

UNITED FIELD SEA WATCHMAN AND CHECKERS AGENCY, JAIME AMAMIO, GLENN GUIRAL, AND PHILIPPINE PORTS AUTHORITY, PETITIONERS, VS. WILLIE REQUILLO, NORBEM DAHANG, JR., ROMEO BUHANGIN, ...

G.R. NO. 143527. December 06, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant petition for review on certiorari assailing the Decision[1] of the Court of Appeals dated April 3, 2000 and its Resolution[2] dated May 5, 2000 in CA-G.R. SP No. 54449.

Willie Requillo, Norbem Dahang, Jr., Romeo Buhangin, Antonio Ruaza, Elsie Tabla, and Constantino Danuco, respondents herein, were security guards of the United Field Sea Watchman and Checkers Agency (UFSWCA), petitioner. The latter is a single proprietorship owned by Jaime Amamio. Its operations in Surigao City are managed by Glenn Guiral. Amamio and Guiral are also petitioners.

Respondents were assigned by petitioner UFSWCA to the Port of Surigao City operated by the Philippine Ports Authority (PPA).

In the course of their employment, respondents applied for loans with the Social Security System (SSS) Office at Surigao City. To their dismay, they found that UFSWCA has not been remitting to the SSS their contributions being deducted regularly from their salaries. Upon advice of the SSS, they filed with the Department of Labor and Employment in Surigao del Norte complaints against UFSWCA. The local media gave the matter intensive coverage.

On June 30, 1997, UFSWCA issued Agency Order No. 167-97 reassigning respondents to various PPA offices in Iligan City, Ozamiz City, Cagayan, Nasipit, and Iloilo.

Since respondents were residing with their families in Surigao City, they refused to heed Agency Order No. 167-97. They considered it a form of retaliation on the part of UFSWCA. They continued reporting for work at the PPA office in Surigao City. Hence, UFSWCA refused to pay their salaries for the month of June 1997 as they were considered absent without leave.

Consequently, respondents filed with the Labor Arbitration Branch in Butuan City a complaint for illegal dismissal, unfair labor practice and nonpayment of wages, backwages, differential pay, and rest day premium pay against petitioners, docketed as NLRC Case No. SRAB-10-09-00145-97.

In its answer to the complaint, UFSWCA denied dismissing the respondents from employment. They were merely transferred to other places of work, receiving adequate transportation and relocation allowances.

On April 13, 1998, Labor Arbiter Rogelio P. Legaspi rendered a Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby entered:

- Declaring complainants' (Requillo, Dahang, Jr., Ruaza, Buhangin, and Tabla) dismissal illegal;
- Dismissing complainant Liberato Peril's complaint for the reason that the same has already prescribed; and
- Ordering respondents USWCA and/or Jaime Amamio and Philippine Ports Authority, Surigao City to jointly and severally pay complainants the following:

DANUCO, C.

a)

Salary Differentials

P13,724.10

b)

13[th] Month Pay

10,703.25

c)

Service Incentive Leave Pay (2 Years)

1,070.00

TOTAL

P25,497.35

REQUILLO, DAHANG JR., RUAZA, BUHANGIN TABLA

a)

Unpaid Salaries (June 1-30, 1997) P4,2999.90 each

P21,499.50

b)

Premium Pay for Holidays

1)

REQUILLO P2,735.00

2)

BUHANGIN, RUAZA,

and DAHANG, JR.

P3,377.00

each

3)

TABLA

585.00

13,401.00

c)

Premium Pay for Rest Day

1)

REQUILLO

3,208.80

2)

BUHANGIN, RUAZA

and DAHANG

4,878.00 each

18,579.75

3)

TABLA

737.10

SUB-TOTAL

P79,027.75

- Ordering respondents UPSWCA and/or Jaime Amamio to pay complainants the following:

REQUILLO, RUAZA, DAHANG, TABLA

A. Backwages

P45,148.95

P225,744.75 (from 01 June 1997 to 16 April 1998)

B. Damages

5,000.00 each

25,000.00

(for illegal dismissal and ULP)

SUB-TOTAL

P250, 744.75

TOTAL

P329,772.50

Attorney's Fees

32,977.25

(10% of total monetary award)

GRAND TOTAL

P362,749.75

Complainants' other claims are dismissed for lack of merit.

SO ORDERED.

