HANJIN HEAVY INDUSTRIES AND CONSTRUCTION COMPANY LTD. (FORMERLY HANJIN ENGINEERING AND CONSTRUCTION CO. LTD.), PETITIONER, VS. HONORABLE COURT OF APPEALS, HON. RAUL T. AQUINO IN...

G.R. No. 167938. February 19, 2009

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This is a special civil action for certiorari seeking to set aside and nullify the Decision[1] dated August 27, 2004 and Resolution [2] dated March 9, 2005 of the Court of Appeals in CA-G.R. SP No. 74536. The appellate court modified the Resolution[3] dated July 30, 2002 of the National Labor Relations Commission (NLRC) finding petitioner Hanjin Heavy Industries and Construction Company, Ltd. (Hanjin) guilty of illegal dismissal and awarding private respondent Lauro B. Ramos a full year of salaries.

The facts are as follows:

Private respondent Multiline Resources Corporation (Multiline) is a recruitment agency engaged in the deployment of workers to Saudi Arabia. Hanjin is the Saudi-based principal of Multiline which also holds office in the Philippines.

On October 29, 1992, Ramos applied with Multiline for overseas employment as a barber. After passing the examination and interview conducted by Multiline and submitting the necessary travel documents, he signed his contract and job order. The contract specified that Ramos was to work as a barber for twelve months for a monthly salary of US$ 265.

Upon arrival in Saudi Arabia, Ramos proceeded to the office of Hanjin. However, he was informed that the position he applied for had already been filled up and there was no more vacancy. Ramos was thus forced to beg for food and to share sleeping quarters with other Filipinos in Saudi Arabia. After five days, he returned to the Philippines.

Ramos then filed a Complaint[4] with the Philippine Overseas Employment Administration (POEA) against Hanjin and Multiline for illegal dismissal/illegal termination of contract.

In a Decision[5] dated September 26, 1995, the POEA Administrator ruled:

> WHEREFORE, premises considered, respondents Multiline Resources Corporation, Hanil Development Corporation and Country Bankers Insurance Corporation are hereby ordered, jointly and severally, to pay complainant Lauro Ramos, the amount of USDollars: THREE THOUSAND ONE HUNDRED EIGHTY (US$3,180.00) or its equivalent in Philippine currency at the prevailing rate of exchange at the time of payment, representing his salaries for the period of one (1) year, plus ten percent (10%) thereof, as and by way of attorney's fees.

SO ORDERED.[6]

Subsequently, Multiline appealed to the NLRC. Finding no merit in Multiline's petition, the same was denied in an Order dated March 28, 1996.

However, in an Order[7] dated August 28, 1996, the NLRC set aside the Order of March 28, 1996, as follows:

> On second look, however, we note that the POEA Administrator rendered his decision on the above-entitled case on September 26, 1995. Considering that at said time, the said Administrator already lost jurisdiction over this case (pursuant to Republic Act No. 8042) it therefore becomes imperative that the said decision, which was brought to us on appeal by respondent Multiline Resources Corporation, be set aside and forwarded to Labor Arbiter Teresita C. Lora....
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> x x x x

The case was re-assigned to another Labor Arbiter who issued an Order[8] on February 18, 1997 dismissing the case for failure of both parties to appear on several scheduled meetings despite due notice.

Ramos filed a motion to re-open the case. Subsequently, on August 14, 1997, the Labor Arbiter issued an Order[9] dismissing the case without prejudice. Ramos re-filed the case on August 18, 1997 and the same was given due course.

On February 9, 1999,[10] the Labor Arbiter dismissed the complaint of Ramos after finding that his dismissal was legal.

