

LYDIA FREDELUCES, DOING BUSINESS UNDER THE NAME AND STYLE, SMD TOWING SERVICES, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND MAILAN YASAS, RESPONDENTS.

Ponente: LOPEZ, J.

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LOPEZ, J.:

A party who seeks to exercise the right to appeal must comply with the requirements of the rules; otherwise, the privilege is lost.[1] We observe this dictum in this petition for certiorari assailing the April 10, 2013 Decision of the National Labor Relations Commission.

The facts are undisputed.

On August 30, 2012, the labor arbiter rendered a Decision holding Lydia Fredeluces liable for illegal dismissal and to pay Mailan Yasas the amount of P190,593.90 representing full backwages, separation pay and other monetary claims.[2] Aggrieved, Fredeluces timely appealed before the National Labor Relations Commission and posted a surety bond equivalent to the judgment award[3] thru Philippine Fire and Marine Insurance Corporation (Philfire) which was not duly accredited by the Commission or the Supreme Court.

Accordingly, the NLRC ordered Fredeluces to secure a reputable and accredited bonding company within 10 days from notice, otherwise, the appeal will be dismissed for non-perfection.[4] Fredeluces received a copy of the order on November 21, 2012 and had until December 3, 2012 to comply since the last day of the 10-day period or December 1, 2012 fell on a Saturday.[5] Nonetheless, Fredeluces failed[6] to provide a new surety and instead gave a cash bond on December 7, 2012.[7]

In its Decision dated April 10, 2013, the NLRC dismissed the appeal and ruled that the required bond was posted four (4) days beyond the reglementary period.[8] Unsuccessful[9] at a reconsideration,[10] Fredeluces filed this petition[11] for certiorari ascribing grave abuse of discretion on the NLRC claiming that it should have relaxed the time-requirement for posting an appeal bond in the interest of substantial justice.

Prefatorily, We stress that an appeal to the NLRC from a decision of the labor arbiter involving monetary award is perfected only upon the posting of a cash or surety bond within ten (10) calendar days from notice.[12] The requirement is mandatory[13] and failure to comply will render the decision of the labor arbiter final and executory and place it beyond the power of the NLRC to review or reverse.[14] Notably, the Supreme Court has relaxed the rules on appeal bond in labor cases on grounds of compelling reasons and substantial compliance.[15]

In *Rada v. NLRC*, [16] *Blancaflor v. NLRC* [17] and *Taberrah v. NLRC*, [18] the belated filing of the appeal bond was justified where the labor arbiter's decision did not state the exact amount of the monetary award. In *Your Bus Line v. NLRC*, [19] the failure to file a bond was considered an excusable mistake because the party was misled by the notice of the decision which enumerated all the other requirements for perfecting an appeal except the bond. In *Cabalan Pastulan Negrato Labor Association v. NLRC*, [20] the plea of the association that its appeal be given due course despite non-posting of a bond, on account of insolvency and poverty, was granted. Lastly, in

UERM-Memorial Medical Center v. NLRC,[21] the medical center was allowed to post a property bond in lieu of a cash or surety bond because the execution of the judgment award which involved more than Php17 million could adversely affect its economic survival.

Unfortunately for Fredeluces, no similar justification exists to excuse the late posting of the bond. First, she was negligent in presenting an unaccredited surety and was remiss in her duty to ensure that the bond satisfies all the requirements before it is filed within the 10-day appeal period.[22] Despite this, the NLRC afforded her another chance to perfect the appeal and look for a reputable surety company. Second, the explanation of Fredeluces that the cash bond was belatedly filed because it was impossible for the new bonding company to process the surety bond on time is unacceptable. She knew fully well the amount to be put up as a bond and should have taken appropriate measures to avoid any delay. Fredeluces has no one to blame but herself. Lastly, Fredeluces cannot conveniently argue that she was only late by four days. In *Mary Abigails Food Services, Inc. v. Court of Appeals*, [23] the employer admittedly posted the required bond three (3) days beyond the 10-day reglementary period for perfecting an appeal. The Supreme Court affirmed the NLRC's dismissal of the appeal finding that the delay is not an exceptional circumstance to warrant a relaxation of the requirement. Corollarily, there is more reason here not to exempt Fredeluces from abiding by the rules.

With the reality that Fredeluces failed to perfect her appeal by the non-posting of the bond within the ten-day period provided for by law, it follows that the judgment of the labor arbiter has passed to the realm of finality. As the NLRC aptly observed, Fredeluces cannot forever invoke liberality and deny the right of the complainant of a decision that has become immutable by operation of law.

Accordingly, We reiterate that the right to appeal is merely statutory and one who seeks to avail of it must comply with the statute or rules. The requirements for perfecting an appeal within the reglementary period specified in the law must be strictly followed as they are considered indispensable interdictions against needless delays.[24]

FOR THESE REASONS, the petition is DISMISSED.

SO ORDERED.

Reyes, Jr., J.C., (Chairperson) and Inting, JJ., concur.

[1] See *Lepanto Consolidated Mining Corporation v. Icao*, G.R. No. 196047, January 15, 2014.

[2] *Rollo*, pp. 83-95.

[3] *Id.*, pp. 96-100.

[4] *Id.*, pp. 102-104.

[5] *Id.*, pp. 105-106.

[6] *Id.*, pp. 108-113.

[7] *Id.*, p. 107.

[8] *Id.*, pp. 115-118.

[9] *Id.*, pp. 123-125.

[10] *Id.*, pp. 119-121.

[11] *Id.*, pp. 3-25.

[12] See Article 223 of the Labor Code and Rule VI, Section 6 of the 2011 NLRC Rules of Procedure.

[13] See *Viron Garments Manufacturing Co., Inc. v. NLRC*, G.R. No. 97357, March 18, 1992. See also *Accessories Specialist, Inc. v. Alabanza*, G.R. No. 168985, July 23, 2008; *Cordova v. Keysa's Boutique*, 507 Phil. 147 (2005); *Gaudia v. NLRC*, 376 Phil. 548 (1999); and *Garais v. NLRC*, 326 Phil. 568 (1996).

[14] See *Quiambao v. NLRC, et al.*, 254 SCRA 211 (1996); and *Filcon Manufacturing Corp. v. NLRC*, 199 SCRA 814 (1991), citing *Narag v. NLRC*, 155 SCRA 199 (1987).

[15] See *Catubay, et. al. v. NLRC*, 330 SCRA 440 (2000).

[16] 205 SCRA 69 (1992).

[17] 218 SCRA 366 (1993).

[18] 276 SCRA 431 (1997).

[19] 190 SCRA 160 (1990).

[20] 311 Phil. 744 (1995).

[21] 336 Phil. 66 (1997).

[22] See *Gaudia v. NLRC*, G.R. No. 109371, November 18, 1999.

[23] G.R. No. 140294, May 9, 2005.

[24] *Corporate Inn Hotel v. Lizo*, 429 SCRA 573 (2004).

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