AIR PHILIPPINES CORPORATION, PETITIONER, VS. ENRICO E. ZAMORA, RESPONDENT.

G.R. NO. 148247. August 07, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Only those pleadings, parts of case records and documents which are material and pertinent, in that they may provide the basis for a determination of a prima facie case of abuse of discretion, are required to be attached to a petition for certiorari. A petition lacking such documents contravenes paragraph 2, Section 1, Rule 65 and may be dismissed outright under Section 3, Rule 46. However, if it is shown that the omission has been rectified by the subsequent submission of the documents required, the petition must be given due course or reinstated, if it had been previously dismissed.[1]

Other pleadings and portions of case records need not accompany the petition, unless the court will require them in order to aid it in its review of the case. Omission of these documents from the petition will not warrant its dismissal.[2]

For being allegedly contrary to the foregoing rule, the Resolutions dated January 11, 2001 and May 23, 2001 of the Court of Appeals in CA G.R. SP No. 62388 entitled, "Air Philippines Corporation, Petitioner, versus, National Labor Relations Commission (5th Division) and Enrico Zamora, Respondents" are sought to be annuled in the Petition for Review on Certiorari under Rule 45 that is now before us.[3]

The facts are not in dispute.

Enrico Zamora (Zamora) was employed with Air Philippines Corporation (APC) as a B-737 Flight Deck Crew.[4] He applied for promotion to the position of airplane captain and underwent the requisite training program. After completing training, he inquired about his promotion but APC did not act on it; instead, it continued to give him assignments as flight deck crew. Thus, Zamora filed a Complaint with the Labor Arbiter. He argued that the act of APC of withholding his promotion rendered his continued employment with it oppressive and unjust. He therefore asked that APC be held liable for constructive dismissal.[5]

APC denied that it dismissed complainant. It pointed out that, when the complaint was filed on May 14, 1997, complainant was still employed with it. It was only on May 22, 1997 that complainant stopped reporting for work, not because he was forced to resign, but because he had joined a rival airline, Grand Air.[6]

In a Decision dated September 16, 1998, the Labor Arbiter ruled in favor of Zamora and declared APC liable for constructive dismissal. It held:

> WHEREFORE, judgment is hereby rendered finding respondent liable for illegal dismissal and ordering the respondent to:
>
> - Reinstate complainant to his position as B-737 Captain without loss of seniority right immediately upon receipt thereof (sic);

> - Pay complainant his full backwages from May 15, 1997 up to the promulgation of this decision on (sic) the amount of P1,732,500 (sic);
>
> - Pay complainant the amount of TWO MILLION PESOS (P2,000,000.00) in the concept of moral damages and ONE MILLION PESOS (P1,000,000.00) as exemplary damages;
>
> - Pay attorney's fees equivalent to TEN PERCENT (10%) of the total award. (Emphasis supplied)
>
> SO ORDERED.[7]

Zamora immediately filed a Motion for Execution of the order of reinstatement. On November 6, 1998, the Labor Arbiter granted the motion and issued a writ of execution directing APC to reinstate complainant to his former position.[8]

Meanwhile, APC filed with the NLRC an appeal assailing the finding of the Labor Arbiter that it was liable for constructive dismissal.[9]

The NLRC granted the appeal in a Resolution dated February 10, 1999. It held that no dismissal, constructive or otherwise, took place for it was Zamora himself who voluntarilly terminated his employment by not reporting for work and by joining a competitor Grand Air.[10]

However, upon Motion for Reconsideration[11] filed by Zamora, the NLRC, in a Resolution dated December 17, 1999, modified its earlier Resolution, thus:

> WHEREFORE, the instant Motion for Reconsideration filed by complainant is DENIED for lack of merit and the appealed decision AFFIRMED, while the instant petition for injunction filed by respondent is GRANTED.
>
> However, respondent Air Philippines Corporation is ordered to pay complainant his unpaid salaries and allowances in the total amount of P198,502.30 within fifteen (15) days from receipt of this resolution.[12] (Emphasis supplied)

Displeased with the modification, APC sought a partial reconsideration of the foregoing resolution[13] but the NLRC denied the same. In its Resolution of October 11, 2000, the NLRC justifed the award of unpaid salaries in this manner:

> The grant of salaries and allowances to complainant arose from the order of his reinstatement which is executory even pending appeal of respondent questioning the same, pursuant to Article 223 of the Labor Code. In the eyes of the law, complainant was as if actually working from the date respondent received the copy of the appealed decision of the Labor Arbiter directing the reinstatement of complainant based on his finding that the latter was illegally dismissed from employment.[14] (Emphasis supplied)

