

TRUST INTERNATIONAL PAPER CORPORATION, PETITIONER, VS. MARILOU R. PELAEZ, RESPONDENT.

G.R. NO. 164871. August 22, 2006

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This Petition for Review under Rule 45 of the Rules of Court with an Urgent Application for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction, seeks to set aside the Resolutions of the Court of Appeals in CA-G.R. SP No. 73356 entitled, "Marilou R. Pelaez v. National Labor Relations Commission, et al." dated 13 February 2004[1] and 29 July 2004, respectively. The first Resolution denied petitioner Trust International Paper Corporation's (TIPCO) Petition for Relief from Judgment, while the second denied its motion seeking reconsideration thereof.

Respondent Marilou R. Pelaez started her employment with petitioner as Secretary. She earned various promotions, the last of which was her appointment as Corporate Cashier in 1993.

After undergoing substantial business losses for the fiscal year 1996-1997, petitioner implemented cost-cutting and streamlining programs to alleviate its financial predicament. In the course of carrying out the said programs, several positions were abolished and declared redundant, one of which was the position of Corporate Cashier. Thus, on 24 December 1997, respondent received a memorandum from Jose Reyes, petitioner's Chief Financial Officer, informing her that her services were terminated. She accepted her severance from the employ of petitioner and turned over her accountabilities to the different departments which absorbed her responsibilities. Thereafter, she was no longer required to report for work.

Sometime in January 1998, respondent found out the creation of the position of Treasury Clerk in petitioner's plantilla which has the same job description and responsibilities as that of Corporate Cashier. Feeling deceived, respondent immediately filed on 6 January 1998 a Complaint for illegal dismissal, non-payment/underpayment of salaries, separation pay, retirement benefits, service incentive leave and sick leave benefits, and damages against petitioner, Elon Ting, the president of TIPCO, Efren TanLapco, the Chief Operating Officer of TIPCO and Jose E. Reyes, the Chief Financial Officer of TIPCO before the Arbitration Branch of the DOLE-NCR.

On 12 January 1998, respondent received her separation benefits from petitioner in the amount of P539,974.20 and correspondingly signed a Deed of Release and Quitclaim.

In a Decision dated 21 September 1999, the Labor Arbiter found petitioner guilty of illegal dismissal and awarded to respondent backwages, separation pay and damages. The decretal portion of the Decision reads:

CONFORMABLY WITH THE FOREGOING, judgment is hereby rendered finding complainant to have been illegally retrenched by respondents. Consequently, they are ordered to pay in solidum complainant as follows:

a) Backwages as of August 29 August, 1999 – Php 484,000.00

b) Separation Pay – Php 459,800.00

- c) Moral Damages – Php 300,000.00
- d) Exemplary Damages – Php 100,000.00
- e) Vacation and sick leaves – Php 55,974.20
- f) 5% of the awarded money claims as attorney's fees.

The sum of Php 539,974.20 should be deducted from the awards granted to complainant.[2]

On 22 October 1999, petitioner appealed to the National Labor Relations Commission (NLRC).

In a Decision dated 31 May 2002, the NLRC reversed the findings and rulings of the Labor Arbiter. It affirmed the validity of petitioner's redundancy program, which was the ground for the termination of respondent's employment. The dispositive portion of the Decision provides:

WHEREFORE, the decision appealed from is hereby VACATED and SET ASIDE and a new one entered DISMISSING the complaint for lack of merit.[3]

On 5 July 2002, respondent filed a Motion for Reconsideration which the NLRC denied in a Resolution dated 31 July 2002.

Unfazed with the setback, respondent filed a special civil action for certiorari under Rule 65 of the Rules of Court with the Court of Appeals arguing that grave abuse of discretion was committed by the NLRC in setting aside the Labor Arbiter's Decision despite having been duly supported by the facts and the law.

