

BIBIANA FARMS & MILLS, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (5TH DIVISION) AND ROGELIO MAJASOL, RESPONDENTS.

G.R. NO. 154284. October 27, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Assailed in the herein Petition for Certiorari under Rule 65 of the Rules of Court is the Resolution dated June 11, 2002, rendered by the Court of Appeals[1] (CA) in CA-G.R. SP No. 69403, which denied petitioner's motion for reconsideration of its Resolution dated September 19, 2001 denying the petition of private respondent for failure to pay docket fees, and directing private respondent to file his reply to petitioner's Comment.

Petitioner is a corporation engaged in hog and cattle raising, and corn milling, while Rogelio Majasol (private respondent) was employed therein as assistant to the head of the feeds mixing department.

On June 5, 1998, petitioner's security guards caught private respondent, as he was about to go out, with a tupperware-full of feeds. When confronted about it, he told the guards that he was going to feed it to his chicks. The matter was reported to the management and an inquiry was conducted. Private respondent was not allowed to report for work anymore in the afternoon of June 5.

On June 15, 1998, a conference was held before the Department of Labor and Employment (DOLE) where attempts at an amicable settlement were made.[2] However, before the case could be settled, a show-cause memorandum was issued to private respondent on June 17, 1998.[3] In a reply dated June 19, 1998, private respondent denied the incident. Private respondent also stated that even if it was true, given the length of his service with petitioner, he does not deserve to be terminated.[4]

On June 22, 1998, petitioner wrote private respondent informing him of their decision to separate him from employment. The notice of termination stated that petitioner was constrained to evaluate his case based on the affidavits of the security guards since he failed to submit his explanation within three days from service of the show-cause memo.[5]

On June 23, 1998, private respondent lodged a complaint for illegal dismissal, non-payment of allowance and service incentive leave pay.[6] The complaint was later amended to include vacation leave, unpaid wages, damages and attorney's fees.[7]

In a Decision dated May 31, 1999, Labor Arbiter (LA) Noel Augusto S. Magbanua dismissed the complaint for illegal dismissal and ordered the payment of unpaid wages and proportionate 13th month pay in favor of private respondent.[8]

The LA's decision was initially reversed and set aside by the National Labor Relations Commission (NLRC) in its Decision dated April 28, 2000.[9] It was the NLRC's finding that petitioner's evidence does not support their claim that private respondent violated the trust and confidence reposed on him by virtue of his position.[10] The

NLRC also found that private respondent was not accorded due process, and his termination was not commensurate to his violation.[11]

On motion for reconsideration, the NLRC, in its Resolution dated July 31, 2000, revised its decision and ruled that private respondent's dismissal is legal and with regard to due process. The NLRC set aside its order to reinstate private respondent, deleted all awards for money claims and reinstated the LA's award for unpaid wages and proportionate 13th month pay.[12]

Private respondent filed a motion for reconsideration of the NLRC's Resolution, but this was denied per Resolution dated May 31, 2001.[13]

Private respondent then filed a special civil action for certiorari with the CA, which, in a Resolution dated September 19, 2001, dismissed the petition on the ground of failure to pay docket fees.[14] On private respondent's motion for reconsideration, the CA granted the same per Resolution dated February 4, 2002.[15] Petitioner then filed a motion for reconsideration of said Resolution but the CA denied this in the assailed Resolution dated June 11, 2002.[16]

Hence, the present petition based on the sole ground that:

THE RESPONDENT COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT REVERSED THE RESOLUTION DATED 19 SEPTEMBER 2001 DISMISSING THE PETITION FOR FAILURE TO PAY THE NECESSARY DOCKET FEES.[17]

The thrust of petitioner's argument is that private respondent's failure to pay the docket fees is a case of negligence. According to petitioner, respondent had until September 4, 2001, within which to pay the docket fees; instead, he waited until October 15, 2001, or until after the CA first dismissed his petition that he paid the same. Petitioner also argues that private respondent's claim that payment of docket fees in the form of cash was originally enclosed in the petition should not be accepted; and given the mandatory nature of the payment of docket fees within the reglementary period, the CA should not have reconsidered its previous dismissal of the petition.

The Court denies the petition, as the CA did not commit any grave abuse of discretion in admitting private respondent's belated payment of docket fees and reinstating his petition.

Section 3, Rule 46 of the 1997 Rules of Civil Procedure, provides:

SEC. 3. Contents and filing of petition; effect of non-compliance with requirements. - The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.

x x x x

The petitioner shall pay the corresponding docket and other lawful fees to the clerk of court and deposit the amount of P500.00 for costs at the time of the filing of the petition.

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition. (Emphasis supplied)

Under the foregoing rule, non-compliance with any of the requirements shall be a sufficient ground for the dismissal of the petition. Corollarily, the rule is that a court cannot acquire jurisdiction over the subject matter of a case, unless the docket fees are paid. And where the filing of the initiatory pleading is not accompanied by payment of the docket fees, the court may allow payment of the fee within a reasonable time but in no case beyond the applicable prescriptive or reglementary period.[18]

In several cases, however, the Court entertained certain exceptions due to the peculiar circumstances attendant in these cases, which warrant a relaxation of the rules on payment of docket fees. It was held in *La Salette College v. Pilotin*,[19] that the strict application of the rule may be qualified by the following: first, failure to pay those fees within the reglementary period allows only discretionary, not automatic, dismissal; second, such power should be used by the court in conjunction with its exercise of sound discretion in accordance with the tenets of justice and fair play, as well as with a great deal of circumspection in consideration of all attendant circumstances.[20]

