

**MP ACEBEDO OPTICAL SHOPS/ ACEBEDO OPTICAL CO., INC.,
PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND
RODRIGO C. SANTIAGO RESPONDENTS.**

G.R. No. 165284. April 16, 2008

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Petitioners seek the reversal of the Decision[1] dated April 16, 2002 of the Court of Appeals in CA-G.R. SP No. 60062, dismissing their petition for certiorari against the Resolution[2] dated March 31, 2000 of the National Labor Relations Commission (NLRC) in NLRC NCR CN 00-05-03491-97. Also assailed is the Resolution[3] dated August 4, 2004 of the Court of Appeals, denying their motion for reconsideration.

The case stemmed from the following antecedent facts:

On April 1, 1996, respondent Rodrigo C. Santiago was hired as one of the accountants of Acebedo Optical Shops/Acebedo Optical Co., Inc. Subsequently, he was appointed as Chief Accountant of the Acebedo Group of Companies, i.e., MP Acebedo Optical Shop, Acebedo Optical Co., Acebedo Trading Company, and M.L.R. Acebedo Commercial.

During the first week of April 1997, respondent took a five-day leave of absence. When he requested for an additional two-day leave, the Human Resources Department informed him that the extension was no longer necessary since the Acebedo Group of Companies (Acebedo) had already decided to dismiss him effective April 9, 1997.

Aggrieved, respondent filed a complaint for illegal dismissal, unpaid salaries and allowances, 13th month pay, non-payment of per diem for 1996, unremitted SSS and Pag-Ibig Fund contributions and tax withheld for 1996 to 1997.

Petitioners countered that they evaluated respondent's performance in March 1997 and discovered that he had many shortcomings. It was also ascertained that he ordered the printing of accountable documents and distributed them to optical retail outlets without proper control and formal authorization from his supervisor. Hence, Acebedo formed a committee to deliberate on respondent's performance which recommended his lateral transfer to another position. When respondent learned this, he refused to follow the recommendation and went on unofficial leave. He also abandoned his post without notice.

On April 9, 1997, petitioners dismissed respondent due to loss of trust and confidence.

On April 30, 1998, the Labor Arbiter rendered a decision on the complaint filed by respondent, in this wise:

WHEREFORE, respondents are hereby ordered to reinstate complainant Rodrigo C. Santiago to his former position without loss of seniority rights and other privileges appurtenant thereto, with full backwages from the time of his dismissal until actual reinstatement.

All other monetary claims of complainant are hereby dismissed for lack of merit.

SO ORDERED.[4]

Petitioners appealed to the NLRC. On March 31, 2000, the NLRC dismissed the same for being filed late.[5]

Petitioners elevated the case to the Court of Appeals via a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure. Petitioners argued that the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction in affirming the Labor Arbiter's decision.

In dismissing the petition, the appellate court noted that petitioners' former counsel received a copy of the Labor Arbiter's decision on July 20, 1998. However, petitioners filed their memorandum of appeal and paid the appeal fee only on June 17, 1999, which was way beyond the ten-day reglementary period under Article 223[6] of the Labor Code and Section 1,[7]Rule VI of the NLRC New Rules of Procedure.

Petitioners now come to this Court contending that the Court of Appeals committed grave, palpable, and patent errors in:

I.

DECLARING THAT THE HONORABLE COMMISSION HAD NO AUTHORITY TO ENTERTAIN PETITIONERS' APPEAL AND TO REVERSE THE DECISION OF THE LABOR ARBITER A QUO;

II.

UPHOLDING THE DECISION AS WELL AS THE RESOLUTION OF THE PUBLIC RESPONDENT IN DECLARING THAT THE TERMINATION OF PRIVATE RESPONDENT WAS ILLEGAL;

UPHOLDING THE PUBLIC RESPONDENT IN ORDERING THE PAYMENT OF FULL BACKWAGES IN FAVOR OF THE PRIVATE RESPONDENT.[8]

The crux of the present controversy is whether petitioners' appeal from the decision of the Labor Arbiter to the NLRC was perfected within the reglementary period.

While petitioners admit that they failed to file their memorandum of appeal seasonably, they contend that it was due to their former counsel's failure to receive the Labor Arbiter's Decision dated April 30, 1998. Petitioners add that they learned of the decision only on June 7, 1999 when a writ of execution was served on them.

Respondent, on the other hand, maintains that the present petition does not raise any question of law. And as petitioners' appeal to the NLRC was filed beyond the reglementary period, the NLRC correctly dismissed it.

After considering the contentions and the submissions of the parties, we agree that the petition be denied for lack of merit.