In due time, the Court of Appeals rendered a Decision in favor of respondent on the ground that respondent's dismissal due to redundancy did not meet the requirements of law; hence, the same was illegal. The Court of Appeals decreed:

WHEREFORE, premises considered, the instant petition is GRANTED. The decision of public respondent NLRC in NLRC NCR CA No. 021691-99, as well as its subsequent resolution denying petitioner's motion for reconsideration, are hereby ANNULLED AND SET ASIDE and the decision of the labor arbiter a quo REINSTATED.[4]

The Decision of the Court of Appeals became final and executory as no appeal or motion for reconsideration was filed by either party.

Hence, on 25 July 2003, an Entry of Judgment was issued by the Court of Appeals.

On 29 December 2003, petitioner filed a Petition for Relief from Judgment with the Court of Appeals. Petitioner anchored its petition on the "excusable negligence" of its counsel Siguion Reyna, Montecillo & Ongsiako's (Siguion Reyna) law firm and the gross negligence of Atty. Elena C. Cardinez (Atty. Cardinez), a newly hired junior associate of the Siguion Reyna law firm, who allegedly handled the case for petitioner. Petitioner revealed that the instant case was assigned to Atty. Cardinez in June 2003 and that all notices, orders and legal processes in connection with the instant case were immediately forwarded to her for appropriate action.

Petitioner contended that the Siguion Reyna law firm was never remiss in its duty to follow up the status of the case with Atty. Cardinez. In fact, it was the law firm itself, through Atty. Cardinez's supervising lawyers and co-counsels, Attys. Carla E. Santamaria-Seña, Cheryll Ann L. Peña and Rean Mayo D. Javier, who had to elicit reports from her. When asked about the developments of the case, Atty. Cardinez supposedly informed the law firm that everything was in order regarding petitioner's defense, when in fact, it was not. Eventually, Atty. Cardinez never reported to work and that she was nowhere to be found despite the law firm's diligent efforts to search for her. She did not turn over the case files in her possession, including the Court of Appeals file folders of

the instant case.

Petitioner maintained that the acts of Atty. Cardinez in misrepresenting to the law firm that everything was in order regarding its defense, when in fact, it was not, and the fact that she took the files with her constitute gross negligence and should not bind petitioner. Corollarily, petitioner argues that the Siguion Reyna law firm's fault can only be categorized as an excusable neglect for it was not remiss in making follow-ups about the status of the case with Atty. Cardinez. It acknowledged that the law firm's mistake was that it put faith in the assurances of Atty. Cardinez, who repeatedly gave her word that nothing was amiss in the defense of petitioner's position in the instant case.

Unconvinced, the Court of Appeals, in a Resolution dated 13 February 2004, denied petitioner's Petition for Relief from Judgment, ratiocinating as follows:

There is no use arguing that the instant case was unloaded by Attys. Peña and Javier, to a certain Atty. Elena C. Cardinez, as it is the responsibility of the law firm of Siguion Reyna Montecillo and Ongsiako Law Office itself, to prepare and submit the appropriate relief or remedy of its client. The negligence or failure of its partners or associates to perform its duties and tasks is not excusable negligence that could merit relief under Rule 38 of the Rules of Court.

The doctrinal rule is that the negligence of the counsel binds the client because, otherwise, there would never be an end to a suit so long as counsel could allege its own fault or negligence to support the client's case and obtain remedies and relief already lost by the operation of law.[5]

Subsequently, petitioner filed a Motion for Reconsideration which was denied by the Court of Appeals in a Resolution dated 29 July 2004.

Hence, the instant Petition.

In its Memorandum, petitioner submitted the following issues:

A.

