

PINAKAMASARAP CORPORATION, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, RESPONDENT.

G.R. NO. 155058. September 26, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

The use of mere photocopies of certified true copies of judgments or orders subject matter of a petition renders that petition deficient and subject to dismissal. In order for such deficiencies to be corrected and the petition reinstated, there must be a showing of substantial and/or subsequent compliance with the requirements.[1] Mere invocations of liberality, without more, will not do.[2]

For want of certified true copies of the assailed decisions and resolution and copies of material pleadings, the Petition for Certiorari in CA-G.R. SP No. 68894 entitled "Pinakamasarap Corp. v. National Labor Relations Commission, Malayang Samahan ng mga Manggagawa sa Balanced Foods, Inc., Jose Acebuche, et al." was dismissed by the Court of Appeals (CA) in a Resolution dated March 25, 2002[3] and the Motion for Reconsideration denied in its Resolution of September 3, 2002.[4] These CA Resolutions are now being questioned in the Petition for Review on Certiorari before the Court.

The facts are of record.

Pinakamasarap Corporation (petitioner) filed with the National Labor Relations Commission (NLRC) two complaints for unfair labor practice docketed as NLRC NCR Case No. 00-04-02589-93 against Malayang Samahan ng Manggagawa sa Balanced Food and Nilo Letada, together with 14 other union officers and NLRC NCR Case No. 08-05251-93[5] against Malayang Samahan ng mga Manggagawa sa Balanced Food and Jose Acebuche, along with 90 other union members (private respondents). The parties in NLRC NCR Case No. 00-04-02589-93 went all the way to this Court where their petitions have been resolved with finality.[6] It is only NLRC NCR Case No. 08-05251-93 which is involved in the present case.

The Labor Arbiter (LA) in NLRC NCR Case No. 08-05251-93[7] issued a Decision dated August 18, 1998, the decretal portion of which reads:

WHEREFORE, all the foregoing premises being considered, judgment is hereby rendered declaring the subject strike to be illegal.

The complainant's prayer for the decertification of the respondent union being outside of the jurisdiction of this Arbitration Branch may not be given due course.

And finally, the claims for moral and exemplary damages for want of factual basis are dismissed.

SO ORDERED.[8]

Private respondents appealed[9] to the NLRC which, in a Decision dated November 29, 2001, modified the August 18, 1998 LA Decision, as follows:

WHEREFORE, premises considered, the Decision appealed from is hereby MODIFIED in that complainant is directed to reinstate respondents named in the complaint to their former positions but without backwages. In the event that reinstatement is not feasible complainant company is directed to pay respondents separation pay at one (1/2) half month per year of service.

SO ORDERED.[10]

Petitioner filed a Motion for Reconsideration[11] which the NLRC denied in its January 15, 2002 Resolution.[12] It then filed a Petition for Certiorari under Rule 65 with the CA.[13] It attached to the Petition photocopies of the August 18, 1998 LA Decision,[14] November 29, 2001 NLRC Decision,[15] and January 15, 2002 NLRC Resolution.[16] On the upper portion of page 9 of the Petition are markings indicating that counsel for private respondents, the NLRC and the Office of the Solicitor General received copies of the petition.[17] On the lower portion is a verification signed by Domingo Tan and Armando Ampil as petitioner's General Manager and Legal Counsel, respectively.[18]

The CA dismissed the Petition in its March 25, 2002 Resolution, thus:

It appearing that the attached copy of the assailed decisions and resolution are mere xeroxed copies, not certified true copies [as] required by Section 1 of Rule 65, 1997 Rules of Civil Procedure, the instant petition is ordered DISMISSED (Cadayon v. Court of Appeals, 324 SCRA 619 [2000]); Bañez v. Court of Appeals, 270 SCRA 19 [1997]). Likewise, it also failed to append other materials pleadings, such as, the complaint, position papers and appeal memoranda submitted below.

SO ORDERED.[19]

Petitioner filed a Motion for Reconsideration on the ground that its Annexes "A", "B" and "C" to the Petition are certified true copies and certified xerox copies of the assailed decision and resolution.[20] As to the lack of copies of the pleadings, this omission was excusable because Annexes "A" and "B" already contain summaries of said pleadings.[21]

The CA denied the Motion for Reconsideration in its September 3, 2002 Resolution which reads:

Contrary to petitioner's insistence in its Motion for Reconsideration dated April 19, 2002, the NLRC Decision dated November 29, 2001 and the NLRC Resolution dated January 15, 2002, attached to the petition, are not certified true copies but merely xeroxed copies, in violation of Section 1, par. 2, Rule 65 of the 1997 Rules of Civil Procedure, and a veritable ground for the dismissal of a petition for certiorari x x x.

