

DENZEL PLASTIC, INC. AND/OR DANNY TAN, PETITIONERS, VS. THE HONORABLE NATIONAL LABOR RELATIONS COMMISSION (DIVISION III), GUADENCIO MILA AND RAMON RIVERA, RESPONDENTS.

Ponente: REYES, J.

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REYES, J.:

This pertains to the petition for certiorari filed on 26 September 2005 by petitioners Denzel Plastic, Inc. and/or Danny Tan, which seeks to annul or set aside the order of the public respondent NLRC dated 11 August 2005 when it denied their Appeal with Motion to Reduce Supersedeas Bond, in CA No. 044846-05. The sole issue of the petition is

“Whether the respondent Commission committed grave abuse of discretion amounting to lack or excess of jurisdiction when it denied the petitioners’ Motion to Reduce Supersedeas Bond to P10,000.00 cash, by rigidly maintaining and insisting on the fling of a supersedes bond in the amount of P569,228.08 for two claimant-workers.” (Rollo, pp 41)

The antecedent facts of the case are as follows:

The petitioner Denzel Plastic, Inc. (Referred to as Company) is a small-capitalized domestic corporation engaged in the small-scale production of plastic bottles servicing outside job orders. (Ibid, pp. 39) The private respondents were employed by the company as machine operators.

In Labor Case No. 0305-IS-005, the private respondents sued the company for its refusal to comply with the minimum wage law, social welfare benefits law and other similar laws for the protection and benefit of labor. The case was decided favorably, for the private respondents. Unfortunately, the private respondents were not able to enjoy the privilege of being paid their minimum wage and other statutory benefits for they were not allowed to enter the company’s premises. The private respondents were then, arbitrarily and illegally dismissed without compliance with the two-notice rule. When they were dismissed, they were not paid a single centavo as separation pay and retirement benefits (Ibid, pp. 11-12). Feeling aggrieved, they filed the instant case of illegal dismissal with monetary claims (NLRC NCR Case No. 00-09-10916-03).

As a defense the company contended that no liability may be imputed to them considering that the termination of employment was brought forth by the unavoidable circumstance of “lack of business orders” compounded by unstoppable financial collapse. (Ibid, pp. 48)

After the submission of the parties’ position papers and other relevant documents, Labor Arbiter Cresencio G. Ramos, Jr. decided the case in favor of the private respondents. In his decision dated 31 May 2005, he ratiocinates, among others, that:

“In the case at bench, not even the aspect of alleged financial reverses or losses suffered by respondents was duly established. All that the respondents relied to for their defense was unsubstantiated averment(s) of “financial collapse” brought about by alleged lack of “business orders”. This taken into consideration, respondents’ defense simply could not be upheld.” (Ibid, pp. 51)

The petitioners thereby filed on 29 June 2005 an Appeal with Motion to Reduce Supersedeas Bond to the public respondent NLRC, by posting only a supersedeas bond of ten thousand (P10, 000.00). (Ibid, pp 52-53) The Commission in its assailed Order dated 11 August 2005 denied the said appeal with motion to reduce supersedeas bond, stating, among others, that:

“After a review of respondents-appellants instant motion. We find that the same does not proffer any valid or justifiable reason that would warrant a reduction of the appeal bond. Hence, the same must be denied.

WHEREFORE, respondents-appellants are hereby ordered to post a cash or surety bond in the amount equivalent to the monetary award granted in the appealed decision (less the P10,000.00 cash bond already posted) and a joint declaration, indemnity agreement and collateral security in case respondents-appellants opted to post a surety bond which shall be issued by a reputable bonding company duly accredited by this Commission or the Supreme Court to transact business as required by Art.223 of the Labor Code as amended and Section 6, Rule VI of the NLRC New Rules of procedure as amended within an unextendible period of ten (10) calendar days from receipt of this Order, otherwise, the appeal shall be dismissed for non-perfection thereof.” (Ibid, pp. 64-66)

The petitioners then filed before us this instant petition for certiorari, with amendment thereto (Ibid., pp. 39 to 44).

In their petition they pointed out that the Labor arbiter committed an error in finding that the cause of the dismissal is on the aspect of retrenchment. They contended that the Labor Arbiter should consider closure or cessation of business as a ground for the dismissal of the employees. In the light of the financial straits of the petitioners, it would be just and proper to reduce the appeal bond. (Ibid., p. 42)

The petition failed to persuade us.

Prefatorily, we note that in plethora of cases decided by the Supreme Court and in a more recent case of *Bascon vs Court of Appeals*, GR No. 144899, February 5, 2004; “The findings of facts of the NLRC are deemed binding and conclusive upon the Court. We have repeatedly said that the Court is not trier of facts. Thus, resort to judicial review of the decisions of the NLRC in a special civil action for certiorari under Rule 65 of the Rules of Court is generally limited to the question of grave abuse of discretion amounting to lack or excess of jurisdiction.” Hence, this instant petition is limited to the question of grave abuse of discretion amounting to lack or excess of jurisdiction.

