

MALAYANG KAPISANAN NG MGA MANGGAGAWA SA ASSOCIATED ANGLO AMERICAN TOBACCO CORPORATION (MAKAMANGGA-GAWA), JAIME BERMUDEZ, ET AL., Petitioners, vs. ASSOCIATED ANGLO AMERICAN TOBA...

G.R. No. 156613. February 18, 2008

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

This resolves the Petition for Certiorari under Rule 65 of the Rules of Court which seeks the nullification of the Resolution[1] of the Court of Appeals (CA) dated June 5, 2002 dismissing the petition for certiorari filed by Malayang Kapisanan ng mga Manggagawa sa Associated Anglo American Tobacco Corporation (the Union) for failure to comply with Sections 4 and 5, Rule 7 of the 1997 Rules of Civil Procedure; and the Resolution dated October 29, 2002,[2] denying the motion for reconsideration.

The undisputed facts are as follows.

Respondent Associated Anglo American Tobacco Corporation (ANGLO) and the Union entered into a Collective Bargaining Agreement (CBA) on September 12, 1996. On April 2, 1998, the parties signed a Memorandum of Agreement providing for a moratorium on the negotiations on the forthcoming CBA between them. In December 1998, ANGLO and the Union convened to discuss wage increases for the year 1999. Due to a breakdown in the negotiations, the Union filed a Notice of Strike with the National Conciliation and Mediation Board on February 8, 1999.

On March 7, 1999 the Union staged a strike. Thereafter, on April 12, 1999, ANGLO announced the closure or cessation of its business operations and applied for a Notice of Closure with the Department of Labor and Employment due to serious business losses.

On April 22, 1999, ANGLO and the Union executed another Memorandum of Agreement providing for the referral of their dispute to an accredited Voluntary Arbitrator (VA). On May 3, 1999, the VA issued a decision finding the closure legal and awarding financial assistance to the workers and on May 5, 1999, the parties executed before the VA a document entitled “Mechanics of Releasing of Goods/Manner of Payments” to implement compliance with the decision of the VA. Immediately thereafter, the strike was lifted and except for 44 members of the Union who are individual petitioners in the present petition, the other striking employees executed Affidavits of Quitclaim and Release in favor of ANGLO.

On May 13, 1999, the aforementioned 44 members of the Union questioned the award of the VA before the CA, docketed as CA-G.R. SP No. 52734, alleging grave abuse of discretion on the part of the VA. Said petition was dismissed by the CA. The CA decision was then elevated to this Court via a petition for review, docketed as G.R. No. 144574, but in a Resolution dated November 20, 2000, said petition was dismissed. The motion for reconsideration of said Resolution was denied.

Even while said case questioning the award of the VA was pending before the CA, herein individual petitioners, who are the very same persons who filed the case with the CA, also filed several complaints with the National Labor Relations Commission (NLRC) Labor Arbiter. Said complaints were then consolidated and on May 9, 2000, the Labor Arbiter issued a Decision dismissing the complaints for lack of merit. Petitioners appealed to the NLRC but said appellate body affirmed the dismissal of petitioners' complaints. Their motion for reconsideration before the NLRC was likewise denied.

On April 9, 2002, petitioners filed their petition for certiorari before the CA, docketed as CA-G.R. SP No. 69807. The CA then issued on June 5, 2002 the herein assailed Resolution dismissing the petition on the ground that only one of the petitioners executed the Verification/Certification of Non-Forum Shopping without submitting proof that she is authorized to represent the other petitioners. Petitioners moved for reconsideration of the dismissal but the same was denied.

Hence, the present petition for certiorari on the following grounds:

I.

PUBLIC RESPONDENT COURT OF APPEALS (THIRD DIVISION) GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN DISMISSING THE PETITION FOR CERTIORARI SOLELY ON THE GROUND THAT THE PETITION WAS SIGNED BY FLAVIANA BERLIN WHO IS AMONG THE REAL AND PRINCIPAL PARTIES IN INTEREST IN THE INSTANT CASE.

II.

PUBLIC RESPONDENT COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN DISMISSING THE PETITION FOR CERTIORARI AND MAY HAVE OVERLOOKED THE SETTLED DOCTRINE ON THE RIGID APPLICATION OF TECHNICAL RULES.[3]

The petition is without merit.

It is true that under justifiable circumstances, the Court has relaxed the rule requiring all petitioners to affix their signature to the certification on non-forum shopping. Recently, the Court has deemed it proper to relax said rule by considering the signature of only one among numerous petitioners as substantial compliance in cases where all petitioners share a common interest and invoke a common cause of action or defense.[4] In the present case, petitioners do share a common cause of action, that of illegal dismissal.

