

EMCOR INCORPORATED, PETITIONER, VS. MA. LOURDES D. SIENES, RESPONDENT.

G.R. No. 152101. September 08, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

Before us is a special civil action for certiorari under Rule 65 of the Rules of Court filed by petitioner Emcor Incorporated seeking to set aside the Decision[1] dated May 24, 2001 and the Resolution[2] dated January 14, 2002 of the Court of Appeals (CA) in CA-G.R. SP No. 52810.

Petitioner is engaged in the business of selling, promoting and servicing National appliances and Kawasaki motorcycles and parts throughout Visayas and Mindanao. Respondent Ma. Lourdes D. Sienes was hired by petitioner on March 29, 1992 as one of its clerks assigned in its Personnel Department.

On June 6, 1996, respondent got married to a Credit Officer of petitioner who had to resign in view of petitioner's policy against husband and wife both working in the company.

On August 1, 1997, respondent was terminated from employment due to petitioner's retrenchment program.

On October 15, 1997, respondent filed a case for illegal dismissal and damages against petitioner alleging that her retrenchment was discriminatory and without basis; that when she was told on August 1, 1997 that she was being retrenched and was asked to sign a waiver and quitclaim which she refused to sign, thus, she was not allowed to report for work since then; that petitioner's alleged suffering from business reverses was belied by its continuous hiring of new employees from January to July 1997; that she was the third most senior of the seven clerks assigned to the Personnel Department and yet she was chosen to be retrenched when there was no evaluation of her performance before her termination; that petitioner committed bad faith in forcing her husband to resign in the guise of the alleged prohibition on spouses working in the same company. Respondent prayed for moral and exemplary damages.

In its position paper, petitioner argued that respondent was retrenched as part of its cost-cutting measures in order to prevent further losses; that she was served a one-month advance notice, receipt of which she refused to acknowledge; that it suffered financial losses in the amount of P6,321,953.00 for the year 1997 as shown by its Comparative Income Statement for the year 1996 and from February to June 1997; that it was constrained to resort to downsizing its manpower complement because of the continuous slump in the market demands for its products by reducing or abolishing some job positions in each department and transferring the work activities of the abolished positions to the remaining job positions; that there were 5 other employees retrenched who had received their separation pay; and that respondent's termination was a valid exercise of management prerogative.

Respondent filed her Reply and petitioner filed its Rejoinder.

On May 27, 1998, the Labor Arbiter issued a Decision[3] dismissing the case.

The Labor Arbiter found that petitioner's retrenchment program was to prevent further losses, thus, a valid exercise of management prerogative; that petitioner had served the affected employees one-month advance notice, a copy furnished the DOLE Regional Office, and they were properly paid their monetary benefits; that proof of actual losses incurred by the company was not a condition sine qua non for retrenchment as it could be resorted to by an employer primarily to avoid or minimize business losses as provided under Article 283 of the Labor Code; and that respondent's position was not indispensable to the operation of petitioner's business. The Labor Arbiter also found that the hiring of new employees was necessary for the different stores located throughout the country; that respondent failed to show that someone was hired to take her place, and she failed to controvert petitioner's Comparative Income Statement; and that there appeared no evidence that respondent's husband was forced to resign, as he voluntarily left the company.

Aggrieved, respondent filed an appeal with the National Labor Relations Commission (NLRC). In a Decision^[4] dated November 16, 1998, the NLRC dismissed the appeal and affirmed the Labor Arbiter's decision. Respondent received the NLRC decision on December 2, 1998.^[5]

On December 8, 1998, respondent filed a motion for reconsideration, which was denied in a Resolution^[6] dated January 11, 1999. She received the Resolution on January 25, 1999;^[7] thus, she had until March 20, 1999 to file a petition for certiorari with the CA.

On March 25, 1999, respondent filed a petition for certiorari with the CA. After the parties had filed their respective pleadings, the case was submitted for Decision.