WHETHER THE COURT OF APPEALS COMMITTED GRAVE ERROR WHEN IT FAILED TO RECOGNIZE THE GROSS AND PALPABLE NEGLIGENCE, BORDERING ON FRAUD, COMMITTED BY PETITIONER'S FORMER HANDLING COUNSEL, ATTY. CARDINEZ, WHOSE NEGLIGENCE AND ACTIVE MISREPRESENTATION PREVENTED PETITIONER FROM EXHAUSTING ALL THE LEGAL REMEDIES AVAILABLE TO IT, PARTICULARLY, THE REMEDY OF APPEAL TO THE SUPREME COURT.

B.

WHETHER THE COURT OF APPEALS COMMITTED SERIOUS ERROR WHEN IT STRICTLY APPLIED THE TECHNICAL RULES OF PROCEDURE TO THE DETRIMENT OF SUBSTANTIAL JUSTICE.

C.

WHETHER THE COURT OF APPEALS COMMITTED GRAVE ERROR WHEN IT FAILED TO TAKE INTO CONSIDERATION PETITIONER'S GOOD AND SUBSTANTIAL DEFENSE, WHICH MUST BE FULLY VENTILATED, CONSIDERING THAT IT STANDS TO LOSE THE STAGGERING SUM OF MORE THAN TWO MILLION PESOS (P2,000,000.00)[6]

At the onset, it must be pointed out that the present petition seeking the setting aside of the Court of Appeals' Resolutions dated 13 February 2004 and 29 July 2004, denying petitioner's petition for relief from judgment, is a

petition for review on certiorari under Rule 45 of the Rules of Court.

Section 1(b) of Rule 41 of the Rules of Court, however, provides:

SECTION 1. Subject of appeal. – An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

x x x x

(b) An order denying a petition for relief or any similar motion seeking relief from judgment.

x x x x

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

Thus, in *Azucena v. Foreign Manpower Services*,^[7] it was held:

Neither may petitioner seek to set aside the Court of Appeals' April 26, 2001 Resolution denying his petition for relief from judgment through the same mode of review (petition for review on certiorari), for under Section 1(b) of Rule 41 of the Rules of Court, the denial of a petition for relief from judgment is subject only to a special civil action for certiorari under Rule 65. (Emphasis supplied.)

Based on the foregoing, the denial of a petition for relief from judgment can only be assailed before this Court via a special civil action under Rule 65 and not through a petition for review on certiorari under Rule 45. In availing of a petition for review on certiorari under Rule 45 to obtain the reversal of the Court of Appeals' Resolutions denying its petition for relief from judgment, petitioner certainly has made use of the wrong remedy.

Even if this Court was to treat the instant petition as a special civil action for certiorari under Rule 65, the same would still have to be dismissed.

In *Mercury Drug Corporation v. Court of Appeals*,^[8] the Court clarified the nature of a petition for relief from judgment:

A petition for relief from judgment is an equitable remedy that is allowed only in exceptional cases when there is no other available or adequate remedy. When a party has another remedy available to him, which may be either a motion for new trial or appeal from an adverse decision of the trial court, and he was not prevented by fraud, accident, mistake or excusable negligence from filing such motion or taking such appeal, he cannot avail himself of this petition. x x x.

This Court likewise ruled:

Indeed, relief will not be granted to a party who seeks avoidance from the effects of the judgment when the loss of the remedy at law was due to his own negligence; otherwise the petition for relief can be used to revive the right to appeal which had been lost thru inexcusable negligence.^[9]

In the present case, petitioner posits that the Court of Appeals committed grave error when it failed to recognize the gross and palpable negligence, bordering on fraud, committed by Atty. Cardinez, whose negligence prevented petitioner from exhausting all the legal remedies available to it.

It is undisputed that the counsel of record of petitioner is the Siguion Reyna law firm. The law firm failed to notify petitioner of the adverse decision of the Court of Appeals to enable it to file a motion for reconsideration or to appeal from the said decision. The law firm's failure to inform petitioner of the decision is inexcusable

negligence which cannot be a ground for relief from judgment. This is in line with jurisprudence that notice sent to counsel of record is binding upon the client, and the neglect or failure of counsel to inform his client of an adverse judgment resulting in the loss of right to appeal will not justify the setting aside of a judgment that is valid and regular on its face.[10]

The negligence of Atty. Cardinez, the law firm's new associate, apparent in her mishandling of the cause of petitioner likewise constitutes inexcusable negligence. Negligence, to be excusable, must be one which ordinary diligence and prudence could have not guarded against.

