FALCON MARITIME & ALLIED SERVICES, INC., HANJIN TRADING CO., AND/OR FLORIDA Z. JOSE, PETITIONERS, VS. QUIRINO B. OLA JR., ABRAHAM B. RAMOS, MELVIN R. PRUDENCIO, JEFFERSON I. SAL...

Ponente: SORONGON, J.

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SORONGON, J.:

Via this Petition for Certiorari under Rule 65 of the Rules of Court, petitioners seek the nullification of the September 30, 2010 Resolution[1] of the National Labor Relations Commission (NLRC), Fourth Division, for having been allegedly rendered with grave abuse of discretion amounting to lack or excess of jurisdiction.

In their Position Paper, private respondents alleged that they were hired by Falcon Maritime and Allied Services (Falcon for brevity) to work as utility men on board IN SUNG I, a vessel owned and operated by its foreign principal Hanjin Trading Co. (Hanjin) with a monthly salary of US$215.00 for a period of one (1) year.

Private respondents departed sometime in 2008 for Montiviedo, Uruguay where IN SUNG I was docked. However, when they arrived thereat, they boarded IN SUNG 66 instead of IN SUNG I. In that vessel, they were required to work for seven (7) days a week and for eighteen (18) hours a day. Their salary for the first two months were withheld as a deposit fee subject to refund at the end of their contract. Notwithstanding the long and tedious hours of work, they were not paid their overtime pay and vacation leave credits as mandated by the POEA-Standard Employment Contract for Filipino Seafarers.

Private respondents finished their contract on December 24, 2009 and they returned home without getting the refund of their deposit fee. Hence, they instituted a complaint for money claims, specifically for payment of overtime pay differentials, leave benefits and refund of deposit fee.

For failure of petitioners to file their Position Paper despite due notice, the Labor Arbiter on June 29, 2010 proceeded to resolve the case without such pleading in this wise:

> "WHEREFORE, premises considered, respondents in solidum are ordered to pay complainants US$430.00 each or its peso equivalent at the time of payment representing the refund of the "deposit", plus 10% of the total award as attorney's fees.
>
> SO ORDERED."[2]

Therefrom, petitioners appealed to the NLRC crying infringement of due process since they were deluded into believing that the case will be amicably settled as the parties were already brewing a compromise agreement alongside the Affidavit of Desistance to be executed by the private respondents prior to the rendition of judgment of the Labor Arbiter. Thus, they were surprised when the Labor Arbiter resolved the case without petitioners' position paper.

However, in lieu of the filing of the required supersedeas bond, petitioners instead filed a Motion to Reduce Bond

praying that the bond equivalent to the monetary award granted by the Labor Arbiter in its decision be reduced due to financial difficulties. Petitioners insisted further that private respondents already received their suitable statutory remunerations and to grant these anew will doubly burden them.

Unconvinced, the NLRC dismissed the appeal for non-perfection[3].

Petitioners sought reconsideration[4] but the NLRC remained adamant categorically saying that financial difficulties will not substitute the faithful compliance of a mandatory requirement such as the filing of a bond. Thus, it held:

> "WHEREFORE, respondents' Motion for Reconsideration is DENIED. The Resolution promulgated on 30 September 2010 STAYS. No further motion of similar nature shall be entertained.
>
> SO ORDERED[5]."

Hence, the instant recourse with petitioners alleging that:

> I.THE HONORABLE LABOR ARBITER ERRED IN NOT CONSIDERING THE ACTS OF THE RESPONDENTS IN MISLEADING THE PETITIONERS BY MAKING THE PETITIONERS BELIEVE THAT THE RESPONDENTS WOULD ENTER INTO A COMPROMISE AGREEMENT SO THAT PETITIONERS WERE NOT ABLE TO FILE THEIR POSITION PAPERS AS AN ACT OF UNDUE ENRICHMENT AMOUNTING TO A VIOLATION OF DUE PROCESS.
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> II.THE HONORABLE LABOR ARBITER COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION AND SERIOUS ERROR WHEN SHE AWARDED ATTORNEY'S FEES TO RESPONDENTS.
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> III.THE HONORABLE NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION AND SERIOUS ERROR BY DISMISSING THE APPEAL ON MERE TECHNICALITY AND NOT ON THE MERITS.

Fundamentally, the impugned decision of the NLRC merely touched on the procedural lapse of the appeal which is non-perfection warranting its outright dismissal without discussing the merits of the case. In support of such finding, the NLRC said that there is no more need to belabor on the substantive aspect of the case since the appeal at the outset is procedurally infirmed. For petitioners, the NLRC gravely abused its discretion when it dismissed their appeal based on technicality of law or procedure, e.i. non filing of supersedeas bond, which according to them is not only justifiable but also legal given their financial predicament.

