POLICARPIO T. CUEVAS, PETITIONER, VS. BAIS STEEL CORPORATION AND STEVEN CHAN, RESPONDENTS.

G.R. No. 142689. October 17, 2002

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The timely perfection of an appeal is a mandatory requirement. One cannot escape the rigid observance of this rule by claiming ignorance or oversight. Neither can it be trifled with as a "mere technicality" to suit the interest of a party. Verily, the periods for filing petitions for review and for certiorari are to be observed religiously. Just as a losing party has the privilege to file an appeal within the prescribed period, so does the winner have the right to enjoy the finality of the decision.

Statement of the Case

Before us is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, assailing the January 6, 2000 Decision[1] and the March 15, 2000 Resolution[2] of the Court of Appeals[3] (CA) in CA-GR SP No. 52936. The decretal portion of the Decisions reads as follows:

> "The foregoing considered, the contested Decision is hereby nullified and set aside, and the December 23, 1997 Decision by the Labor Arbiter, directing the dismissal of the complaint is reinstated."[4]

The assailed Resolution denied petitioner's Motion for Reconsideration.

The CA reversed the Decision of the Fourth Division of the National Labor Relations Commission[5] (NLRC), which had disposed as follows:

> 'WHEREFORE, premises considered, the decision of the Labor Arbiter dated December 23, 1997, is hereby NULLIFIED AND SET ASIDE and a new one entered, ordering respondent-appellee, BAIS STEEL CORPORATION, to pay complainant-appellant, POLICARPIO T. CUEVAS, the following:
>
> 'a) Separation pay equivalent to one (1) month pay for every year of actual service, with a fraction of six (6) months being considered as one (1) year in the amount of P26,929.75;
>
> 'b) Backwages from the time of his illegal dismissal on October 24, 1996 up to the time of promulgation of the decision in the amount of P115,750.40;
>
> 'c) To pay complainant-appellant attorney's fees equivalent to ten (10)% percent on top of the total judgment award.

"All other claims are hereby dismissed for lack of merit.'"[6]

The Facts

The factual antecedents of the case are summarized by the NLRC as follows:

> "Herein complainant starting July 16, 1991, works as 'boiler tender' for the respondent Bais Steel

Corporation, a galvanizing plant located at Tanjay, Negros Oriental, owned and managed by the president Antonio Steven L. Chan. His daily rate/salary was P165.34 with overtime pay and night shift differentials.

"On September 2, 1996, complainant filed an illegal suspension case against respondent company denominated as NLRC Sub-RAB Case No. 09-0105-96-D. The case was dismissed with prejudice per order dated September 30, 1996. The dismissal was anchored on the agreement that respondent company will delete or erase from the 201 file of complainant the alleged 'violation on sleeping rules'.

"Sometime [I]n the second week of September 1996, complainant tried to organize a union, but his attention was called by the owner of the respondent company, Mr. Antonio Steven L. Chan.

"On October 17, 1996, complainant was notified in writing regarding his transfer to the Crating Section with a specific job[,] strictly that of making coco lumber crates only (from Boiler Tender) with a work schedule from 8:00 a.m. to 5:00 p.m.

"On October 20, 1996, this being a Sunday, complainant worked for half-day, in order to look for some money for the tuition fee of his son. His application for leave was left to his immediate supervisor which was approved as is the practice during a Sunday. While on the way out from the company premises together with other co-workers, they met the owner, Mr. Antonio Steven L. Chan [who] inquired where they [were] going. Complainant informed him that he [was] on half-day and already off-duty, to attend to some personal problems. The owner informed him that [his] supervisor ha[d] no authority to approve [his] leave and [told him] to return to work. Complainant insisted and went on half-day leave.

"The following day, October 21, 1996, complainant reported for work, but the retaliatory acts of management [were] already felt by complainant starting from his demotion, reduction in working hours and oppression. Realizing the pressures being exerted by respondent, he decided to apply for leave of absence on October 22, 1996. The same was disapproved[;] nonetheless, complainant did not report for work as he ha[d] to consult a lawyer about his problem, and submitted a medical certificate to justify HIS LEAVE OF ABSENCE THE FOLLOWING DAY.