This prompted APC (hereafter referred to as petitioner) to file a Petition for Certiorari with the Court of Appeals to have the December 17, 1999 Resolution of the NLRC partially annulled and its October 11, 2000 Resolution set aside on the ground that these were issued with grave abuse of discretion. Petitioner attached to its petition, certified true copies of the Resolutions of the NLRC dated February 10, 1999, December 17, 1999 and October 11, 2000 and the Decision of the Labor Arbiter dated September 16, 1998, and photocopies of the February 24, 1999 notice of garnishment, March 11, 1999 Order of the Labor Arbiter authorizing Sheriff Fulgencio Lavarez to implement the writ of execution, and March 23, 1999 Resolution of the NLRC enjoining implementation of the writ of execution.[15]

In a Resolution dated January 11, 2001, the Court of Appeals dismissed the petition for failure of petitioner to "x x x attach copies of all pleadings (such complaint, answer, position paper) and other material portions of the record as would support the allegations therein x x x."[16]

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Petitioner filed a Motion for Reconsideration from the said Resolution and attached to it the pleadings and portions of the case record required by the Court of Appeals.[17] Zamora (hereafter referred to as respondent) filed an Opposition to Motion for Reconsideration.[18]

In a Resolution dated May 23, 2001, the Court of Appeals denied the motion for reconsideration, thus:

> Up for consideration is petitioner's motion for reconsideration (pages 64-71 of the Rollo) of this Court's resolution of dismissal (page 54, id.), which was promulgated on January 11, 2001. Considering private respondent's undisputed comment on said motion (pages 159-161. id.), the same is hereby DENIED. The resolution of dismissal stands.[19] (Emphasis supplied)

And so, herein Petition for Review on Certiorari under Rule 45. Petitioner would have us annul and set aside the January 11, 2001 and May 23, 2001 Resolutions of the Court of Appeals on the following grounds:

> - The Honorable Court of Appeals did not rule in accordance with prevailing laws and jurisprudence when it dismissed the petition for certiorari filed by petitioner APC on the ground that petitioner APC supposedly failed to attach copies of all pleadings (such as complaint, answer, position papers) and other materials portions of the record as would support the allegations therein.
>
> - The Honorable Court of Appeals did not rule in accordance with prevailing laws and jurisprudence when it denied petitioner APC's motion for reconsideration in spite of the fact that petitioner APC submitted copies of all pleadings and documents mentioned in its petition for certiorari.
>
> - The Honorable Court of Appeals did not rule in accordance with prevailing laws and jurisprudence when it denied petitioner APC's motion for reconsideration on a new ground namely, the alleged failure of petitioner APC to dispute respondent Zamora's comment and/or opposition to motion for reconsideration ("Opposition"), in spite of the fact that (i) the Honorable Court of Appeals did not order petitioner APC to reply to the said opposition; and (ii) the said Opposition is patently unmeritorious.[20]
> Respondent filed his Comment to the petition.[21]

We grant the petition.

We agree with petitioner on the first and second issues.

In its Resolution of January 11, 2001, the Court of Appeals cited as ground for the dismissal of the petition for certiorari its lack of certified true copies of the pleadings and material portions of the case record. This is an erroneous ruling, petitioner insists, for the deficiency was excusable: pleadings and other portions of the case records were not attached to the petition because these documents had no bearing on the sole issue raised therein, which was, whether the NLRC committed grave abuse of discretion in awarding unpaid salaries to respondent despite having adjudged the latter at fault for abandonment of employment.[22]

Respondent disagrees. He argues that the requirements under Section 1, Rule 65 are mandatory and jurisdictional; petitioner's failure to comply with them was a valid ground for the dismissal of its petition.[23]

Both views are actually correct.

Certiorari, being an extraordinary remedy, the party seeking it must strictly observe the requirements for its issuance.[24] Some of these requirements are found in paragraph 2, Section 1 of Rule 65, which reads:

> SECTION. 1. Petition for certiorari.–
>
> x x x x
>
> The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto x x x.

These requirements are emphasized in Section 3, Rule 46, thus:

> SEC. 3.Contents and filing of petition; effect of non-compliance with requirements. –
>
> x x x x
>
> [The petition] shall be x x x accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto x x x.
>
> x x x x
>
> The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.

Note that the foregoing rules speak of two sets of documents to be attached to the petition. The first set consists of certified true copies of the judgment, order or resolution subject of the petition. Duplicate originals or certified true copies thereof must be appended to enable the reviewing court to determine whether the court, body or tribunal, which rendered the same committed grave abuse of discretion.[25] The second set consists of the pleadings, portions of the case record and other documents which are material and pertinent to the petition.[26] Mere photocopies thereof may be attached to the petition.[27] It is this second set of documents which is relevant to this case.