Thus, in *Villamor v. Court of Appeals*,[21] the Court sustained the decision of the CA to reinstate the private respondents' appeal despite having paid the docket fees almost one year after the notice of appeal was filed, finding that there is no showing that the private respondents deliberately refused to pay the requisite fee within the reglementary period and abandon their appeal. The Court also found that it was imperative for the CA to review the ruling of the trial court to avoid a miscarriage of justice. Thus, the Court concluded, "Under the circumstances obtaining in the case at bar, we see no cogent reason to reverse the resolutions of the respondent court. It is the policy of the court to encourage hearing of appeals on their merits. To resort to technicalities which the petitioner capitalizes on in the instant petition would only tend to frustrate rather than promote substantial justice." [22]

In the present case, the CA, in the exercise of its discretionary power, accepted private respondent's explanation that the money for the payment of docket fees was originally enclosed in the petition for certiorari but was misplaced, and reinstated the petition. The CA may have abused its discretion when it ignored the rule on payment of docket fees, but the Court finds that such abuse was not tainted with any capricious, despotic, oppressive or whimsical exercise of judgment.

The term grave abuse of discretion, in its juridical sense, connotes capricious, despotic, oppressive or whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse must be of such degree as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law, as where the power is exercised in an arbitrary and capricious manner by reason of passion and hostility. The word "capricious", usually used in tandem with the term "arbitrary", conveys the notion of willful and unreasoning action. Thus, when seeking the corrective hand of certiorari, a clear showing of caprice and arbitrariness in the exercise of discretion is imperative.[23]

It should be noted that it was only after the CA dismissed his petition that private respondent learned that the payment for the docket fees did not reach the CA. Consequently, he filed a motion for reconsideration and enclosed postal money orders as payment. While private respondent may have taken the unnecessary risk in initially enclosing cash in his petition, nevertheless, it was clearly not a dilatory tactic nor intended to circumvent the Rules of Court. In fact, private respondent subsequently paid the docket fees even before the CA had passed upon their motion for reconsideration, which is indicative of his good faith and willingness to comply with the Rules.[24]

More importantly, the Court notes that there are two divergent rulings with regard to the propriety of private respondent's dismissal. The Labor Arbiter, in its Decision dated May 31, 1999, held that private respondent's dismissal was valid. On the other hand, the NLRC, in its Decision dated April 28, 2000, made its own factual finding that private respondent's dismissal was tainted with illegality. The NLRC may have reconsidered its ruling

per its Resolution dated July 31, 2000, still, the Court finds it more judicious to have this issue fully threshed out and properly resolved on appeal to the CA.

Clearly, the CA's exercise of its discretionary power was not made with any grave abuse, but in recognition of the need to ensure that every party litigant is given the amplest opportunity for the proper and just disposition of his cause freed from the constraints of technicalities.[25]

Rules of procedures are intended to promote, not to defeat, substantial justice and, therefore, they should not be applied in a very rigid and technical sense. The exception is that, while the Rules are liberally construed, the provisions with respect to the rules on the manner and periods for perfecting appeals are strictly applied. As an exception to the exception, these rules have sometimes been relaxed on equitable considerations. Also, in some cases the Supreme Court has given due course to an appeal perfected out of time where a stringent application of the rules would have denied it, but only when to do so would serve the demands of substantial justice and in the exercise of equity jurisdiction of the Supreme Court.

The underlying consideration in this petition is that the act of dismissing the notice of appeal, if done in excess of the trial court's jurisdiction, amounts to an undue denial of the petitioners' right to appeal. The importance and real purpose of the remedy of appeal has been emphasized in *Castro v. Court of Appeals* where this Court ruled that an appeal is an essential part of our judicial system and trial courts are advised to proceed with caution so as not to deprive a party of the right to appeal and instructed that every party-litigant should be afforded the amplest opportunity for the proper and just disposition of his cause, freed from the constraints of technicalities.[26]

The Court could have resolved this case on its merits considering that the records have already been elevated. It appears, however, that the present petition involved only the issue of whether or not the CA gravely abused its discretion in accepting private respondent's belated payment of docket fees. It was on this issue that the parties focused their arguments, and it would be a deprivation of their respective rights to due process if the Court were to resolve the merits of this case, without giving them the opportunity to present their respective stances. Consequently, the Court remands this case to the CA for the continuation of the proceedings before it.

WHEREFORE, the petition is DISMISSED. This case is remanded to the Court of Appeals for further proceedings.

No costs.

SO ORDERED.

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

[1] Penned by Associate Justice Bienvenido L. Reyes, with Associate Justices Eubulo G. Verzola and Marina L. Buzon, concurring.

[2] Records, p. 89.

[3] Id. at 55.

[4] Id. at 56.

[5] Id. at 57.

[6] Id. at 1.

[7] Id. at 14.

- [8] Id. at 70.
- [9] Id. at 218.
- [10] Id. at 217.
- [11] Id. at 218.
- [12] Id. at 272.
- [13] Id. at 319.
- [14] Id. at 401.
- [15] See Resolution dated June 11, 2002, rollo, p. 35.
- [16] Id.
- [17] Rollo, p. 13.
- [18] Mercado v. Court of Appeals, G.R. No. 150241, November 4, 2004, 441 SCRA 463, 470.
- [19] G.R. No. 149227, December 11, 2003, 418 SCRA 380.
- [20] See note 19, supra at 387.
- [21] G.R. No. 136858, July 21, 2004, 434 SCRA 565.
- [22] Id. at 574.
- [23] Olanolan v. Comelec, G.R. No. 165491, March 31, 2005, 454 SCRA 807, 814.
- [24] Yambao v. Court of Appeals, 399 Phil. 712, 720 (2000).
- [25] Camposagrado v. Camposagrado, G.R. No. 143195, September 13, 2005, 469 SCRA 602, 608.
- [26] Buenaflor v. Court of Appeals, 400 Phil. 395, 402-403 (2000).

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