On May 24, 2001, the CA rendered its assailed Decision, which reversed the decisions of the Labor Arbiter and the NLRC, the dispositive portion of which reads:

WHEREFORE, the petition is hereby GRANTED. The assailed decision is SET ASIDE, and a new one rendered declaring Lourdes' retrenchment as illegal and ordering EMCOR to reinstate Lourdes to her former position with payment of full backwages.^[8]

The CA found that the petition for certiorari was indeed filed out of time following SC Resolution dated July 21, 1998, which was applicable to respondent's case, as the petition was filed on March 29, 1999; that even applying SC A.M. No. 00-02-03 dated September 1, 2000, where a new period of 60 days from receipt of the denial of the motion for reconsideration is provided for, the petition was still filed out of time; nonetheless, the CA gave due course to the petition based on the merit of the case, setting aside technical rules in the higher interest of justice.

In reversing the NLRC, the CA found that petitioner failed to present the quantum of proof of its losses to justify respondent's retrenchment; that the best proof of the profit and loss performance of a company was not petitioner's Comparative Income Statement but the Income Statement for the year 1996 bearing the accountant's signature or showing that it was audited by an independent auditor; that since respondent was terminated on August 1, 1997 when fiscal year 1997 had not yet ended, petitioner should have come up with its books of accounts and profit and loss statement signed by its accountant; that petitioner's Comparative Income Statement which covered only the year 1996 and two quarters of 1997, was not sufficient to show serious business losses, as it failed to show the income or losses for the years immediately preceding 1996; that it hired new employees when it could have offered respondent any of the clerical positions for newly-hired employees. The CA also held that the required one-month notice prior to her termination was not complied with since she was no longer allowed to work on August 2, 1997 despite the fact that the notice to terminate her was made only on August 1, 1997; and that there were no fair and reasonable criteria observed in terminating her. The CA, however, found no evidence to substantiate respondent's claim for damages.

Petitioner received a copy of the CA decision on June 8, 2001 and filed a motion for reconsideration on June 20,

2001. On January 14, 2002, the CA denied the motion for reconsideration, and petitioner received a copy of the resolution on January 24, 2002.

Undaunted, petitioner filed a petition for certiorari raising the following issues:

PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO EXCESS OF OR LACK OF JURISDICTION WHEN IT GAVE DUE COURSE TO THE APPEAL DESPITE THE FACT THAT IT WAS ADMITTEDLY FILED OUT OF TIME.

PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO EXCESS OF OR LACK OF JURISDICTION WHEN IT FURTHER REVERSED AND SET ASIDE THE CONSISTENT RULING OF BOTH THE LABOR ARBITER AND THE NATIONAL LABOR RELATIONS COMMISSION.[9]

Petitioner alleges that the CA erred in giving due course to the petition for certiorari, as the same was filed out of time, and a liberal application of Section 4, Rule 65 of the 1997 Rules of Civil Procedure was uncalled for; that both the Labor Arbiter and the NLRC, being experts in their field and having a good grasp of the over-all conditions then prevailing, affirmed with definiteness the soundness of petitioner's retrenchment program; and that the CA gravely erred and abused its discretion when it reversed the findings of the Labor Arbiter and the NLRC, since the policy of the court is not to interfere with the exercise of the adjudicatory functions of the administrative bodies, unless there be a showing of arbitrary action or palpable and serious error.

In her Comment, respondent argues that the petition should be dismissed, as petitioner filed a petition for certiorari under Rule 65 which was a wrong remedy, since an appeal from a final disposition of the CA should be under Rule 45 of the Rules of Court; that certiorari cannot be used as a substitute for the lost or lapsed appeal. Respondent counters that the petition for certiorari filed before the CA was timely filed under A.M. No. 00-2-03-SC amending Section 4, Rule 65 of the Rules of Court; that the CA correctly reversed the decision of the administrative bodies, since petitioner presented an unsigned and unaudited Comparative Income Statement for the year 1996 and from January to June 1997; and that there were no criteria applied to the selection of the employees to be terminated.

