

**TRIPLE ONE MANAGEMENT AND DEVELOPMENT CORPORATION
AND /OR ANTOLIN M. ORETA, JR., PETITIONERS, V. OIC REG. DIR.
RAYMUNDO G. AGRAVANTE, UNDERSECRETARY LOURDES
TRASMONTA AND JESS D...**

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

For disposition is a Petition for Certiorari[1] filed under Rule 65 of the Rules of Court. The Petition assails the Order[2] dated May 26, 2008 issued by public respondent DOLE-NCR OIC Regional Director Raymundo G. Agravante (“public respondent DOLE-NCR OIC-RD” for brevity) in Case No. NCROO-LS-0311-IS-017 entitled “In the Matter of Labor Standards Inspection Conducted at Triple One Management & Development Corp., B5 L157 cor. Kaunlaran Village, Longos, Malabon.”[3] The Petition also questions the Order[4] dated June 29, 2010 issued by public respondent DOLE's Undersecretary Lourdes M. Trasmonte (“public respondent DOLE Undersecretary” for brevity), which Order denied petitioners' “Manifestation with Motion to Admit (Motion for Reconsideration)”[5].

The antecedent facts are as follows:

Private respondent Jess Dalapo (“private respondent Dalapo” or “private respondent” for brevity) worked as a driver for petitioner Triple One Management & Development Corporation (“petitioner TOMDC” for brevity). On November 8, 2003, private respondent Dalapo was involved in an incident, where he was accused of stealing petitioner TOMDC's empty cases of beer. The incident caused petitioner to place private respondent under preventive suspension.[6]

Afterwards, private respondent Dalapo filed before public respondent Department of Labor and Employment, National Capital Region (“DOLE-NCR OIC-RD” for brevity) a case against petitioners TOMDC and its President and General Manager Mr. Antolin Oreta, Jr. (“petitioners” for brevity), where he claimed for payment of Minimum Wage, Holiday Pay, and Service Incentive Leave Pay.[7]

On December 1, 2003, the Labor and Employment Officer (“LEO” for brevity) of public respondent DOLE-NCR OIC-RD conducted an inspection of petitioner TOMDC's operations. The rest of the facts are those as stated in public respondent DOLE-NCR OIC-RD's Order[8] dated May 26, 2008, to wit:

“This refers to the inspection conducted at the above-named establishment on December 1, 2003 where the following violations were noted, to wit:

- Denied access to employment records and work premises at the scheduled date of inspection;
- Per interview:
 - Underpayment of wages and other related benefits;
 - Non-payment of 5-day service incentive leave pay;
 - Non-payment of legal/special holiday pay;
 - Non-payment of ECOLA (W.O. No. NCR-09);

-Registration under Rule 1020

The above findings are indicated in the Notice of Inspection Results issued, furnished and explained during the inspection by Labor and Employment Officer RODRIGO DELA CRUZ to the establishment, through its representative JUN SEGOVIA. In the said notice, the establishment was directed to effect correction and/or restitution at plant level or to submit to this Office any question on the above findings within seven (7) days from receipt thereof.

Submission of questions on the findings is premised on the rule that the burden of proving payment of monetary benefits in accordance with law and compliance with other labor standards lies with the establishment as it is in possession of the employment records and pertinent documents. If no record is presented, the presumption that evidence willfully suppressed would be adverse if presented applies.

Records reveal that the establishment has submitted an Affidavit of Desistance purportedly executed by the complainant on December 8, 2003. xxx"[9] (Emphasis Supplied)

On May 26, 2008, public respondent DOLE-NCR OIC-RD issued the first assailed Order[10] adopting the findings of the LEO. The dispositive portion of the Order read as follows:

"WHEREFORE, premises considered TRIPLE ONE MANAGEMENT & DEVELOPMENT CORPORATION and/or ANTOLIN ORETA, JR. are ordered to pay JESS DALAPO, the aggregate amount of ONE HUNDRED FORTY FIVE THOUSAND SEVEN HUNDRED NINETY FOUR PESOS and 80/100 (P 145,794.80) within ten (10) days from receipt hereof.

Further the establishment is directed to register under Rule 1020 of the Occupational Safety and Health Standards (OSHS).

A Writ of Execution shall be issued upon finality of this Order.

SO ORDERED."[11] (Emphasis Supplied)

On June 30, 2008, petitioners filed a "Manifestation with Motion for Extension to File an Appeal"[12] from the Order[13] of public respondent DOLE-NCR OIC-RD dated May 26, 2008.