"On October 23, 1996, complainant informed the resident-manager, Mr. Roberto dela Rosa, that if given his separation pay, he [would] just resign. This proposal was accepted by management. Thus, complainant signed a management prepared letter of resignation[,] believing to be paid his separation pay as agreed. After signing said resignation letter, complainant alleged that he was made to sign another document which he refused[;] then and there respondent refused to pay him the agreed separation pay.

"Interpreting the aforestated action of the respondent as constructive dismissal or forced resignation, complainant filed the instant complaint for illegal dismissal, and non-payment of separation pay.

"Complainant likewise, prays for moral and exemplary damages as well as attorney's fees.

"Respondent, on the other hand, avers that complainant personally delivered his resignation letter to the respondent's Resident Manager and failed to report for work effective October 24, 1996.

"And that he is considered to have 'abandoned work', if he considers himself not resigned, since more than two (2) months had elapsed since he last reported for work up to the time of the filing of this complaint.

"During the scheduled mandatory conference and hearings, the parties failed to arrive at an amicable settlement; hence, [they] were directed to submit their respective position papers and other documentary evidence.

"A full-blown hearing followed as evidenced by the transcript of stenographic notes and formal offer of exhibits and opposition thereto attached to the records of the case.

"On December 23, 1997, the Labor Arbiter a quo, rendered the assailed decision."[7] (Citations omitted)

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Respondents received a copy of the July 24, 1998 Decision rendered by the NLRC on September 18, 1998. Six days later or on September 24, 1998, they filed a Motion for Reconsideration, which was denied in a Resolution dated November 27, 1998. On February 19, 1999, they filed with this Court a Petition for Certiorari[8] under Rule 65. However, in accordance with St. Martin Funeral Homes v. NLRC,[9] it was referred to the CA in a Resolution[10] dated March 17, 1999.

The CA dismissed the Petition on the following grounds:

> "1. Absence of explanation on service by registered mail; and
>
> "2. Lack of a verified statement on material date when the notice of denial of the Motion for Reconsideration was received.
>
> "We, therefore, have no way of finding out if herein Petition for Certiorari was filed within the reglementary period.
>
> "Not being sufficient in form, herein Petition is hereby DISMISSED."[11]

Thereafter, respondents filed an Urgent Motion for Reconsideration alleging that their failure to submit the above-mentioned requisites was inadvertent and not intended to delay the prosecution of the case.[12] On July 2, 1999, the CA denied their Motion.[13] On August 17, 1999, they filed a second Motion for Reconsideration,[14] which was again denied in a Resolution dated August 20, 1999.[15] Undeterred, they filed a third Motion for Reconsideration on September 8, 1999,[16] which the CA granted in a Resolution[17] dated October 1, 1999, with the following instructions:

> "Without necessarily giving due course to the Petition for Certiorari, the Comment, not a motion to dismiss, should be submitted within a period of ten (10) days from notice. The Reply, if any, should also be submitted within a period of ten (10) days from receipt of a copy of the Comment."[18]

After the parties submitted their respective Comment and Reply,[19] the CA rendered the assailed Decision granting the Petition for Certiorari.

Ruling of the Court of Appeals

The CA held that, based on the facts in hand, Petitioner Cuevas had voluntarily submitted his resignation letter to the resident manager on October 23, 1996. Hence, he was not illegally dismissed by respondents.

Furthermore, the appellate court observed that petitioner had not raised any question of law when he filed with his Notice of Appeal and Memorandum of Appeal from the Decision of the Labor Arbiter. The CA cited Article 223 of the Labor Code, which states:

> "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. Such appeal may be entertained only on any of the following grounds:
>
> (a) If there is prima facie evidence of abuse of discretion on the part of the Labor Arbiter.
>
> (b) If the decision, order or award was secured through fraud or coercion, including graft and corruption;
>
> (c) If made purely on questions of law; and
>
> (d) If serious errors in the findings of facts are raised which would cause grave or irreparable damage or injury to the appellant."

It opined that the NLRC had no basis whatsoever to entertain the appeal submitted by petitioner, because none of

the above-mentioned grounds was presented.

The CA ignored the issue of the timeliness of the filing of the certiorari Petition.

