

**AMERICAN HOME ASSURANCE CO., INC. AND/OR LESLIE J. MOUAT,
PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION
(FIRST DIVISION), LABOR ARBITER MANUEL R. CADAY, VIRGILIO
MALINAO,...**

G.R. No. 111929. January 24, 1996

Ponente: REGALADO, J.

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REGALADO, J.:

This petition for certiorari, with prayer for issuance of a restraining order and/or preliminary injunction, assails the Resolution promulgated in NLRC NCR CA No. 004148-92 by public respondent National Labor Relations Commission (NLRC) on June 30, 1993[1] and its Order dated August 30, 1993[2] denying petitioner's motion for reconsideration.[3]

The facts are succinctly stated in the Manifestation and Motion (in lieu of Comment) filed by the Solicitor General, to wit:

1. On June 6, 1991, private respondents Virgilio Malinao, Rosemilo Gacusan and Dominador Loriaga filed a Complaint for regularization, sick leave pay, vacation leave pay and night shift differential pay against petitioners American Home Assurance Company and/or Leslie Mouat before the National Capital Region Arbitration Branch of public respondent National Labor Relations Commission (NLRC).
2. On July 10, 1991, petitioners filed a Motion to Dismiss insofar as private respondents Malinao and Gacusan were concerned. The motion alleged that petitioner and private respondents Malinao and Gacusan have settled the case by way of a compromise agreement.
3. On August 5, 1991, before Labor Arbiter Manuel R. Caday could act on the aforementioned motion to dismiss, private respondents Malinao and Loriaga filed an Amended Complaint for illegal dismissal and service incentive leave.
4. On August 16, 1991, private respondents Malinao and Gacusan filed an Opposition to the Motion to Dismiss. They averred that petitioners, using "undue influence and trickery considering their educational backgrounds," deluded them into signing the compromise agreement. A Supplemental Opposition was subsequently filed by said private respondents on September 21, 1991.
5. On October 9, 1991, petitioners filed a Rejoinder to private respondents Malinao's and Gacusan's opposition to the motion to dismiss.
6. On February 13, 1992, Labor Arbiter Caday issued an Order, the dispositive portion of which reads:

"WHEREFORE, respondents' Motion to Dismiss is hereby denied for lack of merit.

Consonant to the foregoing, the parties are hereby directed to submit simultaneous position papers, and complainants are further ordered to return the money that they received from the respondents purportedly for

settlement purposes on or before the next hearing which is hereby set on February 28, 1991 (sic, should be 1992) at 10:00 a.m."

SO ORDERED."

7. On April 6, 1992, before private respondents Malinao, Gacusan and Loriaga could submit their respective position papers, petitioners filed an Urgent Motion to Dismiss on the ground that private respondents Malinao and Gacusan failed to comply with Labor Arbiter Caday's directive to return the money they received by virtue of the compromise agreement.

8. On April 24, 1992, private respondents Malinao, Gacusan and Loriaga "by themselves, having been neglected by their counsel on record" filed an Opposition to [the] Urgent Motion to Dismiss.

9. On April 30, 1992, Labor Arbiter Caday issued an Order, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing considerations, this case should be, as it is hereby ordered Dismissed with Prejudice, as against complainants Rosemilo Gacusan and Virgilio Malinao.

In the case of complainant Dominador Loriaga, the parties are hereby directed to submit Position Paper(s) on or before the next setting which is hereby scheduled on May 28, 1992 at 10:00 a.m.

SO ORDERED."

10. On May 27, 1992, petitioners filed an Ex-Parte Motion for Postponement and Revision of Title of the Case, praying "[f]or a revision of the title of the case at bar so that it will reflect only the name of Dominador G. Loriaga, as the sole complainant in the light of the dismissal with prejudice of the claims of complainants Rosemilo Gacusan and Virgilio Malinao."

11. On June 5, 1992, Atty. Albert G. Fanoga served notice with Labor Arbiter Caday that he was withdrawing as counsel of record for private respondents Malinao, Gacusan and Loriaga.

12. In the hearing held on August 10, 1992, Atty. Cornelio G. Montesclaros, new counsel of record for private respondents Malinao, Gacusan and Loriaga, was furnished with a copy of the Order dated April 30, 1992. Likewise on even date, private respondent Loriaga moved that "the case be dismissed as against him (sic) without prejudice, however, to refileing the same at a future date." The motion was granted by Labor Arbiter Caday in an Order dated August 11, 1992.