On July 10, 2008, petitioners filed a "Manifestation with Motion to Admit (Motion for Reconsideration)"[14] ("Motion for Reconsideration" for brevity) of the Order[15] of public respondent DOLE-NCR OIC-RD dated May 26, 2008. The attached "Motion for Reconsideration"[16] however, was treated by public respondent DOLE Undersecretary as an Appeal. This "Motion for Reconsideration"[17] or Appeal was denied in the other assailed Order[18] of public respondent DOLE Undersecretary dated June 29, 2010, for not having been perfected. The dispositive portion of the Order stated the following:

"WHEREFORE, the Manifestation with Motion to Admit (Motion for Reconsideration), herein treated as an appeal, filed by Triple One Management [&] Development Corporation is hereby DENIED for not having been perfected. Accordingly, the Order dated May 26, 2008 of the Regional Director, DOLE-NCR, is now deemed FINAL and EXECUTORY.

Let the entire records of the case be remanded to the Regional Office of Origin for immediate execution.

SO ORDERED."[19] (Emphasis was made in the original)

Petitioners then filed the Petition for Certiorari[20] from the DOLE Undersecretary's Order[21] dated June 29, 2010 praying for the following:

"WHEREFORE, premises considered it is respectfully prayed that the Honorable Court take cognizance of this

Petition and subsequently issue an Order:

1. Setting aside the Order of the Regional Director RAYMUNDO AGRAVANTE dated May 26, 2008.
2. Setting aside the June 29, 2010 Order of Undersecretary Lourdes Transmonte denying the Manifestation with Motion to Admit (Motion for Reconsideration) and declaring the May 26, 2008 Order FINAL AND EXECUTORY.
3. Ordering that the complaint of JESS DALAPO moot and academic amidst his own Affidavit of Desistance.

Other remedies just and equitable under the circumstances are likewise prayed for.”[22]

Petitioners raised the following grounds:

“I.

PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OF JURISDICTION WHEN HE DENIED THE MOTION FOR RECONSIDERATION AND TREATED IT AS AN APPEAL AND THEREAFTER DISMISSED THE SAME ON THE BASIS OF TECHNICALITY.

II.

PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION IN NOT TAKING COGNIZANCE OF THE QUITCLAIM AND WAIVER OF RESPONDENT.”[23]

Contrary to petitioners' first assigned ground, public respondent DOLE Undersecretary properly denied petitioners' “Motion for Reconsideration”[24] that was attached to petitioners' “Manifestation”[25], which Motion was treated as an appeal.

On these matters, petitioners had raised the following arguments:

“22. It must be emphasized that petitioner seasonably filed a Motion for Extension of Time to File their Motion for Reconsideration due to a fortuitous event.

23. On June 21, 2008, the Province of Aklan where the Office of petitioner's former in-house counsel is located was hit by Typhoon Frank. As an off-shoot of the Typhoon the Municipality of Kalibo where the office of petitioner's in-house counsel was located was submerged by the flood.

xxx

26. Respondent on its June 29, 2010 Order further opined that herein petitioner received the copy of the assailed Order on June 19, 2008 and filed its Motion for Extension of Time to File an Appeal only on June 30, 2008. Petitioner humbly submits that June 29, 2008 or the 10[th] day from the alleged time of receipt falls on a Sunday. Under the rules, when the 10[th] day to file pleadings falls on a holiday, the same shall be made on the next working day, which was June 30, 2008 in this instant case. Petitioner therefore submits that for all intents and purposes the Motion for Extension of Time was filed within the 10 day period mandated by law.”[26] (Emphasis Supplied)

Frustrating petitioners' contentions however, is that petitioners failed to appeal from public respondent DOLE-NCR OIC-RD's Order[27] dated May 26, 2008 within the reglementary period provided for under Section 1, Rule IV of the “Rules of Disposition of Labor Standards Cases in the Regional Offices”, to wit:

“Section 1. Appeal. – The order of the Regional Director shall be final and executory unless appealed to the Secretary of Labor and Employment within ten (10) calendar days from receipt thereof.” (Emphasis Supplied)

Records revealed that petitioners received public respondent DOLE-NCR OIC-RD's Order[28] dated May 26, 2008 on June 19, 2008[29]. Therefore, petitioners had until June 30, 2008[30] to perfect their appeal. However, instead of filing an appeal, petitioners, through their counsel, filed on June 30, 2008, a "Manifestation with Motion for Extension to File an Appeal"[31] ("Motion for Extension" for brevity). The filing of such Motion did not toll the running of the ten (10) day reglementary period to file petitioners' appeal. This is because the Motion for Extension was not a Motion for Reconsideration or Motion for New Trial under paragraph 2, Section 3 of Rule 41 of the Rules of Court[32], which provision applies suppletorily[33] to the "Rules of Disposition of Labor Standards Cases in the Regional Offices", the filing of which Motions would have suspended the running of such reglementary period. All of these were also as concluded by public respondent DOLE Undersecretary in the other assailed Order[34] dated June 29, 2010, as follows:

"Records show that appellant received a copy of the assailed Order on June 19, 2008 xxx. And on June 30, 2008, it filed a Motion for Extension of Time to File an Appeal xxx on the ground that typhoon Frank hit Kalibo, Aklan on June 21, 2008, whereby the office of its in-house counsel was totally submerged in water resulting to the destruction of all its records of the instant case.