As a general rule, a petition lacking copies of essential pleadings and portions of the case record may be dismissed.[28] This rule, however, is not petrified. As the exact nature of the pleadings and parts of the case record which must accompany a petition is not specified, much discretion is left to the appellate court to determine the necessity for copies of pleading and other documents. [29]There are, however, guideposts it must follow.

First, not all pleadings and parts of case records are required to be attached to the petition. Only those which are relevant and pertinent must accompany it. The test of relevancy is whether the document in question will support the material allegations in the petition, whether said document will make out a prima facie case of grave abuse of discretion as to convince the court to give due course to the petition.[30]

Second, even if a document is relevant and pertinent to the petition, it need not be appended if it is shown that the contents thereof can also found in another document already attached to the petition. Thus, if the material allegations in a position paper are summarized in a questioned judgment, it will suffice that only a certified true copy of the judgment is attached.[31]

Third, a petition lacking an essential pleading or part of the case record may still be given due course or reinstated (if earlier dismissed) upon showing that petitioner later submitted the documents required,[32] or that it will serve the higher interest of justice that the case be decided on the merits.[33]

It is readily apparent in this case that the Court of Appeals was overzealous in its enforcement of the rules.

To begin with, the pleadings and other documents it required of petitioner were not at all relevant to the petition. It is noted that the only issue raised by petitioner was whether the NLRC committed grave abuse of discretion in granting respondent unpaid salaries while declaring him guilty of abandonment of employment. Certainly, copies of the Resolutions of the NLRC dated February 10, 1999, December 17, 1999 and October 11, 2000 would have sufficed as basis for the Court of Appeals to resolve this issue. After all, it is in these Resolutions that the NLRC purportedly made contrary findings.

There was no need at all for copies of the position papers and other pleadings of the parties; these would have only cluttered the docket. Besides, a summary of the material allegations in the position papers can be found in both the September 16, 1998 Decision of the Labor Arbiter and the February 10, 1999 Resolution of the NLCR. Quick reference to copies of the decision and resolution would have already satisfied any question the court may have had regarding the pleadings of the parties.

The attachments of petitioner to its petition for certiorari were already sufficient even without the pleadings and portions of the case record. It was therefore unreasonable of the Court of Appeals to have dismissed it. More so that petitioner later corrected the purported deficiency by submitting copies of the pleadings and other documents.

This brings us to the third issue. Again, we agree with petitioner that the Court of Appeals erred in denying its motion for reconsideration.

In its May 23, 2001 Resolution, the Court of Appeals cited as basis for denying the motion for reconsideration of petitioner from the January 11, 2000 Resolution the latter's purported failure to contravene the Opposition filed by respondent.[34] This is certainly a curious ground to deny a motion for reconsideration. As pointed out by petitioner, a reply to an opposition to a motion for reconsideration is not filed as a matter of course. An order from the court may issue though to direct the movant to file a reply. In this case, no such order came from the Court of Appeals instructing petitioner to counter the Opposition filed by respondent. Hence, it cannot be assumed that in failing to file a reply, petitioner, in effect, conceded to the Opposition of respondent.

It is not as if the Opposition which respondent filed required any answer. The matters discussed therein were not even germane to the issue raised in the motion for reconsideration. It was as though respondent passed in silence petitioner's arguments against the January 11, 2000 Resolution. If we are to be technical about it, it was instead the motion for reconsideration of petitioner which was not contravened by respondent. It was error on the part of the Court of Appeals to have denied it.

In sum, we annul and set aside the January 11, 2000 and May 23, 2001 Resolutions of the Court of Appeals. There is no more obstacle then to the petition for certiorari taking its course. However, rather than remand it to the Court of Appeals for resolution, we resolve it here and now to expedite matters.[35]

We hold that the NLRC did not commit grave abuse of discretion in holding petitioner liable to respondent for P198,502.30.

