

CARINA MUTO, PETITIONER, VS. HON. COMMISSIONERS GERARDO C. NOGRALES, ROMEO L. GO AND PERLITA B. VELASCO IN THEIR CAPACITIES AS THE COMMISSIONERS OF THE NATIONAL LABOR RELATIONS ...

Ponente: SADANG, J.

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SADANG, J.:

This is a petition for certiorari under Rule 65 of the Rules of Court with prayer for issuance of temporary restraining order (TRO) seeking to set aside the Resolution,[1] dated July 25, 2012, of the National Labor Relations Commission (NLRC), First Division, in NLRC NCR LAC No. 06-001699-12/ NLRC-NCR No. 05-07201-11/ NLRC-NCR No. 05-07305-11, denying the Motion to Reduce Appeal Bond and dismissing the appeal, and the Resolution[2] dated November 23, 2012, denying the Omnibus Motion for Reconsideration and Motion to Accept Additional Bond.

On July 24, 2013, this Court issued a Resolution[3] denying the prayer for injunctive relief considering that petitioner Carina Muto failed to prove a clear and legal right to justify its issuance.

The petition stemmed from the consolidated complaints filed by Joseph A. Cabalo, Mark A. Cabalo, Clyde Cabalo, Junnel A. Samson, Jonathan Calinagan, Edison M. Aristoteles, and Williard B. Piangco on May 6, 2011, and by Chudy Gigante, Jorlan Besona, Elvin Aristoteles, Edwilyn Balatucan, Aiza Aristoteles (hereafter, private respondents), against KB Print Corporation[4] (KBP, for brevity)/Case Muto and Carina Muto for illegal dismissal and money claims.

Private respondents, in their Position Paper,[5] averred that: they were employed by KBP as factory workers; they were issued pieces of paper as pay slips and KBP did not deduct or remit their contributions to SSS, Philhealth and Pag-ibig; on May 3 and 7, 2011, they were dismissed and barred from the factory premises without prior notice, just cause, or due process; during their employment KBP failed and refused to pay their 13th month pay, holiday pay, service incentive leave pay, overtime pay, rest day pay and separation pay; they were required to work seven days a week, 12 hours a day, without rest days. Private respondents prayed for reinstatement, backwages, and other unpaid benefits plus moral or exemplary damages and 10% of their total money claim as attorney's fees. Attached to their Position Paper is their computation of their money claims which shows a total amount of P5,067,184.20.[6]

In its Position Paper[7], KBP averred that the complaint must be dismissed because private respondents failed to prove the existence of an employer-employee relationship. KBP clarified that its name is "KV Print Club," not KB Print Corporation, as alleged by private respondents, and that it is a partnership primarily engaged in the manufacturing and trading of laminated and printed products.

Private respondents filed a Reply[8] alleging that KBP failed to disprove the existence of an employer-employee relationship. To bolster their claim, private respondents attached pictures of themselves inside the workplace tending to and operating KBP's machines.

KBP also filed a Reply[9] reiterating their arguments and attaching the Affidavit[10] of Emelia Pacada, human resources officer of KBP, who attested that per records private respondents are not regular employees of KBP.

On April 30, 2012, Labor Arbiter Lilia S. Savari rendered a Decision,[11] disposing thus:

WHEREFORE, a Decision is hereby rendered declaring that Complainants were illegally dismissed. As the parties have strained relations, reinstatement is no longer practical, hence, they must be paid separation pay. Further, Respondents are ordered to pay Complainants salary differentials and 13[th] month pay plus 10% of the award as and by way of attorney's fees. Attached herein is a copy of the computation of Complainants' awards.

All other claims are DISMISSED for lack of merit.

SO ORDERED.

The Labor Arbiter (LA) attached to her Decision her computation of the monetary awards in the total amount of P899,137.09.[12]

On June 1, 2012, KBP, Case Muto and Carina Muto filed a Notice of Appeal Cum Memorandum[13] challenging the Labor Arbiter's Decision. They also filed a Motion to Reduce Appeal Bond[14] praying that they be allowed to post a bond of P200,000.00 in lieu of the full amount of the monetary award pursuant to Rule VI of the 2011 NLRC Rules of Procedure which states that "(N)o motion to reduce bond shall be entertained except on meritorious grounds and only upon the posting of a bond in a reasonable amount in relation to the monetary award." They also alleged that it is not clear from the decision if the liability for the monetary award is joint or solidary, that the award is grossly unconscionable, that they do not have cash on hand, and that the capital of KBP is only P500,000.00.

