

CRUZ, REYNELYN T., DELA CRUZ, MICHAEL J., AGUNAT, ARLEN B., PALOMAR, REGINA C., BABON, ROGER S. AND NACIONAL ROLANDO M., PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION (SI...

Ponente: BRUSELAS, JR. J.

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BRUSELAS, JR. J.:

Before us is a Petition for Certiorari filed by the petitioners pursuant to Rule 65 against the Decision[1] of the National Labor Relations Commission (NLRC) which modified the Decision[2] of the Labor Arbiter dated 02 July 2012. The dispositive portion of the NLRC decision is herein quoted as follows:

“WHEREFORE, premises considered, the appeals are partially granted. PEATCO is hereby directed to reinstate complainants to their former positions and to pay them backwages from the time they were terminated from their employment until their reinstatement. PEATCO is also held liable for underpaid wages and holiday premiums as well as for unpaid service incentive leaves and 13th month pay subject to the three (3) year prescriptive period. Attorney's fees is likewise awarded.

A detailed computation of the awards of complainants is attached as Annex A and is deemed as part of this Decision.

All other dispositions not affected by this modification stay.

SO ORDERED.”[3]

Likewise assailed is the Resolution[4] promulgated on 27 June 2013 which denied the petitioners' motion for partial reconsideration[5] for lack of merit.

The pertinent and relevant facts, as found by the NLRC, are as follows:

Through seven (7) separate complaints filed with the labor arbiter, the petitioners herein and their co-complainants sought redress about their regularization against Public Estate Authority Tollway Corporation (“PEATCO”), the non-payment or underpayment of their wages, holiday premium, overtime pay, service incentive leave pay, thirteenth (13th) month pay and also about separation pay against Filway Management and General Services Corporation (“Filway”). They asserted that they had been illegally dismissed without due process.

Meanwhile, the petitioners signed their respective waivers and quitclaims[6] in favor of Filway declaring that they ceased to be employees of Filway, and, in consideration of the sum of P7,500.00, they released and discharged Filway from any obligation or legal liability; and that they would not continue to prosecute the pending actions; thus, effectively withdrawing all pending cases against Filway.

Via the 02 July 2012 decision rendered by the Labor Arbiter, the consolidated complaints were dismissed for lack of merit and the petitioners' claims were denied due to settlement. The dispositive portion of the decision reads:

“IN VIEW OF THE FOREGOING, the complaints filed in the instant cases are DISMISSED.

The motion for execution is denied because there is no proof that representative of FMGSC has authority from the Board of Directors.

The cases of Palomar, Agunat, Cruz, Nacional, Babon and dela Cruz are dismissed for having been settled.”[7]

Consequently, a Memorandum of Appeal[8] was filed but the petitioners failed to assail therein the dismissal of their claims on the ground of settlement. Except for petitioner Reynelyn T. Cruz, all other petitioners did not sign the corresponding verification and certification of non-forum shopping of the said appeal memorandum.

In the assailed decision, the NLRC noted that the petitioners did not join their co-complainants in opposing the decision of the Labor Arbiter nor did they question the dismissal of their claims because of settlement. The NLRC, however, partially granted the appeal of the rest of the complainants. The NLRC ratiocinated as follows:

“In sum, We find FMGSC to be a labor-only contractor because the totality of the pieces of evidence so disclose. First, it is not registered in accordance with Department Order (DO) 18-02 S 2002 or DO 18-A S 2011. Second, it does not carry a distinct and independent business. Third, the complainants perform activities which are usually necessary or desirable to the operations of PEATCO. Fourth, it does not exercise the right to control the performance of complainants. Fifth, it does not have the say as to the selection and engagement of complainants. Sixth, it has engaged in a prohibited activity of repeated hiring of employees under employment contracts of short durations.

xxx xxx xxx

In this scenario, PEATCO is deemed the employer of complainants. The claim for regularization has then factual and legal basis.

Having been declared to be regular employees of PEATCO, FMGSC being a mere agent, complainants had acquired security of tenure. As such, they could only be dismissed by PEATCO on the basis of just or authorized cause and with observance of procedural due process. In this case, the expiration of the Service Agreement and the Project Employment Contracts could not have been a cause for complainants' termination. Having failed in its onus to prove a valid dismissal, PEATCO is deemed to have illegally terminated the employment of complainants.”[9]

The NLRC further awarded monetary claims due the 25 complainants which had an aggregate amount of P5,723,047.04.[10] The 6 petitioners, however, were not included in the judgment award. Aggrieved, they moved for the partial reconsideration of the NLRC's decision. They argued that their respective waivers and quitclaims were signed and executed in favor of Filway only and not of PEATCO. Thus, they claimed that they ought to be included in the order of the NLRC against PEATCO reinstating the complainants with payment of full backwages and other benefits. As to the amount of P7,500.00 received by each petitioner, they asserted that the said amount should be deemed as an advance payment and may be deducted from the monetary award that they were entitled to in accordance with the ruling of the NLRC.