The premise of the award of unpaid salary to respondent is that prior to the reversal by the NLRC of the decision of the Labor Arbiter, the order of reinstatement embodied therein was already the subject of an alias writ of execution even pending appeal. Although petitioner did not comply with this writ of execution, its intransigence made it liable nonetheless to the salaries of respondent pending appeal. There is logic in this reasoning of the NLRC. InRoquero v. Philippine Airlines, Inc., we resolved the same issue as follows:

> We reiterate the rule that technicalities have no room in labor cases where the Rules of Court are applied only in a suppletory manner and only to effectuate the objectives of the Labor Code and not to defeat them.[36][25] Hence, even if the order of reinstatement of the Labor Arbiter is reversed on appeal, it is obligatory on the part of the employer to reinstate and pay the wages of the dismissed employee during the period of appeal until reversal by the higher court. On the other hand, if the employee has been reinstated during the appeal period and such reinstatement order is reversed with finality, the employee is not required to reimburse whatever salary he received for he is entitled to such, more so if he actually rendered services during the period. [37]

There is a policy elevated in this ruling. In Aris (Phil.) Inc. v. National Labor Relations Commission, we held:

> In short, with respect to decisions reinstating employees, the law itself has determined a sufficiently

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> overwhelming reason for its execution pending appeal.
>
> x x x x
>
> x x x Then, by and pursuant to the same power (police power), the State may authorize an immediate implementation, pending appeal, of a decision reinstating a dismissed or separated employee since that saving act is designed to stop, although temporarily since the appeal may be decided in favor of the appellant, a continuing threat or danger to the survival or even the life of the dismissed or separated employee and his family.[38]

We cannot do less. The petition for certiorari in CA G.R. SP No. 62388 must be dismissed.

WHEREFORE, the petition is GRANTED. The January 11, 2000 and May 23, 2001 Resolutions of the Court of Appeals are ANNULLED AND SET ASIDE, and the Petition for Certiorari docketed as CA G.R. SP No. 62388 is DISMISSED. The Resolutions dated December 17, 1999 and October 11, 2000 of the National Labor Relations Commission are AFFIRMED.

Costs against petitioner.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Callejo, Sr. and Chico-Nazario, JJ., concur.

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[1] Floren Hotel v. National Labor Relations Commission, G.R. No. 155264, May 6, 2005, 458 SCRA 128, 142; Caingat v. National Labor Relations Commission, G.R. No. 154308. March 10, 2005, 453 SCRA 142, 148-149; Serrano v. Galant Maritime Services, Inc., 455 Phil. 992, 998 (2003).

[2] Quintano v. National Labor Relations Commission, G.R. No. 144517, December 13, 2004, 446 SCRA 193, 204.

[3] Rollo, pp. 47-49.

[4] CA rollo, p.75

[5] Id. at 78-79.

[6] CA rollo, pp. 83-86.

[7] Id. at 42.

[8] Id. at 94-95.

[9] CA rollo, p. 97.

[10] Id. at 36.

[11] Id. at 126.

[12] Id. at 33.

[13] Id. at 137.

[14] Id. at 34.

[15] CA rollo, pp. 26-52.

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[16] Id. at 54.

[17] Id. at.63-143.

[18] Id. at 159.

[19] Rollo, p. 49.

[20] Rollo, p. 21.

[21] Id. at 196.

[22] Id. at 22-31.

[23] Id. at 198-201.

[24] Batelec II Electric Cooperative, Inc. v. Energy Industry Administration Bureau, G.R. No. 135925, December 22, 2004, 447 SCRA 482, 495; Nayve v. Court of Appeals, 446 Phil. 473, 482-483 (2003).

[25] Durban Apartments Corporation v. Catacutan, G.R. No. 167136, December 14, 2005, 477 SCRA 801, 808.

[26] Teoville Homeowners Association, Inc. v. Ferriera, G.R. No. 140086. June 8, 2005, 459 SCRA 459, 469.

[27] OSM Shipping Phil., Inc. v. National Labor Relations Commission, 446 Phil. 793, 802-803 (2003).

[28] Russel, Rizza, Katherine, Lyra, Ruth, all surnamed de los Santos, v. Court of Appeals, G.R. No. 147912, April 26, 2006; Lanzaderas v. Amethyst Security and General Services, Inc., 452 Phil. 621, 632 (2003);Sea Power Shipping Enterprises, Inc. v. Court of Appeals, 412 Phil. 603, 611 (2001).

[29] San Miguel Corporation v. Aballa, G.R. No. 149011, June 28, 2005, 461 SCRA 392, 413-414.

[30] Quintano v. National Labor Relations Commission, supra.

[31] Floren Hotel v. National Labor Relations Commission, supra.

[32] Caingat v.National Labor Relations Commission, supra; Serrano v. Galant Maritime Services, Inc., supra.

[33] Philippine Agila Satellite, Inc. v. Trinidad-Lichauco, G.R. No. 142362, May 3, 2006.

[34] Supra.

[35] Jimenez v. Court of Appeals, G.R. No. 144449, March 23, 2006.

[37] 449 Phil. 437, 446 (2003).

[38] G.R. No. 90501, August 5, 1991, 200 SCRA 246, 255.

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