COMPUTER INNOVATIONS CENTER/NELSON YU QUILOS, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND REYNALDO C. CARIÑO, RESPONDENTS.

G.R. NO. 152410. June 29, 2005

Ponente: TINGA, J.

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TINGA, J.:

The facts underlying the present Petition for Review, as culled from the assailed Decision[1] of the Court of Appeals, are uncomplicated. Private respondent Reynaldo Cariño (Cariño) was hired in September of 1995 by petitioner Computer Innovations Center (CIC) as Instructor of Computer Technical Course.[2] He was promoted to Head of the Education Department of CIC in May of 1997.

On 26 March 1998, Cariño received a call from petitioner Nelson Yu Quilos (Quilos) of CIC, who advised Cariño to resign from his position. Two days later, on 28 March 1998, Quilos met Cariño at the company's technician's laboratory and informed the latter that his services with the company should cease by 31 March 1998. Aggrieved, Cariño lodged a complaint for illegal dismissal against CIC and Quilos with the National Labor Relations Commission (NLRC) Regional Arbitration Branch in Davao City.[3]

According to CIC, it received reports from its employees regarding Cariño's purported unprofessional conduct, adverting to a general lack of interpersonal skills and moonlighting activities which conflicted with the interest of CIC. It was alleged that Cariño had admitted to his moonlighting activities during the meeting of 28 March 1998, and had refused a promotion offered by CIC conditioned on his termination of involvement with other computer schools. Instead, as claimed by CIC, Cariño announced during the said meeting that he would resign from CIC, reporting for work only until 31 March 1998.[4]

On 29 August 1999, Labor Arbiter Newton R. Sancho rendered a Decision concluding that Cariño had been illegally dismissed, and ordering petitioners to pay the amount of Two Hundred Twenty Thousand Six Hundred Sixty Six Pesos and Sixty Six Centavos (P220,666.66) representing backwages, separation pay, and thirteenth (13th) month pay.[5]

A copy of the Decision was received by petitioners on 5 November 1999. On 15 November 1999, they filed a Notice of Appeal dated 12 November 1999 before the NLRC Regional Arbitration Branch, Davao City, attaching thereto a Memorandum on Appeal.[6] The Memorandum on Appeal was also filed before the NLRC Fifth Division, Cagayan de Oro City. They also posted a bond of Ten Thousand Pesos (P10,000.00), a sum that is evidently nowhere near the sum of the award made by the Labor Arbiter. However, in their Memorandum of Appeal, petitioners had requested a reduction of the cash or surety bond to Ten Thousand Pesos (P10,000.00). The cited ground for the reduction of the appeal bond was the purportedly great possibility of the reversal of the Labor Arbiter's Decision in light of the serious errors in the findings of fact and application of law as well as the harshness and unfounded nature of the award.[7]

In a Resolution dated 29 June 2000, the NLRC Fifth Division denied the motion for reduction of appeal bond and

dismissed the appeal on the ground of "non-perfection." The NLRC ruled that "the mere perception [that] the appealed decision would be reversed on appeal [did] not justify the reduction of the required appeal bond."[8] The NLRC mistakenly noted that petitioners had not even posted the desired reduced bond. Petitioners moved for reconsideration, citing among others, that they had posted the reduced bond of Ten Thousand Pesos (P10,000.00). The NLRC, while acknowledging the filing of the reduced bond, still denied the motion for reconsideration, noting that the appeal could only be perfected once petitioners had posted the appeal bond equivalent to the monetary award. The NLRC pithily noted that "the posting by the [petitioners] of the cash bond of P10,000.00 means nothing, as it is lesser [than] that what was required by them."[9]

The dismissal of the appeal was elevated to the Court of Appeals by way of petition for certiorari. The Court of Appeals Seventh Division promptly rendered a Decision dated 19 September 2001 affirming the NLRC. The appellate court found no fault on the part of the NLRC in denying the appeal, as the statutory requirement pertaining to the appeal bond had not been met. The appellate court further noted that petitioners could have exhibited good faith in attempting to comply with the dictates of the law by filing a motion for leave to admit belated additional bond after the initial resolution denying their appeal, yet this was not done by petitioners.

Before this Court, petitioners insist that they had complied with all the requirements for perfecting an appeal, including the posting of a cash bond, albeit at a reduced amount. Citing Star Angel Handicraft v. NLRC,[10] they allege a distinction between the filing of an appeal within the reglementary period and its perfection, in that while the filing of the appeal must be done within the ten (10)-day reglementary period, its perfection may be accomplished after the said period. They argue that their appeal should have been deemed perfected upon the posting of the insufficient bond. Petitioners likewise claim that they had not been afforded the opportunity to ventilate their side of the controversy before the Labor Arbiter, as they were not properly notified regarding the submission of the required Position Paper.

