G.R. No. L-9835

[G.R. No. L-9835. September 26, 1957]

UNITED EMPLOYEES WELFARE ASSOCIATION, PETITIONER, VS. ISAAC PERAL BOWLING ALLEYS, RESPONDENT.

D E C I S I O N

MONTEMAYOR, J.:

Petitioner United Employees Welfare Association to which the pin boys numbering around thirty-six, working in the Isaac Peral Bowling Alleys, are affiliated, is appealing from the decision of Judge Jose Bautista of the Court of Industrial Relations, dated August 22, 1955, which granted the majority of its ten demands against the Philippine Advertising Corporation, owner of the said Bowling Alleys, relative to rate of wages, payment for overtime work, and extra pay for service rendered on Sundays and holidays, vacation and sick leave, reimbursement of expenses for medicines, medical assistance, and hospital bills, etc.

From the very beginning, respondent in its answer to the petition for review, claimed that the appeal by petitioner was made out of time because the decision appealed from had become final, and so asked that the appeal be disallowed. Not content with this, said respondent filed a formal motion for dismissal, and the said motion was by resolution of this court of December 2, 1955, denied but "without prejudice to taking up the points raised therein when the case is considered on the merits". Again in its reply memorandum, respondent reiterates its petition that the appeal be dismissed.

The following facts are not disputed. The appealed decision of Judge Bautista, dated August 22, 1955, was received by petitioner the following day on August 23. On August 27, petitioner filed a motion for reconsideration, which petition may be considered pro-forma because it merely said that the decision was against the law and evidence, without making express reference to the pertinent testimonial or documentary evidence or to the provision of law alleged to be contrary to such findings or conclusions, as expressly required by Rule

37, Section 2 of the Rules of Court. But petitioner reserved the right to file written arguments in support of its motion within the statutory period. In this connection, it may be stated that under the regulations promulgated by the Court of Industrial Relations, particularly, Section 15, entitled Motion for Reconsideration, the movant is required to file a motion within five days from the date he receives a notice of the order or decision, and that said motion shall be submitted with arguments, supporting the same, but if the arguments cannot be submitted simultaneously with said motion, upon notice to the court, the movant shall file the same within ten days from the date of the filing of his motion for reconsideration, and that failure to observe the above specified period shall be sufficient cause for the dismissal of said motion for reconsideration.

Under the rules or regulations above referred to, inasmuch as petitioner did not file his written arguments in support of his petition at the time when the said motion was filed on August 27, he had ten days thereafter to file said written arguments, that is to say, up to September 6, 1955. On September 5, 1955, one day before the expiration of the period, petitioner filed a motion for extension of ten days from September 6 (the last day within which to file his written arguments). On September 9, 1955, petitioner received copy of the resolution of the court en banc, dated September 5, 1955, denying his motion for extension. Despite this resolution of the court en banc, petitioner just the same filed its written arguments dated September 20, 1955, with the result that even if the extension of ten days had been granted, the period would have expired by September 17, so that its written arguments dated September 20, assuming that it was filed on the same day, was late by three days.

In this connection, it may be stated that respondent had also filed a motion for reconsideration of the decision and had filed a similar motion for extension of the period within which to file its written arguments, but because its counsel feared that his motion for extension may not be granted, he went to the clerk of court and later to Judge Bautista himself in connection with said extension; and since Judge Bautista declined to assure him that said extension will be granted in view of the policy of the court against such extensions, said counsel for respondent rushed the preparation of his written arguments and filed the same within the original period.

Then on September 23, 1955, the court en banc promulgated its resolution denying respondent's motion for reconsideration, but dismissing petitioner's motion for reconsideration on the ground of its failure to file its arguments In support of the motion.

Under the rules of the Court of Industrial Relations aforecited, said court en banc was fully justified In dismissing (not merely denying) petitioner's motion for reconsideration. That dismissal may be interpreted from the standpoint of the Industrial Court as though no motion for reconsideration had ever been filed, so that the decision of Judge Bautista, dated August 22, 1955, had become final and executory as regards the petitioner. From the standpoint of the Supreme Court, said decision of Judge Bautista has also become final, for the reason that the motion for reconsideration filed by petitioner being pro-forma, and so intended merely to delay the proceedings, could not and did not interrupt or suspend the period for the perfection of the appeal, which period had long expired when the present appeal was taken. (Alvero vs. De la Rosa, 76 Phil. 435).

Counsel for petitioner accuses opposing counsel of deceit and bad faith in supposedly leading him to believe that his motion for extension of time within which to file the arguments in support of his motion for reconsideration would be unopposed and so would be granted by the Industrial Court. In justice to counsel for respondent, let. it be said that after an examination of the record of the case, we find the accusation to be unfounded. True, counsel for respondent agreed to petitioner's motion for extension and even filed his own motion for extension, but the fact that both parties in a case ask for extension of time to file a pleading required by law or regulation does not mean that the Court will grant the extension sought. As a matter of fact, the Industrial Court denied said extension. Counsel for petitioner merely figured out that under the circumstances, the Court would grant the extension, but the Court proved his surmise wrong and he has none but himself to blame. Opposing counsel evidently more cautious and not wanting to take unnecessary chances, took the trouble to see Judge Bautista and when given no assurance of his motion for extension being granted, he decided to play safe, rushed the preparation of his arguments, and could file them in court within the original period. In this we fail to see any of the deceit and bad faith charged by petitioner's counsel.

In view of the foregoing, and finding that the decision sought to be reviewed had become final as regards the petitioner, the petition is hereby dismissed, with costs.

Bengzon, Montemayor, Reyes, A. Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Endencia, and *Felix, JJ.*, concur.

Date created: August 03, 2017