LYNX INDUSTRIES CONTRACTOR, INC., ROGER GERNALE, CORAZON GERNALE, GAY GERNALE AND LORENZO CAAMPUED, PETITIONERS, VS. EUSTERIO T. TALA, LEONITO VIAGEDOR, NATIONAL LABOR RELATIONS...

G.R. No. 164333. August 24, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition for review assails both the Decision[1] dated March 26, 2004 and the Resolution[2] dated July 2, 2004 of the Court of Appeals in CA-G.R. SP No. 75006, which had affirmed the Resolution[3] dated September 5, 2002 of the National Labor Relations Commission (NLRC) in IC No. 0001148-02, and denied the motion for reconsideration, respectively.

The facts of the case are as follows:

Private respondent Eusterio T. Tala was an employee of petitioner Lynx Industries Contractor, Inc., from February 11, 1982 to January 11, 2001. His last position was general foreman with a monthly salary of P10,412.90. On the other hand, private co-respondent Leonito E. Viagedor was employed from 1976 to December 16, 2000. He was first employed as foreman but was promoted as Assistant Vice-President for Operations with a monthly salary of P12,623.

On November 16, 2000, Tala received a Memorandum[4] informing him that Lynx will cease its business operations effective that day due to heavy losses and non-existing projects. He was assured, however, that he would still receive his salary until December 15, 2000.

No such memorandum was served on Viagedor. He was simply not paid his salaries from December 16, 2000 to January 31, 2001. Only upon inquiry from petitioner Roger G. Gernale did Viagedor learn that Lynx had ceased operations on November 16, 2000.

On January 11, 2001, and February 7, 2001, private respondents filed with the NLRC their respective complaints for illegal dismissal and monetary claims against petitioners.

In a Decision dated March 8, 2002, Labor Arbiter Nieves V. De Castro declared petitioners jointly and severally liable to private respondents, as follows:

> Premises considered, respondent company, Roger Gernale, Gay C. Gernale, Lorenzo Caampued and Corazon Gernale and Reo Gernale are jointly and severally liable to pay complainants' full backwages in the amounts of P173,099.96 to Tala, P210,442.12 to Viagedor; separation pay of one month's salary for every year of service in lieu of reinstatement in the amount of P180,258.00 to Tala, and P290,562.50 to Viagedor. Likewise, for failure of the respondent to show proof of payment of service incentive leave pay, respondent must be suffered to pay them in the amount of P4,935.43 to Tala and P6,388.66 to Viagedor plus 10% of the total award for attorney's fees.

SO ORDERED.[5]

On June 24, 2002, the Labor Arbiter issued a writ of execution[6]stating, among others, that the decision had become final and executory since neither party appealed.

On July 9, 2002, petitioners filed with the NLRC a petition for relief from judgment with urgent prayer for issuance of a temporary restraining order and writ of preliminary injunction,[7] on the following grounds: (1) the decision of the Labor Arbiter was patently erroneous and unjust; (2) the Labor Arbiter had no jurisdiction to entertain Viagedor's complaint as it involved an intra-corporate controversy; and (3) the decision of the Labor Arbiter finding the individual incorporators jointly and severally liable was unwarranted in the absence of a clear showing of conspiracy to commit fraud.[8]

Petitioners also maintained that they failed to appeal the decision of the Labor Arbiter on time due to their former counsel's indifference and neglect and that such negligence entitled them to a new trial.

The NLRC dismissed the petition and denied petitioners' motion for reconsideration, ratiocinating thus:

> The petition is [dismissible] for having been filed late. It is settled that a petition for relief from judgment must be filed within sixty (60) days from the date of the receipt of the decision or notification and not more than six (6) months after the Labor Arbiter's decision became final and executory (Ges[u]lgon vs. NLRC, 219 SCRA 561). While the [petitioners'] former counsel received [a] copy of the Labor Arbiter's decision on May 9, 2002, the petition was filed on July 9, 2002, a Tuesday, sixty-one days after May 9, 2002, or one day late.[9]

Petitioners elevated the case to the Court of Appeals which affirmed the findings of the NLRC. Reconsideration having been denied, petitioners now come before this Court alleging that the appellate court committed serious and reversible errors of law, as follows:

> I.
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> WHEN IT CALLOUSLY AND [ERRONEOUSLY] AFFIRMED THE NLRC'S RESOLUTION DISMISSING THE PETITION FOR RELIEF FROM JUDGMENT FILED BY THE PETITIONERS ON THE GROUND THAT IT WAS ALLEGEDLY FILED ONE DAY LATE, AND WITHOUT GIVING DUE CONSIDERATION TO THE SURROUNDING CIRCUMSTANCES AND EXISTING SETTLED JURISPRUDENCE ON THE MATTER.
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> II.
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> WHEN IT DID NOT PASS UPON THE SECOND GROUND IN THE AMENDED PETITION FOR CERTIORARI --- GROUNDED ON SERIOUS ERRORS OF LAW AND SETTLED JURISPRUDENCE, --- BASED ON ITS ERRONEOUS AND TRITE CONCLUSION OF BEING MOOT AND ACADEMIC PRESCINDING FROM ITS ERRONEOUS FINDING THAT THE PETITION FOR RELIEF WAS FILED ONE (1) DAY LATE.[10]

Simply, the issue is: Did the Court of Appeals err in affirming the dismissal of the petition for relief from judgment?