On the other hand, respondent Cariño takes the high road and suggests that he is amenable to having petitioners instead post the bond corresponding to the full amount awarded to him by the Labor Arbiter.[11] The suggestion is cavalier, but unnecessary, owing to the patent untenability of the position of petitioners.

Exceptions aside, the provisions of the Labor Code are quite clear-cut on the matter. The relevant portion of Article 223 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. . . .
>
> 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. (Emphasis Supplied)

By explicit provision of law, an appeal is perfected only upon the posting of a cash or surety bond. The requirement for posting the surety bond is jurisdictional and cannot be trifled with.[12] The word "only" makes it perfectly clear that the lawmakers intended the posting of a cash or surety bond by the employer to be the exclusive means by which an employer's appeal may be perfected.[13] As evinced by the language of Article 223, the posting of such bond is required before the NLRC can acquire jurisdiction over the employer's appeal. Petitioners concede this point,[14] yet in the next breath invoke the doctrine that "the dismissal of an appeal on purely technical ground is frowned upon."[15] Invocation of this rule as a means of argument against the strict imposition of the cash bond requirement is off-base, considering Article 223.

The NLRC Rules of Procedure reaffirms the explicit jurisdictional principle in Article 223, even as it allows in

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justifiable cases, the reduction of the appeal bond. The relevant provisions state:

RULE VI. APPEALS

. . . .

> 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 5 of this Rule; shall be accompanied by a 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 requisite aforestated shall not stop the running of the period for perfecting an appeal.
>
> . . . .
>
> Section 6. Bond. – In case the decision of the Labor Arbiter, the Regional Director or his duly authorized Hearing Officer involves a monetary award, an appeal by the employer shall be perfected only upon the posting of a cash or surety bond, which shall be in effect until final disposition of the case, issued by a reputable bonding company duly accredited by the Commission or the Supreme Court in an amount equivalent to the monetary award, exclusive of damages and attorney's fees.
>
> The employer, his counsel, as well as the bonding company, shall submit a joint declaration under oath attesting that the surety bond posted is genuine.
>
> The Commission may, in justifiable cases and upon Motion of the Appellant, reduce the amount of the bond. The filing of the motion to reduce bond shall not stop the running of the period to perfect appeal.[16] (Emphasis Supplied)

It is clear from both the Labor Code and the NLRC Rules of Procedure that there is legislative and administrative intent to strictly apply the appeal bond requirement, and the Court should give utmost regard to this intention. There is a concession to the employer, in excluding damages and attorney's fees from the computation of the appeal bond.[17] Not even the filing of a motion to reduce bond is deemed to stay the period for requiring an appeal. Nothing in the Labor Code or the NLRC Rules of Procedure authorizes the posting of a bond that is less than the monetary award in the judgment, or would deem such insufficient postage as sufficient to perfect the appeal.

On the other hand, Article 223 indubitably requires that the appeal be perfected only upon the posting of the cash or surety bond which is equivalent to the monetary award in the judgment appealed from. The clear intent of both statutory and procedural law is to require the employer to post a cash or surety bond securing the full amount of the monetary award within the ten (10)-day reglementary period. While the bond may be reduced upon motion by the employer, there is that proviso in Rule VI, Section 3 that the filing of such motion does not stay the reglementary period. The qualification effectively requires that unless the NLRC grants the reduction of the cash bond within the ten (10)-day reglementary period, the employer is still expected to post the cash or surety bond securing the full amount within the said ten (10)-day period. If the NLRC does eventually grant the motion for reduction after the reglementary period has elapsed, the correct relief would be to reduce the cash or surety bond already posted by the employer within the ten (10)-day period.

Admittedly, these rules as embodied in the Labor Code and the NLRC Rules of Procedure impose a burden on the employer intending to appeal the decision of the labor arbiter. Within the ten (10)-day reglementary period, the

employer has to prepare a memorandum of appeal and to secure a cash or surety bond equivalent to the monetary award in the judgment appealed from. The facility in obtaining the bond is highly dependent on circumstances particular to the employer. Yet it is highly probable that should the employer take the effort to secure the cash or surety bond immediately upon receipt of the decision of the Labor Arbiter, such bond would be available within the ten (10)-day reglementary period.

It also does not escape judicial notice that the cash/surety bond requirement does not necessitate the employer to physically surrender the entire amount of the monetary judgment. The usual procedure is for the employer to obtain the services of a bonding company, which will then require the employer to pay a percentage of the award in exchange for a bond securing the full amount. This observation undercuts the notion of financial hardship as a justification for the inability to timely post the required bond.

