

CHARTER CHEMICAL AND COATING CORPORATION, PETITIONER, VS. HERBERT TAN AND AMALIA SONSING, RESPONDENTS.

G.R. No. 163891. May 21, 2009

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for review[1] of the 9 March 2004 Decision[2] and 4 June 2004 Resolution[3] of the Court of Appeals in CA-G.R. SP No. 72086. In the 9 March 2004 Decision, the Court of Appeals ruled that the National Labor Relations Commission (NLRC) acted with grave abuse of discretion when it reversed its earlier dismissal of and, subsequently, gave due course to the appeal of petitioner Charter Chemical and Coating Corporation (petitioner). The 4 June 2004 Resolution denied petitioner's motion for reconsideration.

The Facts

Respondents Herbert Tan and Amalia Sonsing (respondents) were employed as officer-in-charge and office secretary, respectively, at petitioner's Davao branch. On 4 March 2000, respondents were placed under preventive suspension for their failure to satisfactorily explain the discrepancies in the stock inventory at the Davao depot warehouse. Respondents were also asked to explain the alleged dishonesty in the punching of their time cards. On 24 March 2000, petitioner advised respondents that they were being terminated from the service. On 7 June 2000, respondents filed a complaint for illegal dismissal and money claims against petitioner.

On 18 January 2001, Labor Arbiter Nicolas S. Sayson ruled in favor of respondents. The dispositive portion of the 18 January 2001 Decision[4] provides:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered declaring the dismissal of complainants Herbert Tan and Amalia Sonsing as ILLEGAL.

Respondent Charter Chemical and Coating Corporation is hereby directed to pay herein complainants their separation pay, backwages, 13[th] month pay and damages, to wit:

- Herbert Tan - P372,800.00; and

- Amalia Sonsing - 136,800.00

or in the total amount of Five Hundred Nine Thousand Six Hundred Pesos (P509,600) plus ten (10%) per cent thereof as attorney's fees.

Total award: P560,560.00

SO ORDERED.[5]

Petitioner received a copy of the Labor Arbiter's Decision on 7 February 2001. On 16 February 2001, petitioner

sent its notice of appeal to the NLRC through Luzon Brokerage Corporation (LBC). The NLRC received the notice of appeal on 26 February 2001.

In its 11 October 2001 Resolution,[6] the NLRC dismissed petitioner's appeal for having been filed beyond the 10-day reglementary period.

Petitioner filed a motion for reconsideration. In its 6 February 2002 Resolution,[7] the NLRC granted the motion and gave due course to petitioner's appeal. Subsequently, the NLRC dismissed respondents' complaint for illegal dismissal.

Respondents filed a motion for reconsideration. In its 22 April 2002 Resolution, the NLRC denied respondents' motion.

Respondents then filed a petition for certiorari before the Court of Appeals. In its 9 March 2004 Decision, the Court of Appeals granted respondents' petition and ruled that the NLRC acted with grave abuse of discretion in admitting petitioner's belated appeal.

Petitioner filed a motion for reconsideration. In its 4 June 2004 Resolution, the Court of Appeals denied the motion.

Hence, this petition.

The 6 February 2002 Resolution of the NLRC

In its 6 February 2002 Resolution, the NLRC reversed its earlier dismissal of petitioner's appeal. According to the NLRC, in the ordinary course of events, the NLRC would have received petitioner's notice of appeal on time because of LBC's assurance that delivery shall be made within 24 hours. However, the NLRC transferred its office to another location and the DOLE refused to accept petitioner's notice of appeal when it was delivered by LBC. The NLRC said these unforeseen circumstances led to the failure of the NLRC to receive the notice of appeal on time. The NLRC added that strict observance of the period to appeal need not be exacted on petitioner since it exerted diligent efforts to file its notice of appeal on time but failed to do so through no fault of its own. The NLRC said the supervening events constitute excusable negligence which would vest the NLRC with discretion to admit the appeal which was filed out of time.

The Ruling of the Court of Appeals

According to the Court of Appeals, the NLRC acted with grave abuse of discretion in admitting petitioner's belated appeal. The Court of Appeals said that the NLRC should have adhered to the rule that the appeal should be filed within 10 calendar days from the receipt of the decision as mandated by Article 223[8] of the Labor Code. The Court of Appeals added that the delay in the delivery of the notice of appeal committed by LBC did not fall under any of the circumstances that would justify the relaxation of the rigid technicality of the rule on appeal.

