BORJA ESTATE AND/OR THE HEIRS OF MANUEL AND PAULA BORJA AND ATTY. MILA LAUIGAN IN HER CAPACITY AS THE ESTATE ADMINISTRATOR, PETITIONERS, VS. SPOUSES ROTILLO BALLAD AND ROSITA BA...

G.R. NO. 152550. June 08, 2005

Ponente: TINGA, J.

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TINGA, J.:

In this petition for review[1] under Rule 45 of the Rules of Court, petitioners Borja Estate and/or the Heirs of Manuel and Paula Borja and Atty. Mila Lauigan, in her capacity as the estate administrator (the Borjas) assail the Resolution[2] of the Court of Appeals Thirteenth Division denying their motion for reconsideration and the Decision[3] of the same division in CA-G.R. SP No. 60700, the dispositive portion of which states:

> WHEREFORE, foregoing considered, the assailed Resolutions dated April 14, 2000 and May 31, 2000 are hereby AFFIRMED in toto. The present petition is hereby DISMISSED for lack of merit.
>
> SO ORDERED.[4]

The above ruling of the Court of Appeals affirmed the Resolution[5] of the National Labor Relations Commission (NLRC), the decretal portion of which reads:

> WHEREFORE, premises considered, respondents' Motion for Reduction of Bond is hereby DISMISSED for lack of merit.
>
> The instant Appeal is hereby DISMISSED for failure to post a cash or surety bond within the reglementary period.
>
> SO ORDERED.[6]

The Borjas's motion for reconsideration of the above-quoted NLRC Resolution was likewise dismissed in another Resolution.[7]

As the Borjas's appeal was not given due course, the Labor Arbiter's Decision[8] was in effect affirmed, the dispositive portion of which states:

> WHEREFORE, with all the foregoing considerations, judgment is hereby rendered declaring the Spouses Rotillo and Rosita Ballad as illegally and unjustly dismissed in a whimsical and capricious manner which is oppressive to labor and respondents are jointly and severally ordered to reinstate complainants to their position as overseers without loss of seniority rights with full backwages, allowances and other benefits, computed as of the promulgation of this decision, as follows:
>
> 1. P 25,245.00 -Backwages, June to October 30, 1999
>
> x 2 (P166 x 365 over 12 x 5 months)

_____

P5 0,490.00 Backwages for both complainants

2. P 5,0490.00 – 13[th] month pay x 3 years

P 15,147.00

x 2

_____

P30,294.00 - 13[th] month pay for both complainants

3. P100,000.00 - Moral damages, for both complainants

4. P 50,000.00 – Exemplary damages, for both complainants

_____

P230,784.00

5. P272,646.00 – Separation pay, in case reinstatement is no longer feasible (P5049 x 27 years x 2 for both complainants)

6. Money equivalent of 12 cavans of shelled corn per harvest, transportations expenses, allowances and other benefits being enjoyed as overseers from the time these were withheld from them until actual payment, to be computed in the pre-execution hearing.

7. Plus one percent interest per month and ten percent attorney's fees.

All other claims are hereby dismissed.

SO ORDERED.[9]

The case arose out of the complaint filed by private respondents Spouses Rotillo and Rosita Ballad (Ballad spouses) against the Borjas for illegal dismissal, non payment of 13[th] month pay, separation pay, incentive pay, holiday and premiums pay plus differential pay, and moral and exemplary damages with the Regional Arbitration Branch No. II of the NLRC in Tuguegarao, Cagayan, on 8 June 1999.[10]

The Ballad spouses had been employed as overseers of the Borja Estate by its owners, the spouses Manuel Borja and Paula Borja, since 1972. Their appointment as such was later made in writing per the certification of appointment issued by Paula Borja.[11]

The Borja Estate comprises around two hundred (200) hectares of agricultural lands located in the towns of Iguig, Amulung, Enrile, Solana and Baggao, Cagayan Province. It includes two apartment buildings consisting of eleven doors for rent, both located at Caritan, Tuguegarao, Cagayan.[12]