At the same time, the Court understands that especially in cases wherein the monetary award is significant in relation to the employer's assets, it might be difficult to immediately obtain the required bond pending ascertainment by the bonding company that the employer holds sufficient security in case the bond is subsequently executed. It is under these premises that petitioners' arguments should bear scrutiny.

Petitioners invoke the aforementioned holding in Star Angel that there is a distinction between the filing of an appeal within the reglementary period and its perfection, and that the appeal may be perfected after the said reglementary period. Indeed, Star Angel held that the filing of a motion for reduction of an appeal bond necessarily stays the reglementary period for appeal. However, in this case, the motion for reduction of appeal bond, which was incorporated in the appeal memorandum, was filed only on the tenth or final day of the reglementary period. Under such circumstance, the motion for reduction of appeal bond can no longer be deemed to have stayed the appeal, and the petitioner faces the risk, as had happened in this case, of summary dismissal of the appeal for non-perfection.

Moreover, the reference in Star Angel to the distinction between the period to file the appeal and to perfect the appeal has been pointedly made only once by this Court in Gensoli v. NLRC[18] thus, it has not acquired the sheen of venerability reserved for repeatedly-cited cases. The distinction, if any, is not particularly evident or material in the Labor Code; hence, the reluctance of the Court to adopt such doctrine. Moreover, the present provision in the NLRC Rules of Procedure, that "the filing of a motion to reduce bond shall not stop the running of the period to perfect appeal"[19] flatly contradicts the notion expressed in Star Angel that there is a distinction between filing an appeal and perfecting an appeal.

Ultimately, the disposition of Star Angel was premised on the ruling that a motion for reduction of the appeal bond necessarily stays the period for perfecting the appeal, and that the employer cannot be expected to perfect the appeal by posting the proper bond until such time the said motion for reduction is resolved. The unduly stretched-out distinction between the period to file an appeal and to perfect an appeal was not material to the resolution of Star Angel, and thus could properly be considered as obiter dictum.

Petitioners also characterize the appeal bond requirement as a technical rule, and that the dismissal of an appeal on purely technical grounds is frowned upon.[20] However, Article 223, which prescribes the appeal bond requirement, is a rule of jurisdiction and not of procedure. There is little leeway for condoning a liberal interpretation thereof, and certainly none premised on the ground that its requirements are mere technicalities. It must be emphasized that there is no inherent right to an appeal in a labor case, as it arises solely from grant of statute, namely the Labor Code.

We have indeed held that the requirement for posting the surety bond is not merely procedural but jurisdictional[21] and cannot be trifled with.[22] Non-compliance with such legal requirements is fatal and has the

effect of rendering the judgment final and executory.[23] The petitioners cannot be allowed to seek refuge in a liberal application of rules for their act of negligence.[24]

Petitioners note that since the NLRC Rules of Procedure authorize the reduction of the appeal bond, the rule is not "ironclad." Nonetheless, great respect is given to the discretion of the NLRC to reduce the appeal bond. In this case, there is palpably no merit in reducing the said appeal bond. The petitioners sought to have the appeal bond reduced from Two Hundred Twenty Thousand Six Hundred Sixty Six Pesos and Sixty Six Centavos (P220,666.66) to the woefully disproportional sum of Ten Thousand Pesos (P10,000.00). The employee, for whose benefit the appeal bond requirement is prescribed, would hardly be secured by the relatively miniscule cash guaranty in this case in the event of renewed victory on appeal, much more so should the employer subsequently employ artifices to evade execution of judgment.

The grounds cited for reduction of the appeal bond were "the great possibility of the reversal of the [Labor Arbiter's] decision in the light of the serious errors in the findings of fact and in the application of the law," and that the monetary award was too harsh and unfounded.[25] Just about any aggrieved employer can invoke such grounds. Indeed, the mere allegation of the decision as purportedly erroneous in fact or in law cannot serve to mitigate the appeal bond requirement. Neither could the allegation that the monetary award was too harsh or unfounded unsettle the appeal bond requirement absent concrete proof, especially if, as in this case, the alleged "harshness" of the award is not self-evident.

Petitioners point to the earlier error on the part of the NLRC in declaring that they had not even posted the desired reduced bond within the ten-(10) day reglementary period, when in fact they had. However, the NLRC correctly noted that even the posting of such reduced amount did not operate to perfect the petitioners' appeal. Strangely, petitioners impute unnecessary authority to the official receipt issued to them by the NLRC Regional Arbitration Branch No. XI, Davao City, in the amount of Ten Thousand Pesos (P10,000.00). The receipt establishes nothing more than that the petitioners posted a bond in an amount way below that required by the law.

The remainder of petitioners' arguments seek to persuade the Court to take a second look at the facts of the case. The Court is not a trier of facts. Neither is it wont to engage in factual review, especially in this case wherein the cause of the petitioners has been deemed bereft of merit on three levels of review—the Labor Arbiter, the NLRC, and the Court of Appeals. There is no reason to deviate from this jurisprudential yardstick.

