

**N.I.F. LUMBER, REPRESENTED BY NORMAN I. FERRER, PETITIONER,
VS. NATIONAL LABOR RELATIONS COMMISSION, RONALDO
VILLANUEVA AND PAQUITO MABULAY, RESPONDENTS.**

Ponente: GONZALES-SISON, M., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7ddbafcf292/>

GONZALES-SISON, M., J.:

Assailed in this Petition for Certiorari filed by N.I.F. Lumber, represented by Norman I. Ferrer, are the December 27, 2013[1] and February 27, 2014[2] resolutions of the National Labor Relations Commission (NLRC) in NLRC-LAC No. 12-003438-13.

The case arose from the complaint filed by Paquito S. Mabulay and Ronaldo M. Villanueva against N.I.F. Lumber, a sole proprietorship engaged in the selling and trading of construction materials, and impleaded Ferrer as its owner/general manager.

The facts are as follows:

Sometime in June 2002 and November 2002, petitioner hired Villanueva and Mabulay as “pahinante” or helpers until their alleged illegal dismissal on December 10, 2012 and November 2012, respectively.

Sometime in July 2012, Mabulay allegedly had fever and thus, failed to report for work. Due to lack of money, he was only able to seek treatment from a quack doctor. Upon full recovery sometime in November 2012, Mabulay claimed that Ferrer sent him home informing him to just wait for a call to return to work but has since not heard of Ferrer after their meeting.

On one hand, Villanueva alleged that on December 9, 2012, he was ordered by Ferrer to make hollow blocks as replacement for those that were destroyed by dogs. Villanueva waited until 11:00 in the morning but no materials were delivered so he decided to go home. Villanueva averred that he reported for work the next day but Ferrer allegedly also informed him to just wait for a call but has since not heard after their meeting.

Mabulay and Villanueva then filed a complaint for illegal dismissal, underpayment of wages, claim for full backwages and non-payment of overtime pay, thirteenth month pay, holiday pay and rest day pay.

Petitioner denied that it dismissed Mabulay and Villanueva. It averred that Villanueva was a contractual employee, who was also occasionally engaged as a hollow blocks maker on a piece-work basis. After producing the desired number of hollow blocks, Villanueva's employment on a piece-work basis is also terminated. Petitioner asserted that Villanueva last reported for work on November 22, 2012 and was absent without leave (AWOL) thereafter.

As regards Mabulay, petitioner claimed that it hired him as a store/delivery man on a temporary or provisional basis from March 31, 2012 to August 30, 2012. However, on June 19, 2012, Mabulay failed and refused to report for work despite a return to work order.

However, petitioner's own vouchers[3] showed that Mabulay still reported for work and, in fact, received his

salary until June 29, 2012.

The Labor Arbiter's Decision

On August 18, 2013, the Labor Arbiter rendered a Decision[4], disposing of the case as follows:

WHEREFORE, all the foregoing premises being considered, judgment is hereby rendered finding the complainants to have been illegally dismissed from their employment, and consequently, respondents are jointly and solidarily liable to pay the complainants the aggregate sum of P557,396.65 as stated and itemized above.

All other claims are denied for lack of basis.

SO ORDERED.

The Labor Arbiter held that Villanueva is a regular employee of petitioner being engaged to make hollow blocks and to assist in the delivery of construction materials, which are necessary and desirable in the usual business, i.e., selling and trading of construction materials, of petitioner. The Labor Arbiter also found that Villanueva and Mabulay have been employed continuously by petitioner for at least 10 years. Moreover, it ruled that the employees were illegally dismissed and that petitioner failed to prove abandonment of work.

The NLRC Ruling

Petitioner filed a Memorandum of Appeal[5] and a Motion to Reduce Bond[6] before the NLRC without posting a bond.

On December 27, 2013, the NLRC rendered a Resolution[7], the fallo of which states:

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.

The NLRC dismissed the appeal and the attached motion to reduce bond for failure of herein petitioner to post any amount of bond, cash or surety. The NLRC held that the mere filing of a motion to reduce bond did not stop the running of the period within which to perfect an appeal.

Petitioner moved for reconsideration, which the NLRC denied on February 27, 2014.

