

CORAL POINT DEVELOPMENT CORPORATION, PETITIONER, VS. THE HONORABLE NATIONAL LABOR RELATIONS COMMISSION (FOURTH DIVISION), ROGELIO CABALLA, ENRIQUE BAMUYA, RAMIL EYAS, CANDIDO CA...

G.R. No. 129761. February 28, 2000

Ponente: DAVIDE JR., C.J.

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DAVIDE JR., C.J.:

Petitioner Coral Point Development Corporation, by way of the instant special civil action for certiorari under Rule 65 of the 1997 Rules of Civil Procedure, questions "the unjust denial of its right to appeal" by the National Labor Relations Commission (NLRC) in its Resolutions of 29 January 1997[1] and 14 July 1997.[2]

The controversy stemmed from the complaints for illegal dismissal docketed as RAB VII-05-0471-95 and RAB-VII-06-0595-95 filed before the labor arbiter by herein private respondents against petitioner. In his decision of 30 April 1996, Labor Arbiter Dominador Almirante found that private respondents were project employees who worked for petitioner for more than one year and could not, therefore, be dismissed without clearance from the Secretary of Labor pursuant to Policy Instruction 20. Since petitioner failed to adduce evidence of completion of the project in which private respondents had been employed and clearance from the Secretary of Labor, Labor Arbiter Almirante ordered petitioner to pay private respondents the sum of P655,866.41[3] as their separation pay and back wages.

On 7 June 1996, petitioner appealed to the NLRC contending that the clearance required under Policy Instruction 20 was abolished by Batas Pambansa Blg. 130 in 1981 and Rule XIV Book V of the Labor Code, and that private respondents were project employees whose work ended with the project.[4] Allegedly on the same date, petitioner also filed a motion for the reduction of the supersedeas bond[5] from P655,866.41 to P100,000, and thereafter posted a cash bond of P100,000.

The NLRC dismissed petitioner's appeal for insufficiency of the cash bond, since under Article 223 of the Labor Code, an appeal of the employer may be perfected only upon the posting of a bond equivalent to the monetary award in the judgment appealed from.

Petitioner filed a motion for reconsideration[6] arguing that in *Star Angel Handicrafts v. NLRC*[7] this Court relaxed the rule on the posting of supersedeas bond as a condition for perfecting appeals and allowed the filing of a motion for the reduction of bond within the reglementary period to appeal. The NLRC denied the motion in its Resolution of 14 July 1997 on the ground that petitioner did not file a motion for the reduction of bond within the reglementary period but instead posted a bond in an amount not equivalent to the monetary award in the judgment appealed from.[8]

Petitioner then brought its case before us alleging that the NLRC acted in excess of jurisdiction and with abuse of discretion amounting to lack of jurisdiction when it defied the rulings in *Star Angel* and in *Globe General Services*

& Security Agency v. NLRC.[9] There was a clear oversight when the NLRC held that no motion for reduction of supersedeas bond was filed within the reglementary period when it truth and in fact there was. The petition involves a substantial amount of money and property, and denial of the appeal would mean affirmance of the award.

We initially dismissed the petition for lack of a verified statement of the date petitioner received a copy of NLRC Resolution of 14 July 1997 denying its motion for reconsideration. Upon petitioner's motion for reconsideration, we reinstated the petition and required respondents to comment on the petition.

In the meantime, private respondents filed a motion before the Labor Arbiter for the execution of the latter's order, which motion was granted. Thus, petitioner applied to us for a temporary restraining order against such execution and subsequently filed a "Very Very Urgent Motion for Restraining Order," arguing that the execution of the Labor Arbiter's decision would render moot and academic this petition, of which the Court had taken cognizance.

In our Resolution of 10 December 1997, we resolved to (1) require petitioner to post a cash or surety bond in the amount of P655,861.41 to secure the payment to private respondents of any damages that might be incurred by reason of the issuance of a TRO, should it be finally adjudged that petitioner was not entitled thereto; and (2) issue a TRO effective upon the approval of the bond.

Petitioner filed with this Court a motion for the reduction of the supersedeas bond to P100,000, the amount deposited at the NLRC, or at the most to P200,000. This motion was, however, denied; and so was the motion for reconsideration.

In its Memorandum,[10] petitioner reiterates that it filed with the NLRC a motion for the reduction of bond, which should have been resolved first before the appeal was dismissed. It asserts that said motion was filed and duly stamped received on 7 June 1996 at 4:00 p.m. by NLRC Administrative Officer Ms. Fe E. Baduel as evidenced by a copy thereof duly certified by Ms. Baduel.