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As overseers, the Ballad spouses' duties included the collection of owner's share of the harvest from the tenants and the delivery of such share to the estate administrator, as well as to account for it. They also collected monthly rentals from the lessees of the apartment and tendered the same to the administrator. They were tasked to oversee the lands and buildings entrusted to them and were instructed to report any untoward incident or incidents affecting said properties to the administrator. They were allegedly required to work all day and night each week including Saturdays, Sundays and holidays.[13]

For their compensation, the Ballad spouses received a monthly salary of P1,000.00 for both of them, or P500.00 each. They were provided residential quarters plus food and traveling allowances equivalent to twelve (12) cavans of shelled corn every crop harvest.[14] In the year 1980, said salary was increased to P2,500.00 for each of them by Paula Borja when she came from abroad. Until the time before their dismissal, the Ballad spouses received the same amount.[15]

The Ballad spouses further alleged that they were appointed as the attorney-in-fact of the owners to represent the latter in courts and/or government offices in cases affecting the titling of the Borjas' unregistered lands, and to institute and prosecute recovery of possession thereof, as well as in ejectment cases.[16]

They narrated that when the spouses Manuel and Paula Borja went to the United States of America, their children Lumen, Leonora and Amelia succeeded to the ownership and management of the Borja Estate. On 16 October 1986, the Ballad spouses claimed that Amelia or Mely, then residing in Rochester, New York, wrote then administrator Mrs. Lim informing her that the heirs had extended the services of the Ballad spouses and ordered Mrs. Lim to pay the hospitalization expenses of Rotillo Ballad which accrued to Ten Thousand Pesos (P10,000.00). It is also alleged that Mely had instructed Mrs. Lim to cause the registration of the Ballad spouses as Social Security System (SSS) members so that in case any of the latter gets sick, SSS will shoulder their medical expenses and not the Borjas.[17]

On 10 November 1996, according to the Ballad spouses, when Francisco Borja, brother of the late Manuel Borja, was appointed the new administrator, he issued immediately a memorandum to all the tenants and lessees of the Borja Estate to transact directly with him and to pay their monthly rentals to him or to his overseers, the Ballad spouses.[18]

Upon his appointment, Francisco Borja allegedly promised to give the Ballad spouses their food and traveling allowances aforestated but not the twelve (12) cavans per harvest which he reduced to two (2) cavans per harvest. Francisco Borja also stopped giving the Ballad spouses their allowances. For twenty-seven (27) years that the Ballad spouses were in the employ of the Borjas they were purportedly not paid holiday pay, overtime pay, incentive leave pay, premiums and restday pay, 13[th] month pay, aside from the underpayment of their basic salary.[19]

In June 1999, the Ballad spouses alleged that Francisco Borja unceremoniously dismissed them and caused this dismissal to be broadcast over the radio, which caused the former to suffer shock and physical and mental injuries such as social humiliation, besmirched reputation, wounded feelings, moral anxiety, health deterioration and sleepless nights.[20]

Thus, the filing of a case against petitioners before the Labor Arbiter. The Borjas interposed the defense that respondents had no cause of action against them because the latter were not their employees. The Borjas insisted that the Ballad spouses were allowed to reside within the premises of the Borja Estate only as a gesture of gratitude for Rosita Ballad's assistance in the registration of a parcel of land; and that they were merely utilized to do some errands from time to time. As to the money claims, the Borjas claimed the defense of prescription.[21]

As aforestated, the Labor Arbiter ruled that the Ballad spouses had been illegally dismissed, after concluding that they had been employees of the Borjas.[22]

Aggrieved by the decision, the Borjas filed their appeal on 26 November 1999 before the NLRC together with a Motion for Reduction of Bond.[23]

In a Resolution dated 14 April 2000, the NLRC dismissed the petitioners' Motion for Reduction of Bond. Petitioners' appeal was likewise dismissed in the same Resolution for failure to post a cash or surety bond within the reglementary period.[24] Petitioners' Motion for Reconsideration was also denied for lack of merit in another Resolution.[25]

Petitioners elevated the case to the Court of Appeals by way of a special civil action of certiorari. On 31 October 2001, the Court of Appeals affirmed the Resolutions of the NLRC holding that the filing of a cash or surety bond is sine qua non to the perfection of appeal from the labor monetary's award.