Hence, this recourse to this Court.[20]

Issues

In his Memorandum, petitioner raises the following issues for the Court's consideration:

> "I
>
> Whether or not the Court of Appeals -- former First Division departed from the accepted and usual course of judicial proceedings in issuing the assailed Decision/Resolution granting the Petition for Certiorari of respondent BSC/Steven Chan considering that it was made after the latter's third Motion for Reconsideration and despite the fact that the same was filed out of time and has failed to comply with the material date rule and explanation on the service to the adverse party;
>
> "II
>
> Whether or not the Court of Appeals -- former First Division whimsically and capriciously granted the Petition for Certiorari and annulled and set-aside the Decision and Resolution of the NLRC-Fourth Division issued in accordance with law and jurisprudence and merits of the case thereon;
>
> "III
>
> Whether or not the Court of Appeals -- former First Division exceeded its jurisdiction and contravened settled doctrines and principles in law particularly on employment termination when it issued the assailed Decision and Resolution[.]"[21]

In sum, the main issue before this Court is whether the CA acted correctly in giving due course and granting respondents' late Petition for Certiorari.

This Court's Ruling

The Petition is meritorious.

Main Issue:
Timeliness of the Appeal to the CA

The records reveal that respondents received a copy of the NLRC Decision on September 18, 1998. On September 24, 1998, they filed a Motion for Reconsideration, which was denied on November 27, 1998. On February 19, 1999, they filed their Petition for Certiorari, which this Court referred to the CA.

Section 3, Rule 46 of the Rules of Court, provides:

> "Section 3. Contents and filing of petition; effect of non-compliance with requirements.
>
> xxx xxx xxx
>
> "In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.
>
> xxx xxx xxx
>
> "The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for

> the dismissal of the petition."[22]

In the present case, not only did respondents fail to include an explanation for the service by registered mail but, more important, their Petition also lacked a verified statement on the material date of their receipt of the notice of the NLRC's denial of their Motion for Reconsideration. Hence, the CA properly dismissed their Petition.

However, the CA's dismissal of their appeal did not deter respondents from committing more grievous blunders. In their Urgent Motion for Reconsideration dated June 25, 1999, they stated that they had received notice of the NLRC's denial of their Motion for Reconsideration on December 21, 1998. Under Section 4, Rule 65 of the Rules of Court, a Petition for Certiorari shall be filed not later than sixty (60) days from notice of the judgment, the order or the resolution sought to be assailed. Furthermore, it provides:

> "If the petitioner had filed a motion for new trial or reconsideration in due time after notice of said judgment, order or resolution, the period herein fixed shall be interrupted. If the motion is denied, the aggrieved party may file the petition within the remaining period, but [it] shall not be less than five (5) days in any event, reckoned from notice of such denial. xxx."[23]

Applying the above-mentioned rule, the 60-day period for filing a Petition for Certiorari was interrupted when respondents filed their Motion for Reconsideration on September 24, 1998. When their Motion was denied, they had a remaining period of fifty-four (54) days, or until February 15, 1999, within which to file their Petition for Certiorari.[24] However, they filed their Petition only on February 19, 1999, thereby prompting the CA to issue on July 2, 1999, another Resolution of denial, reiterating its dismissal of their Petition for having been filed late.

In another Motion for Reconsideration filed on August 17, 1999, respondents reasoned that they were allegedly not aware of Supreme Court Circular No. 39-98, which had taken effect on September 1, 1998. This Motion was, however, denied by the CA since a second Motion for Reconsideration was a prohibited pleading.

On September 8, 1999, respondents filed a third Motion for Reconsideration, arguing that the Motion filed on August 17, 1999 was not a Second Motion for Reconsideration. They contended that it was a plea for reconsideration of the CA's Resolution dated June 22, 1999, which had reiterated its dismissal of their Petition for being four (4) days late.

Citing Siguenza v. Court of Appeals,[25] respondents contend that rules of procedure should not to be applied in a very rigid and technical manner. They are supposed to be used only to help secure, not override, substantial justice. Further, a short delay does not warrant the dismissal of an appeal.

