

**MEGA EQUIPMENT INTERNATIONAL CORPORATION, JOSE
EDUARDO ALARILLA AND MEDY CHUA-SEE, PETITIONERS, VS.
NATIONAL LABOR RELATIONS COMMISSION AND MAURICIO O.
FORBES, JR.,**

Ponente: BARRIOS, J.

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BARRIOS, J.:

The petitioners Mega Equipment International Corporation, Jose Eduardo Alarilla and Medy Chua-See (or petitioners for brevity) by this petition for certiorari, assail the Resolution dated December 13, 2001 of the respondent National Labor Relations Commission (or NLRC) dismissing its appeal from the Decision of the Labor Arbiter, as well as the Resolution dated June 7, 2002 denying its reconsideration.

The dismissed appeal is from NLRC-NCR-Case No. 00-11-06013-2000 filed on November 27, 2000 by the respondent Mauricio O. Forbes, Jr. (or Forbes) against the petitioners for illegal dismissal, non-payment of overtime pay, holiday pay, service incentive leave pay, 13th month pay and the money value of accumulated vacation leave, plus damages and attorney's fees.

Forbes contended that the petitioners hired him on March 18, 1987 as a casual employee to the position of field shift coordinator. Three years thereafter, he was promoted to senior terminal supervisor with a monthly salary of P10,723.84. He claimed that for thirteen years he had a harmonious working relationship with the petitioners but was suddenly dismissed from employment on November 15, 2000. Forbes maintained that he was not informed of any complaint against him and the company's personnel officer simply told him that the owners of the corporation wanted him dismissed.

In their traverse, the petitioners admitted that Forbes was a terminal supervisor assigned in the company's terminal operations in Subic International Port. Forbes was tasked to monitor the trucking requirements of the different cargoes bagged at the company's warehouse or terminal site prior to delivery to the consignees' warehouses. He was also tasked to monitor the number of workers needed for the operation of the terminal and administer the day to day operations.

The petitioners claimed that because of a pending investigation of the reported payroll padding and anomalous outside truck hiring being committed in its terminal in Subic International Port, Forbes was temporarily suspended. Forbes was required to submit a written explanation on his involvement in the anomalous transactions and to report to the company's Manila Office for investigation. Instead of submitting a written explanation, Forbes asked to be paid his termination pay equivalent to one (1) month pay for every year of service. The petitioners refused to pay and so Forbes filed a complaint for illegal dismissal against them. The petitioners further contended that they are paying all their employees the required 13th month pay including monthly incentives, vacation and sick leave benefits, overtime pay and premium pay.

On September 14, 2001, the Labor Arbiter rendered a Decision, disposing that:

WHEREFORE, judgment is hereby rendered declaring the dismissal of complainant MAURICIO O. FORBES, JR. as illegal and ordering respondent MEGA EQUIPMENT INTERNATIONAL CORPORATION and its President, JOSE EDUARDO J. ALARILLA to reinstate him to his former position and jointly and severally pay him the following amount:

Backwages from the date of dismissal on

December 15, 2000 up to his reinstatement

Which computed as of today amounts to

(P10,700 x 10 months)-----

P107,000.00

Money value of sick/vacation leave---

32,100.00

TOTAL AWARD -----

P139,100.00

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Respondent MEDY CHUA SEE is absolved from any liability as there is nothing on record that makes her answerable for anything.

All other claims are DISMISSED for lack of merit.

SO ORDERED. (pp. 43-44, rollo)

The petitioners appealed this to the NLRC which rendered the assailed Resolution dismissing the appeal for failure to perfect this within the reglementary period, the dispositive portion of which reads:

WHEREFORE, premises considered, the appeal is as it is hereby dismissed for failure to perfect the same within the reglementary period set forth by law and the rules of the Commission.

SO ORDERED. (p. 59, rollo)

As said, the motion for reconsideration was likewise struck down.

Hence, this petition.

The petitioners ascribe grave abuse of discretion on the part of the NLRC for the dismissal of their appeal on the mere technicality that they failed to perfect this within the reglementary period.

We find no grave abuse of discretion on the part of the NLRC when it dismissed the appeal for having been filed beyond the ten-day reglementary period. It is worthy to stress that the perfection of an appeal within the reglementary period and in the manner prescribed by law is jurisdictional, and noncompliance with such legal requirement is fatal and has the effect of rendering the judgment final and executory. Such requirement cannot be trifled with (Navarro vs. NLRC, 327 SCRA 22).

Moreover, the facts and circumstances of the instant case do not warrant liberality in the application of technical rules and procedure. It is notable that the petitioners failed to discharge their burden of proving the legality of Forbes' termination from employment, and with this is the unerring result that when there is no showing of a clear, valid, and legal cause for the termination of employment, the law considers the matter a case of illegal dismissal

(Gabisay vs. NLRC, 307 SCRA 141).

It bears stressing that for a writ of certiorari to issue, it is a condition sine qua non that there be grave abuse of discretion or such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, or, in other words where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law (Sevilla Trading Company vs. Semana, 428 SCRA 239). We do not find such justification, reason or cause for its issuance in the present case.

WHEREFORE, the petition is DENIED DUE COURSE and DISMISSED.

SO ORDERED.

Guariña III and Romilla-Lontok, JJ., concur.

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