

COLORLUX PHILS., INC., KIM NAUNTOFTE, EMILIE NAUNTOFTE AND GERTRUDIS BANGALAN, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, LABOR ARBITER MICHAELA A. LONTOK AND ARCHIE ...

Ponente: DICDICAN, J.

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DICDICAN, J.:

Before this Court is a Petition for Certiorari[1] filed pursuant to Rule 65 of the Revised Rules of Court seeking to set aside the Resolutions, dated August 30, 2013[2] and October 25, 2013[3] promulgated by the National Labor Relations Commission (NLRC), Third Division, in the labor case docketed as NLRC Case No. RAB-IV-05-00971-10-L (NLRC LAC 08-002272-13).

The material and relevant facts, as culled from the record, are as follows:

Petitioner Colorlux, Phils., Inc. (Colorlux for brevity) is a corporation duly organized and existing under the laws of the Philippines. It is engaged in signage making with principal place of business at Cabuyao, Laguna. Petitioners Kim Nauntofte, Emelie Nauntofte and Gertrudis Bangalan are the President, VP for Finance, and HR and Administrative Manager, respectively, of petitioner Colorlux.

Private respondent Archie Jaruda was hired by Colorlux on a monthly-fixed term employment for the period of March 2008 up to August 2008 as liaison coordinator thereof. On February 15, 2009, private respondent re-applied for employment with Colorlux and was hired as general service assistant/liaison coordinator. During his employ with Colorlux, he was required to report for work for eight (8) hours a day for six days a week. He received a daily salary of P298.00. He was terminated from his employment on April 8, 2010.

On May 26, 2010, private respondent filed a complaint against the petitioners for illegal dismissal, for non-regularization as an employee with a claim for reinstatement and backwages and for damages and attorney's fees. The case was docketed as NLRC Case No. RAB IV-05-00971-10-L. Thereafter, a mandatory conciliation proceeding was conducted by the Labor Arbiter but no settlement was reached by the parties. Thus, they were required by the Labor Arbiter to submit their respective position papers and other pleadings.

In their position paper, the petitioners averred that private respondent was hired as an all-around errand boy for a period of one month on a fixed term employment. After the expiration of the private respondent's monthly contract, they re-hired him and made him sign for another one month contract until such time that his contract was no longer extended due to lack of job orders. According to them, private respondent kept on returning to their office and pleaded that he be given work. Private respondent was assigned to deliver signage materials to their clients and to do some bank transactions in a confidential capacity. On April 8, 2010, they were constrained to terminate the services of the private respondent due to global economic crisis that resulted in the shutdown of their job orders. They denied the private respondent's charge of illegal dismissal and explained that his dismissal was the result of the expiration of his employment contract. They also denied the private respondent's allegations that he was entitled to his money claims. They maintained that there no employer-employee relationship existed

between them and the private respondent as his contract was for a fixed term. Lastly, they declined private respondent's prayer for regularization on the ground that it was a management prerogative who to hire and when to hire its employee.

For his part, private respondent contended that, during the first five months of his work with the petitioners as liaison coordinator, he was made to sign an employment contract every month and, despite his request, he was not given a copy thereof. According to him, petitioner Gertrudis Bangalan got mad at him and terminated his services with them upon learning that he filed a complaint for inspection with the DOLE Region IV for non-remittance of SSS premiums, underpayment, non-payment of legal/special holidays, 13th month pay and overtime pay. The DOLE inspector had issued subpoena/subpoena duces tecum to petitioners and found out that petitioners had violated labor standards law.

On December 28, 2012, the Labor Arbiter rendered a decision[4] declaring private respondent's termination from employment as illegal. The dispositive portion of said decision reads as follows:

“WHEREFORE, the complaint is hereby GRANTED. Respondents are hereby adjudged liable for the illegal dismissal of complainant on 08 April 2010. Accordingly, respondents are directed to immediately reinstate complainant to his former or equivalent position as a regular employee, without loss of seniority rights, benefits and privileges that he received prior to his dismissal. Respondents are, further directed to jointly and severally pay complainant backwages and benefits from 08 April 2010 up to his actual reinstatement which, as of this date amounts to P298,721.22, moral, exemplary and nominal damages in the amount of P130,000.00 and attorney's fees equivalent to eight (8%) percent of the total monetary awards herein granted.

“xxx.

