

CORPORATE INN HOTEL, ANNIE DEL ROSARIO AND JULIE PALINSAD, PETITIONERS, VS. JENNEVIE H. LIZO, RESPONDENT.

G.R. No. 148279. May 27, 2004

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

At the heart of the controversy is the issue of whether petitioners, by the simple expedient of arguing substantial justice and miscarriage of justice, may be allowed to disregard the mandatory 10-day period of perfecting an appeal from the decision of the Labor Arbiter. A reverberating negative ruling was rendered by both the Court of Appeals and the National Labor Relations Commission (NLRC).

Before us is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision[1] dated March 30, 2001 and the Resolution[2] dated May 23, 2001 rendered by the Court of Appeals in CA-G.R. SP No. 59037, entitled “Corporate Inn Hotel, Annie Del Rosario and Julie Palinsad vs. Jennevie H. Lizo.”

The undisputed facts of the case are as follows:

On January 25, 1999, Corporate Inn Hotel, petitioner, engaged the services of Jennevie Lizo, respondent, as a probationary account executive. In such capacity, she was tasked to deal with clients, entertain customers, and promote patronage of the hotel. However, just a few weeks after her employment, petitioner received complaints from its clients against her for undesirable conduct. They also called petitioner’s attention to her inefficiency in discharging her duties.

Prompted by such reports, petitioner, on February 8, 1999, evaluated respondent’s performance. The evaluation disclosed her inability to deal with hotel guests. Thus, she was recommended to undergo an additional training under maximum supervision. But barely twenty-one (21) days after her employment, petitioner terminated her services effective February 15, 1999.

Aggrieved, respondent filed with the Labor Arbiter a complaint for illegal dismissal and other monetary claims against petitioner and its officers, Annie Del Rosario and Julie Palinsad, docketed as NLRC NCR Case No. 00-03-02577-99.

On September 30, 1999, the Labor Arbiter rendered a Decision holding that respondent was illegally dismissed, thus:

“All told, it is the finding of this Arbitration Branch that the imputation against the complainant are but the product of afterthoughts, if not surmises, and guessworks. The inevitable conclusion is that complainant was dismissed without just and valid cause and absent due process. Accordingly, she is entitled to her backwages from February 15, 1999 up to the date of this decision and to separation pay equivalent to one (1) month salary, hereunder computed as follows:

Backwages: P6,000.00/mo. x 7.5 mos = P 45,000.00

Separation Pay: at one (1) month pay = P 6,000.00

TOTAL P51,000.00

On the matter of the complainant's claim for moral and exemplary damages, this is not substantiated by the complainant. Mere allegation of illegal dismissal is not enough as it is required that complainant must prove that bad faith on the part of the respondents attended her dismissal from employment.

WHEREFORE, all the foregoing premises being considered, judgment is hereby rendered ordering the respondents to pay complainant the sum of P51,000.00.

SO ORDERED.”

Upon appeal, the National Labor Relations Commission (NLRC), in a Resolution dated March 31, 2000, dismissed the same for being late.

Petitioners filed a motion for reconsideration but was denied by the NLRC in a Resolution dated April 28, 2000.

Consequently, petitioners filed with the Court of Appeals a petition for certiorari.

In a Decision promulgated on March 30, 2001, the Appellate Court affirmed in toto the NLRC Resolution, ratiocinating thus:

“We dismiss the petition.

First. The perfection of an appeal within the reglementary period and in the manner prescribed by law is jurisdictional. Non-compliance therewith is fatal and it renders the judgment final and executory. Non-compliance with the required procedure deprives the appellate court of jurisdiction to alter the final judgment, much less, to entertain the appeal. The requirements for the perfection of an appeal are intended to discourage employers from using the appeal to delay or evade their obligations to their employees. It also assures employees that the money judgment in their favor will be satisfied.

The reglementary period for perfecting an appeal is provided for in Art. 223 of the Labor Code, to wit:

‘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: x x x’

Whereas, the manner for perfecting an appeal is outlined in Section 3(a), Rule VI of the NLRC New Rules of Procedure, to wit:

‘SECTION 3. REQUISITES FOR PERFECTION OF APPEAL. – a) The Appeal shall be filed within the reglementary period as provided in Section 1 of this Rule shall be under oath with proof of payment of the required appeal fee and the posting of a cash or surety bond as provided in Section 6 of this Rule; shall be accompanied by memorandum of appeal which shall state the grounds relied upon and the arguments in support thereof; the relief prayed for and a statement of the date when the appellant received the appealed decision, order or award and proof of service on the other party of such appeal.

