

ELIZABETH D. GALVERO, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (NLRC) – 1ST DIVISION, LABOR ARBITER JONALYN M. GUTIERREZ, AIR LINK INTERNATIONAL AVIATION SCHOOL, GERO...

Ponente: GARCIA-FERNANDEZ, J.

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GARCIA-FERNANDEZ, J.:

This Court resolved to GRANT the Motion to Allow to Litigate as Pauper Litigant filed by petitioner considering that the following attachments are deemed as substantial compliance with Section 19, Rule 141 of the 1997 Rules of Civil Procedure, namely: 1) Certificate from the Office of the City Assessor of Manila dated September 23, 2014 that petitioner has no real property listed in the Assessment Roll for taxation purposes; 2) Barangay Record Clearance and Certificate of Indigency issued by the Barangay Chairperson of Barangay 119, Zone 9 on September 16, 2014; 3) Affidavits of Indigency by petitioner Elizabeth D. Galvero and Leticia Cabardo on September 22 and 23, 2014, respectively.[1]

Notwithstanding the foregoing, this Court noted the following procedural infirmities: 1) The Verification and Certification of non-forum shopping signed by petitioner has a defective jurat for lack of competent evidence of affiant's identity; 2) The notarial certificate is defective for failure of the notary public to indicate his office address/place of commission pursuant to Sec. 2 (b) and (c) of Rule VIII of the 2004 Rules on Notarial Practice; 3) There is no affidavit of service, albeit registry receipts were attached to the petition; and 4) There are no copies of pertinent pleading/documents attached to the petition, i.e., complaint, answer, position papers, memorandum of appeal, motion for reconsideration, etc.[2]

Further, this Court examined the petition for certiorari under Rule 65 of the Rules of Court, as amended, seeking to annul and set aside the order of the labor arbiter dated December 20, 2012, the resolution and decision of public respondent National Labor Relations Commission (NLRC) dated April 8, 2013 and May 12, 2014 in NLRC CA No. 039417-04 (AE-02-13) [NLRC NCR Case No. 30-02-00686-01], and found the same to be devoid of merit. Record shows that on December 2, 2003, the labor arbiter rendered a decision, the dispositive portion of which reads:

"WHEREFORE, the foregoing premises considered, judgment is hereby rendered finding complainant's employment to have attained regular status. Accordingly, respondents are ordered to pay complainant her full backwages up to finality of the instant decision from 1[st] semester of July 1999 up to promulgation of this judgment, the computation of which is shown in the attached sheet and made an integral part hereof.

All other claims and counterclaims are denied for lack of merit.

So ordered."[3]

On February 2, 2004, the National Capital Region (NCR) Computation Unit issued a computation awarding the total amount of P453,620.30 to petitioner.

On December 28, 2007, the NLRC promulgated a decision dismissing private respondents' appeal of the labor arbiter's decision dated December 2, 2003. On April 16, 2008, the NLRC issued a resolution denying respondents' motion for reconsideration. On April 28, 2008, the NLRC issued an entry of judgment certifying that its resolution dated April 16, 2008 attained finality on May 18, 2008. Respondents elevated the case via a petition for certiorari under Rule 65 of the Rules before this Court, however, the Fifth (5th) division issued a decision on December 10, 2009 dismissing the petition and affirming the labor arbiter. Respondents also filed a petition for review before the Supreme Court assailing this Court's decision dated December 10, 2009, but the Supreme Court issued a resolution on June 16, 2010 denying the petition for review on certiorari. On September 13, 2010, the Supreme Court resolution attained finality.[4]

Meanwhile, on October 17, 2008, petitioner filed a motion for writ of execution, which respondents opposed. On January 19, 2010, petitioner filed a motion for re-computation of awards, praying that the judgment award be computed from the date of her dismissal to the date of final judgment of this Court's decision dated December 10, 2009. Pursuant thereto, the Computation Unit submitted an updated computation awarding a total amount of P1,277,241.40 to petitioner. In their comment/opposition to the re-computation, respondents alleged that petitioner repeatedly refused their advise to return to work; that the computation of wages/benefits should not go beyond December 3, 2003 when petitioner refused to return to work; and that petitioner was not entitled to cost of living allowance (COLA) and service incentive leave pay (SILP) since she was paid per semester and enjoyed semestral breaks.