“SO DECIDED.”[5]

On March 27, 2013, the private respondent filed a motion for the issuance of a writ of execution of the foregoing judgment. A pre-execution conference was conducted by the Labor Arbiter on May 29, 2013. Petitioners failed to appear in the said conference. The motion for writ of execution was granted by the Labor Arbiter on May 31, 2013.

On June 14, 2013, a writ of execution was issued by the Labor Arbiter directing the sheriff to execute the monetary awards granted to the private respondent in the decision dated December 28, 2012. On June 20, 2013, a notice of garnishment was issued to RCBC bank, Cabuyao, Laguna branch.

On June 27, 2013, petitioners filed a motion to lift garnishment. The said motion alleged that the garnishment was premature because the decision of the Labor Arbiter had not attained finality for failure of their counsel to receive a copy thereof. The petitioner opposed the said motion. On July 2, 2013, the Labor Arbiter denied the said motion for lack of merit.

On July 18, 2013, petitioners filed a notice and memorandum of appeal to the NLRC. The appealed case was docketed as NLRC Case No. RAB-IV-05-00971-10-L (NLRC LAC 08-002272-13).

On August 30, 2013, the NLRC, Third Division, promulgated its Resolution dismissing the appeal filed by petitioners for non-perfection thereof. The dispositive portion of the said resolution reads as follows:

“WHEREFORE, premises considered, the instant appeal is, as it is hereby, DISMISSED for non-perfection.

“SO ORDERED.”[6]

Aggrieved, petitioners filed a motion for reconsideration of the resolution of the NLRC but said motion was denied in a resolution dated October 25, 2013 the dispositive portion of which reads:

“WHEREFORE, the instant Motion for Reconsideration should be, as it is hereby DENIED for lack of merit. The resolution dated August 30, 2013 STANDS undisturbed.

“No further motion of similar nature shall be entertained.

“SO ORDERED.”[7]

On January 7, 2014, petitioners filed in this Court a petition in the case now at bench. Petitioners charged the respondent NLRC with grave abuse of discretion in ordering the dismissal of their appeal for failure to perfect it despite the fact that the decision of the Labor Arbiter has not yet attained finality because their counsel had not been furnished with a copy of the said decision.

After a careful and judicious scrutiny of the whole matter, together with the applicable laws and jurisprudence in the premises, we find that the petition filed in this case is not meritorious.

It is a well settled rule that the right to appeal is not a natural right or a part of due process. It is merely a statutory privilege and may be exercised only in the manner and in accordance with the provisions of law. The party who seeks to avail of the same must comply with the requirements of the rules. Failing to do so, the right to appeal is lost.[8]

Article 223 of the Labor Code, as amended, sets forth the rules on appeal from the Labor Arbiter’s monetary award:

“ART. 223. Appeal. – Decisions, 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.” (Emphasis ours.)

Implementing the aforestated provisions of the Labor Code are the provisions of Rule VI of the New Rules of Procedure of the NLRC on perfection of appeals which read:

“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 of the Administrator, and in case of a decision of the Regional Director or his duly authorized Hearing Officer within five (5) calendar days from receipt of such decisions, awards or orders x x x.

“Section 4. Requisites for Perfection of Appeal. – (a) The appeal shall be filed within the reglementary period as provided in Sec. 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 Sec. 5 of this Rule; shall be accompanied by a memorandum of appeal which shall state the grounds relied upon and the arguments in support thereof; the relief prayed for; and a statement of the date when the appellant received the appealed decision, order or award and proof of service on the other party of such appeal.

“A mere notice of appeal without complying with the other requisite aforestated shall not stop the running of the period for perfecting an appeal.

“x x x x.

“Section 6. Bond. - In case the decision of the Labor Arbiter, the Regional Director or his duly authorized

Hearing Officer involves a monetary award, an appeal by the employer shall be perfected only upon the posting of a cash or surety bond, which shall be in effect until final disposition of the case, issued by a reputable bonding company duly accredited by the Commission or the Supreme Court in an amount equivalent to the monetary award, exclusive of damages and attorney's fees.

“x x x x.”