The Issue

Petitioner raises the issue of whether the 9 March 2004 Decision and the 4 June 2004 Resolution of the Court of Appeals are contrary to existing law and jurisprudence.

The Court's Ruling

The petition has no merit.

Petitioner argues that the NLRC acted within its jurisdiction when it relaxed the application of the rules on appeal

in labor cases because the failure to comply with the reglementary period to appeal was brought about by LBC's difficulty in finding the new address of the NLRC. Petitioner adds that there was substantial compliance with the rules on appeal as the notice of appeal was consigned for delivery to LBC on 16 February 2001 or three days before the expiration of the period to appeal. Petitioner also insists that the date of delivery to LBC was the date of filing of its notice of appeal.

Article 223 of the Labor Code, the governing law on the timeliness of an appeal from the decisions, awards or orders of the Labor Arbiter, is explicit that the aggrieved party has 10 calendar days from receipt thereof to appeal to the NLRC. Accordingly, this 10-day reglementary period to perfect an appeal is mandatory and jurisdictional in nature. The failure to file an appeal within the reglementary period renders the assailed decision final and executory and deprives the appellate court of jurisdiction to alter the judgment, much less to entertain the appeal.[9]

There is no dispute that petitioner received a copy of the Labor Arbiter's decision on 7 February 2001. Thus, pursuant to Article 223 of the Labor Code, petitioner had only until 17 February 2001, the 10[th] calendar day from 7 February 2001, within which to file an appeal. However, as 17 February 2001 fell on a Saturday, petitioner had until the next working day, or until 19 February 2001, to file its appeal. On 16 February 2001, petitioner consigned its notice of appeal to LBC for delivery to the NLRC. The NLRC received petitioner's notice of appeal only on 26 February 2001.

In *Benguet Electric Cooperative, Inc. v. NLRC*,[10] we ruled:

The established rule is that the date of delivery of pleadings to a private letter-forwarding agency is not to be considered as the date of filing thereof in court, and that in such cases, the date of actual receipt by the court, and not the date of delivery to the private carrier, is deemed the date of filing of that pleading.[11]

In this case, petitioner availed of the services of LBC, a private carrier, to deliver its notice of appeal to the NLRC. Had petitioner sent its notice of appeal by registered mail, the date of mailing would have been deemed the date of filing with the NLRC.[12] But petitioner, for reasons of its own, chose to send its notice of appeal through a private letter-forwarding agency. Therefore, the date of actual receipt by the NLRC of the notice of appeal, and not the date of delivery to LBC, is deemed to be the date of the filing of the notice of appeal. Since the NLRC received petitioner's notice of appeal on 26 February 2001, the appeal was clearly filed out of time. Petitioner had thus lost its right to appeal from the decision of the Labor Arbiter and the NLRC should have dismissed its notice of appeal.

WHEREFORE, we DENY the petition and AFFIRM the 9 March 2004 Decision and 4 June 2004 Resolution of the Court of Appeals in CA-G.R. SP No. 72086.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Leonardo-De Castro, and Bersamin, JJ., concur.

[1] Under Rule 45 of the Rules of Court.

[2] *Rollo*, pp. 23-27. Penned by Associate Justice Eloy R. Bello, Jr., with Associate Justices Amelita G. Tolentino and Magdangal M. De Leon, concurring.

[3] *Id.* at 29.

[4] *Id.* at 31-40.

[5] Id. at 40.

[6] Id. at 42-44. Penned by Presiding Commissioner Salic B. Dumarpa, with Commissioners Oscar N. Abella and Leon G. Gonzaga, Jr., concurring.

[7] Id. at 46-53.

[8] Article 223 of the Labor Code 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. x x x

[9] Benguet Electric Cooperative, Inc. v. National Labor Relations Commission, G.R. No. 89070, 18 May 1992, 209 SCRA 55.

[10] Id.

[11] Id. at 60-61. See also Industrial Timber Corp. v. National Labor Relations Commission, G.R. No. 111985, 30 June 1994, 233 SCRA 597.

[12] Rules of Court, Section 3, Rule 13.

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