The Court of Appeals noted that the Borjas received a copy of the Labor Arbiter's Decision[26] on 18 November 1999. They thereafter filed their Notice of Appeal and Appeal on 26 November 1999. On even date, they also filed a Motion for Reduction of Bond. However, no proof was shown that the Borjas were able to post the required bond during the same period of time to appeal.[27]

The Court of Appeals observed that petitioners were able to post a bond only on 17 December 1999 in the amount of Forty Thousand Pesos (P40,000.00) when the same should have been done during the same period of appeal. As this was not done and as no justifiable reason was given for the late filing, the Court of Appeals ruled that the decision of the Labor Arbiter had become final and executory.[28]

The Court of Appeals likewise relied on the Labor Arbiter's finding that the Ballad spouses were employees of the petitioners.[29]

Hence, the instant petition.

In this petition, petitioners in essence assert that the Court of Appeals erred in agreeing with the NLRC that the posting of a cash or surety bond during the period of time to file an appeal is mandatory and the failure to do so would have the effect of rendering the appealed decision final and executory. Petitioners further insist that they never hired the Ballad spouses as employees.[30]

In a Resolution[31] dated 24 April 2002, the Court initially resolved to deny the petition for failure of the petitioners to show any reversible error in the decisions and resolution of the Labor Arbiter, the NLRC and the Court of Appeals.

However, the Court in a Resolution[32] dated 11 November 2002 decided to reinstate the petition after considering petitioners' arguments contained in their Motion for Reconsideration,[33] in which the Borjas stressed that the only issue sought to be resolved by their Petition is the correct interpretation of the rule requiring the posting of a bond for the perfection of an appeal. They implored the Court to contrive a definitive ruling on the matter which in their estimation has sowed confusion among practitioners as well as to those exercising quasi-judicial and judicial functions.[34]

There is no merit in the petition.

The appeal bond is required under Article 223 of the Labor Code which provides:

> 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.
>
> . . . .

Rule VI of the New Rules of Procedure of the NLRC implements this Article with its Sections 1, 3, 5, 6 and 7 providing pertinently as follows:

> Section. 1. Periods of Appeal.- Decisions, awards, or orders of the Labor Arbiter and the POEA Administrator shall be 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 of the Labor Arbiter or of the Administrator, and in case of a decision of the Regional Director or his duly authorized Hearing Officer within five (5) calendar days from receipt of such decisions, awards or orders . . .
>
> Section 3. Requisites for Perfection of Appeal.–(a) The appeal shall be filed within the reglementary period as provided in Sec. 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 Sec. 5 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 requisite aforestated shall not stop the running of the period for perfecting an appeal.
>
> Section 5. Appeal Fee.— The appellant shall pay an appeal fee of One hundred (P100.00) pesos to the Regional Arbitration Branch, Regional Office, or to the Philippine Overseas Employment Administration and the official receipt of such payment shall be attached to the records of the case.
>
> 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 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.
>
> Section 7. No extension of Period.- No motion or request for extension of the period within which to perfect an appeal shall be allowed.