We find nothing whimsical or capricious on the part of the NLRC in dismissing petitioner’s appeal. True, the application of rules may be relaxed especially in labor conflicts to serve the demands of substantial justice, nevertheless, it should not be used to camouflage the negligence of the party praying for its leniency. Rules of procedure exist for a purpose, hence it should be followed religiously. Only in extraordinary and justifiable circumstance and where substantial rights are at stake that the strict application of the rules must concede. We find no such "circumstance" in the present case that would call for the application of the exemption.

For better enlightenment of petitioners, it is best to revisit the requisites of appeal in labor law. Article 223 of the Labor Code as well as Rule VI, Sections 4 and 6 of the 2004 NLRC Rules of Procedure provide the requirements of appeal, thus,

> "a) The appeal shall be: 1) filed within the reglementary period provided in Section 1 of this Rule; 2) verified by the appellant himself in accordance with Section 4, Rule 7 of the Rules of Court, as amended; 3) in the form of a memorandum of appeal which shall state the grounds relied upon and the arguments in support thereof, the relief prayed for, and with a statement of the date the appellant received the appealed decision, resolution or

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order; 4) in three (3) legibly typewritten or printed copies; and 5) accompanied by i) proof of payment of the required appeal fee; ii) posting of a cash or surety bond as provided in Section 6 of this Rule; iii) a certificate of non-forum shopping; and iv) proof of service upon the other parties.

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

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Section 6. Bond. - In case the decision of the Labor Arbiter or the Regional Director involves a monetary award, an appeal by the employer may be perfected only upon the posting of a bond, which shall either be in the form of cash deposit or surety bond equivalent in amount to the monetary award, exclusive of damages and attorney's fees. In case of surety bond, the same shall be issued by a reputable bonding company duly accredited by the Commission or the Supreme Court, and shall be accompanied by original or certified true copies of the following:

a) a joint declaration under oath by the employer, his counsel, and the bonding company, attesting that the bond posted is genuine, and shall be in effect until final disposition of the case.
b) an indemnity agreement between the employer- appellant and bonding company;
c) proof of security deposit or collateral securing the bond: provided, that a check shall not be considered as an acceptable security;
d) a certificate of authority from the Insurance Commission;
e) certificate of registration from the Securities and Exchange Commission;
f) certificate of authority to transact surety business from the Office of the President;
g) certificate of accreditation and authority from the
Supreme Court; and
h) notarized board resolution or secretary's certificate from the bonding company showing its authorized signatories and their specimen signatures.
Upon verification by the Commission that the bond is irregular or not genuine, the Commission shall cause the immediate dismissal of the appeal, and censure or cite in contempt the responsible parties and their counsels, or subject them to reasonable fine or penalty filing of a motion to reduce bond without complying with the requisites in the preceding paragraphs shall not stop the running of the period to perfect an appeal."

In the more recent case of Banahaw Broadcasting Corp. vs. Pacana III, et al.[6], the Supreme Court further elucidated on this point, thus,

"Consequently, the NLRC did not commit an error, and much less grave abuse of discretion, in dismissing the appeal of BBC on account of non-perfection of the same. In doing so, the NLRC was merely applying Article 223 of the Labor Code, which provides:

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. Such appeal may be entertained only on any of the following grounds:

(a) If there is prima facie evidence of abuse of discretion on the part of the Labor Arbiter;
(b) If the decision, order or award was secured through fraud or coercion, including graft and corruption;
(c) If made purely on questions of law; and
(d) If serious errors in the findings of facts are raised which would cause grave or irreparable damage or injury to the appellant.

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. (Italization supplied.)

The posting of the appeal bond within the period provided by law is not merely mandatory but jurisdictional. The failure on the part of BBC to perfect the appeal thus had the effect of rendering the judgment final and executory.

Neither was there an interruption of the period to perfect the appeal when BBC filed (1) its Motion for the Recomputation of the Monetary Award in order to reduce the appeal bond, and (2) its Motion for Reconsideration of the denial of the same. In Lamzon v. National Labor Relations Commission, 40 where the petitioner argued that the NLRC gravely abused its discretion in dismissing her appeal on the ground of non-perfection despite the fact that she filed a Motion for Extension of Time to File an Appeal Bond, we held:

The pertinent provision of Rule VI, NLRC Rules of Procedure, as amended, provides as follows:

xxx xxx xxx

Section 6. Bond. — In case the decision of a Labor Arbiter, POEA Administrator and 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 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 moral and exemplary damages and attorney's fees.