In its suppletory character to the Rules on the Disposition of Labor Standards Cases in the Regional Offices, Paragraph 2 of Section 3 of Rule 41 of the Revised Rules of Court provides that:

'The period of appeal shall be interrupted by a timely motion for new trial or reconsideration. No motion for extension of time to file a motion for new trial or reconsideration shall be allowed.' (Italics was made in the original)

Based on the foregoing, appellant should have filed a motion for reconsideration or an appeal within the reglementary period, instead of filing a motion for extension of time to file an appeal."[35] (Emphasis Supplied)

For its part, the "Motion for Reconsideration"[36] attached to petitioners' "Manifestation"[37], could have not been properly considered by public respondent DOLE Undersecretary as an appeal[38]. This is because the "Manifestation"[39] was filed only on July 10, 2008, or ten (10) days after the period for petitioners to perfect their appeal had already lapsed. As a result, public respondent DOLE-NCR OIC-RD's Order[40] dated May 26, 2008 had already become final and executory under Section 1, Rule IV[41] of the "Rules of Disposition of Labor Standards Cases in the Regional Offices".

Accordingly, the merits of public respondent DOLE-NCR OIC-RD's Order[42] dated May 26, 2008 could no longer be reviewed in order to determine if public respondent DOLE-NCR OIC-RD committed grave abuse of discretion in not taking cognizance of the undated "Quitclaim and Release"[43] that was purportedly executed by private respondent Dalapo in favor of petitioners. This consequence is pursuant to the following pronouncement of the Supreme Court in *University of Immaculate Concepcion and Sister Maria Jacinta de Belen, RVM vs. Secretary of Labor, et al.*, G.R. No. 143557, June 25, 2004:

"In *Manila Midtown Hotels & Land Corp. vs. NLRC*, we held that 'certiorari, being an extraordinary remedy, the party who seeks to avail of the same must strictly observe the rules laid down by law.' Considering that the assailed Orders of the DOLE Secretary have become final and executory, hence, the merits of the case can no longer be reviewed to determine if he could be faulted for grave abuse of discretion." (Emphasis Supplied)

Besides, even if the merits of petitioners' allegations were to be considered, public respondent DOLE-NCR OIC-RD properly disregarded, contrary to petitioners' second assigned ground, the undated "Quitclaim and Release"[44] allegedly executed by private respondent Dalapo in favor of petitioners.

Petitioners had argued as follows:

“39. It is reiterated that in the case of *Periquet vs. NLRC* (GR No. 91298, June 22, 1990) that it is only where there is a clear proof that the waiver was wangled from an unsuspecting or gullible person, or the terms of the settlement are unconscionable on its face will the law step in to annul the questionable transaction xxx”[45]

Negating petitioners' arguments however, is that the undated “Quitclaim and Release”[46] allegedly issued by private respondent Dalapo in favor of petitioners was not duly executed and could not therefore be properly recognized by public respondent DOLE-NCR OIC-RD.[47] This is so, considering that aside from the undated “Quitclaim and Release”[48] not having contained the signature of any witnesses[49], it was not also signed in the presence of either the Regional Director or any of his duly authorized representative[50]. The signing in their presence is required under Section 8, Rule II of the “Rules of Disposition of Labor Standards Cases in the Regional Offices”, as was pronounced by the Supreme Court in *Vicente Atilano/Rose Shipping Lines vs. Hon. Dionisio C. De La Serna, et al.*[51], as follows:

“The quitclaim papers which petitioner alleges embodied a compromise or settlement agreement were in any case not duly executed, that is, they were not signed in the presence of the Regional Director or his duly authorized representative, in disregard of the requirements of Section 8, Rule II of the Rules on the Disposition of Labor Standards Cases in the Regional Offices, which provide that:

Section 8. Compromise Agreement. — Should the party arrive at an agreement as to the whole or part of the dispute, said agreement shall be reduced [to] writing and signed by the parties in the presence of the regional director or his duly authorized representative.” (Italics was made in the original, emphasis supplied)

That a Quitclaim, such as the undated “Quitclaim and Release”[52] here, which was not signed in the presence of either the Regional Director or any of his authorized representatives, could not be considered to have been duly executed, and could not therefore be properly recognized by the entity hearing the case, such as public respondent DOLE-NCR OIC-RD here, is pursuant to the declaration of the Supreme Court in *Avon Dale Garments, Inc., vs. National Labor Relations Commission, Lilia Dumantay, et al.*[53], as follows:

“Pending resolution of the instant petition, counsel for private respondents, instead of filing a comment to the petition, filed a Manifestation indicating that the parties have already reached an amicable settlement on December 27, 1994, wherein private respondents were paid their corresponding separation pay, after which, they executed a waiver and quitclaim. It appeared however, upon verification by the Office of the Solicitor General, that the aforementioned compromise agreement was executed between the parties without the knowledge and participation of the NLRC.