Moreover, petitioner's Motion for Reconsideration dated April 19, 2002 contains no written explanation why service copy thereof to the respondents was not done personally but thru registered mail, in violation of Section 11, Rule 13 of the same 1997 Rules and a cause to consider the paper as not filed.

ACCORDINGLY, petitioner's aforesaid Motion for Reconsideration dated April 9, 2002, is DENIED.

SO ORDERED.[22]

Unconvinced that its petition was deficient, petitioner filed the present Petition for Review, ascribing the following errors to the CA:

Error I. The Supreme Court admits petitions [sic] which are "certified true copy" of the "judgment or final order or resolution certified by the clerk of the court a quo," the Court of Appeals which issue[s] "certified xerox copy" of its final orders and resolutions cannot, in justice and in law, dismiss Pina's petition semantically no different in reproduction and import from the Commission's "certified true copy" [sic].

Error II. Contrary to law and grave abuse of discretion [sic], the public respondent Commission condoned

anarchy by imposing [sic] the private respondent to wreak havoc and chaos on the petitioner they already had damaged irreparably [sic].[23]

The petition is devoid of merit.

There are strict requirements petitioner ought to have followed when it sought to avail of the extraordinary remedy of certiorari.[24] It should have attached clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject of the petition.[25] There is a sound reason behind this policy and it is to ensure that the copy of the judgment or order sought to be reviewed is a faithful reproduction of the original so that the reviewing court would have a definitive basis in its determination of whether the court, body or tribunal which rendered the assailed judgment or order committed grave abuse of discretion.[26] Also, it should have appended photocopies of material portions of the record as are referred to in the assailed judgment or final order and other documents relevant or pertinent thereto[27] unless a summary thereof can already be found in a document, a certified true copy of which is attached to the petition.[28]

By "duplicate original" and "certified true copy" we mean the following:

- The "duplicate original copy" shall be understood to be that copy of the decision, judgment, resolution or order which is intended for and furnished to a party in the case or proceeding in the court or adjudicative body which rendered and issued the same. The "certified true copy" thereof shall be such other copy furnished to a party at his instance or in his behalf, duly authenticated by the authorized officers or representatives of the issuing entity as hereinbefore specified.
- The duplicate original copy must be duly signed or initialed by the authorities or the corresponding officer or representative of the issuing entity, or shall at least bear the dry seal thereof or any other official indication of the authenticity and completeness of such copy. x x x
- The certified true copy must further comply with all the regulations therefor of the issuing entity and it is the authenticated original of such certified true copy, and not a mere xerox copy thereof, which shall be utilized as an annex to the petition or other initiatory pleading.[29] (Emphasis ours)

Petitioner's Annexes "A", "B", and "C" to the Petition are neither duplicate original copies nor certified true copies of the LA Decision and assailed NLRC Decision and Resolution, respectively. While every page of said attachments bear the marking "certified true copy", it is readily apparent that these are not original authenticated copies but mere xerox copies of certified true copies.

Petitioner argues that said attachments are not any different from the certified true copies of documents issued by the CA. But they are strikingly distinct. The certified true copies of CA documents attached to the present Petition are authenticated original copies of the certified true copies in that, while the contents of said documents have been merely imprinted on pieces of paper through a photocopying or duplicating process, said contents have been certified true and correct by the agency or officer having custody of the original copy of the documents and, more important, the certification and signature thereon are in original print and not merely photocopies thereof.[30] On the other hand, the attachments in question do not even come close. The contents of these attachments are mere photoprints of the documents they purport to represent. Not only that, the certifications and signatures of the certifying officer are all mere photoprints of the certifications and signatures they purport to represent.

There is no question then that Annexes "A", "B" and "C" are mere xerox copies of certified true copies of the assailed NLRC Decision and Resolution. As the use of such xerox copies contravene paragraph 3 of Administrative Circular No. 3-96, it rendered the Petition insufficient in form.[31] The CA committed no error in rejecting said attachments and dismissing the Petition.

