

UNICRAFT INDUSTRIES INTERNATIONAL CORPORATION, ROBERT DINO, CRISTINA DINO AND MICHAEL LLOYD DINO, PETITIONERS, VS. THE HON. COURT OF APPEALS, VOLUNTARY ARBITRATOR FLORANTE V. CA...

G.R. No. 134903. January 16, 2002

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

On March 26, 2001, a Decision was rendered annulling the assailed resolutions of the Court of Appeals as well as the decision of Voluntary Arbitrator Florante V. Calipay, and remanding the case to the Voluntary Arbitrator for reception of evidence for petitioners.

Private respondents filed a Motion for Reconsideration[1] on May 15, 2001, a Supplemental Motion for Reconsideration[2] on July 30, 2001 and a 2nd Supplemental Motion for Reconsideration[3] on September 6, 2001. They argue, in sum, that petitioners were not deprived of due process considering that they were able to submit their position paper and supporting evidence; and that their failure to present additional evidence was through their own fault or inaction.

It should be stressed that the issue of whether or not petitioners were denied due process in the proceedings before the voluntary arbitrator was laid to rest when the parties entered into a stipulation, which the Court of Appeals approved on April 22, 1997, wherein they agreed to remand the case to the voluntary arbitrator “so that the petitioners will be granted their day in court to prove their case.” For reference, the stipulation is again reproduced as follows:

STIPULATION

PARTIES, through their respective counsel, unto this Honorable Court, most respectfully stipulate:

1. Both parties desire to put an end to the litigation before this Honorable Court, and instead refer the above-entitled case back to Voluntary Arbitrator Florante V. Calipay for further hearing under the following terms and conditions:

a) The petitioners will put up a bond in the amount of P6.5 Million to be issued by the Visayan Surety & Insurance Company or any other accredited bonding company acceptable to private respondents to secure payment of the decision dated March 15, 1997 (Annex A of the Petition) rendered by Voluntary Arbitrator Calipay.

b) The case will be referred back to Voluntary Arbitrator Calipay so that the petitioners will be granted their day in court to prove their case, the hearing thereat to treat the following issues:

- Whether or not the complainants mentioned in Exhibit J of the Decision really filed their complaints before the NLRC;

- Whether or not complainants were dismissed; if so, whether or not their dismissals were valid;
- Whether or not complainants are entitled to separation pay, money claims, attorney's fees and litigation costs specified in the decision, Annex A of the petition; and
- Whether or not Robert Dino, Cristina Dino and Michael Dino can be held liable for the claims of complainants.

WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Court to approve the foregoing Stipulation and to render a resolution in accordance therewith.[4]

The proceedings, however, were not continued because Voluntary Arbitrator Florante V. Calipay declared that he has lost jurisdiction over the case when he rendered judgment therein.[5]

Worse, the Court of Appeals, in violation of the parties' aforesaid stipulation, issued on June 18, 1998 a resolution ordering the partial execution of the decision of the voluntary arbitrator with respect to the award of separation pay and attorney's fees. Petitioners assail the resolution ordering the partial execution of the decision of the voluntary arbitrator arguing that the Court of Appeals deprived them of their day in court when it disregarded their agreement with private respondents for the remand of the case.

In our Decision, we ordered the remand of the case to the voluntary arbitrator for reception of evidence for the petitioners. We ruled that the award of separation pay cannot be executed before trial is terminated since to do so would be to preempt the proceedings before the voluntary arbitrator. It is worth noting that the case filed was for illegal dismissal. The affirmance of the award of separation pay would be tantamount to a judicial declaration that private respondents were indeed illegally dismissed.

WHEREFORE, the Motion for Reconsideration, the Supplemental Motion for Reconsideration, and the 2[nd] Supplemental Motion for Reconsideration are DENIED for lack of merit. This denial is FINAL.

SO ORDERED.

Kapunan, and Pardo, JJ., concur.

Davide, Jr., C.J., (Chairman), I join Mr. Justice Puno in his dissent.

Puno, J., please see Dissent.

[1] Rollo, pp. 668-684.

[2] Ibid., pp. 730-734.

[3] Ibid., pp. 762-769.

[4] Records, pp. 125-126.

[5] Ibid., pp. 131-141.