On the other hand, the Office of the Solicitor General (OSG) argues that the dismissal of petitioner's appeal was proper because the appeal bond it filed was insufficient; and although the requirement of posting a bond equivalent to the amount of the monetary award has been relaxed, petitioner failed to file a motion for reduction of the bond within the reglementary period to appeal, contrary to its assertion that a motion was filed on the same date its Appeal Memorandum was filed. The OSG observes that the records of NLRC Cases Nos. RAB VII-05-0471-95 and 06-0595-95 transmitted by the NLRC to the OSG did not include a copy of petitioner's motion for reduction of the supersedeas bond, thereby conclusively showing that petitioner did not really file a motion for reduction and rendering the alleged certification suspicious.[11]

For their part, private respondents agree as to the propriety of the dismissal of petitioner's appeal. The statutory privilege to appeal should be exercised strictly in accordance with the requirements of the law granting it. Since the requirement of posting of a bond in an amount equivalent to the monetary award was not met, the judgment appealed from became final. As to the issue of the filing of a motion for the reduction of the bond, private respondents contend that the same, not having been raised in the court below, cannot be raised now.

The core issue in this case is whether a motion for the reduction of supersedeas bond was filed by the petitioner.

Article 223, second paragraph, of the Labor Code states that when a judgment involving monetary award is appealed by the employer, the appeal may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Commission in the amount equivalent to the monetary award in the judgment. This is to assure the workers that if they finally prevail in the case the monetary award will be

given to them upon dismissal of the employer's appeal. It is further meant to discourage employers from using the appeal to delay or evade payment of their obligations to the employees.[12] In *Viron Garments Manufacturing Co., Inc. v. NLRC*, this Court said:

The intention of the lawmakers to make the bond an indispensable requisite for the perfection of an appeal by the employer is clearly limned in the provision that the appeal by the employer may be perfected "only upon the posting of a cash or surety bond." The word "only" makes it perfectly clear that the lawmakers intended that the posting of a cash or surety bond by the employer may be the exclusive means by which an employer's appeal may be perfected.[13]

In meritorious cases and upon motion of the appellant, the NLRC may reduce the amount of the bond.[14] Also in some cases[15] the requirement of posting a supersedeas bond for the perfection of an appeal was relaxed, but the decisions were justified due to substantial compliance with the rule. We recognized in *Star Angel Handicrafts v. NLRC*[16] that neither the Labor Code nor its implementing rules specifically provide for a situation where the appellant moves for a reduction of the appeal bond, and

[i]nasmuch as in practice the NLRC allows the reduction of the appeal bond upon motion of appellant and on meritorious grounds, it follows that a motion to that effect may be filed within the reglementary period for appealing. Such motion may be filed in lieu of a bond which amount is being contested. In the meantime, the appeal is not deemed perfected and the Labor Arbiter retains jurisdiction over the case until the NLRC has acted on the motion and appellant has filed the bond as fixed by the NLRC.[17]

We find for petitioner. The following facts and circumstances on record show by preponderance of evidence that the Motion for Reduction of the Supersedeas Bond was filed:

First, the Motion for Reduction of the Supersedeas Bond was stamped with the RECEIVED rubber stamp marker of the NLRC, and indicated therein is the date of filing, "6.7.96," and the time of filing, "4:00," just like in the case of the Appeal Memorandum of Petitioner.[18] Both were received by the same person as shown by the similarity of the initials therein.

Second, the Appeal Memorandum shows that a copy thereof was furnished counsel for the private respondents, Atty. Gabriel Cañete, on 7 June 1996 per Reg. Receipt No. 3576. The Motion for Reduction of the Supersedeas Bond[19] shows that a copy thereof was also sent to Atty. Cañete per Registry Receipt No. 3576.[20] This simply means that both the Appeal Memorandum and the Motion were placed in one envelope and sent by registered mail to Atty. Cañete.

Third, the Appeal Memorandum was subscribed and sworn to by one Efraim Pelaez, Jr., a Director of petitioner, on 7 June 1996 before Notary Public Goering Paderanga, who entered the same in his notarial register as

Doc. No. 114;
Page No. 24;
Book No. XII;
Series of 1996.

The Motion for Reduction of the Supersedeas Bond was also subscribed and sworn to by Efraim Pelaez, Jr., on 7 June 1996 before the same notary public who entered the matter in his notarial register as

Doc. No. 115;
Page No. 24;
Book No. XII;
Series of 1996.

This shows beyond doubt that the Appeal Memorandum and the Motion for the Reduction of Supersedeas Bond were subscribed and sworn to by the same affiant one after the other on the same occasion.