On July 25, 2012, the NLRC (First Division) issued the assailed Resolution denying the motion to reduce appeal bond for lack of justifiable and meritorious grounds and dismissed the appeal as it was not perfected in accordance with the rules. The dispositive portion[15] reads:

WHEREFORE, respondents' Motion to Reduce Bond is DENIED and the appeal is hereby DISMISSED for not having been duly perfected in accordance with our Rules.

SO ORDERED.

Petitioner Carina Muto (hereafter, petitioner) then filed an Omnibus Motion for Reconsideration and Motion to Accept Additional Bond.[16] She prayed that the appeal be given due course and that an additional bond in the amount of P99,712.36 be admitted. The NLRC denied the omnibus motion in the second assailed Resolution dated November 23, 2012.

Hence, this petition on this ground:

WHETHER THE PUBLIC RESPONDENT COMMISSIONERS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DENIED THE APPEAL OF THE PETITIONER SOLELY ON THE BASIS OF FAILURE TO POST THE TOTAL AMOUNT OF BOND DESPITE MERITORIOUS GROUNDS FOR ITS SUBSTANTIAL COMPLIANCE.[17]

Private respondents filed their Comment[18] on August 2, 2013.

RULING

The petition is meritorious.

Under the Labor Code, an appeal by the employer of a LA's judgment involving a monetary award may be perfected only upon the posting of a cash or surety bond in the amount equivalent to the monetary award.[19] Jurisprudentially, it has been explained that the bond requirement imposed upon the employer-appellant in labor cases is intended to ensure the satisfaction of awards that are made in favor of appellees, in the event that their claims are eventually sustained by the courts.[20] Concomitant to its noble purpose, the bond requirement should not be treated as an inflexible statutory rule particularly when it results to injustice to the employer-appellant. Hence, the courts have relaxed the application of this provision under meritorious circumstances and the NLRC has been cautioned to give Article 223, particularly the provisions requiring bonds in appeals involving monetary awards, a liberal interpretation in line with the desired objective of resolving controversies on the merits.[21]

This liberal application finds support in Section 6, Rule VI of the 2011 NLRC Rules of Procedure, which provides:

Sec. 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.

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No motion to reduce bond shall be entertained except on meritorious grounds and only upon the posting of a bond in a reasonable amount in relation to the monetary award.

The mere filing of the motion to reduce bond without compliance with the requisites in the preceding paragraph shall not stop the running of the period to perfect an appeal. (Underscoring supplied)

Based on the foregoing, an employer who appeals a judgment of a LA involving monetary awards may move for the reduction of the appeal bond subject to two conditions, viz.: 1) it is based on meritorious grounds; and 2) posting of a bond in a reasonable amount in relation to the monetary award. The requirement of "meritorious ground" delves on the worth of the parties' arguments, taking into account their respective rights and the circumstances that attend the case. As regards the requirement on the posting of a bond in a "reasonable amount," the final determination thereof shall be based primarily on the merits of the motion and the main appeal.[22]

Thus, when a motion for reduction of appeal bond is filed, it behooves the NLRC to make a preliminary consideration of the arguments raised in the motion to reduce and the memorandum on appeal in ruling on the issue of meritorious ground and reasonableness of the tendered bond. In the recent case of *McBurnie v. Ganzon, et al.*[23] it was held:

By such haste of the NLRC in peremptorily denying the respondents' motion without considering the respondents' arguments, it effectively denied the respondents of their opportunity to seek a reduction of the bond even when the same is allowed under the rules and settled jurisprudence. It was equivalent to the NLRC's refusal to exercise its discretion, as it refused to determine and rule on a showing of meritorious grounds and the reasonableness of the bond tendered under the circumstances.[24]

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In this case, the NLRC then should have considered the respondents' arguments in the memorandum on appeal that was filed with the motion to reduce the requisite appeal bond. Although a consideration of said arguments at that point would have been merely preliminary and should not in any way bind the eventual outcome of the appeal, it was apparent that the respondents' defenses came with an indication of merit that deserved a full review of the decision of the LA. (Underscoring supplied)

In its assailed July 25, 2012 Resolution, the NLRC stated thus:

While the respondents filed a Motion to Reduce Bond, it is not accompanied by a reasonable amount of bond. The cash bond of P200,000.00 which respondents posted constitutes only a small portion of the monetary award. Respondents-appellants also failed to cite a justifiable, meritorious ground upon which the prayer for reduction could be based.

