

ANNETTE J. NAVARRO, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, SEVENTH DIVISION, CEBU CITY, PUBLIC RESPONDENT, ABOITIZLAND, INC., ANDONI F. ABOITIZ, NILDA R. RAVINA, AN...

Ponente: DIY, J.

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DIY, J.:

Before Us is a Petition for Certiorari[2] under Rule 65 of the 1997 Rules of Civil Procedure, which assails the rulings of the Seventh Division of the National Labor Relations Commission (“NLRC”, for brevity), as follows: (1) Decision dated November 27, 2009; (2) Decision dated October 28, 2010; and (3) Resolution dated December 29, 2010.

The Antecedents

The instant petition stemmed from a complaint for illegal dismissal filed by petitioner before the NLRC Regional Arbitration Board VII, Cebu City (“RAB”, for brevity) against private respondents.[3]

The RAB ruled in favor of petitioner in its May 10, 2009 Decision (“RAB Decision”, for brevity), the dispositive portion of which reads:

WHEREFORE, the foregoing premise considered, judgment is hereby rendered declaring the Complainant’s dismissal illegal and directing the respondents to jointly and solidarily pay complainant the amount of P574,902.11 plus P57,490.21 or a total aggregate amount of P632,392.32.

SO ORDERED.

Both petitioner and private respondents filed their respective appeals from the RAB Decision.

The NLRC, ruling on said appeals, issued the November 27, 2009 Decision⁴ (“Decision A”, for brevity), the dispositive portion of which reads:

WHEREFORE, we SUSTAIN the abolition of complainant’s position of Assistant Manager for Government and Community Relations, and her resulting separation from the services on account of redundancy. However, she is entitled to separation pay under the law in the net total amount of TWO HUNDRED FORTY THOUSAND FOUR HUNDRED THIRTY THREE & 41/100 (P240,433.41) as above computed.

SO ORDERED.

(Emphasis in the original omitted)

As alleged by petitioner, Decision A was received neither by petitioner nor by her counsel Atty. Elpidio B.S. Noel. Petitioner and Atty. Noel explained that a certain Grace Flores received the copy of Decision A on January 21, 2010. Grace Flores was the personal secretary of Atty. Giovanni Luna who happened to be conducting his office business in the same office space as Atty. Noel’s. Petitioner and her counsel further averred that considering that Grace Flores was not an employee of Atty. Noel, she (Grace) was not authorized to receive any

pleadings pertaining to cases handled by him. Further, as soon as Atty. Noel received the notice of entry of judgment on July 30, 2010, he confirmed with petitioner that she herself did not receive any copy of Decision A. Atty. Noel immediately checked his folder but did not find any decision pertaining to the instant case. On August 05, 2010, Atty. Noel finally found the notice of Decision A in the cabinet of Atty. Luna. Atty. Noel was not able to confront Grace Flores because she had already resigned.[5]

On September 28, 2010, petitioner filed her “Petition for Relief From Judgment Under Rule 38” of the 1997 Rules of Civil Procedure.[6]

The NLRC dismissed said petition in a decision dated October 28, 2010 (“Decision B”, for brevity),[7] the dispositive portion of which reads:

WHEREFORE, premises considered, the instant Petition for Relief from Judgment is hereby DISMISSED for lack of merit. The Decision promulgated by the Commission on 27 November 2009 STANDS.

SO ORDERED.

(Emphasis in the original omitted)

Petitioner filed a motion for reconsideration of Decision B on December 03, 2010.[8]

On December 29, 2010, the NLRC issued a Resolution denying the above motion.[9]

Aggrieved by the rulings of the NLRC, petitioner filed the instant petition stating the following issues:[10]

I.

THE HONORABLE PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION, SEVENTH (FORMERLY FOURTH) DIVISION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN HOLDING THAT THERE WAS A VALID CAUSE IN TERMINATING THE SERVICES OF THE PETITIONER ON THE GROUND OF REDUNDANCY.

II.

THE HONORABLE PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION, SEVENTH (FORMERLY FOURTH) DIVISION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN FAILING TO REINSTATE THE PETITIONER TO HER PREVIOUS POSITION AS ASSISTANT MANAGER WITHOUT LOSS OF SENIORITY RIGHTS AND PRIVILEGES WITH FULL BACKWAGES.

III.

THE HONORABLE PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION, SEVENTH (FORMERLY FOURTH) DIVISION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN DEDUCTING THE TOTAL AMOUNT OF P274,896.19 REPRESENTING HOSPITAL BILLS, SCGA LOAN AND UNLIQUIDATED CASH ADVANCES FROM THE MONETARY AWARD OF THE PETITIONER.

IV.

THE HONORABLE PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION, SEVENTH (FORMERLY FOURTH) DIVISION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN FAILING TO MAKE LIABLE THE PRIVATE RESPONDENTS FOR DAMAGES TO THE PETITIONER.

(Emphasis in the original omitted)

The Ruling of the Court

A petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure is mainly focused on the issue of: whether or not the exercise of the government agency's jurisdiction has been attended by grave abuse of discretion amounting to lack or excess of jurisdiction.[11]

Grave abuse of discretion refers to the capricious and whimsical exercise of judgment that is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in a capricious or despotic manner by reason of passion or personal hostility, and it must be so obvious and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.[12]

At the outset, it is apparent that the NLRC had already issued a notice of entry of judgment relative to the instant case. Thus, the focal issue here is whether or not Decision B, which dismissed petitioner's petition for relief from judgment, was attended with grave abuse amounting to lack or excess of jurisdiction. Hence, before this Court could even address the arguments raised in the instant petition on the merits, thus referring to Decision A, We should first pass upon the validity of Decision B.