Thus, it is clear from the foregoing that the appeal from any decision, award or order of the Labor Arbiter to the NLRC shall be made within ten (10) calendar days from receipt of such decision, award or order, and must be under oath, with proof of payment of the required appeal fee accompanied by a memorandum of appeal. In case the decision of the Labor Arbiter involves a monetary award, the appeal is deemed perfected only upon the posting of a cash or surety bond also within ten (10) calendar days from receipt of such decision in an amount equivalent to the monetary award.[35]

The intention of the lawmakers to make the bond an indispensable requisite for the perfection of an appeal by the employer is underscored by the provision that an appeal may be perfected "only upon the posting of a cash or

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surety bond." 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 considered completed.[36] The law however does not require its outright payment, but only the posting of a bond to ensure that the award will be eventually paid should the appeal fail. What petitioners have to pay is a moderate and reasonable sum for the premium of such bond.[37]

The word "may", on the other hand refers to the perfection of an appeal as optional on the part of the defeated party, but not to the posting of an appeal bond, if he desires to appeal.[38]

Evidently, the posting of a cash or surety bond is mandatory. And the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but jurisdictional.[39] To extend the period of the appeal is to delay the case, a circumstance which would give the employer the chance to wear out the efforts and meager resources of the worker to the point that the latter is constrained to give up for less than what is due him.[40] As ratiocinated in the case of Viron Garments Mftg. v. NLRC:[41]

> The requirement that the employer post a cash or surety bond to perfect its/his appeal is apparently intended to assure the workers that if they prevail in the case, they will receive the money judgment in their favor upon the dismissal of the employer's appeal. It was intended to discourage employers from using an appeal to delay, or even evade, their obligation to satisfy their employees' just and lawful claims.[42]

In the case at bar, while the petitioners' Appeal Memorandum and Motion for Reduction of Bond, which was annexed thereto, were both filed on time,[43] the appeal was not perfected by reason of the late filing and deficiency of the amount of the bond for the monetary award with no explanation offered for such delay and inadequacy.

As there was no appeal bond filed together with the Appeal Memorandum within the ten (10)-day period provided by law for the perfection of appeal, it follows that no appeal from the decision of the Labor Arbiter had been perfected.[44] Accordingly, the Decision of the Labor Arbiter became final and executory upon the expiration of the reglementary period.

While it is true that this Court has relaxed the application of the rules on appeal in labor cases, it has only done so where the failure to comply with the requirements for perfection of appeal was justified or where there was substantial compliance with the rules. Hence, the Supreme Court has allowed tardy appeals in judicious cases, e.g., where the presence of any justifying circumstance recognized by law, such as fraud, accident, mistake or excusable negligence, properly vested the judge with discretion to approve or admit an appeal filed out of time; where on equitable grounds, a belated appeal was allowed as the questioned decision was served directly upon petitioner instead of her counsel of record who at the time was already dead;[45] where the counsel relied on the footnote of the notice of the decision of the labor arbiter that the aggrieved party may appeal . . . within ten (10) working days; in order to prevent a miscarriage of justice or unjust enrichment such as where the tardy appeal is from a decision granting separation pay which was already granted in an earlier final decision; or where there are special circumstances in the case combined with its legal merits or the amount and the issue involved.[46]

Here, no justifiable reason was put forth by the petitioners for the non-filing of the required bond, or the late filing of the defective bond for that matter as in fact the bond they filed late on 17 December 1999 in the amount of Forty Thousand Pesos (P40,000.00) was not even equivalent to the reduced amount of bond they prayed for in their Motion for Reduction of Bond.[47] The Court then is not prepared to hold that the petitioners' Motion for Reduction of Bond was substantial compliance with the Labor Code for failure to demonstrate willingness to abide by their prayer in said Motion.

In addition, no exceptional circumstances obtain in the case at bar which would warrant the relaxation of the bond

requirement as a condition for perfecting the appeal.

It bears stressing that the bond is sine qua non to the perfection of appeal from the labor arbiter's monetary award. The requirements for perfecting an appeal must be strictly followed as they are considered indispensable interdictions against needless delays and for orderly discharge of judicial business. The failure of the petitioners to comply with the requirements for perfection of appeal had the effect of rendering the decision of the labor arbiter final and executory and placing it beyond the power of the NLRC to review or reverse it. As a losing party has the right to file an appeal within the prescribed period, so also the winning party has the correlative right to enjoy the finality of the resolution of his/her case.[48]

WHEREFORE, in view of the foregoing considerations, the petition is DENIED for lack of merit. Costs against petitioners.

