

ZENAIDA ASUNCION, PETITIONER, VS. HON. NATIONAL LABOR RELATIONS COMMISSION, SECOND DIVISION, PRUDENCIO AGBUYA, RESPONDENTS.

G.R. No. 109311. June 17, 1997

Ponente: ROMERO, J.

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ROMERO, J.:

This petition for certiorari seeks the reversal of the January 21, 1993 decision of the National Labor Relations Commission (NLRC) in NLRC Case No. 003035-92, which affirmed in toto the order of Labor Arbiter Jose G. de Vera dated February 25, 1992 and the resolution dated March 2, 1993 denying petitioner's motion for reconsideration thereof.

Private respondent Prudencio Agbuya was employed as designer by ABC Mirror Tower and Aluminum Supply (ABC) allegedly run by petitioner Asuncion as general manager. ABC was compelled to retrench some of its employees, including respondent, due to serious business reversal, prompting the latter to file against petitioner and ABC a complaint for illegal dismissal, violation of P.D. No. 525, non-payment of wages and violation of R.A. No. 6640. On March 11, 1991, Labor Arbiter de Vera rendered a decision which reads:

"WHEREFORE, all the foregoing premises being considered, judgment is hereby rendered ordering the respondents to reinstate the complainant to his former position as designer with all the rights, benefits and privileges appertaining thereto, plus backwages in the total sum of P73,892.00 without deduction or qualification. Further, the respondents are ordered to pay complainant the latter's salary differential amounting to P400.00.

All other claims of the complainant are dismissed for lack of merit."[1]

After this decision became final and executory due to the failure of petitioner to file an appeal within the reglementary period, respondent filed a motion for the issuance of a writ of execution, which was accordingly granted.

After levy but before the scheduled auction sale, petitioner filed a motion to quash the writ, alleging that the items levied upon were her own properties, and that she was "not the owner or even part-owner" of ABC, and therefore, cannot be held personally liable for the judgment award.[2]

In his Order dated February 25, 1992, Labor Arbiter de Vera dismissed the motion to quash and the third-party claim and accordingly declared petitioner liable to the extent of one-half of the judgment award or P36,946.00. It directed Sheriff Rene Masilungan to continue with the execution process. On appeal, the NLRC affirmed said order in toto. Hence, this petition.

The petition must be dismissed.

Well-settled is the principle that perfection of an appeal within the statutory or reglementary period is not only

mandatory but also jurisdictional and failure to do so renders the questioned decision final and executory that deprives the appellate court of jurisdiction to alter the final judgment much less to entertain the appeal.[3]

In the case at bar, it is admitted that the decision of the Labor Arbiter was received by private respondent's counsel on April 26, 1991,[4] making the last day for perfecting the appeal May 6, 1991. The decision became final and executory upon failure of petitioner to appeal within the ten-day period. Private respondent, therefore, as the prevailing party, is entitled as a matter of right to the execution of the final and executory judgment in his favor.

This Court has held that once a decision attains finality, it becomes the law of the case whether or not said decision is erroneous.[5] Having been rendered by a court of competent jurisdiction acting within its authority, the judgment may no longer be altered even at the risk of legal infirmities and errors it may contain, which cannot be corrected by certiorari.[6]

Petitioner alleges that the judgment was rendered without due process of law and is, therefore, null and void because she was not properly summoned by the NLRC. The records sufficiently contradict this assertion. The Labor Arbiter and the NLRC correctly found that, not only was petitioner served with summons but she also filed an answer to the complaint in the form of a position paper wherein her inclusion as a respondent was never disputed. "As a matter of fact, some notices were even addressed to her with the company as the forwarding addressee." [7]

She adds that "even assuming, *gratia argumenti*, that summons was served upon the person of herein petitioner, still the decision is without factual and legal foundation." If petitioner, however, regarded the decision as void for lack of legal basis, then the proper remedy would have been to appeal said judgment to the NLRC. Having failed in this respect, the assailed decision stands.

IN VIEW OF THE FOREGOING, the petition is hereby DISMISSED. The questioned Order dated February 25, 1992, and the decision of the National Labor Relations Commission dated January 21, 1993, are accordingly AFFIRMED.

SO ORDERED.

Regalado, (Chairman), Puno, Mendoza, and Torres Jr., JJ., concur.

[1] Rollo, p. 18.

[2] Rollo, p. 26.

[3] *Garcia v. Echiverri*, 132 SCRA 631 (1984).

[4] Rollo, p. 24.

[5] *Enriquez v. Court of Appeals*, 202 SCRA 487 (1991).

[6] *San Juan v. Cuento*, 160 SCRA 277 (1988).

[7] Rollo, p. 57.

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