Section 3, Rule 38 of the 1997 Rules of Civil Procedure lays down the requirements for a petition for relief from judgment -

> SEC. 3. Time for filing petition; contents and verification. - A petition provided for in either of the preceding sections of this Rule must be verified, filed within sixty (60) days after the petitioner learns of the judgment, final order, or other proceeding to be set aside, and not more than six (6) months after such judgment or final order was entered, or such proceeding was taken; and must be accompanied with affidavits showing the fraud, accident, mistake, or excusable negligence relied upon, and the facts constituting the petitioner's good and

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substantial cause of action or defense, as the case may be.

A party filing a petition for relief from judgment must strictly comply with two reglementary periods: first, the petition must be filed within sixty (60) days from knowledge of the judgment, order or other proceeding to be set aside; and second, within a fixed period of six (6) months from entry of such judgment, order or other proceeding. Strict compliance with these periods is required because a petition for relief from judgment is a final act of liberality on the part of the State, which remedy cannot be allowed to erode any further the fundamental principle that a judgment, order or proceeding must, at some definite time, attain finality in order to put at last an end to litigation.[11]

It is undisputed that petitioners' previous counsel received a copy of the Labor Arbiter's Decision on May 9, 2002. Thus, the petition for relief from judgment should have been filed on or before July 8, 2002, which was the 60th day from May 9, 2002. Yet, the petition was filed only on July 9, 2002, or one day later.

Petitioners, however, maintain that they learned of the Labor Arbiter's decision only on June 24, 2002, the day when the writ of execution was served on them. Thus, counting from June 24, 2002, the 60th day fell on August 23, 2002. Considering that the petition was filed on July 9, 2002, it was still within the prescribed period. They also argue that the receipt of their previous counsel should not be used as the basis for computing the timeliness of the filing of their petition because said counsel acted with indifference and gross negligence.

It is long established by jurisprudence that the reglementary period is reckoned from the time the party's counsel receives notice of the decision, for notice to counsel of the decision is notice to the party for purposes of Section 3, Rule 38.[12] Thus, while the failure of a party's counsel to notify him of an adverse judgment to enable him to appeal therefrom constitutes inexcusable negligence, it is not a ground for relief from judgment.[13]

Furthermore, under Section 1, Rule 38,[14] the negligence must be excusable and generally imputable to the party because if it is imputable to the counsel, it is binding on the client.[15] It is settled that a party is bound by the mistakes, negligence and omission of his counsel.[16] To follow a contrary rule and allow a party to disown his counsel's conduct would render proceedings indefinite, tentative, and subject to reopening by the mere subterfuge of replacing counsel. What the aggrieved litigant should do is seek administrative sanctions against the erring counsel and not ask for the reversal of the court's ruling.[17]

What is more, petitioners dismally failed to substantiate their allegation of gross negligence. Their petition for relief lacked the requisite affidavits showing the fraud, accident, mistake or excusable negligence relied upon, and the facts constituting their good and substantial cause of action.[18]

While it is true that rules of procedure are not cast in stone, it is equally true that strict compliance with the rules is indispensable for the prevention of needless delays and for the orderly and expeditious dispatch of judicial business. Unfortunately for them, petitioners failed to show that their counsel's negligence was so gross and palpable as to call for the exercise of this Court's equity jurisdiction. Neither have they shown that the ends of justice will be better served by relaxing procedural rules. It should be recalled that petitioners were accorded an opportunity by the Labor Arbiter to present their evidence although her decision was ultimately adverse to them. They cannot feign lack of due process.[19]

WHEREFORE, we DENY the petition and AFFIRM the Decision dated March 26, 2004 and the Resolution dated July 2, 2004 of the Court of Appeals in CA-G.R. SP No. 75006. Costs against petitioners.

SO ORDERED.

Carpio, Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

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[1]Rollo, pp. 36-40. Penned by Associate Justice Aurora Santiago-Lagman, with Associate Justices Marina L. Buzon and Sergio L. Pestaño concurring.

[2] Id. at 41-42. Penned by Associate Justice Aurora Santiago-Lagman, with Associate Justices Marina L. Buzon and Bienvenido L. Reyes concurring.

[3] CA rollo, pp. 16-19.

[4] Rollo, p. 53.

[5] CA rollo, pp. 39-40.

[6] Id. at 60-62.

[7] Id. at 63-72.

[8] Id. at 67.

[9] Id. at 18.

[10] Rollo, p. 14.

[11] Gold Line Transit, Inc. v. Ramos, G.R. No. 144813, August 15, 2001, 363 SCRA 262, 270.

[12] Mercury Drug Corporation v. Court of Appeals, G.R. No. 138571, July 13, 2000, 335 SCRA 567, 577.

[13] Azucena v. Foreign Manpower Services, G.R. No. 147955, October 25, 2004, 441 SCRA 346, 355.

[14] SECTION 1. Petition for relief from judgment, order, or other proceedings. - When a judgment or final order is entered, or any other proceeding is thereafter taken against a party in any court through fraud, accident, mistake, or excusable negligence, he may file a petition in such court and in the same case praying that the judgment, order or proceeding be set aside.

[15] Que v. Court of Appeals, G.R. No. 150739, August 18, 2005, 467 SCRA 358, 369.

[16] Insular Life Savings and Trust Company v. Runes, Jr., G.R. No. 152530, August 12, 2004, 436 SCRA 317, 325; See Heirs of the Late Cruz Barredo v. Asis, G.R. No. 153306, August 27, 2004, 437 SCRA 196, 200.

[17] Que v. Court of Appeals, supra.

[18] Heirs of the Late Cruz Barredo v. Asis, supra at 201.

[19] Id.

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