SO ORDERED.

Austria-Martinez, (Acting Chairman), Callejo, Sr., and Chico-Nazario, JJ., concur.
Puno, (Chairman), J., on official leave.

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[1]Rollo, pp. 11-57; Dated 25 March 2002.

[2] Id. at 72-74; Promulgated on 7 March 2002.

[3] Id. at 59-69; Promulgated on 31 October 2001; Penned by Associate Justice B.A. Adefuin-De La Cruz and concurred in by Associate Justices Wenceslao I. Agnir, Jr. and Rebecca De Guia-Salvador.

[4] Id. at 69.

[5] Id. at 88-91; Promulgated on 14 April 2000; Penned by Commissioner Ireneo B. Bernardo of the Third Division of the NLRC and concurred in by Presiding Commissioner Lourdes C. Javier and Commissioner Tito F. Genilo.

[6] Id. at 90.

[7] Id. at 93; Dated 31 May 2000.

[8] Id. at 77-85; Dated 29 October 1999.

[9] Id. at 85.

[10] Id. at 61, 77 and 79.

[11] Dated 2 November 1974; Id. at 59, 77 and 279.

[12] Id. at 59-60.

[13] Id. at 60 and 280.

[14] Ibid.

[15] Ibid.

[16] Ibid.

[17] Id. at 60 and 281.

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[18] Ibid.

[19] Id. at 60 and 281.

[20] Id. at 60.

[21] Id. at 61.

[22] Ibid.

[23] Id. at 62 and 86-87.

[24] Id. at 62 and supra note 5.

[25] Id. at 62 and 93.

[26] Dated 29 October 1999.

[27] Rollo, p. 65.

[28] Ibid.

[29] Id. at 67-69.

[30] Id. at 17-18.

[31] Id. at 319.

[32] Id. at 329.

[33] Id. at 320-325.

[34] Id. at 320.

[35] Biogeneric Marketing & Research Corp. v. NLRC, 372 Phil. 653, 661 (1999).

[36] Globe Gen. Services and Security Agency v. NLRC, 319 Phil. 531, 535 (1995).

[37] Biogeneric Marketing & Research Corp. v. NLRC, 372 Phil. 653, 661 (1999); See Rosewood Processing, Inc. v. NLRC, 352 Phil. 1013, 1029 (1998) citing Oriental Mindoro Electric Cooperative, Inc. v. National Labor Relations Commission, 31 July 1995, 246 SCRA 794, 801.

[38] Viron Garments Mftg. v. NLRC, G.R. No. 97357, 18 March 1992, 207 SCRA 339.

[39] Catubay v. National Labor Relations Commission, 386 Phil. 648, 657 (2000); Taberrah v. NLRC, 342 Phil. 394, 404 (1997); Italian Village Restaurant v. NLRC, G.R. No. 95594, 11 March 1992, 207 SCRA 204, 208; Cabalan Pastulan Negrito Labor Association v. NLRC, 311 Phil. 744 (1995); Rosewood Processing, Inc. v. NLRC, 352 Phil. 1013, 1028 (1998).

[40] Italian Village Restaurant v. NLRC, supra.G

[41] Supra note 38.

[42] Id. at 342.

[43] Rollo, p. 16.

[44] Cabalan Pastulan Negrito Labor Association v. NLRC, 311 Phil. 744, 762-763 (1995).

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[45] Catubay v. National Labor Relations Commission, supra note 39 at 658.

[46] Rosewood Processing, Inc. v. NLRC, 352 Phil. 1013, 1029 (1998) citing Philippine Airlines, Inc. v. National Labor Relations Commission, 263 SCRA 638, 658.

[47] Rollo, pp. 65 and 86.

[48] See Ginete v. Court of Appeals, 357 Phil. 36, 46-47 (1998).

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