In the light of this doctrine, we find no grave abuse of discretion exercised by the Commission when it denied the petitioners’ Appeal with Motion to Reduce Supersedeas Bond.

The respondent Commission in denying the motion, ratiocinated in this wise:

“As held by the Supreme Court in recent case, in cases involving monetary award, an employee seeking to appeal the Labor Arbiter’s decision to the Commission is unconditionally required by Art. 223 of the Labor Code to post bond in the amount equivalent to the monetary award. (*Calabash Garments vs NLRC*, GR No. 1180027; 8-8-96)”

Thus, Article 223 of the Labor Code, provides:

“Appeal – Decision, awards, or orders of the Labor Arbiter are final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards or orders. x x x x

x x x

In case of a judgment involving a monetary award, an appeal by the employer may be perfected only upon the

posting of a cash or surety bond issued by a reputable bonding company duly accredited by the commission in the amount equivalent to the monetary award in the judgment appealed from.

x x x x.” (Underscoring supplied)

In connection therewith, Rule VI of the New Rules of Procedure of the National Labor Relations Commission, which implemented Article 223 of the Labor Code, expressly states:

“Section 1. Periods of Appeal. – Decisions, awards or orders of the Labor Arbiter and the POEA Administrator shall be final and executory unless appealed to the commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards or orders of the Labor Arbiter or by the Administrator x x x x.”

“Section 3. Requisite for Perfection of Appeal. (a) The appeal shall be filed within the reglementary period as provided in Section 1 of this Rule; shall be under oath with proof of payment of the required appeal fee and the posting of a cash or surety bond as provided in Section 5 of this Rule; x x x x.”

“Section 6. Bond. In case the decision of a Labor Arbiter, x x x x involves a monetary award, an appeal by the employer shall be perfected only upon deposit of a cash or surety bond issued by a reputable bonding company x x x x in an amount equivalent to the monetary award, exclusive of moral and exemplary damages and attorney’s fees.

x x x

The commission may, in meritorious cases and upon motion of the appellant, reduce the amount of the bond. The filing, however, of the motion to reduce bond shall not stop the running of the period to perfect appeal.” (Underscoring supplied).

Suffice it to stress, the posting of a cash or surety bond is intended to assure the workers that if they prevail in the case, they will receive the money judgment in their favor upon the dismissal of the employer’s appeal. It was intended to discourage employers from using an appeal to delay, or even evade, their obligation to satisfy their employees’ just and lawful claims.

In the case of *Ong vs Court of Appeals*, (GR No. 152494, September 22, 2004), the Supreme Court held that: “While Section 6 Rule VI of the NLRC’s New Rules of Procedure allows the Commission to reduce the amount of bond, the exercise of the authority is not a matter of right on the part of the movant but lies within the sound discretion of the NLRC upon showing of meritorious grounds.”

What is “meritorious grounds” is based on the factual circumstances of the case as determined by the sound discretion of the Commission as claimed and proved by the employer-appellant.

The claim of the petitioner as stated in paragraph 7 of their amended petition for certiorari (*Ibid*, pp 40); to wit: “that because petitioner Corporation has ceased operating as above-stated and suffering illiquidity and the co-petitioner also jobless with unsteady, trickling income, barely enough to meet daily necessities P569,228.08 (sic), it would be very hard, my (sic) impossible to raise a bond in the humongous amount of P569,228.04” is unavailing. In the case of *Calabash Garments, Inc. vs NLRC*, GR No. 110827, August 8, 1996; as applied in this case, “it was held that a substantial monetary award, even if it runs into millions, does not necessarily give the employer-appellant a “meritorious case” and does not automatically warrant a reduction of the appeal bond.”

By the failure of the petitioners to prove that there was a grave abuse of discretion amounting to lack or excess of jurisdiction exercised by the Commission, the finding of the Commission that there was no valid and justifiable ground to reduce the appeal bond is respected. As the petitioners’ appeal was not perfected within the reglementary period, the running of the prescriptive period for perfecting an appeal was not tolled. Consequently, the decision of the Labor Arbiter dated 31 May 2005 became final and executory upon the lapse of ten (10)

calendar days from receipt of the said decision. Hence, the said decision became immutable and it can no longer be amended nor altered by the public respondent NLRC. Inasmuch as the timely posting of appeal bond is an indispensable and jurisdictional requisite and not a mere technicality of law, the NLRC has no authority to entertain the appeal, much less to set aside the decision of the Labor Arbiter in this case (Navarro, et al. vs. NLRC, et al., G.R. No. 116464, March 1, 2000).

WHEREFORE, premises considered the instant Petition is hereby DENIED.

SO ORDERED.

Reyes, Jr. and Lanzanas, JJ., concur.

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