13. More than four months later, or on December 14, 1992, private respondent Malinao filed a Motion to Admit the Motion for Reconsideration. On December 22, 1992, petitioners filed a Motion to Deny Due Course to Complainant Malinao's Motion to Admit.

14. The aforementioned motion to admit the motion for reconsideration was considered an appeal and eventually was elevated to public respondent NLRC for adjudication.

15. On June 30, 1993, public respondent NLRC issued its assailed Resolution, the dispositive portion of which reads:

"WHEREFORE, the assailed Order of April 30, 1992, is hereby set aside. The Labor Arbiter is hereby directed to hear, with notice, complainants' monetary claims on their merits including those claims of complainant Dominador Loriaga as after all, the dismissal of his case was 'without prejudice.'

SO ORDERED."

16. On July 28, 1993, petitioners filed a Motion for Reconsideration of the aforesaid resolution. On August 30,

1993, public respondent NLRC issued an Order denying said motion for lack of merit.[4]

In the present special civil action, petitioners argue that respondent NLRC committed a grave abuse of discretion, amounting to lack or excess of jurisdiction, in giving due course to the Motion to Admit Motion for Reconsideration which was already filed out of time, and in ordering the hearing on the merits of the case despite the presence of supervening events, both in violation of the constitutional rights of herein petitioners.

We find merit in the petition.

Respondent NLRC gravely erred in reinstating the case below with respect to the claims of respondent Rosemilo Gacusan despite the fact that the latter never filed either a motion for reconsideration or an appeal from the order dismissing his complaint. There is nothing in the Motion to Admit and in the Motion for Reconsideration filed with the labor arbiter to indicate that respondent Gacusan joined the movant therein, herein respondent Malinao, in seeking relief from the order of dismissal. As to the former, therefore, the order dismissing his complaint has long become final and executory.

It was, likewise, egregious error for respondent NLRC to order the labor arbiter to continue with the hearing of respondent Gacusan's complaint. In addition thereto, petitioners had already paid said respondent Gacusan the amount of P50,000.00 as financial assistance by reason of which the latter executed a General Release and Settlement Agreement. It will be noted that respondent Gacusan did not amend his complaint for unpaid wages and other benefits, unlike the other two private respondents who amended their complaint to include the charge of illegal dismissal, among others.

Consequently, the receipt of payment and execution of quitclaim by respondent Gacusan effectively extinguished petitioners' liability to him and this necessarily barred the latter from further pursuing his case against the former. Under the aforesaid circumstances, the rule that the execution of a quitclaim will not bar an employee from questioning the legality of his dismissal finds no justifiable application to the case of this respondent which is simply limited to money claims.

Finally, respondent Gacusan's indifference in the prosecution of his case before the labor arbiter is made evident and magnified by his failure to file an opposition to the first Motion to Dismiss filed by petitioners, which could even be taken to mean an admission on his part of the truth of the allegations therein. The opposition he filed to the second Urgent Motion to Dismiss could, at most, be considered as a mere afterthought, especially if we consider the fact that when this second motion was granted by the labor arbiter with prejudice, respondent Gacusan never appealed therefrom.

Similarly, the reinstatement of the case with respect to the claim of respondent Dominador Loriaga is totally baseless and completely irregular. It is glaringly apparent from the records that, on his own initiative and upon his own motion, respondent Loriaga's complaint against herein petitioners was dismissed by the labor arbiter without prejudice to the refiling of the same. The Court notes with bewilderment how respondent NLRC could have decided the case the way it did, in utter disregard of the factual milieu thereof.

The circumstances obtaining in this case are so simply structured that it would be a virtual overkill to still go into an in-depth analysis thereof. The highly dubious manner by which the case was decided by respondent NLRC leads one to the inescapable conclusion that it was done with not a small amount of undue partisanship. The situation is exacerbated by the fact that respondent Loriaga never made an appeal either from the Order dated April 30, 1992 dismissing the case with prejudice or from the Order dated August 11, 1992 which dismissed his claim without prejudice, upon motion of said respondent himself.

