

ROBERT DOMASIG, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (NLRC), KONTAKTPOINT CORPORATION/SAMUEL TE, RESPONDENTS.

Ponente: YBAÑEZ, J.

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YBAÑEZ, J.:

Before Us is a Petition for Certiorari filed by petitioner Robert Domasig pursuant to Rule 65 of the Revised Rules of Court seeking to annul and set aside the Decision rendered on 13 April 2012 by the Fourth Division of the National Labor Relations Commission (NLRC) in NLRC LAC Case No. 02-000655-12 (NLRC NCR Case No. 05-07652-11), as well as the Resolution promulgated on 15 June 2012 denying the Motion for Reconsideration thereof.

The Facts

On 16 May 2011, petitioner filed a complaint[1] for illegal dismissal and underpayment of separation pay against private respondents Kontaktpoint Corporation and Samuel Te (Te).

The parties were required by the Labor Arbiter to submit their respective position papers after the preliminary mandatory conference with them yielded no positive results.

In his Position Paper[2], petitioner alleged that, on 10 February 2010, he was employed as Aircon Technician by respondent Kontaktpoint Corporation, for a daily compensation of P404.00.

Petitioner narrated that, prior to the filing of the instant complaint, respondent Te asked him to buy a spare part for an aircon unit. Since he was not familiar with the assigned task, it took him quite some time to return to the shop. Consequently, respondent Te cursed him in front of many customers. Thereafter, respondents suspended him from April 16-26, 2011.

When respondent Te returned from China on 28 April 2011, he purportedly asked petitioner to sign a prepared resignation letter in exchange for his separation pay and certificate of employment. Thereafter, respondent Te's secretary brought him to the barangay office to sign an acknowledgment receipt of his separation pay, but respondents allegedly failed to give him his separation pay and certificate of employment. While he had signed some documents, he was allegedly unaware of the contents thereof. Thus, claiming that he signed the resignation letter involuntarily, petitioner claims that he was illegally dismissed by the respondents.

On the other hand, respondents, in their Position Paper[3], countered that petitioner voluntarily resigned on 29 April 2011 when he submitted a duly notarized resignation letter[4], after which petitioner received the monetary value of his sick and vacation leave, proportionate 13th month pay and separation pay in the aggregate amount of P7,211.06[5]. Consequently, petitioner executed a "Pagpapawala sa Karapatang Maghabol"[6] (Quitclaim and Release) in favor of respondents.

On 29 November 2011, the Labor Arbiter rendered his Decision[7] in favor of respondents and held that petitioner

voluntarily resigned from employment.

Aggrieved with the said ruling, petitioner appealed from the said decision to the NLRC, which rendered the assailed Decision[8] on 13 April 2012 affirming in toto the Labor Arbiter's findings.

Dissatisfied, petitioner filed a Motion for Reconsideration[9] of the said decision, which was likewise denied by the NLRC in the assailed Resolution[10] promulgated on 15 June 2012.

Said resolution was received by petitioner on 26 June 2012. However, it was only on 28 August 2012 that he filed the instant petition[11]. Thus, on 12 September 2012, an Entry of Judgment[12] was issued by the NLRC stating that its Decision dated 13 April 2012 became final and executory on 22 August 2012.

In his petition, the following issues[13] were raised by petitioner, viz:

I.

WHETHER PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN AFFIRMING THAT THE PETITIONER WAS NOT ILLEGALLY DISMISSED;

II.

WHETHER PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DECLARING THAT THE PETITIONER IS NOT ENTITLED TO THE MONETARY CLAIMS PRAYED FOR.

Petitioner denies that he voluntarily resigned, and insists that he was illegally terminated by the private respondents. First, petitioner argues that there was no reason for him to resign and, if there was any, he should have written the same in his resignation letter. Second, petitioner avers that if he had truly intended to resign, it would have been more logical for him to resign before he had served his suspension, since he had just served his 10-day suspension meted by the respondents when he purportedly executed the resignation letter. Third, petitioner relies on the Sinumpaang Salaysay submitted by one Mark Dumlao, who allegedly witnessed how petitioner was verbally terminated. Fourth, petitioner argues that his resignation letter was obviously pre-drafted by respondents, as it was not handwritten, contained an endnote at the bottom of the page, and was even notarized. Lastly, petitioner claims that his filing of a complaint for illegal dismissal on 16 May 2011 is inconsistent with the claim that he had resigned from employment.