Fourth, the filing of the Motion for Reduction of the Supersedeas Bond was impliedly admitted by private respondents in their COMMENTS on the petition in this case, which their counsel Atty. Gabriel Cañete filed.[21] They did not categorically and specifically deny therein the allegation in the petition that such a motion was filed on 7 June 1996. On the contrary, they stated in the last paragraph of page four of their COMMENTS that "the motion for reduction of supersedeas bond should be founded on meritorious grounds," and then proceeded to quote the pertinent portion of the Labor Arbiter's decision to show a finding disproving any meritorious ground for the motion for reduction. They also suggested that the motion was not acted upon by the Labor Arbiter. This can be gathered from the following paragraphs of page four of the COMMENTS, which reads:

The petitioner argues by citing the case of *Star Angel Handicrafts vs. NLRC, et al.*, G.R. No. 108914, September 20, 1994, the Supreme Court held that the filing of the motion for reduction of the supersedeas bond may be filed in lieu of the bond which amount is being contested, the appeal is not deemed perfected and the Labor Arbiter retains jurisdiction over the case until the NLRC acted on the motion and the appellant has filed the bond as fixed by the NLRC.

This case is not applicable in this petition. Precisely, because the NLRC has not acted in their motion. Consequently, it was the burden of petitioner to put up the amount of cash bond o[r] surety bond equivalent to the award.

If the counsel for the private respondents did not receive a copy of the Motion for Reduction of the Supersedeas Bond he could have explicitly alleged in the COMMENTS that no such motion was in fact filed.

Fifth, the petitioner filed a cash bond of only P100,000 precisely because it had filed the Motion for Reduction of the Supersedeas Bond and had asked therein that it "be allowed to post a supersedeas bond of P100,000.00 in cash, to be deposited with the Honorable Commission." [22] The filing of the cash bond of only P100,000 was consistent with the motion, i.e., it presupposed the filing of the motion.

Finally, it is not at all improbable that the NLRC's copy of the Motion for Reduction of the Supersedeas Bond was not attached to the record of the cases or was detached therefrom. Even if the motion was thereafter attached to the records, the possibility of its being removed therefrom is not at all remote. The record of the cases now before us clearly shows the absence of an appropriate measure to ensure that the pleadings filed are securely attached thereto. The pleadings are not stitched. Only an ordinary fastener was used to hold them together. Every time a pleading was placed on the record, the fastener had to be unlatched. This is a very poor system of record keeping.

WHEREFORE, the assailed Resolutions of 29 January 1997 and 14 July 1997 of respondent National Labor Commission (Fourth Division, Cebu City) in RAB No. VII-05-0471-95 and RAB No. VII-06-0595-95 are hereby NULLIFIED and SET ASIDE.

The National Labor Relations Commission (Fourth Division) is hereby DIRECTED to act with dispatch on the Motion for Reduction of the Supersedeas Bond and to resolve in due course the appeal of petitioner Coral Point Development Corporation.

No pronouncement as to costs.

SO ORDERED.

Puno, Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

[1] Per Commissioner Bernabe S. Batuhan, with Presiding Commissioner Irene E. Ceniza and Commissioner Amorito V. Cañete concurring. Rollo, 18-20.

[2] Id., 22-24.

[3] Id., 28-34.

[4] Id., 35-43.

[5] Id., 25-27.

[6] Rollo, 44-50.

[7] 236 SCRA 580 [1994].

[8] Rollo, 23.

[9] 249 SCRA 408 [1995].

[10] Rollo, 213-222.

[11] Memorandum; Rollo, 226-229.

[12] *Garais v. NLRC*, 256 SCRA 560, 566-567 [1996]; *Unicane Workers Union-CLUP v. NLRC*, 261 SCRA 573, 584 [1996].

[13] 207 SCRA 339, 342 [1992]. See *Oriental Mindoro Electric Cooperative, Inc. v. NLRC*, 246 SCRA 794, 801 [1995]; *Quiambao v. NLRC*, 254 SCRA 211, 216 [1996]; *Unicane Workers Union-CLUP v. NLRC*, supra note 12, at 583; *UERM-Memorial Medical Center v. NLRC*, 269 SCRA 70, 74 [1997].

[14] Section 6, Rule VI, New Rules of Procedure of the NLRC.

[15] *Your Bus Line v. NLRC*, 190 SCRA 160 [1990]; *Rada v. NLRC*, 205 SCRA 69 [1992]; *Blancaflor v. Court of Appeals*, 218 SCRA 366 [1993]; *Teofilo Gensoli & Co. v. NLRC*, 289 SCRA 407 [1998].

[16] Supra note 7, at 584.

[17] See also *Globe General Services & Security Agency v. NLRC (First Division)*, supra note 9, at 415; and *Alcosero v. NLRC*, 288 SCRA 129, 140 [1998].

[18] Original Record (OR) of the cases RAB-VII-05-0471-95 and RAB-VII-06-0595-95, 154-163.

[19] Rollo, 25.

[20] Id., 27 (at the left hand bottom corner).

[21] Rollo, 124-130.

[22] Id., 26.

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