One final note. As earlier stated, the underlying purpose of the appeal bond is to ensure that the employee has properties on which he or she can execute upon in the event of a final, providential award. The non payment or woefully insufficient payment of the appeal bond by the employer frustrates these ends. Respondent Cariño alleges in his Comment before this Court that petitioner Quilos and his wife have since gone abroad, and wonders aloud whether he still would be able to collect his monetary award considering the circumstances.[26] Petitioners, in their Reply and Memorandum, do not aver otherwise. Indeed, such eventuality appears plausible considering that Quilos himself did not personally verify the petition,[27] and had in fact executed a Special Power of Attorney in favor of his counsel, Atty. Bernabe B. Alabastro, authorizing the filing of cases in his name.[28] It does not necessarily follow that the absence of Quilos from this country precludes the execution of the award due Cariño.[29] However, if the absence of Quilos from this country proves to render impossible the execution of judgment in favor of Cariño, then the latter's victory may sadly be rendered pyrrhic. The appeal bond requirement precisely aims to prevent empty or inconsequential victories by the laborer, and it is hoped that herein petitioners' refusal to post the appropriate legal appeal bond does not frustrate the ends of justice in this case.

WHEREFORE, the PETITION is DENIED. Costs against petitioners.

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SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

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[1] Penned by Justice B. Abesamis, concurred in by Justices G. Jacinto and E. de los Santos; Rollo, pp. 30-38.

[2] Id. at 31.

[3] Docketed as NLRC Case No. RAB-XI-08-00946-98.

[4] Rollo, pp. 10-11.

[5] Id. at 32.

[6] Id. at 122.

[7] Ibid.

[8] Ibid.

[9] Id. at 124.

[10] G.R. No. 108914, 20 September 1994, 236 SCRA 580.

[11] Rollo, p. 127.

[12] Unicane Workers Union-CLUP v. NLRC, 330 Phil. 291, 301 (1996).

[13] Viron Garments Mftg., Co., Inc. v. NLRC, G.R. No. 97357, 18 March 1992; 207 SCRA 339, 342. See also Quiambao v. NLRC, 254 SCRA 211, 216 [1996]; UERM-Memorial Medical Center v. NLRC, 269 SCRA 70, 74 [1997] "The meaning and the intention of the legislature in enacting a statute must be determined from the language employed, and where there is no ambiguity in the words, there is no room for construction." Ibid. citing Provincial Board of Cebu v. Presiding Judge of Cebu Court of First Instance, Branch IV, 171 SCRA 1.

[14] Rollo, p. 21.

[15] Id. citing Modern Fishing Gear Labor Union v. NLRC, G.R. No. 53907, 6 May 1988.

[16] Notwithstanding subsequent amendments to the Rules of Procedure, the cited provisions from Rule VI remain unchanged from the time petitioners filed their appeal in 1999 up until the present day.

[17] A concession of long-standing, it being contained in the Interim Rules of Procedure of the NLRC. See Erectors, Inc. v. NLRC, G.R. No. 93690, 10 October 1991, 202 SCRA 597.

[18] G.R. No. 113051, 22 April 1998, 289 SCRA 407. Insofar as it rules on the effect of a Motion to Reduce the Bond, Star Angel is cited in Nationwide Securities and Allied Services, Inc. v. NLRC, 341 Phil. 393 (1997).

[19] Supra note 16.

[20] Rollo, p. 21.

[21] See Del Mar Domestic Enterprises v. NLRC, 347 Phil. 277 (1997); MERS Shoes Manufacturing, Inc. v. NLRC, G.R. No. 123669, 27 February 1998, 286 SCRA 647.

[22] See Unicane Workers Union-CLUP v. NLRC, 330 Phil. 291, 301 (1996).

[23] MERS Shoes Manufacturing, Inc. v. NLRC, supra note 21.

[24] See Commissioner of Internal Revenue v. A. Soriano, et al., 334 Phil. 965 (1997).

[25] Rollo, p. 122.

[26] Rollo, p. 75. See also id. at 126.

[27] The Verification and Affidavit of Non-Forum Shopping was signed by counsel for petitioners, Atty. Bernabe B. Alabastro. Rollo, p. 25.

[28] Rollo, p. 50.

[29] It appears though that there is controversy even in whether or not CIC has independent legal personality from Quilos. See Rollo, p. 68, wherein Cariño states: “Believing then [CIC] was a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines . . . private respondent then addressed it as a corporation in his Position Paper and other papers filed.” Indeed, nowhere in petitioners’ pleadings is it averred that CIC is a duly existing corporation, or otherwise has legal personality.

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