Besides, it would have been absurd for respondent Loriaga to seek reconsideration of a dismissal which he

himself sought. The implausibility of respondent NLRC's impugned resolution is further underscored by the promulgation of a decision rendered on June 28, 1993 by the same agency in another case involving the claims of respondent Loriaga against herein petitioners based on exactly the same cause of action.[5]

Respondent NLRC, in blatant insouciance for the rule mandating strict compliance with the reglementary period for appeals, decided to take cognizance of the motion for reconsideration belatedly filed by respondent Malinao on the basis of "substantial justice," citing the ruling in *Imperial Textile Mills, Inc. vs. NLRC, et al.*[6] It appears, however, that its finding on the supposed existence of substantial justice is merely premised on (1) the alleged extreme poverty of respondent Malinao, hence his failure to immediately go to his lawyer for the filing of the motion for reconsideration; and (2) the thesis that the acceptance of benefits and subsequent execution of a quitclaim did not bar respondents from pursuing their claims.

We emphatically disagree and accordingly reject such unwarranted propositions.

First, it is not disputed that the counsel for respondent Malinao received a copy of the Order of April 30, 1992 during the hearing held before the labor arbiter on August 10, 1992. Evidently, the supposed extreme poverty of the client is not a justifiable excuse for the failure of his counsel to file the motion for reconsideration on time under the circumstances. Instead, there was gross negligence on the part of Atty. Montesclaros in the discharge of his duty and this cannot be countenanced if we are to have an orderly administration of justice. It has always been the judicial policy and an accepted rule that the client shall be bound by the acts of his lawyer, and no compelling reason exists in this case to sanction a deviation therefrom.

Second, we are not inclined to accept the justification advanced by respondent NLRC in applying an exception to the basic rule that the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but jurisdictional. While it may be true that an employee will not always be estopped from pursuing his action for illegal dismissal although he has executed a quitclaim in favor of his employer, the circumstances in this case constrain us to hold that an application of such rule will unfairly work to the prejudice of and cause injustice to herein petitioners.

The primordial reason of the labor arbiter in subsequently dismissing the case with prejudice is the failure of respondents Malinao and Gacusan to refund the amounts they received from petitioners, which was ordered and considered by the labor arbiter as a condition precedent to the resumption of the hearing of their complaint. Respondents Malinao and Gacusan never raised any objection to nor sought reconsideration from this portion of the labor arbiter's Order of February 13, 1992. Perforce, the same is enforceable and binding on them, and they having failed to comply with the condition validly imposed therein, the labor arbiter was perfectly justified in refusing to continue with the proceedings in the case.

Article 223 of the Labor Code provides:

"Art. 223. Appeal. - Decisions, awards or orders of the Labor Arbiter are final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards or orders. x x x"

It is not disputed that in the hearing held before Labor Arbiter Caday on August 10, 1992, private respondents' new counsel, Atty. Montesclaros, was furnished a copy of the Order dated April 30, 1992, notwithstanding which the Motion to Admit the Motion for Reconsideration was filed only on December 14, 1992. We need not stress the obvious. On these bare facts alone, it is undeniable that the motion for reconsideration, or the appeal for that matter, was filed way beyond the 10-day reglementary period. Consequently, Respondent NLRC no longer had jurisdiction to entertain the same.

WHEREFORE, the questioned resolution and order of public respondent National Labor Relations Commission promulgated on June 30, 1993 and August 30, 1993, respectively, are hereby REVERSED and SET ASIDE, and the Order of Labor Arbiter Manuel R. Caday, dated April 30, 1992, is hereby ordered REINSTATED.

SO ORDERED.

Romero, Puno, and Mendoza, JJ., concur.

[1] Annex D, Petition; Rollo, 30; per Commissioner Vicente S.E. Veloso, with Commissioner Alberto R. Quimpo concurring, and Presiding Commissioner Bartolome S. Carale taking no part.

[2] Annex F, id.; ibid., 59.

[3] Annex E, Id.; ibid., 54.

[4] Rollo, 90-94; page references to the record omitted.

[5] NLRC NCR Case No. 00-09-05176092 entitled "Dominador G. Loriaga vs. American Home Assurance Co., et al."; Rollo, 73-82.

[6] G.R.No. 101527, January 19, 1993, 217 SCRA 237.

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