

ROBERT TRINIDAD DEE, DOING BUSINESS UNDER THE NAME AND STYLE PAYA CONSTRUCTION SUPPLY, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, JUAN CORDOVEZ AND RONNIE ARCEGA, RESP...

Ponente: DICDICAN, J.

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DICDICAN, J.:

Before this Court is a Petition for Certiorari[1], under Rule 65 of the Revised Rules of Court, seeking the reversal of the Resolutions, dated March 27, 2013[2] and May 31, 2013[3], promulgated by the public respondent National Labor Relations Commission in NLRC LPRJC Case No. 01-001-13. Likewise assailed is the Labor Arbiter's Decision dated May 30, 2011 rendered in NLRC NCR Case No. 06-09562-11[4].

The antecedent facts are as follows:

In a Complaint[5] dated June 21, 2011, private respondents Juan Cordovez and Ronnie Arcega claimed that they were illegally dismissed by “Paya Construction Supply/Top View Construction Supply” whose owner/manager/president is/are “Robert Trinidad/Cai Yun a.k.a. Kikay.” They alleged underpayment of wages and non-payment of 13[th] month pay, overtime pay, holiday pay, rest day premium, service incentive leave and ECOLA.

Petitioner Robert Dee explained in his position paper[6] that Cai Yun is his spouse and that he owns Paya Construction Supply while a certain Patrick Sy owns Top View Construction Supply. He further stated that private respondent Juan Cordovez was his truck driver and, therefore, a field personnel, while private respondent Ronnie Arcega was not his employee but an employee of Top View Construction Supply. The case, docketed as NLRC NCR Case No. 06-09562-11, was submitted for decision after the parties submitted their position paper, reply and rejoinder.

Sometime in September 2012, after one year of allegedly not getting any update on the case, petitioner was surprised to receive private respondent's Motion for Issuance of Writ of Execution[7] dated September 4, 2012 via registered mail. After taking it upon himself to secure copies of the records of the case, petitioner discovered on November 26, 2012 that the labor arbiter had already rendered a Decision, dated May 30, 2012, the dispositive of which states as follows:

“WHEREFORE, judgment is hereby rendered dismissing the charge of illegal dismissal for lack of merit but ordering respondents to pay complainants as follows:

1. Juan I. Cordovez:

Wage Diff.

P148,204.94

Overtime Pay

56,701.08

Holiday Pay

13,225.00

SILP

5,815.50

13[th] Mo. Pay

30,240.58

TOTAL

P254,187.10

2. Ronnie Arcega

Wage Diff.

P148,204.94

Overtime Pay

56,701.08

Holiday Pay

13,225.00

SILP

5,815.50

13[th] Mo. Pay

30,240.58

TOTAL

P254,187.10

GRAND TOTAL -----

P508,374.20

SO ORDERED.”[8]

The labor arbiter likewise stated that the records showed that both Paya Construction Supply and Top View Construction Supply are owned by spouses Robert Dee and Cai Yun-Dee.

Petitioner grieves the alleged fact that he was never served with a copy of the labor arbiter's decision. He found in the records in the labor arbiter's office that a single envelope, containing his name and the names of Cai Yun, Paya Construction Supply and Top View Construction Supply, was stamped as “Unlocated RTS” (return to sender). Said envelope contained a copy of the labor arbiter's decision and was sent to the address of Top View Construction Supply.

Petitioner's former counsel, Atty. Nilo Martin, however, received a copy of the decision on July 26, 2012 but the latter failed to inform petitioner thereof.[9] Private respondents and their counsel, on the other hand, were all sent copies of the labor arbiter decision.

Hence, petitioner, assisted by a new counsel, filed a Petition for Relief[10], dated January 25, 2013, before the National Labor Relations Commission, praying, among others, that the labor arbiter's decision be annulled, vacated and set aside.

In the assailed Resolution dated March 27, 2013, the Commission refused to give due course to the petition for relief. The Commission held that the petition for relief filed by petitioner was a prohibited pleading and that, even if Section 1, Rule 38 of the Revised Rules of Court[11] would be given suppletory application, the petition would still be considered as improperly filed before the Commission considering that the petition, under the Rules of Court, should have been filed before the same court which rendered the questioned decision. The body which rendered the assailed decision in this case was the Office of the Labor Arbiter. Under the NLRC Rules of Procedure, however, the labor arbiter is expressly barred from entertaining petitions for relief.

The dispositive portion of the decision thus states:

“WHEREFORE, premises considered, the petition is hereby DISMISSED for being prohibited under the 2011 NLRC Rules of Procedure.

SO ORDERED.”[12]

Petitioner filed a Motion for Reconsideration[13] thereof, invoking substantial justice. In its second challenged Resolution, dated May 31, 2013, the Commission denied petitioner's motion for reconsideration. The fallo of the resolution reads:

“WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby DENIED for lack of merit.