Because of said omissions which resulted in respondents-appellants' failure to satisfy a mandatory and jurisdictional requirement, the appeal is considered to be not perfected and the assailed Decision become final and executory[25].

In the second assailed resolution, the NLRC merely reiterated that the tendered appeal bond was "grossly inadequate compared to the monetary awards of P899,137.09." As to the other arguments of petitioner, the NLRC simply stated: "Neither could the allegation that the monetary award was not clear as to whether the same is joint or solidary could excuse the respondents from posting a bond equivalent to the monetary award." The NLRC then cited the ruling in *Colby Construction and Management Corporation v. NLRC* that an employer who files a motion to reduce appeal bond is still required to post the full amount of cash or surety bond within the ten-day reglementary period even pending resolution of the motion.

The assailed resolutions fall short of the requirements of *McBurnie*. The resolutions do not indicate a preliminary consideration of the arguments in the memorandum of appeal attached to the motion. They only contained conclusions without a discussion and resolution of the arguments raised. In their memorandum of appeal, KBP and the other petitioners contended that private respondents failed to discharge the burden of proving the existence of an employer-employer relationship.[26] On this point, a reading of the LA's decision shows that her finding is based on the pieces of paper purportedly issued by KBP as pay slips. As to the amount of salaries of private respondents, the petitioner stated in their memorandum of appeal that the computation of the LA was not accompanied by any document as basis for the staggering amount.[27] The petitioners also stated that the LA decision is not clear on whether the liability is joint and solidary. These issues necessitate a full review of the LA decision and they should have been taken into account preliminarily by the NLRC in resolving the motion for reduction of appeal bond. Having failed to do so, the NLRC had in effect refused to exercise its discretion.

Moreover, petitioner had alleged in her motion that KBP has only a capitalization of P500,000.00 thus hinting at the financial incapability of said company to post the required bond. At the very least, the NLRC should have made a preliminary determination of KBP's financial capability before denying the motion. The NLRC is not precluded from receiving evidence on appeal as technical rules are not binding in labor cases.[28]

The NLRC cited the ruling in *Colby Construction* on the effects of non-posting of the required bond. Unfortunately, that ruling no longer controls. Recent jurisprudence states that the filing of a motion to reduce bond coupled with compliance with the two conditions shall suffice to suspend the running of the period to perfect an appeal from the labor arbiter's decision to the NLRC. To require the full amount of the bond within the 10-day reglementary period would only render nugatory the legal provision which allows an appellant to seek a reduction of the bond.[29] Further, the *aforecited* case of *McBurnie* set a guidepost in the determination of the reasonable amount in relation to the appeal bond. It ruled that a motion to reduce bond shall be accompanied by the posting of a provisional cash or surety bond equivalent to ten percent (10%) of the monetary award subject of the appeal, exclusive of damages and attorney's fees.[30]

The rule on the amount of appeal bond is not an inflexible rule. This is clear from Section 6, Rule VI of the 2011 Rules of Procedure of the NLRC. Citing its rulings in several cases, the Supreme Court, in *Nicol et al. v. Footjoy Industrial Corp. et al.* ruled that the bond requirement on appeals involving monetary awards may be relaxed in

meritorious cases, viz.: 1) there was substantial compliance with the Rules; 2) the surrounding facts and circumstances constitute meritorious grounds to reduce the bond; 3) a liberal interpretation of the requirement of an appeal bond would serve the desired objective of resolving controversies on the merits; or 4) the appellants, at the very least, exhibited their willingness and/or good faith by posting a partial bond during the reglementary period.[31]

Records show that KBP and the other petitioners posted an appeal bond of P200,000.00 simultaneously with their motion to reduce bond. Thereafter, they posted an additional P99,712.36 as a gesture of good faith. The amounts posted certainly complies with the 10% requirement of McBurnie. Moreover, in light of our earlier discussion on the issue of meritorious grounds in a motion to reduce appeal bond, the total amount appears to be reasonable especially in light of the allegation in petitioners' memorandum of appeal that the LA did not state in her decision the basis for her computation of the monetary awards.

