

**REX VILLARAZO AND RONALD GOMEZ, PETITIONERS, VS.
NATIONAL LABOR RELATIONS COMMISSION (FOURTH DIVISION)
AND N.S. MANGIO CONSTRUCTION AND DEVELOPMENT
CORPORATION/NESTOR S. MANGIO,...**

Ponente: DICDICAN, J.

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DICDICAN, J.:

Before us is a Petition for Certiorari[1] filed by Rex Villarazo and Ronald Gomez (“petitioners”), pursuant to Rule 65 of the 1997 Revised Rules of Court seeking to reverse and set aside the Decision[2] of the Fourth Division of the National Labor Relations Commission (“NLRC”) dated September 13, 2013 in NLRC NCR Case No. 11-16929-12 (NLRC LAC No. 07-002103-13) as well as the Resolution[3] promulgated on November 11, 2013 denying the Motion for Reconsideration thereof.

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

The herein petitioners are employees of N.S. Mangio Construction and Development Corporation. Petitioner Villarazo was employed by the company as a finishing carpenter from August 3, 2008 up to January 3, 2012 with a salary of Three Hundred Sixty Pesos (P360.00) per day, while petitioner Gomez was employed as laborer with a salary of Two Hundred Seventy Pesos (P270.00) per day sometime in 2007 to December 23, 2011.

N.S. Mangio Construction and Development Corporation (“respondent Corporation”) is a domestic corporation, duly registered, organized and existing under the laws of the Republic of the Philippines which is engaged in the business of construction of buildings. It is represented by its President, Mr. Nestor Mangio (“private respondent”).

On January 20, 2012, the herein petitioners filed a Complaint before the Labor Arbiter for constructive illegal dismissal, non-payment of salaries/wages, holiday premium, overtime premium, service incentive leave pay, 13[th] month pay and night shift differentials against the private respondents.

On February 20, 2012, the petitioners amended their Complaint and dropped the illegal dismissal as one of their causes of action against the private respondents.

In their position paper[4], petitioners claimed that ‘all rank and file employees are entitled to a 13[th] month pay regardless of the amount of basic salary that they receive in a month and regardless of their employment status’, thus, they are entitled to their 13[th] month pay as well. According to them, they are also entitled to claim their service incentive leave pay having rendered their services to the private respondents for one (1) year.

They further argued that they are entitled to night shift differentials for having worked between 10 p.m. and 6 a.m. pursuant to Article 86 of the Labor Code.

Thereafter, private respondents filed their Motion to Dismiss dated December 18, 2012. In their Motion to Dismiss, private respondents asseverated that:

“On December 6, 2012, the respondents were surprised to learn that complainants have filed another complaint against them for illegal dismissal.

“It appears that the complainants have deliberately split their cause of action by initially filing a case for money claims and then subsequently filing a case of illegal dismissal after the first case has been submitted for decision.”

Eventually, on June 18, 2013, Labor Arbiter Patricio Libo-on issued an Order[5] in favor of the herein private respondents. The pertinent portion of the said Order reads:

“WHEREFORE, premises considered, the complaint is dismissed due to forum shopping.

“SO ORDERED.”

Unsatisfied with the Labor Arbiter’s disposition, petitioners appealed from the former’s Order to the NLRC. On September 13, 2013, the Fourth Division of the NLRC promulgated the herein Decision which dismissed petitioners' appeal for lack of cause of action. The decretal portion of the NLRC Decision reads:

“WHEREFORE, premises considered, the appeal is hereby dismissed for lack of merit. A new decision is, however, entered dismissing the complaint for lack of cause of action.

“SO ORDERED.”

Petitioners then filed a Motion for Reconsideration[6] of the said Resolution of the NLRC. On November 11, 2013, the NLRC issued the herein assailed Resolution[7] denying petitioners' Motion for Reconsideration.

Unperturbed, petitioners filed the present petition before this Court assigning the lone act of grave abuse of discretion purportedly committed by the NLRC, to wit:

THE NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT DISMISSED THE APPEAL FOR LACK OF CAUSE OF ACTION.

After a careful and judicious scrutiny of the whole matter, together with the applicable laws and jurisprudence in the premises, we find the present petition to be devoid of merit.