Well-entrenched is the doctrine that the right to appeal is a statutory right, and one who seeks to avail of said right must comply with the applicable statute or rules thereon. The NLRC Rules, akin to the Rules of Court, promulgated by authority of law, have the force and effect of law; and these NLRC Rules prescribing the time within which certain acts must be done, or certain proceedings taken, are considered absolutely indispensable to the prevention of needless delays, and to the orderly and speedy discharge of judicial business.[9] Thus, petitioners are required to perfect their appeal in the manner and within the period permitted by law, and failure to do so rendered the judgment of the Labor Arbiter final and executory.[10]

While this Court might have time and again opted to sidestep the strict rule on the statutory or reglementary period for filing an appeal, yet, we have always emphasized that we cannot respond with alacrity to every clamor

against alleged injustice and bend the rules to placate every vociferous protestor crying and claiming to be a victim of a wrong. It is only in highly meritorious cases that this Court should opt to liberally apply the rules, for the purpose of preventing a grave injustice from being done.[11]

This liberal exception does not obtain in this case. Petitioners' contention that their former counsel did not receive the Labor Arbiter's Decision dated April 30, 1998 is misleading. The records of the NLRC, as confirmed by the Court of Appeals, reveal that the decision was received by petitioners' former counsel on July 20, 1998.[12] The presumption that the decision was delivered to petitioners' former counsel or to a person in his office duly authorized to receive papers for him therefore stands. Petitioners have not presented any evidence to overcome this presumption of regularity in the performance of official duty.[13]

Accordingly, petitioners had ten calendar days from July 20, 1998, or until July 30, 1998, to appeal the Labor Arbiter's decision pursuant to Article 223 of the Labor Code. Patently, the memorandum of appeal they filed on June 17, 1999 was very much belated. The appeal itself was definitely filed out of time.

In any case, petitioners were not entirely faultless. As we have consistently reiterated, it is the duty of party-litigants to be in contact with their counsel from time to time in order to be informed of the progress of their case. Petitioners should have maintained contact with their former counsel and informed themselves of the progress of their case, thereby exercising that standard of care which an ordinarily prudent man devotes to his business.[14] Clearly, petitioners manifestly failed to display the expected degree of concern or attention to their case. Nor have they shown any compelling reason for this Court to exercise its discretionary jurisdiction to review their case.

Under the present circumstances of this case, with the appeal glaringly filed out of time, we need not tarry to discourse further on other errors allegedly committed by the Court of Appeals.

WHEREFORE, the instant petition is DENIED for utter lack of merit. The Decision dated April 16, 2002 of the Court of Appeals in CA-G.R. SP No. 60062, which affirmed the Resolution dated March 31, 2000 of the National Labor Relations Commission in NLRC NCR CN 00-05-03491-97, is AFFIRMED. Costs against petitioners.

SO ORDERED

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

[1] Rollo, pp. 16-19. Penned by Associate Justice Elvi John S. Asuncion, with Associate Justices Portia Aliño-Hormachuelos and Rebecca De Guia-Salvador concurring.

[2] Id. at 88-89.

[3] Id. at 26-27.

[4] Id. at 100.

[5] Id. at 88-89.

[6] 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. . . .

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[7] SECTION 1. PERIODS OF APPEAL. - Decisions, resolutions or orders of the Labor Arbiter shall be final and

executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt thereof; and in case of decisions, resolutions or orders of the Regional Director of the Department of Labor and Employment pursuant to Article 129 of the Labor Code, within five (5) calendar days from receipt thereof. If the 10th or 5th day, as the case may be, falls on a Saturday, Sunday or holiday, the last day to perfect the appeal shall be the first working day following such Saturday, Sunday or holiday.

No motion or request for extension of the period within which to perfect an appeal shall be allowed.

[8] Rollo, pp. 52-53.

[9] *Corporate Inn Hotel v. Lizo*, G.R. No. 148279, May 27, 2004, 429 SCRA 573, 577.

[10] *Id.* at 578.

[11] *Sublay v. National Labor Relations Commission*, G.R. No. 130104, January 31, 2000, 324 SCRA 188, 194.

[12] Rollo, pp. 18 and 88.

[13] *Rubenito v. Lagata*, G.R. No. 140959, December 21, 2004, 447 SCRA 417, 425; See *Flores v. National Labor Relations Commission*, G.R. No. 109362, May 15, 1996, 256 SCRA 735, 740.

[14] *Leonardo v. S.T. Best, Inc.*, G.R. No. 142066, February 6, 2004, 422 SCRA 347, 354; See *Tan v. Court of Appeals*, G.R. No. 157194, June 20, 2006, 491 SCRA 452, 461.

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