It must be pointed out that Atty. Cardinez's name did not appear in any of the pleadings filed by petitioner before the Labor Arbiter, the NLRC, and the Court of Appeals. It was only in the petition for relief filed before the Court of Appeals that the name of Atty. Cardinez appeared for the first time. In the petition for relief, Atty. Cardinez was blamed by petitioner and its counsel, the Siguion Reyna law firm, for squandering petitioner's opportunity to appeal the Court of Appeals' decision. What appears on the records is that the Comment and Memorandum of petitioner before the Court of Appeals were signed by Attys. Carla E. Santamaria-Seña, Cheryll Ann L. Peña and Rean Mayo D. Javier.

From the foregoing, it is apparent that the handling lawyers of the law firm were putting the blame on Atty. Cardinez when they lost the case and forgot to file the appeal. Besides, if the case was, indeed, unloaded to Atty. Cardinez, the supervising lawyers would have detected the omission of the former considering that it is a common practice in a law firm that when it hires a new associate, his or her work is ordinarily reviewed by the more senior associate of the law firm. If the supervising lawyers of Atty. Cardinez, namely, Attys. Seña, Peña and Javier, were not remiss in their duty to follow up the status of the case, they would have known that they have not received or reviewed any pleadings from Atty. Cardinez pertaining to the case under consideration. Simply, petitioner's counsel, the Siguion Reyna law firm itself, was guilty of inexcusable neglect in handling petitioner's case before the Court of Appeals.

Petitioner insists that its case is an exception to the general rule that the negligence of counsel binds the client. Petitioner invokes this Court's ruling in *People's Homesite and Housing Operation v. Workmen's Compensation Commission*,^[11] *Somoso v. Court of Appeals*,^[12] *Apex Mining, Inc. v. Court of Appeals*,^[13] *Salazar v. Court of Appeals*,^[14] *Sarraga, Sr. v. Banco Filipino Savings and Mortgage Bank*,^[15] and *Heirs of Pael v. Court of Appeals*,^[16] where this Court departed from the general rule that the client is bound by the mistakes of his lawyer considering that, in said cases, the lawyers were grossly negligent in their duty to maintain their client's cause and such amounted to a deprivation of their client's property without due process of law. In said cases, the petitions for relief from judgment were given due course. However, we find that the ruling in said cases do not apply in the instant case.

In *People's Homesite*, the counsel failed to apprise the petitioners therein of the hearing and the case was heard in their absence. The counsel also did not inform the petitioners that he had received a copy of the decision and neither did he file a motion for reconsideration or a petition to set aside judgment to protect the interests of his clients. When asked to explain, the counsel merely said that he did not inform the petitioners because the case escaped his attention. On account of these attendant facts, this Court found that there was "something fishy and suspicious" with the actions of counsel. The Court therein, in allowing the petition for relief from judgment and in remanding the case to the court of origin, had, in mind, the attending probability that petitioner's counsel colluded with the adverse party, which is utterly wanting in the present case.

In the case at bar, petitioner's counsel was able to actively defend its case before the Labor Arbiter, the NLRC and the Court of Appeals. In fact, the Siguion Reyna law firm was able to obtain a favorable decision for petitioner

before the NLRC. The instant case is clearly at variance with the People's Homesite case.