However, a petition for certiorari under Rule 65 of the Rules of Court may be resorted to only if there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law.[5]

In *Macawiag v. Balindog*,[6] the Court emphasized this principle, thus:

The well-settled rule is that certiorari is not available where the aggrieved party's remedy of appeal is plain, speedy and adequate in the ordinary course, the reason being that certiorari cannot co-exist with an appeal or any other adequate remedy. The existence and availability of the right to appeal are antithetical to the availment of the special civil action for certiorari. These two remedies are mutually exclusive. Consequently, when petitioner filed her petition in this Court, the decision of the Shari'a District Court was already final and executory.

In view of the foregoing, as much as we want to review the merits of the petition, we are constrained by the procedural lapse which this Court cannot ignore. When a decision becomes final and executory, the court loses jurisdiction over the case and not even an appellate court would have the power to review a judgment that has acquired finality. Otherwise, there would be no end to litigation and would set to naught the main role of courts

of justice which is to assist in the enforcement of the rule of law and the maintenance of peace and order by settling justiciable controversies with finality. x x x

Admittedly, in accordance with the liberal spirit pervading the Rules of Court and in the interest of justice, this Court has the discretion to treat a petition for certiorari as having been filed under Rule 45, but not when the petition is filed well beyond the reglementary period for filing a petition for review and without offering any reason therefor.

The Court ruled in *Sebastian v. Morales* that:

Under Rule 1, Section 6 of the 1997 Rules of Civil Procedure, liberal construction of the rules is the controlling principle to effect substantial justice. Thus, litigations should, as much as possible, be decided on their merits and not on technicalities. This does not mean, however, that procedural rules are to be ignored or disdained at will to suit the convenience of a party. Procedural law has its own rationale in the orderly administration of justice, namely, to ensure the effective enforcement of substantive rights by providing for a system that obviates arbitrariness, caprice, despotism, or whimsicality in the settlement of disputes. Hence, it is a mistake to suppose that substantive law and procedural law are contradictory to each other, or as often suggested, that enforcement of procedural rules should never be permitted if it would result in prejudice to the substantive rights of the litigants.

Litigation is not a game of technicalities, but every case must be prosecuted in accordance with the prescribed procedure so that issues may be properly presented and justly resolved. Hence, rules of procedure must be faithfully followed except only when for persuasive reasons, they may be relaxed to relieve a litigant of an injustice not commensurate with his failure to comply with the prescribed procedure. Concomitant to a liberal application of the rules of procedure should be an effort on the part of the party invoking liberality to explain his failure to abide by the rules.

The fact that petitioner used the Rule 65 modality as a substitute for a lost appeal is made plain by the following:

First. While the petition was filed within the 60-day period for filing a petition for certiorari, it was nevertheless filed beyond the 15-day period for filing a petition for review. x x x [7]

In the present case, petitioners could have appealed to this Court by filing a petition for review on certiorari under Rule 45. No such petition was filed within the reglementary period, thus, the CA Decision became final and executory.

Neither did petitioners convince the Court of the substantial merits of the action or complaint filed with the NLRC. The Labor Arbiter dismissed their complaint on the ground of *litis pendentia* and/or forum shopping. This finding was affirmed in toto by the NLRC. In their petition and Memorandum submitted to this Court, petitioners never discussed why they believe both the Labor Arbiter and the NLRC erred in finding them guilty of forum shopping.

Clearly, just like in *Macawiag*, this petition is merely a substitute for a lost appeal and should be dismissed.

WHEREFORE, the petition is DISMISSED for lack of merit.

SO ORDERED.

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

* * The Court of Appeals is excluded from the title of the petition, per Section 4, Rule 45 of the Rules of Court.

[1] Penned by Associate Justice Bernardo P. Abesamis, with Associate Justices Eubulo G. Verzola and Josefina

Guevara-Salonga, concurring; rollo, pp. 30-32.

[2] Penned by Associate Justice Bernardo P. Abesamis, with Associate Justices Eubulo G. Verzola and Renato C. Dacudao, concurring; rollo, p. 34.

[3] Rollo, p. 14

[4] Espina v. Court of Appeals, G.R. No. 164582, March 28, 2007, 519 SCRA 327, 344-345; Cua v. Vargas, G.R. No. 156536, October 31, 2006, 506 SCRA 374, 390; San Miguel Corporation v. Aballa, G.R. No. 149011, June 28, 2005, 461 SCRA 392, 411-412.

[5] 1997 RULES OF CIVIL PROCEDURE, Rule 65, Section 1.

[6] G.R. No. 159210, September 20, 2006, 502 SCRA 454.

[7] Id. at 465-467.

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