The Issue

Hence, this petition. Petitioners advance the following grounds for the allowance of the petition:

I. THE HONORABLE PUBLIC RESPONDENT HAS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN NOT SETTING ASIDE THE LABOR ARBITER'S DECISION FINDING THAT THERE IS A CASE OF ILLEGAL DISMISSAL, AND HOLDING THAT PETITIONER IS LIABLE TO PAY PRIVATE RESPONDENTS THEIR MONEY CLAIMS; AND

II. THE HONORABLE PUBLIC RESPONDENT HAS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN SUSTAINING ITS RESOLUTION DISMISSING THE APPEAL OF PETITIONER FOR FAILURE TO PERFECT THE APPEAL.

The Court's Ruling

The crucial issue in this case concerns the perfection of an appeal without posting a cash or surety bond.

THE PETITION IS UTTERLY WITHOUT MERIT.

At the outset, it should be stressed that the right to appeal is not a natural right or a part of due process; it is merely a statutory privilege, and may be exercised only in the manner prescribed by and in accordance with the provisions of law. The party who seeks to avail himself of the same must comply with the requirements of the rules. Failing to do so, he loses the right to appeal.[8]

The primary rule governing appeal from the ruling of the labor arbiter is 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. X x x

X x x x

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. [Emphasis ours.]

In this regard, Sections 4(a) and 6 of Rule VI of the 2011 NLRC Rules of Procedure of the NLRC, as amended, reaffirms the explicit jurisdictional principle in Article 223 even as it allows in justifiable cases the reduction of the appeal bond. The relevant provision states:

Sec. 4. Requisites for Perfection of Appeal. - a) The appeal shall be:

X x x x

(5) accompanied by:

- proof of payment of the required appeal fee and legal research fee;
- posting of a cash or surety bond as provided in Section 6 of this Rule; and
- proof of service upon the other parties.

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

X x x x

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.

X x x x

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 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. [Emphasis ours.]

That the posting of a bond is an indispensable requirement to the perfection of an appeal in cases involving monetary awards from the decision of the labor arbiter was fully explained in the 2009 case of *McBurnie v.*

Ganzon[9], in this wise:

The intention of the lawmakers to make the bond a mandatory requisite for the perfection of an appeal by the employer is clearly expressed in the provision that an appeal by the employer may be perfected “only upon the posting of a cash or surety bond.” The word “only” in Articles 223 of the Labor Code makes it unmistakably plain that the lawmakers intended the posting of a cash or surety bond by the employer to be the essential and exclusive means by which an employer's appeal may be perfected. The word “may” refers to the perfection of an appeal as optional on the part of the defeated party, but not to the compulsory posting of an appeal bond, if he desires to appeal. The meaning and the intention of the legislature in enacting a statute must be determined from the language employed; and where there is no ambiguity in the words used, then there is no room for construction.

Clearly, the filing of the bond is not only mandatory but also a jurisdictional requirement that must be complied with in order to confer jurisdiction upon the NLRC. Non-compliance with the requirement renders the decision of the Labor Arbiter final and executory. This requirement is intended to assure the workers that if they prevail in the case, they will receive the money judgment in their favor upon the dismissal of the employer's appeal.

It is intended to discourage employers from using an appeal to delay or evade their obligation to satisfy their employees' just and lawful claims. [Emphasis ours.]

Clearly, explicit is the rule that, in order for an appeal to be considered duly perfected before the NLRC, the employer must post a cash or surety bond equivalent in amount to the monetary award, exclusive of damages and attorney's fees, within 10 calendar days from receipt of the decision appealed from.

Thus, when petitioners, in the cases of *Ong v. Court of Appeals*[10], *Rural Bank of Coron (Palawan), Inc. v. Cortes*[11], *Sy v. ALC*[12], *Ciudad Fernandina Food Corporation Employees Union-Association Labor Unions v. Court of Appeals*[13], *Stolt-Nielsen Maritime Services, Inc. v. NLRC*[14], and *Santos v. Velarde*[15] did not post a full or partial appeal bond, it was held that no appeal was perfected.

Also, the prevailing rule then is that even an appellant who seeks a reduction of an appeal bond before the NLRC is expected to post a cash or surety bond securing the full amount of the judgment award within the 10-day reglementary period to perfect the appeal[16], even pending resolution of his motion.