We hold, however, that procedural rules setting the period for perfecting an appeal or filing a petition for review are generally inviolable. It is doctrinally entrenched that appeal is not a constitutional right, but a mere statutory privilege. Hence, parties who seek to avail themselves of it must comply with the statutes or rules allowing it. The requirements for perfecting an appeal within the reglementary period specified in law must, as a rule, be strictly followed. Such requirements are considered indispensable interdictions against needless delays and are necessary for the orderly discharge of the judicial business. Furthermore, the perfection of an appeal in the manner and within the period permitted by law is not only mandatory, but also jurisdictional. Failure to perfect the appeal renders the judgment of the court final and executory. Just as a losing party has the privilege to file an appeal within the prescribed period, so does the winner also have the correlative right to enjoy the finality of the decision.[26]

This Court may deign to veer away from the general rule only if, on its face, the appeal appears to be absolutely meritorious. Indeed, this Court has in a number of instances relaxed procedural rules in order to serve substantial justice. However, we see no reason to do so in this case. The delay incurred by respondents was simply

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inexcusable. They explain that they were not aware of SC Circular 39-98, which had been published in several newspapers of general circulation in the country on July 26, 1998, and had taken effect on September 1, 1998. Respondents filed their Petition for Certiorari on February 19, 1999, some seven (7) months after the Circular had been published in major newspapers, five (5) months after taking effect. This Court must emphasize once again that lawyers are duty-bound to keep abreast of legal developments and to participate in continuing legal education programs.[27]

We repeat: the timely perfection of an appeal is a mandatory requirement, which cannot be trifled with as a "mere technicality" to suit the interest of a party. The rules on periods for filing appeals are to be observed religiously, and parties who seek to avail themselves of the privilege must comply with the rules.[28]

In view of the foregoing, we find no necessity to pass upon the other issues raised, especially regarding the legality of petitioner's dismissal. After all, the NLRC's Decision has become final and, whether right or wrong, is no longer reviewable on appeal. It has become the law of the case.[29]

WHEREFORE, the Petition is GRANTED and the assailed Decision and Resolution SET ASIDE.

SO ORDERED.

Puno (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

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[1] Rollo, pp. 73-82.

[2] Id., p. 94.

[3] First division. Written by Justice Bernardo Ll. Salas concurred in by Presiding Justice Salome A. Montoya (Division chairman) and Justice Mariano M. Umali (member).

[4] CA Decision, p. 9; rollo, p. 81.

[5] Fourth Division. Written by Presiding Commissioner Irenea E. Ceniza and concurred in by Commissioners Bernabe S. Batuhan and Amorito V. Cañete.

[6] NLRC Decision, pp. 7-8; rollo, pp. 27-28.

[7] Id., pp. 1-4; id., pp. 21-24.

[8] Rollo, pp. 32-46.

[9] 295 SCRA 494, September 16, 1998.

[10] Id., pp. 47-48.

[11] Rollo, p. 49.

[12] Id., pp.49-51.

[13] Id., p. 52.

[14] Id., pp. 53-56.

[15] Id., p. 57.

[16] Id., pp. 58-63.

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[17] Id., pp. 64-65.

[18] Ibid.

[19] Id., pp. 66-72.

[20] This case was deemed submitted for decision on November 13, 2000, upon the Court's receipt of respondents' Objection/Opposition to Petitioner's Motion for Extension of Time to File Memorandum, which was signed by Atty. Felisberto L. Verano Jr. Petitioner's Memorandum was submitted on November 10, 2000 and was signed by Atty. Leodegario A. Belarmino of Villegas Belarmino Mijares and Associates.

[21] Rollo, p. 155. Original in upper case.

[22] §3, Rule 46 of the Rules of Court, was amended by SC Circular No. 39-98, which took effect on September 1, 1998.

[23] §4, Rule 65 of the Rules of Court as amended by SC Circular No. 39-98.

[24] The 54th day is actually on February 13, 1999, which is a Saturday. Hence, pursuant to §1, Rule 22 of the Rules of Court, the time shall not run until the next working day or on February 15, 1999.

[25] 137 SCRA 570, July 16, 1985.

[26] Videogram Regulatory Board v. Court of Appeals, 265 SCRA 50, November 28, 1996.

[27] Canon 5, Code of Professional Responsibility.

[28] Ditching v. Court of Appeals, 263 SCRA 343, October 18, 1996.

[29] Johnson and Johnson (Phils.), Inc., v. Court of Appeals, 262 SCRA 298; September 23, 1996.

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