On December 13, 2011, a writ of execution was issued and the supersedeas bond posted by respondents in the amount of P454,620.30 was released to petitioner representing the monetary award per decision dated December 2, 2003 of Labor Arbiter Thelma Concepcion.[5]

On December 20, 2012, the Labor arbiter issued the assailed order, the dispositive portion of which reads:

"WHEREFORE, all the foregoing premises considered, respondents' motion should be given due course (sic)the monetary award due to complainant should be based on the final decision of then labor arbiter Thelma Concepcion.

SO ORDERED."[6]

In its order, the labor arbiter held that the monetary award should be computed from the 1st semester of July 1999 up to the date of promulgation of the labor arbiter's decision on December 2, 2003, which amounted to a total of P453,620.30, and not the period covering December 3, 2003 to September 13, 2010 as petitioner contended because first, the labor arbiter's decision had already attained finality; and second, there was evidence on record to prove that petitioner repeatedly refused to return to work.

On February 20, 2013, petitioner appealed the order dated December 20, 2012, however, the NLRC issued the assailed order dated April 8, 2013 dismissing the appeal for being a prohibited pleading under Sec. 5, Rule V of the 2011 Rules of Procedure of the NLRC, which proscribes appeals from orders issued by the labor arbiter in the course of execution proceedings, and for having been filed out of time.[7] On August 27, 2013, an entry of judgment was issued declaring that the resolution dated April 8, 2013 became final and executory on June 17, 2013.[8]

On February 3, 2014, petitioner filed a Motion for Reconsideration and To Admit Petition, moving for reconsideration of the April 8, 2013 resolution of the NLRC and reversal of the order dated December 20, 2012 of the labor arbiter. The NLRC in its decision dated May 12, 2014, denied the motion for reconsideration and petition on grounds: 1) That the motion for reconsideration filed by registered mail on February 3, 2014, was time-barred given that petitioner received notice of the April 8, 2013 resolution on February 9, 2013 but failed to

file a timely motion within the ten(10)-day period under Sec. 3, Rule XII of the 2011 NLRC Rules of Procedure; and 2) That the resolution dated April 8, 2013 became final and executory since no appeal was filed before the NLRC within the reglementary ten (10)-day period for filing the same under Sec. 1, Rule VI of the same Rules.[9]

This Court finds no grave abuse of discretion on the part of public respondent NLRC in holding that the motion for reconsideration filed almost one year from notice of the resolution dated April 8, 2013 was time-barred; and that petitioner also failed to perfect an appeal on time. Public respondent cannot be faulted for strictly abiding by its Rules on perfection of an appeal because to extend the period of the appeal in labor cases is to delay the case. It is entrenched in our jurisprudence that perfection of an appeal in a manner and within the period prescribed by law is not only mandatory but jurisdictional, and failure to perfect an appeal has the effect of making judgment final and executory. It is axiomatic that an appeal is only a statutory privilege and it may only be exercised in the manner provided by law.[10] Moreover, the relaxation of procedural rules cannot be made without any valid reasons proffered for or underpinning it. In this case, petitioner failed to show reasonable cause to justifying her non-compliance with NLRC Rules, hence, leniency cannot be accorded, absent valid and compelling reasons for such procedural lapse.[11]

WHEREFORE, the petition for certiorari is DISMISSED for lack of merit.

SO ORDERED.

Lampas Peralta, (Chairperson), and Acosta, JJ., concur.

[1] Rollo, pp. 8-9.

[2] Id. at p. 81.

[3] Rollo, pp. 33.

[4] Id. at p. 34.

[5] Id. at pp. 50-52.

[6] Id. at pp. 32-37.

[7] Id. at pp. 39-42.

[8] Id. at p. 43.

[9] Id. at pp. 44-49.

[10] Co Say Coco Products, Philippines, et al. vs. Baltasar, et al., G.R. No. 188828, March 5, 2014.

[11] Ramirez vs. Court of Appeals, NLRC, Cebu City and Valcueba, G.R. No. 182626, December 4, 2009.

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