In the 27 June 2013 resolution, the NLRC did not find merit in the motion of the petitioners. The NLRC explained:

“We note that the 02 July 2012 Decision of the Labor Arbiter dismissed the complaints of Cruz, dela Cruz, Palomar, Agunat, Nacional and Babon on the ground of settlement. We likewise note that in the Memorandum of Appeal, the dismissal of the case as against these complainants has never been raised as an issue. Since the dismissal of claims on the ground of settlement has not been appealed, these complainants cannot, through the instant Partial Motion for Reconsideration, question Our assailed Decision. When they have lost their remedy of appeal, complainants should not be made to resurrect that remedy through this pending motion.

That they are not interested in bringing their case on appeal is bolstered further by their non-verification of the Memorandum of Appeal.”[11]

Undaunted, the petitioners come to us via this petition for certiorari[12] which ascribes to the NLRC the following acts allegedly amounting to grave abuse of discretion, to wit:

“I.

THE HONORABLE PUBLIC RESPONDENT NLRC SIXTH DIVISION WITH ALL DUE RESPECT SERIOUSLY COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DISMISSING THE APPEAL OF HEREIN SIX (6) PETITIONERS DESPITE THE EVIDENCE ON RECORD SHOWING THAT PETITIONERS WERE SIMILARLY SITUATED AS THE FIFTEEN (15) CO-WORKERS.

II.

THE HONORABLE PUBLIC RESPONDENT NLRC SIXTH DIVISION WITH ALL DUE RESPECT COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT DISMISSED THE APPEAL OF SIX (6) PETITIONERS IF NOT CORRECTED WILL BE A BAD PRECEDENT. FUTURE EFFECT THEREOF FINDS SPACE IN THE COURTS OF LAW THE CASE OF THE PETITIONERS IS MERITORIOUS AND TO DISREGARD THE SAME WOULD BE TANTAMOUNT TO WILFULLY CLOSING OUR EYES IN ORDER TO AVOID SEEING AND REALIZING THE NAKED TRUTH.

III.

THE HONORABLE PUBLIC RESPONDENT NLRC SIXTH DIVISION WITH ALL DUE RESPECT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT FAILED TO INCLUDE THE SIX (6) PETITIONERS IN THE COMPUTATION DESPITE IT FINDING THAT THEY WERE ILLEGALLY DISMISSED BY PRIVATE RESPONDENTS.”

The petitioners are fundamentally assailing the judgment rendered by the NLRC because of the sole reason that they were not included in the computation of monetary awards. While the petitioners admit that they signed a waiver and quitclaim in consideration of the sum of P7,500.00 each, they contend that the said amount must be treated as an advance payment that may be deducted from the monetary awards granted by the NLRC to their co-complainants.

We find the petition to be devoid of merit.

The NLRC, upon reviewing the appeal from the decision of the Labor Arbiter, delved on all the issues raised therein and decided based on the submissions of the parties. A perusal of the appeal memorandum submitted by the complainants vis-à-vis the NLRC's decision shows that there was no single controversy or issue left unresolved by the NLRC. It cannot be said also that the NLRC disregarded the petitioners' claims because, in the first place, they were not brought up during the appeal.

Points of law, theories, issues and arguments not brought to the attention of the lower court need not be, and ordinarily will not be, considered by a reviewing court, as these cannot be raised for the first time at such late stage[13] even so in a certiorari petition. The appellate court's jurisdiction to review a decision of the NLRC in a petition for certiorari is limited to the determination of whether or not the NLRC acted without or in excess of its jurisdiction or with grave abuse of discretion in rendering its decision.[14] Likewise, errors of judgment, as distinguished from errors of jurisdiction, are not within the province of a special civil action for certiorari. It is thus incumbent upon the petitioners to satisfactorily establish that the NLRC acted capriciously and whimsically in order that the extraordinary writ of certiorari will lie.[15]

The ground upon which the petitioners' claims were dismissed by the Labor Arbiter sets them apart from where

their co-complainants were situated. It made their situation different from their co-complainants. While the latter's claims were not settled by any form of waiver, the petitioners, on the other hand, clearly declared their disinterest in any claim against Filway. It was therefore vital for the petitioners to raise the dismissal of their claim before the NLRC as an error committed by the Labor Arbiter to enable the NLRC to have a proper appreciation of the factual matters, the issues involved and the applicable laws. Otherwise, it would be unfair to the respondents who would have no opportunity to present further evidence to rebut the already settled claims of the petitioners.

