

The timeliness of an appeal from the voluntary arbitrator's decision is the main issue in this Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court assailing the Court of Appeals' (CA) Resolutions[2] dated March 8, 2018 and May 21, 2018 in CA-G.R. CEB-SP No. 11429.

ANTECEDENTS

In 2012, the DORELCO Employees Union-ALU TUCP (Union) and Don Orestes Romualdez Electric Cooperative, Inc. (Company) submitted for arbitration[3] before the National Conciliation and Mediation Board (NCMB) the issue on whether the rank and file employees are entitled to salary adjustments under the collective bargaining agreement.[4] Meantime, several

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1 *Rollo*, pp. 21-36.

2 *Id.* at 14-17; penned by Associate Justice Edgardo L. Delos Santos (now a Member of this Court), with the concurrence of Associate Justices Edward B. Contreras and Louis P. Acosta.

3 The case was docketed as VAR Case No. AC-511-RB8-03-06-2012; *id.* at 34 and 40.

4 Collective Bargaining Agreement of January 1, 2010 to December 31, 2014; *id.* at 42.

employees retired from the service, namely, Gregorio Pingol, Reynaldo Canales, Vicente Bagol, Anacleto Cayubit, Menandro Roa, Benjamin Gabrieles, Ian Jayan[5] (Pingol, *et al.*), Epigenio S. Lumbre, Rosalita D. Cardaña, Policarpio A. Tupaz, Leonilo L. Cahayag, and Gerardo M. Los Baños (Lumbre, *et al.*).[6] The Company required the employees to sign quitclaims so they can receive their retirement benefits. However, Pingol, *et al.* refused and opted to wait for the resolution of the arbitration case. On the other hand, Lumbre, *et al.* executed their quitclaims.

On September 25, 2012, the NCMB voluntary arbitrator ruled that the employees are entitled to salary increases in 2010 and 2011, thus:

> WHEREFORE, premises considered, Judgment is hereby rendered:
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> x x x x
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> II. Ordering respondent DORELCO, Inc. to:
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> a. Pay every employee covered by the current CBA the across-the-board increase amounting to [₱]1,347.68 per month for the period January 2010 to December 2010, pursuant to Section 1, Article VII of the parties' current CBA;
>
> b. Grant and Pay all rank-and-file employees covered by the current CBA, the corresponding increase amounting to [₱]700.00, pursuant to Paragraph 2, Section 1, Article VII of the parties' current CBA[.][7]

Accordingly, the Company paid Pingol, *et al.* their retirement benefits with salary differentials. Thereafter, the Union submitted for arbitration before the NCMB the issue on whether Lumbre, *et al.* can claim the salary adjustments.[8] On September 22, 2017, the voluntary arbitrator held that Lumbre, *et al.* are not entitled to the salary increases since they had executed quitclaims upon their retirement. Dissatisfied, the Union moved for a reconsideration. On November 9, 2017, the arbitrator denied the motion for lack of merit. On November 27, 2017, the Union received a copy of the voluntary arbitrator's resolution. On December 12, 2017, the Union elevated the case to the Court of Appeals (CA) through a Petition for Review[9] under Rule 43 docketed as CA-G.R. CEB-SP No. 11429.

On March 8, 2018, the CA dismissed the petition. The CA explained that the voluntary arbitrator's ruling is not subject to a motion for reconsideration and becomes final and executory unless appealed within 10 calendar days from notice,[10] thus:

> **The Court further notes that the present petition was filed fifteen (15)**

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5 *Id.* at 42.
6 *Id.* at 23.
7 *Id.* at 23-24.
8 The case was docketed as AC-511-RB8-04-04-07-2017; *id.* at 24.
9 *Id.* at 39-47.
10 *Id.* at 14-17.

days after the petitioner's receipt of the Voluntary Arbitrator's resolution denying the motion for reconsideration.