‘A mere notice of appeal without complying with the other requisites aforesaid shall not stop the running of the period for perfecting an appeal.’ (underscoring ours)

In addition, Art. 223 of the Labor Code, 2nd paragraph, provides that:’

‘In case of a judgment involving a monetary award, an appeal by the employer 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 appealed from.’

Therefore, an appeal is perfected by simultaneously filing a notice of appeal and a memorandum of appeal and by posting an appeal bond, all within the period of ten (10) days from receipt of the questioned decision.

In the instant case, petitioner Corporate Inn’s appeal to the NLRC was filed out of time and petitioner realized this lapse from start but it pleaded for leniency with the NLRC, as it does now before Us, x x x:

x x x

Unfortunately, none of these circumstances sways Us to relax the rules in favor of petitioner. x x x

x x x

Third. So far, petitioner has taken great pains to plead for a relaxation of the reglementary period for filing an appeal. But while doing so, it failed to establish the other requisite for the perfection of an appeal - the posting of an appeal bond. Understandably, the NLRC no longer saw it fit to discuss this requisite due to its conclusion that the appeal was filed out of time. However, it was incumbent upon petitioner to allege compliance with the required appeal bond in its petition to add more depth to the theory that it has perfected its appeal, but it did not. This lapse compounds petitioner’s clearly untenable position on its tardy appeal and leaves no doubt in Our minds that indeed petitioners failed in all aspects to perfect its appeal.

WHEREFORE, the instant petition is hereby DISMISSED and the resolutions of the NLRC, dated 31 March 2000 and 28 April 2000 are SUSTAINED in toto. Costs against petitioners.

SO ORDERED.”

From the said Decision, petitioners filed a motion for reconsideration, but was denied by the Court of Appeals in a Resolution dated May 23, 2001.

Hence, this petition for review on certiorari.

The issue before us is not novel.

At the outset, it bears stressing that the right to appeal is a statutory right and one who seeks to avail of the right must comply with the statute or rules. The rules, particularly the requirements for perfecting an appeal within the reglementary period specified in the law, must be strictly followed as they are considered indispensable interdictions against needless delays and for orderly discharge of judicial business.[3]

The NLRC Rules, akin to the Rules of Court, promulgated by authority of law, have the force and effect of law; and such NLRC rules prescribing the time within which certain acts must be done, or certain proceedings taken, are considered absolutely indispensable to the prevention of needless delays and to the orderly and speedy discharge of judicial business.[4]

Thus, petitioners are mandated to perfect their appeal in the manner and within the period permitted by law and failure to do so renders the judgment of the Labor Arbiter final and executory.

In *Veterans Philippine Scout Security Agency vs. National Labor Relations Commission and Roberto De Los Santos*,[5] we held:

“Under Article 223 of the Labor Code, a decision of a Labor Arbiter is final and executory unless appealed to the National Labor Relations Commission by any or both of the parties within ten (10) days from notice of the said Decision. Thus, the perfection of an appeal within the reglementary period for the same is jurisdictional in character.”

Similarly, in *Peftok Integrated Services, Inc. vs. NLRC*,^[6] we considered the appeal of petitioner therein as flawed for being late, its appeal having been interposed seven (7) days beyond the 10-day reglementary period.

While we may have sidestepped the rule on the statutory or reglementary period for filing an appeal, yet, we emphasized this caveat: “we cannot respond with alacrity to every clamor of injustice and bend the rules to placate a vociferous protestor crying and claiming to be a victim of a wrong. It is only in highly meritorious cases that this Court opts not to strictly apply the rules and thus prevent a grave injustice from being done.”^[7] However this exception does not obtain here.

We thus find no compelling reason to reverse the Decision and Resolution of the Court of Appeals.

WHEREFORE, the petition is DENIED. The Decision dated March 30, 2001 and Resolution dated May 23, 2001 of the Court of Appeals in CA-G.R. SP No. 59037 are hereby AFFIRMED.

SO ORDERED.

Vitug, (Chairman), Corona, and Carpio Morales, JJ., concur.

[1] Annex “T-1” of the Petition for Review, Rollo at 145-154.

[2] Annex “V”, Id. at 158.

[3] *Arnold Ginete vs. Hon. Court of Appeals*, G.R. No. 127596, September 24, 1998, 296 SCRA 38.

[4] See, *Shioji vs. Harvey*, 43 Phil. 333 (1922).

[5] G.R. No. 78062, June 28, 1989, 174 SCRA 347.

[6] G.R. No. 124841, July 31, 1998, 293 SCRA 507.

[7] *Sublay vs. NLRC*, G.R. No. 130104, January 31, 2000, 324 SCRA 188, 194.

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