The established rule is that compromise agreements involving labor standard cases, like the one entered into by the parties herein, must be reduced in writing and signed in the presence of the Regional Director or his duly authorized representative. Otherwise, they are not deemed to be duly executed. For this reason, the compromise agreement submitted by private respondents' counsel cannot be recognized by this court for being improperly executed.” (Emphasis Supplied)

After careful consideration of all the facts, arguments, and issues appearing on the records, as well as of the pertinent laws and jurisprudence, public respondents DOLE-NCR OIC Regional Director Raymundo G. Agravante and DOLE Undersecretary Lourdes M. Trasmonte were therefore shown not to have committed grave abuse of discretion, which in turn is meant as such capricious and whimsical exercise of judgment that is equivalent to an excess or lack of jurisdiction.[54]

IN VIEW OF ALL THESE, the Petition is DENIED.

SO ORDERED.

Didican (Chairperson) and Paredes, JJ., concur.

- [1] Rollo, pp. 3-13
- [2] Rollo, pp. 14-15
- [3] Rollo, p. 14
- [4] Rollo, pp. 16-19
- [5] Rollo, p. 17
- [6] Rollo, pp. 20-21
- [7] Rollo, p. 20
- [8] Rollo, pp. 14-15
- [9] Rollo, p. 14.
- [10] Rollo, pp. 14-15
- [11] Rollo, p. 15
- [12] Rollo, pp. 25-26
- [13] Rollo, pp. 14-15
- [14] Rollo, p. 17
- [15] Rollo, pp. 14-15
- [16] “Manifestation with Motion to Admit (Motion for Reconsideration)”, Rollo, p. 17
- [17] “Manifestation with Motion to Admit (Motion for Reconsideration)”, Rollo, p. 17
- [18] Rollo, pp. 16-19
- [19] Rollo, pp. 18-19
- [20] Rollo, pp. 3-13
- [21] Rollo, pp. 16-19
- [22] Rollo, p. 10
- [23] Rollo, p. 7
- [24] “Manifestation with Motion to Admit (Motion for Reconsideration)”, Rollo, p. 17
- [25] “Manifestation with Motion to Admit (Motion for Reconsideration)”, Rollo, p. 17
- [26] Rollo, pp. 7-9
- [27] Rollo, pp. 14-15
- [28] Rollo, pp. 14-15

[29] Rollo, p. 8, 18, 42

[30] The tenth day, June 29, 2008, fell on a Sunday

[31] Rollo, pp. 25-26

[32] “The period of appeal shall be interrupted by a timely motion for new trial or reconsideration. No motion for extension of time to file a motion for new trial or reconsideration shall be allowed.”

[33] The Hon. Secretary of Labor and Employment, Edgardo M. Agapay and Samillano A. Alonso, Jr. vs. Panay Veteran's Security and Investigation Agency, Inc. and Julito Jaleco, G.R. No. 167708, August 22, 2008

[34] Rollo, pp. 16-19

[35] Rollo, p. 18

[36] “Manifestation with Motion to Admit (Motion for Reconsideration)”, Rollo, p. 17

[37] “Manifestation with Motion to Admit (Motion for Reconsideration)”, Rollo, p. 17

[38] Rollo, p. 17

[39] “Manifestation with Motion to Admit (Motion for Reconsideration)”, Rollo, p. 17

[40] Rollo, pp. 14-15

[41] “Section 1. Appeal. – The order of the Regional Director shall be final and executory unless appealed to the Secretary of Labor and Employment within ten (10) calendar days from receipt thereof.”

[42] Rollo, pp. 14-15

[43] Rollo, p. 27

[44] Rollo, p. 27

[45] Rollo, p. 9

[46] Rollo, p. 27

[47] Avon Dale Garments, Inc., vs. National Labor Relations Commission, Lilia Dumantay, et al., G.R. No. 117932, July 20, 1995; Vicente Atilano/Rose Shipping Lines vs. Hon. Dionisio C. De La Serna, et al., G.R. No. 82488, February 28, 1990

[48] Rollo, p. 27

[49] Rollo, p. 27

[50] Rollo, p. 27

[51] G.R. No. 82488, February 28, 1990

[52] Rollo, p. 27

[53] G.R. No. 117932, July 20, 1995

[54] First Women's Credit Corporation, et al. v. Glicerio Perez, G.R. No. 169026, June 15, 2006

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