EN BANC

AMBOS MUNDOS RESTAURANT, INC.
Petitioner,

-versus-

MARIA THERESA S. GAUDINEZ MARTINEZ
Respondent.
x----------x

SEC EN BANC CASE NO. 02-09-157
(SEC Case No. 06-07-189)
For: Change of Corporate Name

RESOLUTION

On 27 January 2009, the Commission issued an Order in favor of respondent and directing petitioner Ambos Mundos Restaurant, Inc. to delete the words "Ambos Mundos" in its corporate name. On 07 February 2009, the last day of the reglementary period within which to file an appeal, petitioner filed a motion for reconsideration assailing the Order dated 27 January 2009. On 13 February 2009, five (5) days after the lapse of the period within which to file an appeal, petitioner, realizing its error in filing a motion for reconsideration, subsequently filed this instant Petition.

The filing of a Petition for Review on Certiorari under Rule 12 of the 2006 Rules of Procedure of the Commission ("Rules") is not the proper remedy in questioning the assailed Order. Under Section 12-1[1] of the Rules, a Petition for Review on Certiorari may be resorted to if there is no appeal or plain, speedy and adequate remedy in the ordinary course of law. In the instant case, an ordinary appeal under Section 11-1 of the Rules is the proper remedy then available to the aggrieved party. However, petitioner filed a motion for reconsideration in lieu of an ordinary appeal. Being a prohibited pleading, such motion should not be considered

[1] SEC. 12-1. Petition for Review on Certiorari. When any Hearing Officer/Panel of the Commission, has acted *without or in excess of jurisdiction, or with grave abuse of discretion and there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law,* a person aggrieved thereby may file a verified petition with the Commission *En Banc* alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings, order or ruling of such Hearing Officer or Panel and granting such relief as the applicable laws may require.

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and given due course. It shall be automatically expunged from the records of the case.[2]

WHEREFORE, premises considered, the instant appeal by way of a petition for review on certiorari filed by petitioner is hereby **DISMISSED**.

SO ORDERED.

Mandaluyong City, 13 May 2010.

PE B. BARIN
Chairperson

MA. JUANITA E. CUETO
Commissioner

RAUL J. PALABRICA
Commissioner

MANUEL HUBERTO B. GAITE
Commissioner

ELADIO M. JALA
Commissioner

[2] SEC. 3-6(b), 2006 Rules of Procedure of the Securities and Exchange Commission.