On appeal by petitioners, the National Labor Relations Commission (NLRC) issued a Resolution modifying the Labor Arbiter's Decision, thus:

PREMISES considered, the decision of the Labor Arbiter is MODIFIED. The Labor Arbiter's awards for backwages, damages, and attorney's fees are ordered deleted, as well as the awards granted to Constancio Danuco. The award for salaries of complainants for the month of June 1997 are maintained as well as the awards for premium pay for holidays and premium pay for rest days.

Complainants are ordered reinstated without backwages.

SO ORDERED.

Dissatisfied, respondents filed with the Court of Appeals a petition for certiorari, docketed as CA-G.R. SP No. 54449. They alleged, among others, that the NLRC gravely abused its discretion in giving due course to petitioners' appeal filed beyond the reglementary period.

In its Decision dated April 3, 2000, the Court of Appeals granted respondents' petition and set aside the Resolution of the NLRC, holding that it committed grave abuse of discretion amounting to lack or excess of jurisdiction when it gave due course to petitioners' appeal.

Petitioners filed a motion for reconsideration but it was denied by the Court of Appeals in its Resolution of May 5, 2000.

Hence, the instant petition.

The sole issue for our resolution is whether the Court of Appeals erred in holding that petitioners' appeal to the NLRC was filed beyond the reglementary period.

The Court of Appeals found that:

First of all, although there was an allegation in the appeal that the Decision of the Labor Arbiter was received on April 27, 1998, there is substantial evidence to show that it could not have been so as asseverated by petitioners. The registry return slips addressed to Jaime Amamio and Atty. Estanislao Ebarle show a significant difference when compared to the registry return slips addressed to PPA, Willie Requillo and Atty. Hector Tayapad. The first two (2) return slips do not bear the rubber stamped print that the mailed decision was registered and that it was posted on April 22, 1998 at Butuan City. Likewise, they do not have the required stamp affixed to a return slip. This is in stark contrast to the other return slips addressed to PPA, Willie Requillo and Atty. Hector Tayapad. Considering such patent irregularity, we find that the registry return slips addressed to private respondent Jaime Amamio and his counsel Atty. Estanislao Ebarle are not the original return slips of the Decision of the Labor Arbiter. The non-submission of the original return slips is an indication that if the originals were submitted they would reveal that private respondent Jaime Amamio and Atty. Estanislao Ebarle received the Decision of the Labor Arbiter not on April 27, 1998 but on a much earlier date.

Rule 131, Section 3 (e) of the Revised Rules of Evidence provides that 'evidence willfully suppressed would be adverse if produced.' There being no contradictory evidence to debunk such supposition, the presumption stands.

Thus, the appeal not having been filed within the ten (10) day period to appeal, the appeal filed by private respondents before the NLRC should not have been given due course.

x x x

Consequently, the failure of private respondents to perfect the appeal in accordance with the prescribed procedure renders the same ineffective to stop the running of the ten (10) day reglementary period to appeal. x x x.

We find no cogent reason to deviate from the above findings. Settled is the rule that issues raised in a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, only involve questions of law, not questions of fact.

Moreover, Article 223 of the Labor Code provides in part:

ART. 223. Appeals. – 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.

In *Tomas Claudio Memorial College, Inc. v. Court of Appeals*,^[3] we held that the above provision governs appeals from awards or final orders of the Labor Arbiter to the NLRC. The right to appeal is not part of due process but a mere statutory privilege that has to be exercised only in the manner and in accordance with the provisions of law. Since the perfection of an appeal within the statutory reglementary period is not only mandatory but also jurisdictional,^[4] petitioners' failure to perfect their appeal to the NLRC seasonably rendered the Labor Arbiter's Decision final and executory. Accordingly, the NLRC has no jurisdiction to give due course to petitioners' appeal, much less render a Resolution modifying the Labor Arbiter's Decision. Indeed, such Resolution is a patent nullity for want of jurisdiction.

WHEREFORE, we DENY the petition. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 54449 are AFFIRMED. Costs against petitioners.

SO ORDERED.

Puno, (Chairperson), Azcuna, and Garcia, JJ., concur.

Corona, J., on leave.

[1] Rollo, pp. 47-57. Penned by Associate Justice Martin S. Villarama, Jr., and concurred in by Associate Justice Cancio C. Garcia and Associate Justice Romeo J. Callejo, Sr. (now members of this Court).

[2] *Id.*, p. 59.

[3] G.R. No. 152568, February 15, 2004, 423 SCRA 122.

[4] *Zaragoza v. Nobleza*, G.R. No. 144560, May 13, 2004, 428 SCRA 410.

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