In Somoso, the counsel of spouses Somoso informed them that he was withdrawing his appearance as counsel of the case. A decision dated 8 March 1985 was issued by the trial court against the spouses. The counsel received the decision on 15 August 1985, but the spouses came to know of the decision only on 27 September 1985, the day they received the letter from their counsel informing them of such decision. On 27 September 1985, the counsel belatedly filed in court his motion to withdraw as counsel which was dated 10 June 1985. This Court granted spouses' petition for relief from judgment as they were able to prove that they were entitled thereto considering that their counsel had earlier informed them of his intention to withdraw from the case, but belatedly filed the formal withdrawal.

In the present case, it has been Attys. Santamaria-Seña, Peña and Javier who participated in the proceedings before the Court of Appeals. They did not notify the Court of Appeals that they had withdrawn from the case. There was completely no reason for them not to file an appeal, being the handling counsel of record during the pendency of the case before the Court of Appeals.

The case of Apex Mining, Inc. invoked by petitioner is not on all fours with the instant case. In Apex, petitioners' counsel did not attend the scheduled hearing for the reception of the evidence. The law firm did not even bother to inform its client of the scheduled hearing, as a result of which both counsel and petitioners were unable to attend the same. After the trial court issued an order declaring petitioners in default for having waived their right to present evidence, their counsel did not take steps to have the same set aside. In addition, the negligent counsel deliberately misrepresented in the progress report that the case was still pending with Court of Appeals when the same was dismissed months earlier. These circumstances are absent in the case under consideration because at no time was petitioner was deprived of its right to submit evidence to support its argument.

Neither can the case of Salazar be applied in the case under consideration. In the former, petitioners were deprived of their right to present evidence at the trial through the gross and palpable mistake of their counsel who agreed to submit the case for decision without fully substantiating their defense. In the instant case, petitioner was able to ventilate its defense through various pleadings and documentary evidence before the Labor Arbiter, the NLRC and the Court of Appeals.

In Sarraga, the petition for relief from judgment was granted due to the attending circumstance where the counsel of record was grossly negligent in defending the cause of the client. On the other hand, in the present case, petitioner is placing the blame on the alleged gross negligence of an attorney who was not even been shown to have participated in the proceedings of the case.

In Heirs of Antonio Pael, this Court found that there was a showing of "badges of fraud" displayed by the counsel of the unsuccessful party when he resorted to two clearly inconsistent remedies, namely appeal and motion for new trial. In contrast, the instant case merely illustrates a scenario where a counsel committed a simple and inexcusable negligence to the prejudice of the client.

In sum, this is not a case where the negligence of counsel is one that is so gross, palpable, pervasive and reckless which deprives the party of his or her day in court. For this reason, the Court need no longer concern itself with the propriety of the ruling of the Court of Appeals reinstating the decision of the Labor Arbiter. The Court is bound by the Court of Appeal's ruling which had become final and executory due to the simple and inexcusable negligence of petitioner's counsel in allowing the reglementary period to lapse without perfecting an appeal.

WHEREFORE, the petition is DENIED. The Resolutions of the Court of Appeals dated 13 February 2004 and 29 July 2004 in CA-G.R. SP No. 73356 denying petitioner's petition for relief from judgment, are AFFIRMED. Costs

against petitioner.

SO ORDERED.

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

[1] Penned by Associate Justice Rodrigo V. Cosico with Associate Justices Juan Q. Enriquez, Jr. and Hakim S. Abdulwahid, concurring.

[2] Rollo, p. 171.

[3] Id. at 238.

[4] Id. at 313.

[5] Id. at 53.

[6] Id. at 659.

[7] G.R. No. 147955, 25 October 2004, 441 SCRA 346, 353.

[8] 390 Phil 902, 912-913 (2000).

[9] Tuason v. Court of Appeals, 326 Phil. 169, 178-179 (1996).

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

[11] 120 Phil. 994 (1964).

[12] G.R. No. 78050, 23 October 1989, 178 SCRA 654.

[13] 377 Phil. 482 (1999).

[14] 426 Phil. 864 (2002).

[15] 442 Phil. 55 (2002).

[16] 382 Phil. 222 (2000).

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