Decision B states the following points:

- The petition for relief from judgment was not verified in contravention of Rule 38, Section 3 of the 1997 Rules of Civil Procedure.
- Petitioner failed to pay the filing fee in the amount of Five Thousand (P5,000.00) Pesos.
- The NLRC was not convinced with the explanation of petitioner as to her supposed non-receipt of Decision A considering that her allegations were self-serving and not supported by substantial evidence.
- Notice to counsel is binding upon his or her client.
- There was proper service of Decision A upon petitioner's counsel and thus, said decision is binding upon her.

In the instant case, there is no showing of any arbitrariness on the part of the NLRC in its issuance of Decision B. The views pointed out by the NLRC are well taken by this Court.

Rule 38, Section 3 of the 1997 Rules of Civil Procedure states:

Sec. 3 Time for filing petition; contents and verification.

A petition provided for in either of the preceding sections of this Rule must be verified, filed within sixty (60) days after the petitioner learns of the judgment, final order, or other proceeding to be set aside, and not more than six (6) months after such judgment or final order was entered, or such proceeding was taken; and must be accompanied with affidavits showing the fraud, accident, mistake, or excusable negligence relied upon, and the facts constituting the petitioner's good and substantial cause of action or defense, as the case may be.

Moreover, NLRC En Banc Resolution No. 08-07, Series of 2007, states among others that the filing of a petition for relief from judgment entails a filing fee of Five Thousand Pesos (P5,000.00).

We painstakingly analyzed the petition for relief from judgment[13] in the record and We find that such petition is not verified. There is also no showing that the filing fee in the amount of P5,000.00 was actually paid by petitioner. As such, the subject petition is burdened with technical infirmities which would warrant the immediate dismissal thereof.

Even if this Court, for the sake of argument, foregoes with the apparent technical infirmities, We are not

convinced with the self-serving allegations of petitioner and her counsel. Truly, such allegations are not substantiated by competent evidence.

Petitioner's counsel should have been more circumspect in protecting his clients by making sure that a person not authorized by him would not receive pleadings for him. This is most important to mention considering that petitioner's counsel had known from the very beginning that he was sharing his office space with another lawyer and other employees. To the mind of this Court, this certain secretary of a different lawyer in the same office space as petitioner's counsel would not have received the notice of Decision A had petitioner's counsel or at least one of his employees been actually around. It seems that petitioner's counsel had been remiss in his duties as counsel for petitioner.

The case of *Scenarios, Inc. vs. Vinluan*[14] states:

Moreover, it is a fundamental rule that unless the contrary is proven, official duty is presumed to have been performed regularly and judicial proceedings regularly conducted. This presumption of the regularity of the quasi-judicial proceedings before the NLRC includes the presumption of regularity of service of summons and other notices.

Petitioner's bare declarations definitely lack the required competent evidence, as mere allegation is neither equivalent to proof nor evidence.[15]

Well-settled is the rule that notice to counsel is notice to client.[16] Furthermore, it binds the client whether or not there was mistake or negligence on the part of his or her counsel. The exception is that the lawyer's gross negligence would result in the grave injustice of depriving his or her client of the due process of law.[17]

In the instant case, there was no deprivation of due process. Petitioner was able to fully present and argue her case before the Labor Arbiter. She was accorded the opportunity to be heard.

Moreover, for the exception to apply, the gross negligence should not be coupled by petitioner's own negligence as she has the duty to be vigilant with respect to her interests by keeping herself up-to-date on the status of the case. Failing in this duty, petitioner should suffer whatever adverse judgment is rendered against her.[18]

On a final note, factual findings of labor officials, who are considered to be experts in matters within their jurisdiction, are generally accorded not only respect but even finality by the courts when supported by substantial evidence.[19] Thus, finding no abuse of discretion amounting to lack or excess of jurisdiction on the part of the NLRC when it issued the assailed rulings, this Court upholds such rulings.

WHEREFORE, in view of the foregoing, the instant petition is DENIED.

SO ORDERED.

Maxino, and Diy, JJ., concur.

[1] Formerly Fourth Division.

[2] Rollo, pp. 3-375.

[3] Ibid., pp. 91-130.

[4] Ibid., pp. 57-66.

[5] Ibid., pp. 76-82.

[6] Ibid., pp. 68-82.

[7] Ibid., pp. 83-90.

[8] Ibid., pp. 322-375.

[9] Ibid., p. 89-90.

[10] Ibid., p. 20-37.

[11] Consolidated cases of Ysidoro vs. Leonardo-De Castro, et al., G.R. No. 171513, and People vs. First Division of Sandiganbayan, et al., G.R. No. 190963, February 6, 2012.

[12] Consolidated cases of Republic vs. Roman Catholic Archbishop of Manila, G.R. No. 192975, and Samahang Kabuhayan ng San Lorenzo vs. Roman Catholic Archbishop of Manila, G.R. No. 192994, November 12, 2012.

[13] Rollo, pp. 68-82.

[14] G.R. No. 173283, September 17, 2008.

[15] Ibid.

[16] Citibank vs. NLRC, G.R. No. 159302, August 22, 2008.

[17] Building Care Corp, et al. vs. Macaraeg, G.R. No. 198357, December 10, 2012.

[18] Bejarasco, Jr. vs. People, G.R. No. 159781, February 2, 2011.

[19] Stolt-Nielsen Transportation Group, Inc. and Chung Gai Ship Management vs. Medequillo, Jr., G.R. No. 177498, January 18, 2012.

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