“No further motion of similar nature will be entertained.”[14]

Hence, this petition before this Court, based on several alleged grounds:

A. PUBLIC RESPONDENT NLRC COMMITTED GRAVE AND PATENT ABUSE OF DISCRETION AS EVIDENCED BY THE FOLLOWING:

1. PUBLIC RESPONDENT NLRC DISMISSED THE PETITION FOR RELIEF SOLELY ON THE BASIS OF TECHNICALITIES DESPITE EVIDENT MERIT OF PETITIONER'S CAUSE / SUBMISSION.
2. PUBLIC RESPONDENT NLRC AND THE LABOR ARBITER COMPLETELY IGNORED FACTS WHICH HAD BEEN PROVEN BY SUBSTANTIAL DOCUMENTARY EVIDENCE:

xxx xxx xxx

3. REGARDLESS OF THE EMPLOYER OF PRIVATE RESPONDENTS, THEIR EXPRESS DECLARATION THAT THEY WERE DRIVER AND PAHINANTE IS AN ADMISSION THAT THEY ARE / WERE “FIELD PERSONNEL”. THUS, PUBLIC RESPONDENT NLRC AND THE LABOR ARBITER COMMITTED GRAVE AND PATENT ABUSE OF DISCRETION IN AWARDING OVERTIME PAY, HOLIDAY PAY AND SERVICE INCENTIVE LEAVE UNDER ARTICLE 82, BOOK III OF THE LABOR CODE, AS AMENDED.

B. PUBLIC RESPONDENT NLRC COMMITTED GRAVE AND PATENT ABUSE OF DISCRETION IN NOT CONSIDERING THAT PETITIONER WAS PREVENTED FROM INTERPOSING HIS APPEAL DUE TO THE GROSS NEGLIGENCE OF HIS FORMER COUNSEL.

C. PUBLIC RESPONDENT NLRC COMMITTED GRAVE AND PATENT ABUSE OF DISCRETION IN RULING THAT THE PETITION FOR RELIEF IS A PROHIBITED PLEADING WITHOUT TAKING INTO CONSIDERATION THE MERITS OF THE CASE:

xxx xxx xxx

D. PUBLIC RESPONDENT NLRC'S FAILURE TO CONSIDER THE APPARENT ERROR OF THE LABOR ARBITER IN COMPUTING PRIVATE RESPONDENT CORDOVEZ'S ALLEGED SALARY DIFFERENTIAL AND 13[TH] MONTH PAY FROM 1998 CONSTITUTES GRAVE ABUSE OF DISCRETION.”[15]

We find the petition to be bereft of merit.

In the main, the acts of grave abuse of discretion allegedly committed by the Commission may be bracketed into two groups. The first set concerns the dismissal by the Commission of the petition for relief for being a prohibited pleading while the second set discusses the merits of the case before the labor arbiter, based on documentary evidence submitted therein.

Regarding the first concern of petitioner, he believes that private respondents are guilty of fraud when they allegedly furnished the labor arbiter a wrong address for petitioner. Moreover, petitioner also feels that his former lawyer is allegedly guilty of gross negligence when the latter failed to inform him of the labor arbiter's decision

and further neglected to file an appeal therefrom. Due to such purported fraud committed by private respondents and purported gross negligence committed by petitioner's former lawyer, petitioner claims that the rules of procedure should have been relaxed and his petition for relief before the Commission should have been given due course.

We are not convinced.

Section 5 of Rule V of the 2011 NLRC Rules of Procedure provides:

“SECTION 5. PROHIBITED PLEADINGS AND MOTIONS. - The following pleadings and motions shall not be allowed and acted upon nor elevated to the Commission:

xxx xxx xxx

d) Petition for Relief from Judgment”

As the petition for relief is expressly prohibited under the 2011 NLRC Rules of Procedure, we can not countenance the filing thereof.

Although it is herein noted that, under the 2005 NLRC Rules of Procedure, a petition for relief may be elevated to the Commission, the fact remains that petitioner's case falls squarely within the effectivity of the 2011 NLRC Rules of Procedure, thus, he must abide by it.

Petitioner's calls for relaxation of technical rules also fail to hold basis. Thus, even the suppletory application of the Revised Rules of Court will not help petitioner's cause. Section 3 of Rule 38 of the Revised Rules of Court[16] provides for the period within which a petition for relief from judgments, orders or other proceedings may be filed. A party filing a petition for relief from judgment must strictly comply with two reglementary periods: first, the petition must be filed within sixty (60) days from knowledge of the judgment, order or other proceeding to be set aside; and second, within a fixed period of six (6) months from entry of such judgment, order or other proceeding. Strict compliance with these periods is required because a petition for relief from judgment is a final act of liberality on the part of the State, which remedy cannot be allowed to erode any further the fundamental principle that a judgment, order or proceeding must, at some definite time, attain finality in order to put at last an end to litigation.[17]

Petitioner claims that it was only on November 26, 2012 that he learned for the first time that the labor arbiter had promulgated a decision on May 30, 2012. Petitioner would have been informed earlier of the issuance of the decision had his former counsel, Atty. Nilo Martin, notified him. As admitted by petitioner, his former counsel received a copy of the decision on July 26, 2012. Thereafter, on January 25, 2013, petitioner, with the assistance of a new counsel, filed a petition for relief before the public respondent Commission, praying for the annulment of the labor arbiter decision, based on alleged fraud and inexcusable negligence.