DISSENTING OPINION

PUNO, J.:

Private respondents seek the reconsideration of the Court's Decision dated March 26, 2001 remanding the case to Voluntary Arbitrator Florante V. Calipay for reception of evidence and further proceedings. In the Decision

sought to be reconsidered, the Court held that petitioners were deprived of due process when the voluntary arbitrator rendered a ruling declaring that private respondents were illegally dismissed without giving them an opportunity to present evidence. The ruling was grounded on the fact that neither petitioners nor their counsel were able to attend the hearing before the voluntary arbitrator set for March 3, 1997 at 3:00 o'clock in the afternoon because they received the notice thereof only at 4:00 o'clock in the afternoon of the same date.

With due respect to the majority, I submit otherwise. A more prudent examination of the records would reveal that petitioners were given ample opportunity to present their arguments and their supporting evidence before the voluntary arbitrator but they refused to do so.

It appears that the complaints for illegal dismissal, underpayment/non-payment of wages, overtime pay, holiday pay, 13th month pay and service incentive leave were initially filed by private respondents before the National Labor Relations Commission Regional Arbitration Branch VII (NLRC RAB), Cebu City in July 1995.[1] In November 1995, after initial hearings, the parties submitted their position papers. Summary hearing was held and the case was submitted for resolution. The parties were given ten (10) days to file memoranda. On October 11, 1996, Labor Arbiter Dominador Almirante issued an Order referring the case to the National Conciliation and Mediation Board (NCMB) for voluntary arbitration pursuant to Policy Instruction No. 56 of the Secretary of Labor dated April 6, 1996.[2]

On December 19, 1996, Florante V. Calipay was designated as voluntary arbitrator upon agreement of the parties.[3]

On December 27, 1996, Director Teodorico Yosores, Officer-in-Charge, NCMB Region VII, informed Voluntary Arbitrator Calipay that he had been chosen by both parties as their voluntary arbitrator and forwarded to him the pertinent forms.[4]

On January 9, 1997, petitioners filed a motion for re-selection of voluntary arbitrator which was heard on January 17, 1997.[5]

On January 23, 1997, a hearing was conducted by Voluntary Arbitrator Calipay. Private respondents and their counsel were present together with petitioners' counsel. Voluntary Arbitrator Calipay issued an Order dated January 21, 1997 denying petitioners' motion for re-selection, defining the issues, and requiring the parties to submit their respective position papers and evidence within fifteen (15) days or up to February 7, 1997, thus:

“xxx xxx xxx

WHEREFORE, by virtue of the powers and duties vested upon me as voluntary arbitrator, I hereby order both parties to submit their respective position papers and evidence, within fifteen (15) days from today, treating the following issues:

- a) whether or not the voluntary arbitrator had been validly selected by the parties and/or whether the same arbitrator had validly assumed jurisdiction over the case?
- b) Whether or not the complaining workers were legally dismissed? If not, what are their rights and remedies under the law?

Failure of any party to submit their position paper and/or evidence within the set period would (be) tantamount to waiver of such party to present the same. The case shall then be considered submitted for immediate resolution based on the (sic) what would thus far be submitted.

xxx xxx xxx.”[6]

On February 10, 1997, the voluntary arbitrator issued an Order extending the period to submit their position

papers and evidence for ten (10) days or up to February 17, 1997, with a warning that it would be the last extension. He again advised the parties that failure to submit the required position paper and evidence within the set period would constitute a waiver. The Order read:

“During the last hearing, this Voluntary Arbitrator granted the parties fifteen (15) days to submit their respective position papers and all evidence they wish to submit. This period ended on 7 February 1997. In order to afford both parties adequate time and leeway, this Office extends such period for another ten (10) days or up to 17 February 1997, Monday, to file the required pleadings and evidence. In order for this arbitrator to comply with his legal duty for speedy proceedings, this shall be the last extension.

The parties are therefore advised that failure to comply with this order and/or failure (to) submit their position paper and evidence on the set period shall constitute waiver to do so. No further evidence shall be received after 17 February 1997. After the extended deadline, the arbitrator shall decide whether or not clarificatory hearing or trial is necessary. If in his judgment, none is necessary, the case shall be declared submitted for resolution. Otherwise, hearing shall be set, after which the case shall be considered submitted for resolution.”[7]

Private respondents filed their position paper and supporting evidence by mail within the given period. Petitioners, however, failed to do so. Nonetheless, private respondents attached to their position paper a copy of petitioners’ position paper submitted in the proceedings before the NLRC RAB.[8]