The finding of the NLRC that Filway was an agent of PEATCO[16] may cause the latter to benefit from the effects of the waivers and quitclaims that were executed by the petitioners in favor of Filway. The petitioners therefore must have asserted their claim against PEATCO through the appeal and not just relied on the NLRC to validate their monetary claims just because they were purportedly, similarly situated with their co-complainants. The NLRC cannot also rule on the due execution of the waivers and quitclaims because the petitioners did not put it in issue and did not assign what factual and legal grounds the NLRC should look into. The NLRC, therefore, is devoid of jurisdiction to rule on the validity of the dismissal of the petitioners' claims or to include them in the judgment award. The Labor Arbiter's ruling as to the petitioners, undeniably remained uncontested.

The petitioners' lack of interest to assail the dismissal of their claims based on settlement was implied from their non-verification of the appeal memorandum. Although one of them signed, it cannot be said that all of the petitioners conformed to it. The verification requirement is significant, as it is intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith.[17] Verification is deemed substantially complied with when, one who has ample knowledge to swear to the truth of the allegations in the appeal memorandum signs the verification, and when matters alleged in the appeal memorandum have been made in good faith or are true and correct.[18]

Admittedly, among the 6 petitioners, only petitioner Cruz signed the verification and certification of non-forum shopping. The lone signature of petitioner Cruz would have been sufficient if she was authorized by her co-petitioners to sign for them. Unfortunately, the petitioners failed to adduce proof that she was so authorized. Neither did the petitioners give a reasonable explanation as to why not all of them signed the verification and certification of non-forum shopping.

It has not also escaped our attention that the 02 July 2012 decision of the Labor Arbiter that ruled on the dismissal of the petitioners' claims, had already attained finality when the petitioners filed their motion for partial reconsideration. The ten-day period within which the petitioners should have filed their appeal had lapsed. It is settled that when a decision has acquired finality, the same becomes immutable and unalterable.[19] By this principle of immutability of judgments, the Court is now precluded from further examining the Labor Arbiter's decision regarding the dismissal of the petitioners' claims. Consequently, the petitioners cannot compel the NLRC to include them in the computation of the judgment award. A party who has not appealed from a decision cannot seek any relief other than what is provided in the judgment appealed from.[20]

It is a fundamental rule of procedure that higher courts are precluded from entertaining matters neither alleged in the pleadings nor raised during the proceedings below, but ventilated for the first time only in a motion for reconsideration or on appeal.[21] Petitioners are bound by their declarations on their waivers and quitclaims especially that they did not seasonably assail the dismissal of all their claims based on the said waivers and quitclaims. Such change of heart cannot be tolerated in a certiorari petition when they had the opportunity to do so before the NLRC, not due to the strict application of procedural rules, but as a matter of fairness.

On the whole, the NLRC may not be faulted for rendering a decision which excluded the petitioners in the

monetary award. We find no grave abuse on the part of the NLRC in its exercise of discretion because we see no substantial proof that supports the petitioners' allegation that it was done whimsically, arbitrarily or despotically, by reason perhaps of passion, prejudice, or personal hostility.

WHEREFORE, the petition is DENIED DUE COURSE and consequently DISMISSED.

IT IS SO ORDERED.

Reyes, Jr., A.B., P.J., (Chairperson) and Gaerlan, JJ., concur

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- [1] Dated 30 April 2013 in NLRC LAC No. 09-002629-12, Rollo, p. 27.
- [2] Rollo, p. 208.
- [3] Rollo, p. 56.
- [4] Rollo, p. 62.
- [5] Rollo, p. 250.
- [6] Rollo, pp. 191-196.
- [7] Rollo, p. 222.
- [8] Rollo, p. 223.
- [9] Rollo, pp. 50-52.
- [10] See "Computation of Monetary Awards xxx", Rollo, pp. 57-61.
- [11] Rollo, p. 65.
- [12] Rollo, p. 3.
- [13] Maxicare vs. Contreras, MD, GR No. 194352, 30 January 2013, 689 SCRA 763.
- [14] Kaisahan at Kapatiran ng mga Manggagawa at Kawani sa MWC-East Zone Union vs. Manila Water Company, Inc., GR No. 174179, 16 November 2011, 660 SCRA 263.
- [15] Leonis Navigation Co., Inc. and World Marine Panama, S.A. vs. Catalino U. Villamater, et al., GR No. 179169, 03 March 2010, 614 SCRA 182.
- [16] See NLRC decision, last paragraph, Rollo, p. 51.
- [17] Martos, et al. vs. New San Jose Builders, Inc. GR No. 192650, 24 October 2012, 684 SCRA 651.
- [18] Estel vs. Diego, Sr., GR No. 174082, 16 January 2012, 663 SCRA 17.
- [19] Mauleon vs. Porter, GR No. 203288, 18 July 2014.
- [20] One Network Rural Bank, Inc. vs. Baric, GR No. 193684, 05 March 2014.
- [21] Supra note 13.

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