It is well-settled that notice to counsel is notice to the client.[18] The moment a party appears by counsel, notice and other processes should be made upon said counsel, service upon the party himself not being considered service in law.[19] Hence, upon receipt of Atty. Nilo Martin of the labor arbiter decision dated May 30, 2012, petitioner only had until sixty (60) days from July 26, 2012 within which to file a petition for relief. The petition being filed only on January 25, 2013, was filed utterly out of time.

Furthermore, not only was the petition for relief filed beyond the sixty-day period but it was also filed beyond the six months period allowed by the Revised Rules of Court. Hence, the Rules provides for a fixed period of six (6) months from entry of judgment within which to file a petition for relief. In the case at bench, the labor arbiter's decision was promulgated on May 30, 2012 while the petition for relief was filed on January 25, 2013. Verily, the

petition was filed almost eight (8) months after the entry of the judgment.

Once a decision becomes final and executory, it is removed from the power and jurisdiction of the court which rendered it to further alter or amend it, much less revoke it. This doctrine of finality of judgment is grounded on fundamental considerations of public policy and sound practice that, at the risk of occasional error, the judgments of the courts must become final at some definite date fixed by law. To allow courts to amend final judgments will result in endless litigation.[20]

This doctrine applies equally to quasi-judicial agencies. A judgment which has become final and executory can no longer be amended or corrected by the court except for clerical errors or mistakes. Likewise, an executory and final decision cannot be lawfully altered or modified even by the court which rendered the same, especially where the alteration or modification is material or substantial. In such a situation, the trial court loses jurisdiction over the case except for execution of the final judgment. Any amendment or alteration made which substantially affects the final and executory judgment is null and void for lack of jurisdiction, including the entire proceedings held for that purpose.[21]

The term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility. Furthermore, the use of a petition for certiorari is restricted only to truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void. From the foregoing definition, it is clear that the special civil action of certiorari under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioners could manifestly show that such act was patent and gross.[22]

We find that the public respondent Commission did not commit grave abuse of discretion in refusing to give due course to the petition for relief. Corollary, the labor arbiter's decision is deemed final and binding. Hence, the absence of necessity to discuss the documentary evidence submitted before the labor arbiter and correspondingly the merits of the illegal dismissal case.

WHEREFORE, in view of the foregoing premises, the instant petition for certiorari is hereby DENIED.

SO ORDERED.

Elbinias and Paredes, JJ., concur.

[1] Rollo, Petition, pp. 3-22

[2] Ibid., pp. 46-50

[3] Ibid., pp. 42-44

[4] Ibid., pp. 52-57

[5] Ibid., pp. 91-92

[6] Ibid., pp. 95-103

[7] Ibid., pp. 166-168

[8] Ibid., pp. 56-57

[9] Ibid., page 65

[10] Ibid., pp. 58-82

[11] Section 1. Petition for relief from judgment, order, or other proceedings. — When a judgment or final order is entered, or any other proceeding is thereafter taken against a party in any court through fraud, accident, mistake, or excusable negligence, he may file a petition in such court and in the same case praying that the judgment, order or proceeding be set aside.

[12] Rollo., page 59

[13] Ibid., pp. 178-188

[14] Ibid., page 43

[15] Ibid., pp. 17-18

[16] Section 3. Time for filing petition; contents and verification. — A petition provided for in either of the preceding sections of this Rule must be verified, filed within sixty (60) days after the petitioner learns of the judgment, final order, or other proceeding to be set aside, and not more than six (6) months after such judgment or final order was entered, or such proceeding was taken, and must be accompanied with affidavits showing the fraud, accident, mistake, or excusable negligence relied upon, and the facts constituting the petitioner's good and substantial cause of action or defense, as the case may be.

[17] Lynx Industries Contractor, Inc. vs Tala, NLRC, et al. G.R. No.

[16] 4333, August 24, 2007

[18] Zoleta vs Secretary of Labor, G.R. No. 77242, October 18, 1988

[19] Elli vs Ditan G.R. No. L-17444, June 30, 1962

[20] 204 SCRA 584, 599 (1991) citing Olympia International, Inc. vs. Court of Appeals, 180 SCRA 353, (1989); Philippine Long Distance Telephone Co., Inc. vs. Court of Appeals, 178 SCRA 94 (1989); Commercial Credit Corporation of Cagayan de Oro vs. Court of Appeals, 169 SCRA 1 (1989); United CMC Textile Workers Union vs. Labor Arbiter, 149 SCRA 424 (1987); Philippine Rabbit Bus Lines, Inc. vs. Arciaga, 148 SCRA 433 (1987); Villanueva vs. CFI of Oriental Mindoro, 119 SCRA 288 (1982).

[21] Filcon Manufacturing Corp. vs. NLRC. 199 SCRA 814

[22] Malayang Manggagawa ng Stayfast Phils., Inc. vs National Labor Relations Commission (G.R. No. 155306, August 28, 2013), citing Yu v. Judge Reyes-Carpio (G.R. No. 189207, June 15, 2011, 652 SCRA 341, 348).

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