Petitioner, however, appeals for liberality. Petitioner does not deserve it. Liberality is not a mantra that, once chanted, will cast away all the infirmities of a petition. Invocation of liberality must be coupled with a showing that there has been a substantial or subsequent compliance with all the technical requirements[32] or that it will serve the higher interest of justice that the petition be given due course and decided on the merits.[33] Petitioner has not shown any earnest, even if belated, effort to comply. Instead, it has obstinately clung to the mistaken notion that its attachments were certified true copies of the assailed NLRC Decision and Resolution. In its Motion for Reconsideration from the March 25, 2002 CA Resolution, petitioner made no effort to rectify its error by attaching the real certified true copies of the needed documents. Even in the present Petition, copies of the assailed NLRC Decision and Resolution petitioners attached are also xerox copies of the certified true copies thereof.[34] There is no basis at all for us to suspend enforcement of the technical requirements of the Rules and allow its Petition.[35]

That said, we dispense with discussion on the second issue raised by petitioner as this delves into the merits of the case, the resolution of which requires precisely the attachments that were omitted from its Petition.

WHEREFORE, the petition is hereby DENIED.

Double costs against petitioner.

SO ORDERED.

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

[1] *Floren Hotel v. National Labor Relations Commission*, G.R. No. 155264, May 6, 2005, 458 SCRA 128, 141-142; *Caingat v. National Labor Relations Commission*, G.R. No. 154308, March 10, 2005, 453 SCRA 142, 148-149; *Serrano v. Gallant Maritime Services, Inc.*, 455 Phil. 992, 997 (2003).

[2] *Barcenas v. Tomas*, G.R. No. 150321, March 31, 2005, 454 SCRA 593, 605; *El Reyno Homes, Inc. v. Ong*, 445 Phil. 610, 618 (2003).

[3] Penned by Associate Justice Conrado M. Vasquez, Jr. and concurred in by Associate Justices Andres B. Reyes, Jr. and Amelita G. Tolentino, CA rollo, p. 50.

[4] *Id.* at 71.

[5] *Records I*, p. 1.

[6] *Malayang Samahan ng Manggagawa sa Balanced Food v. Pinakamasarap Corp.*, G.R. No. 139068, January 16, 2004, 420 SCRA 84. See also our Resolution dated January 27, 1997 in G.R. No. 123976 and Resolution dated June 17, 1996 in G.R. No. 123364.

[7] The decision also mentions NLRC NCR Case No. 08-05146-93.

[8] *Records I*, p. 586.

[9] *Records III*, p. 1179.

[10] *Id.* at 1222.

[11] *Id.* at 1242 .

[12] *Id.* at 1325.

- [13] CA rollo, p. 8.
- [14] Annex "A," Id. at 18.
- [15] Annex "B," Id. at 26.
- [16] Annex "C," Id. at 35.
- [17] Id. at 16.
- [18] Id.
- [19] Id. at 50.
- [20] Id. at 52-53.
- [21] Id. at 54-55.
- [22] Id. at 71-72.
- [23] Rollo, pp. 20-21
- [24] *Nayve v. Court of Appeals*, 446 Phil. 473, 482-483 (2003).
- [25] Revised Rules of Court, Rule 65, Sec. 1, par. 2, in relation to Rule 46, Sec. 3.
- [26] *Durban Apartments Corporation v. Catacutan*, G.R. No. 167136, December 14, 2005, 477 SCRA 801, 808; *Quintano v. National Labor Relations Commission*, G.R. No. 144517, December 13, 2004, 446 SCRA 193, 202-203.
- [27] *Teoville Homeowners Association, Inc. v. Ferriera*, G.R. No. 140086, June 8, 2005, 459 SCRA 459, 471; *OSM Shipping, Phils., Inc. v. National Labor Relations Commission*, 446 Phil. 793, 802-803 (2003).
- [28] *Floren Hotel v. National Labor Relations Commission*, *supra* note 1, at 142.
- [29] *Velasco v. Court of Appeals*, G.R. No. 130244, July 7, 2004, 433 SCRA 506, 511, citing Administrative Circular 3-96 effective June 1, 1996.
- [30] Rollo, pp. 71-78.
- [31] *Batelec II Electric Cooperative Inc., v. Energy Industry Administration Bureau (EIAB)*, G.R. No. 135925, December 22, 2004, 447 SCRA 482, 494-495; *Gutierrez v. Secretary of the Department of Labor and Employment*, G.R. No. 142248, December 16, 2004, 447 SCRA 107, 119.
- [32] *Caingat v. National Labor Relations Commission*, *supra* note 1, at 149; *Serrano v. Gallant Maritime Services, Inc.*, *supra* note 1, at 998.
- [33] *Philippine Agila Satellite Inc. and Michael de Guzman v. Josefina Trinidad-Lichauco*, G.R. No. 142362, May 3, 2006.
- [34] Rollo, pp. 43-60.
- [35] *NYK International Knitwear Corporation Philippines v. National Labor Relations Commission*, 445 Phil. 656, 662 (2003); *Barcenas v. Tomas*, *supra* note 2, at 605.

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