It is not amiss to stress, at this juncture, that decisions or awards of the Voluntary Arbitrator are final and executory after ten (10) days from receipt of a copy thereof; and, a motion for reconsideration is not allowed. This is clearly stated in Section 7, Rule XIX of DOLE's Department Order (DO) No. 40, series of 2003, thus:

> Rule XIX
> Section 7. Finality of Award/Decision. The decision, order, resolution or award of the voluntary arbitrator or panel of voluntary arbitrators shall be final and executory after ten (10) calendar days from receipt of the copy of the award or decision by the parties and it shall not be subject of a motion for reconsideration.

The pertinent provisions of the 2005 Procedural Guidelines likewise provide that:

> Rule VII
> DECISIONS
>
> Section 6. Finality of Decisions. The decision of the Voluntary Arbitrator shall be final and executory after ten (10) calendar days from receipt of the copy of the decision by the parties.
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> Section 7. Motions for Reconsideration. The decision of the Voluntary Arbitrator is not subject of a Motion for Reconsideration.

Based on the foregoing, the decision of the voluntary arbitrator is not subject of a motion for reconsideration and it becomes final and executory after ten (10) calendar days from receipt of the copy of the decision by the parties; unless an appeal to reverse or modify the said award or decision is filed before the Court of Appeals by way of Rule 43 of the Rules of Court within 10 calendar days, and not 15 days as provided under Rule 43, from receipt of the award or decision.

Accordingly, the Court finds that the decision of the Voluntary Arbitrator subject of this appeal is already final and executory. **Hence, beyond this Court's appellate jurisdiction.**

x x x x

SO ORDERED.[11] (Emphases supplied.)

The Union sought reconsideration invoking the pronouncement in *Teng v. Pahagac*[12] that the 10-day period gave the aggrieved parties the opportunity to move for a reconsideration from the voluntary arbitrator's decision

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[11] *Id.* at 15-16.
[12] 649 Phil. 460 (2010).

consistent with the principle of exhaustion of administrative remedies.[13] On May 21, 2018, the CA denied the motion. The CA cited the ruling in *Philippine Electric Corp. (PHILEC) v. CA*[14] that a party may choose to reconsider or appeal the voluntary arbitrator's decision within 10 calendar days from notice.[15] Yet, the Union filed its appeal beyond the 10-day reglementary period. Specifically, the Union received the denial of its motion for reconsideration on November 27, 2017 but filed a petition for review before the CA only on December 12, 2017 or five days late,[16] *viz.*:

> The Court is not unmindful of the case of *Teng v. Pahagac* wherein the Honorable Supreme Court indeed made a pronouncement that an appeal from the decision of the voluntary arbitrator to the CA *via* Rule 43 of the Rules of Court requires exhaustion of available remedies by filing a motion for reconsideration x x x.
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> **Meanwhile, on 10 December 2014[,] the Honorable Supreme Court promulgated its decision in *Philippine Electric Corporation v. Court of Appeals* wherein the Honorable Supreme Court reiterated that notwithstanding the rules, a party may choose to file a motion for reconsideration; however, the same must be filed within 10 days from receipt of the decision. In the same case, it was likewise categorically held that an appeal before the Court of Appeals by way of Rule 43 of the Rules of Court should be filed within 10 calendar days, and not 15 days as provided under Rule 43, from receipt of the award or decision, or as in this case from the resolution denying the motion for reconsideration.**
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> As borne by the records, the petitioner herein received the 22 September 2017 decision of the voluntary arbitrator on 3 October 2017. Allegedly, thereafter, a timely motion for reconsideration was filed assailing said decision. The motion was nonetheless denied in a resolution issued by the voluntary arbitrator on 9 November 2017. A copy of the resolution was received by the petitioner herein on 27 November 2017. Thus, the petitioner herein had until 7 December 2017, a Thursday, to file an appeal under Rule 43 before this Court. **However, the present appeal was filed only on 12 December 2017 – 5 days after the expiration of the reglementary period within which to file their appeal.**
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> **Hence, the present petition was filed beyond the 10-day reglementary period provided under the law. On that ground, the Court maintains that the decision of the Voluntary Arbitrator subject of this appeal has already become final and executory. x x x.**
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> x x x x
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> SO ORDERED.[17] (Emphases supplied; citations omitted.)