In its Reply, petitioner argues that an appeal under Rule 45 presupposes that the inferior court had jurisdiction to entertain the case; however, the CA had no jurisdiction to entertain the same because the petition was filed beyond the 60-day period required for filing the petition. Petitioner raised for the first time respondent's failure to pay the full amount of docket fees at the time of the filing of the petition. It claims that the CA committed grave abuse of discretion amounting to lack of jurisdiction when it reversed the findings of both the Labor Arbiter and the NLRC, thus, the appropriate remedy is a petition for certiorari. Petitioner contends that nevertheless, the instant petition is not a substitute for a lapsed appeal; since petitioner received a copy of the CA resolution denying its motion for reconsideration on January 24, 2002, and the instant petition was filed on February 7, 2002, i.e., within the 15-day period to file the petition for review on certiorari.

Preliminarily, we must first resolve respondent's contention that the instant petition for certiorari filed under Rule 65 should be summarily dismissed for being the wrong mode of appeal.

The proper remedy of a party aggrieved by a decision of the Court of Appeals is a petition for review under Rule 45, which is not identical to a petition for certiorari under Rule 65. Rule 45 provides that decisions, final orders or resolutions of the Court of Appeals in any case, i.e., regardless of the nature of the action or proceedings involved, may be appealed to us by filing a petition for review, which would be but a continuation of the appellate process over the original case.[10] Thus, petitioner should have filed a petition for review under Rule 45 instead of a special civil action for certiorari under Rule 65.

Petitioner's argument that a petition for certiorari is the proper remedy since the CA had no jurisdiction to entertain the petition for certiorari filed before it as the petition was filed beyond the 60-day period for filing the same deserves scant consideration. There is no reason why such issue could not have been raised on appeal.

However, in accordance with the liberal spirit pervading the Rules of Court and in the interest of justice, we have the discretion to treat a petition for certiorari as having been filed under Rule 45, especially if filed within the reglementary period for filing a petition for review.[11] Petitioner received the CA resolution denying its motion for reconsideration on January 24, 2002, and it filed the petition for certiorari on February 7, 2002; thus, the petition was filed within the 15-day reglementary period for filing a petition for review.

Now, on the issues raised by petitioner.

Petitioner contends that the CA erred in giving due course to respondent's petition for certiorari for being filed out of time.

We do not agree.

Records show that respondent received the NLRC decision on December 2, 1998 and filed her motion for reconsideration on December 8, 1998. The NLRC denied the motion for reconsideration, which respondent received on January 25, 1999. Thus, she had only 54 days, i.e., until March 20, 1999, to file the petition for certiorari with the CA, in consonance with Circular No. 39-98, which contained the amendments to Section 4, Rule 65 of the 1997 Rules of Civil Procedure, which was in effect when the petition was filed, thus:

SEC. 4. Where and when petition to be filed. - The petition may be filed not later than sixty (60) days from notice of the judgment, order or resolution sought to be assailed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, and unless otherwise provided by law or these Rules, the petition shall be filed in and cognizable only by the Court of Appeals.

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 which shall not be less than five (5) days in any event, reckoned from notice of such denial. No extension of time to file the petition shall be granted, except for the most compelling reason and in no case to exceed fifteen (15) days.

Respondent filed the petition on March 25, 1999,[12] and not on March 29, 1999 as erroneously stated by the CA; thus, the petition was indeed filed out of time. However, on September 1, 2000, A.M. No. 00-2-03-SC took effect, amending Section 4, Rule 65 of the 1997 Rules of Civil Procedure, whereby the 60-day period within which to file the petition shall be counted from notice of the denial of the motion for reconsideration, if one is filed. We ruled that A.M. No. 00-2-03-SC, being a curative statute, should be applied retroactively.[13]

In *Narzoles v. NLRC*,[14] the rationale for the retroactive application of A.M. No. 00-2-03-SC was stated in this wise, thus:

The Court has observed that Circular No. 39-98 has generated tremendous confusion resulting in the dismissal of numerous cases for late filing. This may have been because, historically, i.e., even before the 1997 revision to the Rules of Civil Procedure, a party had a fresh period from receipt of the order denying the motion for reconsideration to file a petition for certiorari. Were it not for the amendments brought about by Circular No. 39-98, the cases so dismissed would have been resolved on the merits. Hence, the Court deemed it wise to revert to the old rule allowing a party a fresh 60-day period from notice of the denial of the motion for

reconsideration to file a petition for certiorari. Earlier this year, the Court resolved, in A.M. No. 00-2-03-SC, to further amend Section 4, Rule 65 to read as follows:

Sec. 4. When and where petition filed. -- The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.