On February 20, 1997, Voluntary Arbitrator Calipay conducted a hearing upon due notice to both parties. Neither petitioners nor their counsel were present. On the other hand, counsel for private respondents appeared and moved for early resolution of the case.[9] Thus, Voluntary Arbitrator Calipay issued an Order dated February 24, 1997 setting another hearing for March 3, 1997 and giving petitioners up to said date within which to submit their position paper and supporting evidence if they so desire. The Order stated:

“xxx xxx xxx

The respondents should have been in default already to submit any additional pleading or evidence, the set deadline of 17 February 1997 having long elapsed. Besides, this Office already had a copy of their position paper and evidence they earlier filed with the NLRC RAB VII. But in the interest of justice and equity, this Office is giving respondents up to the last hearing to submit any if they so desire, which is set on 3 March 1997 at 3:00 P.M. at the NCMB Region VII Office. After such last hearing, this case shall be submitted for resolution without further delay pursuant to law.

xxx xxx xxx.”[10]

During the hearing on March 3, 1997, private respondents and their counsel were present, but again, neither petitioners nor their counsel appeared.

On March 15, 1997, the voluntary arbitrator rendered a Decision holding that private respondents were illegally dismissed and awarding them backwages, separation pay, money claims and attorneys fees.[11]

From the foregoing, it is clear that petitioners were given reasonable opportunity to submit their position paper and supporting evidence to the voluntary arbitrator. The first Order directing the parties to file their respective position papers and evidence was issued on January 23, 1997 and they were given fifteen (15) days within which to submit the same. On February 10, 1997, the first period having elapsed, the voluntary arbitrator issued another Order extending the period for ten (10) days. Petitioners, however, failed to comply with the Order within the extended period. The voluntary arbitrator nonetheless gave petitioners another chance to submit their position paper and evidence until March 3, 1997. Despite the two extensions, petitioners still failed to submit the required paper. They did not even offer any explanation for their omission. In the Orders directing them to file their

position papers, the parties were warned that failure to submit the same within the given period would be considered as waiver. Under these circumstances, petitioners cannot be considered as having been denied due process. The essence of due process in administrative proceedings is simply an opportunity to explain one's side or an opportunity to seek a reconsideration of an action or ruling complained of.[12] The foregoing narration of the proceedings before the voluntary arbitrator clearly shows that petitioners were given an opportunity to present their evidence but they refused to avail of this opportunity without any legal reason. Due process is not violated where one is given the opportunity to be heard, but chooses not to give his side.[13]

In truth, petitioners cannot complain that their position was never ventilated before the arbitrator. Prior to the referral of the case to NCMB and to Voluntary Arbitrator Calipay, the parties had submitted their position papers to the NLRC RAB which held a summary trial. The voluntary arbitrator was furnished a copy of the position paper submitted by petitioners to the NLRC RAB in connection with the proceedings therein, and the former considered said position paper in rendering his Decision. In their petition before this Court, petitioners failed to show that they were actually prejudiced by the fact that they were not able to file their position paper or attend the hearing before the voluntary arbitrator. No new issues were raised before the voluntary arbitrator and the matters that need to be resolved have been sufficiently threshed out in the proceedings before the NLRC RAB. Thus, the fundamental rule of due process that mandates notice and an opportunity to be heard has been sufficiently met in this case.[14]

IN VIEW WHEREOF, I vote to GRANT the motion for reconsideration.

[1] CA Rollo, pp. 142-173.

[2] CA Rollo, p. 40.

[3] CA Rollo, p. 42.

[4] CA Rollo, p. 43.

[5] CA Rollo, p. 69.

[6] CA Rollo, pp. 44-45.

[7] CA Rollo, p. 46.

[8] See Order issued by Voluntary Arbitrator Calipay dated February 24, 1997, CA Rollo, pp. 48-49.

[9] Minutes of Hearing, see documents and files submitted to the CA by Voluntary Arbitrator Calipay, CA Rollo, pp. 765 ff.

[10] CA Rollo, pp. 48-49.

[11] CA Rollo, pp. 33-39.

[12] *Aparente, Sr. vs. NLRC*, 331 SCRA 82 (2000); *St. Michael Academy vs. NLRC*, 292 SCRA 478 (1998).

[13] *Caurdanetaan Piece Workers Union vs. Laguesma*, 286 SCRA 401 (1998); *Cindy and Linsy Garment vs. NLRC*, 284 SCRA 38 (1998).

[14] See *Paper Industries Corporation of the Philippines vs. Laguesma*, 330 SCRA 295 (2000); *Pepsi Cola Products Philippines, Inc. vs. NLRC*, 300 SCRA 66 (1998).

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