Finally, petitioner assails the constitutionality of the law requiring the posting of an appeal bond in an amount equivalent to the monetary award. She argues that the law is violative of the equal protection clause, right to free access to courts and quasi-judicial bodies, and right to due process. Unfortunately, this court cannot resolve that issue. It is settled that the constitutionality of a statute cannot be collaterally attacked but must be pleaded directly.[32] A collateral attack on a presumably valid law is not permissible. Unless a law or rule is annulled in a direct proceeding, the legal presumption of its validity stands.[33]

WHEREFORE, the petition for certiorari is GRANTED. The Resolutions, dated July 25, 2012 and November 23, 2012, of the National Labor Relations Commission are ANNULLED and SET ASIDE. The NLRC (First Division) is DIRECTED to admit the reduced bond tendered by petitioner and to give due course to the appeal.

SO ORDERED.

Librea-Leagogo, (Chairperson), and Diamante, JJ., concur.

[1] Rollo, pp. 107-111.

[2] Id at 23-27.

[3] Id at 139-142.

[4] Should be "KV Print Club" per Articles of Partnership; Id at 49.

[5] Id at 56-58.

[6] Id at 60-72.

[7] Id at 73-78.

[8] Id at 81-82.

[9] Id at 83-87.

[10] Id at 88.

[11] Id at 89-94.

[12] Id at 95.

[13] Id at 28-46.

[14] Id at 98-105.

[15] Id at 110.

[16] Id at 112-123.

[17] Id at 7.

[18] Id at 143-149.

[19] 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. . . .

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.

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[20] Andrew James McBurnie v. Eulalio Ganzon, et al., G.R. Nos. 178034 & 178117 & G.R. Nos. 186984-85, October 17, 2013 citing Mindanao Times Corporation v. Confesor, G.R. No. 183417, February 5, 2010, 611 SCRA 748; Computer Innovations Center v. NLRC, 500 Phil. 573 (2005); St. Gothard Disco Pub & Restaurant v. NLRC, G.R. No. 102570, February 1, 1993, 218 SCRA 327.

[21] Id citing Cosico, Jr. v. NLRC, 338 Phil. 1080 (1997), citing Star Angel Handicraft v. National Labor Relations Commission, G.R. No. 108914, September 20, 1994, 236 SCRA 580; Dr. Postigo v. Phil. Tuberculosis Society, Inc., 515 Phil. 601 (2006); Rada v. NLRC, G.R. No. 96078, January 9, 1992, 205 SCRA 69, and YBL (Your Bus Line) v. National Labor Relations Commission, 268 Phil. 169 (1990).

[22] Andrew James McBurnie v. Eulalio Ganzon, et al., supra.

[23] Id.

[24] Id citing Nicol et al. v. Footjoy Industrial Corp. et al. G.R. No. 159372, July 27, 2007.

[25] Supra note 1 at 109-110.

[26] Rollo, Memorandum of Appeal, pp. 32-47, at p. 39

[27] Id at 37.

[28] Supra note 24.

[29] Andrew James McBurnie v. Eulalio Ganzon, et al., supra, citing Garcia v. KJ Commercial G.R. No. 196830, February 29, 2012, 667 SCRA 396.

[30] Andrew James McBurnie v. Eulalio Ganzon, et al., supra.

[31] Id citing Postigo v. Philippine Tuberculosis Society, Inc. (PTSI), G.R. No. 155146, January 24, 2006, 479 SCRA 628, 635; Rosewood Processing, Inc. v. NLRC 352 Phil. 1013, 1031 (1998).

[32] Alfeo D. Vivas v. The Monetary Board and PDIC, G.R. No. 191424. August 7, 2013 citing Gutierrez v. Department of Budget and Management, G.R. No. 153266, March 18, 2010, 616 SCRA 1, 25.

[33] Id citing. Dasmariñas Water District v. Leonardo-de Castro, G.R. No. 175550, September 17, 2008, 565

SCRA 624, 637.

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