The petition shall be filed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction or in the Sandiganbayan if it is in aid of its appellate jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed in and cognizable only by the Court of Appeals.

No extension of time to file the petition shall be granted except for compelling reason and in no case exceeding fifteen (15) days.

The latest amendments took effect on September 1, 2000, following its publication in the Manila Bulletin on August 4, 2000 and in the Philippine Daily Inquirer on August 7, 2000, two newspapers of general circulation.

In view of its purpose, the Resolution further amending Section 4, Rule 65 can only be described as curative in nature, and the principles governing curative statutes are applicable.

Curative statutes are enacted to cure defects in a prior law or to validate legal proceedings which would otherwise be void for want of conformity with certain legal requirements. They are intended to supply defects, abridge superfluities and curb certain evils. They are intended to enable persons to carry into effect that which they have designed or intended, but has failed of expected legal consequence by reason of some statutory disability or irregularity in their own action. They make valid that which, before the enactment of the statute was invalid. Their purpose is to give validity to acts done that would have been invalid under existing laws, as if existing laws have been complied with. Curative statutes, therefore, by their very essence, are retroactive.

Accordingly, while the Resolution states that the same "shall take effect on September 1, 2000, following its publication in two (2) newspapers of general circulation," its retroactive application cannot be denied. In short, the filing of the petition for certiorari in this Court on 17 December 1998 is deemed to be timely, the same having been made within the 60-day period provided under the curative Resolution. We reach this conclusion bearing in mind that the substantive aspects of this case involves the rights and benefits, even the livelihood, of petitioner employees.[15]

Thus, the petition, which was filed on March 25, 1999, was timely filed as provided under A.M. No. 00-2-03-SC. Although the CA erroneously found that the petition was filed only on March 29, 1999 and thus the same was not timely filed even under A.M. No. 00-2-03-SC, it nonetheless gave due course to the petition based on the merit of the case. We have held that the application of technical rules of procedure may be relaxed to serve the demands of substantial justice, particularly in labor cases, because they must be decided according to justice and equity and the substantial merits of the controversy.[16] However, as we have discussed above, the petition was timely filed under A.M. No. 00-2-03-SC.

Anent petitioner's claim regarding respondent's failure to pay the full amount of docket fees at the time of the filing of the petition with the CA, we find that it is estopped from questioning the jurisdiction of the CA on this ground, because such issue had never been raised in any of the pleadings filed before the CA. Notably, the CA issued a minute resolution[17] dated June 7, 1999 requiring respondent to remit the amount of P510.00 to complete the docket and other fees. Respondent complied, but due to inadvertence, the amount remitted lacked

the amount of P10.00, thus, the CA in a Resolution[18] dated November 22, 1999, considered the appeal abandoned pursuant to Section 1(c), Rule 50 of the 1997 Rules of Court. Upon respondent's motion for reconsideration, the appeal was reinstated on February 22, 2000.[19] Petitioner was copy-furnished all the resolutions issued by the CA, but petitioner never raised the issue of incomplete payment of docket fees. In fact, such issue was only raised for the first time in its Reply filed with us.

Petitioner's argument that the CA erred and abused its discretion in reversing the findings of the Labor Arbiter and the NLRC, as it is the court's policy of non-interference in the exercise of the adjudicatory functions of the administrative bodies, is devoid of merit. We agree with petitioner that factual findings of quasi-judicial and administrative bodies are accorded great respect and even finality by the courts. However, this rule is not absolute. When there is a showing that the factual findings of administrative bodies were arrived at arbitrarily or in disregard of the evidence on record, they may be examined by the courts. The CA can grant the petition for certiorari if it finds that the NLRC, in its assailed decision or resolution, made a factual finding not supported by substantial evidence. It is within the jurisdiction of the CA, whose jurisdiction over labor cases has been expanded to review the findings of the NLRC. In *R & E Transport, Inc. v. Latag*,[20] we held:

The power of the CA to review NLRC decisions via a Rule 65 petition is now a settled issue. As early as *St. Martin Funeral Homes v. NLRC*, we have definitively ruled that the proper remedy to ask for the review of a decision of the NLRC is a special civil action for certiorari under Rule 65 of the Rules of Court, and that such petition should be filed with the CA in strict observance of the doctrine on the hierarchy of courts. Moreover, it has already been explained that under Section 9 of Batas Pambansa (BP) 129, as amended by Republic Act 7902, the CA - pursuant to the exercise of its original jurisdiction over petitions for certiorari - was specifically given the power to pass upon the evidence, if and when necessary, to resolve factual issues.[21]

The next issue before us is whether the CA committed an error in reversing the NLRC decision finding respondent's dismissal valid due to retrenchment.

It is a settled rule that in the exercise of this Court's power of review, it does not inquire into the sufficiency of the evidence presented, consistent with the rule that this Court is not a trier of facts.[22] A fortiori, this rule applies to labor cases.[23] However, there are recognized exceptions[24] to this rule such as when the findings of fact are conflicting, which is present in this case, thus, a review is in order.

Article 283 of the Labor Code recognizes the right of the management to retrench or lay off workers to meet clear and continuing economic threats or during a period of economic recession to prevent losses, thus:

ART. 283. Closure of establishment and reduction of personnel. - The employer may also terminate the employment of any employee due to the installation of labor-saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor-saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year.

In *Flight Attendants and Stewards Association of the Philippines v. Philippines Airlines, Inc.*,[25] we have stated the nature, justification and requisites of a valid retrenchment, to wit:

The law recognizes the right of every business entity to reduce its work force if the same is made necessary by

compelling economic factors which would endanger its existence or stability. Where appropriate and where conditions are in accord with law and jurisprudence, the Court has authorized valid reductions in the work force to forestall business losses, the hemorrhaging of capital, or even to recognize an obvious reduction in the volume of business which has rendered certain employees redundant.

Nevertheless, while it is true that the exercise of this right is a prerogative of management, there must be faithful compliance with substantive and procedural requirements of the law and jurisprudence, for retrenchment strikes at the very heart of the worker's employment, the lifeblood upon which he and his family owe their survival. Retrenchment is only a measure of last resort, when other less drastic means have been tried and found to be inadequate.

The burden clearly falls upon the employer to prove economic or business losses with sufficient supporting evidence. Its failure to prove these reverses or losses necessarily means that the employee's dismissal was not justified. Any claim of actual or potential business losses must satisfy certain established standards, all of which must concur, before any reduction of personnel becomes legal. These are:

- (1) That retrenchment is reasonably necessary and likely to prevent business losses which, if already incurred, are not merely de minimis, but substantial, serious, actual and real, or if only expected, are reasonably imminent as perceived objectively and in good faith by the employer;
- (2) That the employer served written notice both to the employees and to the Department of Labor and Employment at least one month prior to the intended date of retrenchment;
- (3) That the employer pays the retrenched employees separation pay equivalent to one (1) month pay or at least one-half (½) month pay for every year of service, whichever is higher;
- (4) That the employer exercises its prerogative to retrench employees in good faith for the advancement of its interest and not to defeat or circumvent the employees' right to security of tenure; and,
- (5) That the employer used fair and reasonable criteria in ascertaining who would be dismissed and who would be retained among the employees, such as status, efficiency, seniority, physical fitness, age, and financial hardship for certain workers.[26]

Petitioner claims that respondent was retrenched as part of its cost-cutting measures to prevent further losses as it had suffered financial losses in the amount of P6,321,953.00. The CA found that petitioner failed to present quantum of proof of losses to which we agree.

The burden of proving the validity of retrenchment is on the petitioner. Evidence does not sufficiently establish that petitioner had incurred losses that would justify retrenchment to prevent further losses. The Comparative Income Statement for the year 1996 and for the months of February to June 1997 which petitioner submitted did not conclusively show that petitioner had suffered financial losses. In fact, records show that from January to July 1997, petitioner hired a total of 114 new employees assigned in the petitioner's stores located in the different places of the country.[27]

We, however, disagree with the CA finding that petitioner failed to comply with the notice requirement to be served on respondent and the Department of Labor and Employment at least one month prior to the intended date of retrenchment.