The employer as well as counsel shall submit a joint declaration under oath attesting that the surety bond posted is genuine and that it shall be in effect until final disposition of the case.

The Commission may, in meritorious cases and upon Motion of the Appellant, reduce the amount of the bond. The filing, however, of the motion to reduce bond shall not stop the running of the period to perfect appeal.

Section 7. No Extension of Period. — No motion or request for extension of the period within which to perfect an appeal shall be allowed."

As correctly observed by the NLRC, petitioner is presumptuous in assuming that the 10-day period for perfecting an appeal, during which she was to post her appeal bond, could be easily extended by the mere filing of an appropriate motion for extension to file the bond and even without the said motion being granted. It bears emphasizing that an appeal is only a statutory privilege and it may only be exercised in the manner provided by law. Nevertheless, in certain cases, we had occasion to declare that while the rule treats the filing of a cash or surety bond in the amount equivalent to the monetary award in the judgment appealed from, as a jurisdictional requirement to perfect an appeal, the bond requirement on appeals involving monetary awards is sometimes given a liberal interpretation in line with the desired objective of resolving controversies on the merits. However, we find no cogent reason to apply this same liberal interpretation in this case. Considering that the motion for extension to file appeal bond remained unacted upon, petitioner, pursuant to the NLRC rules, should have seasonably filed the appeal bond within the ten (10) day reglementary period following receipt of the order, resolution or decision of the NLRC to forestall the finality of such order, resolution or decision. Besides, the rule mandates that no motion or request for extension of the period within which to perfect an appeal shall be allowed. The motion filed by petitioner in this case is tantamount to an extension of the period for perfecting an appeal. As payment of the appeal bond is an indispensable and jurisdictional requisite and not a mere technicality of law or procedure, we find the challenged NLRC Resolution of October 26, 1993 and Order dated January 11, 1994 in accordance with law. The appeal filed by petitioner was not perfected within the reglementary period because the appeal bond was filed out of time. Consequently, the decision sought to be reconsidered became final and executory. Unless there is a clear and patent grave abuse of discretion amounting to lack or excess of jurisdiction, the NLRC's denial of the appeal and the motion for reconsideration may not be disturbed. (Underscoring supplied.)

In the case at bar, BBC already took a risk when it filed its Motion for the Recomputation of the Monetary Award without posting the bond itself. The Motion for the Recomputation of the Monetary Award filed by

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> BBC, like the Motion for Extension to File the Appeal Bond in Lamzon, was itself tantamount to a motion for extension to perfect the appeal, which is prohibited by the rules. The NLRC already exhibited leniency when, instead of dismissing the appeal outright, it merely ordered BBC to post the required bond within 10 days from receipt of said Order, with a warning that noncompliance will cause the dismissal of the appeal for non-perfection. When BBC further demonstrated its unwillingness by completely ignoring this warning and by filing a Motion for Reconsideration on an entirely new ground, the NLRC cannot be said to have committed grave abuse of discretion by making good its warning to dismiss the appeal. Therefore, the Court of Appeals committed no error when it upheld the NLRC's dismissal of petitioner's appeal."

The Supreme Court has consistently held that the rules on posting of appeal bond is jurisdictional, such that failure to comply therefrom will not stop the running of the period to appeal, hence the decision subject of the appeal becomes final and executory. The necessary import of the above quoted rule is apparent in the use of the word "only" in Article 223 of the Labor Code. The intention of the lawmakers is to make the appeal bond a condition sine qua non to perfect an appeal[7].

In light of the foregoing conclusions, We need not anymore address the other issues raised in the petition.

WHEREFORE, the petition is DISMISSED for utter lack of merit. Accordingly, We AFFIRM the dismissal of the appeal by the National Labor Relations Commission on the ground of non-perfection. Consequently, the decision of the Labor Arbiter is rendered final and executory.

SO ORDERED.

Carandang, (Chairman), and Gonzales-Sision, JJ., concur.

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[1] Rollo, pp. 80-84

[2] Rollo, pp. 35-37

[3] Id. at Note 1, Resolution dated September 30, 2010

[4] Motion for Reconsideration, rollo, pp. 85-92

[5] Resolution dated February 22, 2011, id., pp. 93-96

[6] G.R. No. 171673, May 30, 2011

[7] Emma Cordova, et al. vs. Keysa’s Boutique and/or Sps. Cris and Eleonor Albaran, G.R. No. 156379m September 16, 2005

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