Hence, this recourse. The Union argues that the proper period to appeal the voluntary arbitrator's decision to the CA should be 15 days from receipt of

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[13] *Rollo*, pp. 61-64.
[14] 749 Phil. 686 (2014).
[15] *Id.* at 708.
[16] *Rollo*, pp. 9-11; and 59-67.
[17] *Id.* at 10-11.

the denial of the motion for reconsideration. The Union also contends that Lumbre, *et al.* are entitled to salary differentials and that the quitclaims cannot deprive them of benefits under the collective bargaining agreement.[18] In contrast, the Company maintained that an appeal is a mere privilege which may be exercised only in the manner provided by law. The Company reiterated that the period to appeal the voluntary arbitrator's decision to the CA is 10 days from notice.[19]

RULING

The petition is meritorious.

Under Article 276 of the Labor Code, the award or decision of voluntary arbitrators shall be final and executory after 10 calendar days from notice.[20] On the other hand, Rule 43 of the Rules of Court provides that an appeal from the judgment or final orders of voluntary arbitrators must be made within 15 days from notice.[21] With these, the Court has alternatively used the 10-day or 15-day reglementary periods.[22] In *Guagua National Colleges v. CA*,[23] the Court *En Banc* settled the confusion and clarified that the 10-day period in Article 276 should be understood as the time within which the adverse party may move for a reconsideration from the decision or award of the voluntary arbitrators.[24] Thereafter, the aggrieved party may appeal to the CA within 15 days from notice pursuant to Rule 43 of the Rules of Court, *viz.:*

> Given the variable rulings of the Court, what should now be the period to be followed in appealing the decisions or awards of the Voluntary Arbitrators or Panel of Arbitrators?
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> In the 2010 ruling in *Teng v. Pahagac*, the Court clarified that the 10-day period set in Article 276 of the *Labor Code* gave the aggrieved parties the opportunity to file their motion for reconsideration, which was more in keeping with the principle of exhaustion of administrative remedies, holding thusly:

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[18] *Id.* at 21-25; and 77-79.

[19] *Id.* at 69-71.

[20] Fourth paragraph of Article 276 of the Labor Code provides that "*[t]he award or decision of the Voluntary Arbitrator or panel of Voluntary Arbitrators shall contain the facts and the law on which it is based. It shall be final and executory after ten (10) calendar days from receipt of the copy of the award or decision by the parties.*"

[21] RULES OF COURT, Rule 43, SEC. 4

[22] In *Sevilla Trading Co. v. Semana*, 472 Phil. 220, 231 (2004), the Court established that the decision of the Voluntary Arbitrator became final and executory upon the expiration of the 15-day period within which to elevate the same to the CA *via* a Petition for Review under Rule 43. In *Coca-Cola Bottlers Phils., Inc., Sales Force Union-PTGWO-Balais v. Coca-Cola Bottlers Philippines, Inc.*, 502 Phil. 748, 754 (2005), the Court declared that the decision of the Voluntary Arbitrator had become final and executory because it was appealed beyond the 10-day reglementary period under Article 262-A of the Labor Code. In *Philippine Electric Corporation (PHILEC) v. CA*, 749 Phil. 686, 708 (2014), the Court, in recognizing the variant usage of the periods, held that despite Rule 43 providing for a 15-day period to appeal, we rule that the Voluntary Arbitrator's decision must be appealed before the CA within 10 calendar days from receipt of the decision as provided in the Labor Code.

[23] G.R. No. 188492, August 28, 2018, 878 SCRA 362.

[24] *Id.* at 384.