Records show that petitioner had served a written notice dated July 30, 1997 to respondent which was to be effective 30 days from receipt of the notice.[28] Respondent received the notice on August 1, 1997 and she was no longer allowed to report for work the following day. Although respondent was asked not to report for work, still her termination was to be effective one month from receipt of notice and she would be paid whatever entitlements due her under the law. Thus, the notice requirement was indeed complied with by petitioner.

Finally, we agree with the CA in finding that petitioner failed to show that it used reasonable criteria in effecting retrenchment, such as, but not limited to: (a) less preferred status (e.g., temporary employee), (b) efficiency, and (c) seniority.

Records do not show any criterion adopted or used by petitioner in dismissing respondent. Respondent was terminated without considering her seniority. Retrenchment scheme without taking seniority into account rendered the retrenchment invalid.[29] While respondent was the third most senior employee among the 7 employees in petitioner's personnel department, she was retrenched while her other co-employees junior than her were either retained in the Personnel Department[30] or were transferred to other positions in the company.[31] There was no showing that respondent was offered to be transferred to other positions.

We, therefore, find that the CA did not err, much less abuse, its discretion in finding that respondent's dismissal was arbitrary and illegal.

WHEREFORE, the petition is DENIED. The Decision dated May 24, 2001 and the Resolution dated January 14, 2002 of the Court of Appeals in CA-G.R. SP No. 52810 are AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Velasco, Jr., and Nachura, JJ., concur.

[1] Penned by Justice Conchita Carpio Morales (now a member of this Court), with Associate Justices Candido V. Rivera and Rebecca de Guia-Salvador, concurring; rollo, pp. 93-99.

[2] Id at. 102-103.

[3] Penned by Labor Arbiter Antonio M. Villanueva; rollo, pp. 58-64.

[4] Penned by Commissioner Leon G. Gonzaga, Jr., with Presiding Commissioner Oscar N. Abella, concurring; id. at 66-68.

[5] CA rollo, p. 12.

[6] Rollo, pp. 71-72.

[7] CA rollo, p. 12.

[8] Rollo, p. 99.

[9] Id. at 7.

[10] Mercado v. Court of Appeals, G. R. No. 150241, November 4, 2004, 441 SCRA 463, 469.

[11] Delsan Transport Lines, Inc. v. Court of Appeals, G.R. No. 112288, February 20, 1997, 268 SCRA 597, 605.

[12] It was the date stamped on the envelope containing respondent's petition for certiorari filed with the CA.

[13] Romero v. Court of Appeals, G.R. No. 142803, November 20, 2007, 537 SCRA 643, 648-649.

[14] G.R. No. 141959, September 29, 2000, 341 SCRA 533.

[15] Id. at 537-538. (Citations omitted.)

[16] See Garcia v. Philippine Airlines, Inc., G.R. No. 160798, June 8, 2005, 459 SCRA 768, 782.

[17] CA rollo, p. 90.

[18] Id. at 98.

[19] Id. at 104-105.

[20] G.R. No. 155214, February 13, 2004, 422 SCRA 698.

[21] Id. at 703-704.

[22] *The Insular Life Assurance Company, Ltd. v. Court of Appeals*, G.R. No. 126850, April 28, 2004, 428 SCRA 79, 85.

[23] *Chuayuco Steel Manufacturing Corporation and/or Edwin Chua v. Buklod Ng Manggagawa sa Chuayuco Steel Manufacturing Corporation*, G.R. No. 167347, January 31, 2007, 513 SCRA 621.

[24] Id. at 627-628.

(1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.

[25] G.R. No. 178083, July 22, 2008, 559 SCRA 252.

[26] Id. at 272-273.

[27] LA decision, id. at 62.

[28] Rollo, p. 50.

[29] *Philippine Tuberculosis Society Inc. v. NLRC*, 356 Phil. 63, 72 (1998).

[30] Rollo, pp. 55-56.

[31] Id. at 53-54.

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