By explicit provision of law, an appeal from the decisions, awards or orders of the Labor Arbiter to the NLRC must be perfected within ten calendar days from receipt of such decisions, awards or orders, otherwise the same shall become final and executory. In a judgment involving a monetary award, the appeal shall be perfected only upon (1) proof of payment of the required appeal fee, (2) posting of a cash or surety bond issued by a reputable bonding company, and (3) filing of a memorandum of appeal. The mere filing of a notice of appeal without complying with the other requisites mentioned shall not stop the running of the period for perfection of appeal.[9]

In the case at bench, the record would reveal that petitioners received the copy of the Labor Arbiter's decision on March 5, 2013. They did not file a notice and memorandum of appeal from the foregoing decision within the period prescribed by the law and the implementing rules. They only filed their memorandum of appeal on July 18, 2013 or more than four months after the decision of the Labor Arbiter had become final and executory. They reasoned that the late filing of their appeal by themselves was prompted after they had confirmed that their counsel could not be furnished with a copy of the labor arbiter's decision. The record shows, however, that petitioners were not represented by a counsel during the proceedings with the Labor Arbiter. Petitioners were represented by Gertrudis P. Bangalan, the Human Resource Management and Administration Manager of petitioner Colorlux. Also, in all the pleadings that they had submitted to the Labor Arbiter, it appears therein that indeed they were represented by Gertrudis P. Bangalan. As categorically stated by the NLRC in its resolution:

“The registry return cards show that respondents-appellants and their authorized representative received the copy of Decision on March 5, 2013. They filed their appeal on July 18, 2013. Clearly, it was filed beyond the 10-day reglementary period prescribed by law to perfect an appeal. They cannot claim that their counsel was not furnished a copy of Decision. During the proceedings before the Labor Arbiter and all the pleadings they submitted, they were represented by the Human Resource Management and Administration Manager. It is only in the execution proceedings that they engaged the services of a lawyer.”

To our mind, the petitioners had failed to file their memorandum of appeal within the period required by law to file the same, that is, within ten calendar days from receipt of the decision of the Labor Arbiter. As mentioned earlier herein, petitioners received the labor arbiter's decision on March 5, 2013. They had until March 15, 2013 to perfect their appeal. However, they failed to file their appeal on the said date. Instead, filed it on July 18, 2013 after the decision had become final and executory and after a writ of execution and garnishment had already been issued for the satisfaction of the private respondent's money claims.

It also appears that the petitioners had not put up the appeal bond as required for the perfection of an appeal from the Labor Arbiter's decision. This is fatal to their cause. Thus, by any legal yardstick, the petitioners had not really perfected their appeal to the NLRC from the Labor Arbiter's decision.

It bears stressing that the timely perfection of an appeal is a mandatory requirement which cannot be trifled with as a “mere technicality” to suit the interest of a party. The rules on periods for filing appeals are to be observed religiously, and parties who seek to avail themselves of the privilege must comply with the rules.[10] The petitioners' failure in the case at bench to comply with the requirements for the perfection of appeal had the effect of rendering the decision of the labor arbiter final and executory and placing it beyond the power of the NLRC to review or reverse it. Petitioners, as the losing party has the privilege to file an appeal within the prescribed period, and private respondent as the winning party has the right to enjoy the finality of the resolution of his case.[11]

All told, we are of the view that the NLRC did not commit grave abuse of discretion when it promulgated the resolutions dated August 30, 2013 and October 25, 2013, respectively. By grave abuse of discretion is meant such capricious and whimsical exercise of judgment tantamount to lack of jurisdiction. The exercise of power must have been done in an arbitrary or despotic manner by reason of passion or personal hostility. It must be so patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[12] There is no showing in this case of commission by the NLRC of any of the foregoing acts.

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DENYING the petition filed in this case.

SO ORDERED.

Elbinias and Paredes, JJ., concur.

[1] Rollo, pp. 3-16.

[2] Rollo, pp. 119-123.

[3] Rollo, p.128.

[4] Rollo, pp. 82-91.

[5] Rollo, pp. 82-91.

[6] Rollo, pp. 119-123.

[7] Rollo, p. 128.

[8] Ong vs. Court of Appeals, G.R. No. 152494, 22 September 2004, 438 SCRA 668, 673.

[9] Philux, Inc. and Kienle vs. NLRC and Perjes, G.R. No. 151854, September 3, 2008.

[10] Cuevas vs. Bais Steel Corporation, 391 SCRA 192.

[11] Id.

[12] Pontejos vs. Office of the Ombudsman and Aquino, G.R. Nos. 158613-14, February 22, 2006.

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