On the other hand, respondents aver that the petition should be dismissed as the NLRC Decision dated 13 April 2012 had become final and executory as per Entry of Judgment[14] issued on 12 September 2012. Since the petition was dated 24 August 2012, respondents argue that the same was filed after the 13 April 2012 Decision became final and executory. On the merits of the case, respondents argue that petitioner's resignation was voluntary, as shown by the resignation letter written in Filipino, a language fully understood by him. Respondents further contend that the fact that the resignation letter stated no reason at all is immaterial, since what is important is the fact that petitioner relinquished his ties with respondents.

Our Ruling

We find no merit to the petition.

Before delving into the merits of this petition, we deem it necessary to discuss the procedural issue raised by respondents.

Petition filed out of time.

The period or manner of appeal from the NLRC to the CA is governed by Rule 65 of the Revised Rules of Court, pursuant to the ruling of this Court in *St. Martin Funeral Home vs. National Labor Relations Commission*[15]. Section 4 of Rule 65, as amended, states that the petition may be filed not later than sixty (60) days from notice of the judgment, or resolution sought to be assailed. The 60-day period is inextendible to avoid any unreasonable delay that would violate the constitutional rights of parties to a speedy disposition of their case.[16]

Time and again, we have ruled that the perfection of an appeal within the statutory or reglementary period and in the manner prescribed by law is mandatory and jurisdictional. Failure to do so renders the questioned decision final and executory and deprives the appellate court of jurisdiction to alter the final judgment, much less to entertain the appeal.[17] In labor cases, the underlying purpose of this principle is to prevent needless delay, a circumstance which would allow the employer to wear out the efforts and meager resources of the worker to the point that the latter is constrained to settle for less than what is due him.[18]

In this case, records show that petitioner received a copy of the 15 June 2012 Resolution of the NLRC denying his motion for reconsideration on 26 June 2012. He had sixty (60) days, or until 25 August 2012, to file his petition for certiorari. 25 August 2012, however, was a Saturday. Thus, petitioner had until 27 August 2012, or the next working day, to file his petition. Petitioner, however, filed his petition on 28 August 2012, one day beyond the 60-day reglementary period. Clearly, the present petition was filed out of time. More importantly, the 15 June 2012 NLRC Resolution had already become final and executory, as shown by the Entry of Judgment[19] issued by the NLRC on 12 September 2012.

While it is true that in certain cases, this Court has, in the interest of substantial justice and in the exercise of its equity jurisdiction, construed the law with liberality[20], said liberality in the interpretation and application of the rules applies only in proper cases and under justifiable causes and circumstances. Nevertheless, the circumstances obtaining in the case at bench do not convince this Court to take exception. The petitioner failed to present any exceptional, special or meritorious circumstance that will excuse the belated filing of his petition.

Moreover, even on its merits, the instant petition fails.

There was no dismissal in this case, hence,
there is no question that can be entertained
regarding its legality or illegality.

This Court is not unmindful of the rule that in cases of illegal dismissal, the employer bears the burden of proof to prove that the termination was for a valid or authorized cause. But before the respondents must bear the burden of proving that the dismissal was legal, petitioner must first establish by substantial evidence that he was indeed dismissed. If there is no dismissal, then there can be no question as to the legality or illegality thereof.[21]

In this case, since petitioner claims that he was illegally dismissed, the burden of proof is upon him to first establish the fact of his alleged dismissal by substantial evidence. This he failed to do.

As found by the Labor Arbiter and the NLRC, there was no evidence that petitioner was dismissed nor was he prevented from returning to his work other than his bare and self-serving allegations. Instead, We uphold the findings of the Labor Arbiter and the NLRC that petitioner voluntarily resigned from employment. Records show

that, on 28 April 2011, petitioner submitted a resignation letter[22], the pertinent portion of which reads as follows:

“Gusto kong ipabatid sa inyong kinauukulan na ako ay magbibitiw sa aking trabaho bilang isang aircon technician simula ika-29 ng Abril 2011.