Prefatorily, a petition for the writ of certiorari does not deal with errors of judgment nor does it include a mistake in the appreciation of the contending parties' respective evidence or the evaluation of their relative weight[8]. It bears stressing that a writ of certiorari can be availed of only if the public respondent has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. The burden is on the part of the petitioner to prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent issuing the impugned decision or order. Mere abuse of discretion is not enough; it must be grave.[9]

By grave abuse of discretion is meant such capricious and whimsical exercise of judgment which is equivalent to an excess or lack of jurisdiction[10]. A public respondent judge acts without jurisdiction if it does not have the legal power to determine the case; there is excess of jurisdiction where the respondent, being clothed with the power to determine the case, oversteps its authority as determined by law[11]. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or 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 or hostility[12].

In the case at bench, petitioners contended that the public respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction when it dismissed petitioners' appeal for lack of cause of action.

According to the petitioners, the complaint filed on November 23, 2012 for constructive illegal dismissal, moral and exemplary damages and attorney's fees was filed more than six months from the dates of their dismissal.

Petitioners also argued that it was a grave misconstruction of a statement when the public respondent interpreted the phrase 'accrued only on July 4, 2012' as the starting point to count the six-month floating status period when the case was filed last November 2012.

Petitioners' contentions, ingenious as they may seem, are baseless and bereft of any merit.

A careful examination of the record of the case revealed that petitioners admitted in their pleadings that the constructive dismissal accrued only on July 4, 2012, the very reason why they had to drop the illegal dismissal case in their first Complaint dated January 10, 2012. With the said declaration, petitioners also admitted that they had as of November 23, 2012 no cause of action yet against the private respondents for constructive illegal dismissal.

Firmly-entrenched is the rule that, when supported by substantial evidence, factual findings made by quasi-judicial and administrative bodies are accorded great respect and even finality by the courts. These findings are not infallible, though; when there is a showing that they were arrived at arbitrarily or in disregard of the evidence on record, they may be examined by the courts.

In the present case, the NLRC could not be blamed for dismissing the appeal filed by the herein petitioners for lack of cause of action. The NLRC clearly ratiocinated in its Decision dated September 13, 2013 that:

“While this present case cannot be dismissed on the ground of forum shopping and splitting of a cause of action, we nevertheless, find it necessary, without further remanding the case to the Arbitration Branch, to dismiss this case for lack of cause of action noting their admission that their cause of action for constructive illegal dismissal accrued only on July 4, 2012, yet in their complaint, the reckoning point was December 23, 2011 for complainant Gomez and January 3, 2012 for complainant Villarazo, the dates when they were illegally dismissed. Complainants earlier discussed that 'it would have been premature then because the first complaint was only filed on January 10, 2012', to be the subject matter then of this present case, albeit filed after July 4, 2012, would not make any difference—it would still be futile exercise as they have no cause of action if reckoned on the dates they mentioned in their Complaint.”

Thus, considering the foregoing, we find that the assailed Decision and Resolution promulgated by the NLRC do not appear to have been issued with grave abuse of discretion. There is no hint of whimsicality nor gross and patent abuse of discretion as would amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act at all in contemplation of law.

To stress, a writ of certiorari can be availed of only if the public respondent has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. The burden is on the part of the petitioner to prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent issuing the impugned decision or order. Mere abuse of discretion is not enough; it must be grave.

WHEREFORE, in view of the foregoing premises, the petition filed in this case is hereby DENIED.

SO ORDERED.

Elbinias and Paredes, JJ., concur.

[1] Rollo, pages 3–16.

[2] Id., pp. 100-108.

[3] Id., pp. 129-132.

[4] Id., pp. 19-25.

[5] Id., pp. 63-68.

[6] Id., pp. 109-113.

[7] Id., pp. 130-132.

[8] Tan vs. Sps. Antazo G.R. No. 187208, February 23, 2011.

[9] Id.

[10] First Women's Credit Corporation v. Perez, G.R. No. 169026, June 15, 2006.

[11] People of the Philippines v. Court of Appeals, G.R. No. 144332, June 10, 2004.

[12] Estrada v. Desierto, G.R. No. 156160, December 9, 2004.

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