However, by way of clarification, the Supreme Court held in *Sara Lee Philippines, Inc. v. Macatlang*[17] that the NLRC may dispense of the posting of the bond when the judgment award is: (1) not stated or (2) based on a patently erroneous computation. Sans these two instances, the appellant is generally required to post a bond to perfect his appeal.

As regards the filing of a motion to reduce bond, *Sara Lee* relaxed the previous rule and stated that the Rules only allow the filing of the said motion on two conditions: (1) that there is meritorious ground and (2) a bond in a reasonable amount is posted. Compliance with the two conditions stops the running of the period to perfect an appeal provided that they are complied within the 10-day reglementary period. However, it also asserted that the grounds to be cited in the motion to reduce must be valid and acceptable. It explained that since the intention is merely to give the NLRC an idea of the justification for the reduced bond, the evidence for the purpose would necessarily be less than the evidence required for a ruling on the merits.

In the recent case of *McBurnie v. Ganzon*[18], the high tribunal held that meritorious ground in a motion to reduce bond may “pertain to an appellant's lack of financial capability to pay the full amount of the bond, the merits of the main appeal such as when there is a valid claim that there was no illegal dismissal to justify the award, the absence of an employer-employee relationship, prescription of claims, and other similarly valid issues

that are raised in the appeal. For the purpose of determining a ‘meritorious ground,’ the NLRC is not precluded from receiving evidence, or from making a preliminary determination of the merits of the appellant’s contentions.”

In this case, petitioner failed to post a full or even partial cash or surety bond. Moreover, in seeking a reduction of the appeal bond, petitioner failed to comply with the two conditions for its allowance because (1) there is no meritorious ground and (2) there is no bond in a reasonable amount posted. While petitioner alleged “financial difficulty” as ground for the reduction of the bond, it did not adduce any evidence to support its claim of financial distress. Therefore, we also find no merit in petitioner’s motion to reduce the appeal bond.

Settled is the rule that the burden of proof rests upon the party who asserts the affirmative of an issue. In labor cases, the quantum of proof necessary is substantial evidence, or such amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[19]

Consequently, the filing of the motion to reduce bond by petitioner without compliance with the two conditions did not stop the running of the period to perfect an appeal. With the lapse of the 10-day reglementary period to perfect an appeal before the NLRC, the Labor Arbiter’s Decision dated August 18, 2013 thus became final.

WHEREFORE, premises considered, the instant Petition for Certiorari is DISMISSED. Accordingly, the December 27, 2013 and January 30, 2014 resolutions of the National Labor Relations Commission dismissing the appeal of petitioner for failure to post an appeal bond are hereby AFFIRMED. The finding of the Labor Arbiter that Paquito S. Mabulay and Ronaldo M. Villanueva have been illegally dismissed from their employment is also AFFIRMED. Hence, N.I.F. Lumber and Norman I. Ferrer are ORDERED to jointly and solidarily pay Mabulay and Villanueva the aggregate sum of P557,396.65 as directed in the Labor Arbiter’s Decision dated August 18, 2013.

SO ORDERED.

Salazar-Fernando, R.A., Chairperson and Cruz, R.A., JJ., concur.

[1] Rollo, pp. 22-28.

[2] Id. at 30-31.

[3] Annex “2-F”, complainant’s Position Paper.

[4] Id. at 52-59.

[5] Id. at 60-65.

[6] Id. at 67-72.

[7] Id. at 17-20.

[8] Ramirez v. Court of Appeals, G.R. No. 182626, December 4, 2009 citing Colby Construction and Management Corporation v. National Labor Relations Commission, G.R. No. 170099, November 28, 2007.

[9] G.R. Nos. 178034 & 178117 and G.R. Nos. 186984-85, September 18, 2009.

[10] 482 Phil. 170 (2004).

[11] 539 Phil. 498 (2006).

[12] 589 Phil. 354 (2008).

[13] 528 Phil. 415 (2006).

[14] 513 Phil. 642 (2005).

[15] 450 Phil. 381 (2003).

[16] See *Colby Construction and Management Corporation v. National Labor Relations Commission*, supra note 8.

[17] G.R. No. 180147, June 4, 2014.

[18] G.R. Nos. 178034 & 178117, G.R. Nos. 186984-85, 17 October 2013.

[19] *Barko International, Inc., et al. v. Alcayno*, G.R. No. 188190, April 21, 2014.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.