> In the exercise of its power to promulgate implementing rules and regulations, an implementing agency, such as the Department of Labor, is restricted from going beyond the terms of the law it seeks to implement; it should neither modify nor improve the law. The agency formulating the rules and guidelines cannot exceed the statutory authority granted to it by the legislature.
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> **By allowing a 10-day period, the obvious intent of Congress in amending Article 263 to Article 262-A is to provide an opportunity for the party adversely affected by the VA's decision to seek recourse *via* a motion for reconsideration or a petition for review under Rule 43 of the Rules of Court filed with the CA. Indeed, a motion for reconsideration is the more appropriate remedy in line with the doctrine of exhaustion of administrative remedies. For this reason, an appeal from administrative agencies to the CA *via* Rule 43 of the Rules of Court requires exhaustion of available remedies as a condition precedent to a petition under that Rule**.
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> The requirement that administrative remedies be exhausted is based on the doctrine that in providing for a remedy before an administrative agency, every opportunity must be given to the agency to resolve the matter and to exhaust all opportunities for a resolution under the given remedy before bringing an action in, or resorting to, the courts of justice. Where Congress has not clearly required exhaustion, sound judicial discretion governs, guided by congressional intent.
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> **By disallowing reconsideration of the VA's decision, Section 7, Rule XIX of DO 40-03 and Section 7 of the 2005 Procedural Guidelines went directly against the legislative intent behind Article 262-A of the Labor Code. These rules deny the VA the chance to correct himself and compel the courts of justice to prematurely intervene with the action of an administrative agency entrusted with the adjudication of controversies coming under its special knowledge, training and specific field of expertise**. In this era of clogged court dockets, the need for specialized administrative agencies with the special knowledge, experience and capability to hear and determine promptly disputes on technical matters or intricate questions of facts, subject to judicial review, is indispensable. In *Industrial Enterprises, Inc. v. Court of Appeals*, we ruled that relief must first be obtained in an administrative proceeding before a remedy will be supplied by the courts even though the matter is within the proper jurisdiction of a court.

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.**[25] (Emphases supplied; citations omitted.)

Here, the records reveal that the Union received the voluntary arbitrator's resolution denying its motion for reconsideration on November 27, 2017. As such, the Union had 15 days or until December 12, 2017 within which to perfect an appeal. Verily, the Union filed a petition for review well within the prescribed period. The CA erred in dismissing the petition outright based solely on procedural grounds. Thus, a remand of the case for a resolution on the merits is warranted.

Lastly, the *Guagua National Colleges* ruling on the correct construction of Article 276 of the Labor Code is applicable in the instant case although it was rendered after the assailed CA resolutions were issued. Suffice it to say that the Court's interpretation of a statute constitutes part of the law as of the date it was originally passed. A judicial doctrine does not amount to the passage of a new law but merely establishes the contemporaneous legislative intent that the statute intends to effectuate.[26] To be sure, the Court had expressly directed and reminded the Department of Labor and Employment and the NCMB to revise or amend the rules of procedure in the conduct of voluntary arbitration to reflect the *Guagua National Colleges* decision.[27]

FOR THESE REASONS, the petition is **GRANTED**. The Court of Appeals' Resolutions dated March 8, 2018 and May 21, 2018 in CA-G.R. CEB-SP No. 11429 are **REVERSED** and **SET ASIDE**. The case is **REMANDED** to the Court of Appeals for a proper resolution on the merits with dispatch.

SO ORDERED.

MARIO V. LOPEZ
Associate Justice

WE CONCUR:

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

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[25] *Id.* at 382-384.

[26] *Columbia Pictures, Inc. v. CA*, 329 Phil. 875, 908 (1996); See *Co v. CA*, 298 Phil. 221, 232 (1993); See also *People v. Jabinal*, 154 Phil. 565, 571 (1974); and *Senarillos v. Hermosisima*, 100 Phil. 501 (1956).

[27] *Suelo, Jr. v. MST Marine Services (Phils.), Inc.*, G.R. No. 252914, November 9, 2020; and *Chin v. Maersk-Filipinas Crewing, Inc.*, G.R. No. 247338, September 2, 2020.

ALEXANDER G. GESMUNDO
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

RICARDO R. ROSARIO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Resolution 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 Resolution 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