Gusto kong iparating ang aking taos-pusong pasasalamat sa oportunidad na ibinigay niyo sa akin na makapaglingkod sa inyong kumpanya.”

Petitioner, however, admits that, while he signed the resignation letter, cash voucher and other release documents, he insists that he was unaware of the contents thereof and was misled into signing the same.

We are not persuaded. It bears stressing that the resignation letter submitted by petitioner was written in Filipino, a language spoken and fully understood by him. It is, therefore, hard to believe that he did not understand the import of the letter which he signed. In this regard, We agree with the findings of the NLRC, viz:

“xxx Without the assistance of counsel, complainant correctly filled out the “Complaint/Request for Assistance and Single Entry Approach (SENA)”, a proof that he is not illiterate as he claims. It is, therefore, not convincing that he did not understand the import of ‘Gusto kong ipabatid sa inyong kinauukulan na ako ay magbibitiw sa aking trabaho bilang isang Aircon Technician simula ika-29 ng Abril 2011.

He even thanked the respondent for giving him the opportunity to serve the company. He received the cash value of his sick and vacation leave (Annex “B”, *ibid*, p. 18, Records), proportionate 13th month pay (Annex “C”, *ibid*, p. 19, Records) and separation pay (Annex “D”, *ibid*, p. 19, Records).

xxx xxx.”[23]

We likewise find no merit to petitioner's contention that the fact that he stated no reason in his letter for his resignation is indicative of his forced or coerced resignation. Contrary to what petitioner avers, it is not relevant that he state the reason for his resignation, it being enough that he had the intention of relinquishing his employment accompanied by the act of relinquishment.[24] Moreover, in the said letter, petitioner expressed his gratitude for the private respondents in allowing him to serve them. Jurisprudence is settled that an employee's use of words of appreciation and gratitude negates the notion that he was forced and coerced to resign.[25]

Indeed, the facts and circumstances of the present case do not give this Court adequate reason to uphold petitioner's claim that he was illegally dismissed. Absent any showing of an overt or positive act proving that respondents had dismissed petitioner, the latter's claim of illegal dismissal cannot be sustained.

WHEREFORE, premises considered, the instant petition is hereby DISMISSED for lack of merit, and the assailed Decision dated 13 April 2012 and Resolution dated 15 June 2012 rendered by the Fourth Division of the NLRC in NLRC LAC Case No. 02-000655-12 (NLRC NCR Case No. 05-07652-11) are AFFIRMED.

SO ORDERED.

Dimaampao, (Chairperson), and Sadang, JJ., concur.

[1] Rollo, p. 24.

[2] Rollo, pp. 28-30.

[3] Ibid., pp. 64-82.

[4] Ibid., p. 41.

[5] Ibid., pp. 42-43.

[6] Ibid., p. 44.

[7] Ibid., pp. 73-76.

[8] Ibid., pp. 88-93.

[9] Ibid., pp. 94-97.

[10] Ibid., pp. 105-108.

[11] Ibid., pp. 3-23.

[12] Ibid., p. 125.

[13] Ibid., p. 11.

[14] Supra on note 12.

[15] G.R. No. 130866, September 16, 1998, 295 SCRA 494.

[16] Labao vs. Flores et al., G.R. No. 187984, November 15, 2010, 634 SCRA 634.

[17] Opinaldo vs. Ravina, G.R. No. 196573, October 16, 2013.

[18] Bunagan vs. Sentinel, G.R. No. 144376, September 13, 2006, 501 SCRA 650.

[19] Supra on note 10.

[20] Mesina vs. Meer, 383 SCRA 625, July 2, 2002.

[21] Exodus International Construction Corporation vs. Biscocho et al., G.R. No. 166109, February 23, 2011, 644 SCRA 76.

[22] Rollo, p. 41.

[23] Ibid., pp. 90-91.

[24] Bilbao vs. Saudi Arabian Airlines, G.R. No. 183915, December 14, 2011, 662 SCRA 540.

[25] Ibid.

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