On appeal, the NLRC reversed the decision of the Labor Arbiter in a Resolution dated July 30, 2002. The NLRC ruled:

> WHEREFORE, premises considered, Complainant's appeal is GRANTED. The Labor Arbiter's decision in the above-entitled case is hereby ANNULLED and SET ASIDE. A new one is entered declaring that Complainant was illegally dismissed from his employment. Respondent Hanjin Engineering & Construction Corp., formerly Hanil Development Corp., Ltd., is hereby ordered to pay Complainant the following: US$795.00 at its peso equivalent at the time of payment, representing his salaries for three (3) months; P25,000.00 as moral damages; and attorney's fees equivalent to ten percent (10%) of his total monetary award.
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> SO ORDERED.[11]

Ramos appealed the case to the Court of Appeals on the ground that he is entitled to a salary equivalent to the full unexpired portion of his employment contract, which is one year. Hanjin and Multiline for their part, did not appeal.

In a Decision dated August 27, 2004, the Court of Appeals granted Ramos' petition and modified the assailed NLRC resolution by awarding Ramos his salaries for the entire unexpired portion of his contract. The dispositive portion reads:

> WHEREFORE, the petition is GRANTED. The assailed NLRC Resolutions are MODIFIED in that petitioner is hereby awarded his full salaries for one year, instead of three months only.
>
> SO ORDERED.[12]

Hence, this petition by Hanjin, on the following grounds:

> I.
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> THE HONORABLE PUBLIC RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF

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DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION BY ENTERTAINING THE PETITION FILED BEFORE IT BY PRIVATE RESPONDENT DESPITE FAILURE OF THE LATTER TO FURNISH THE UNDERSIGNED COUNSEL A COPY OF THE PETITION.

II.

PUBLIC RESPONDENTS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN HOLDING PETITIONER LIABLE FOR ILLEGAL DISMISSAL DESPITE ABSENCE OF EMPLOYEE-EMPLOYER RELATIONSHIP BETWEEN PRIVATE RESPONDENT AND PETITIONER.

III.

ASSUMING WITHOUT ADMITTING THAT EMPLOYEE-EMPLOYER RELATIONSHIP EXISTS BETWEEN PRIVATE RESPONDENT AND PETITIONER, THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION OR AN EXCESS IN THE EXERCISE THEREOF IN NOT FINDING THE DISMISSAL OF PRIVATE RESPONDENT VALID.

IV.

ASSUMING EX GRATIA ARGUMENTI THAT THERE WAS ILLEGAL DISMISSAL, THE HONORABLE PUBLIC RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN MODIFYING THE NLRC RESOLUTION PROMULGATED ON JULY 30, 2002 BY AWARDING IN FAVOR OF PRIVATE RESPONDENT FULL SALARIES FOR ONE YEAR, INSTEAD OF THREE MONTHS ONLY.

V.

THE HONORABLE PUBLIC RESPONDENTS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN NOT REVERSING THE RESOLUTION OF THE HONORABLE NATIONAL LABOR RELATIONS COMMISSION PROMULGATED ON JULY 30, 2002 AWARDING MORAL DAMAGES IN FAVOR OF PRIVATE RESPONDENT SINCE THE DISMISSAL IF THERE WAS ANY, WAS NOT ATTENDED BY BAD FAITH, FRAUD OR EFFECTED IN A WANTON, OPPRESSIVE, OR MALEVOLENT MANNER.[13]

In essence, the issues presented by the petition are: (1) Did the Court of Appeals err in giving due course to the case despite failure of Ramos to furnish the counsel of Hanjin a copy of the petition? (2) Was Ramos illegally dismissed? (3) Is Ramos entitled to a one-year salary? (4) Is Ramos entitled to moral damages?

Before delving into the merits of the petition, we shall first deal with the threshold procedural questions raised herein. Respondents aver that the petition must be dismissed since Hanjin elevated the case via a petition for certiorari under Rule 65[14] of the 1997 Rules of Civil Procedure, instead of under Rule 45.[15]

Time and again, we said that the special civil action for certiorari is not and cannot be made a substitute for the lost remedy of an appeal under Rule 45.[16] Here, as correctly pointed out by the Solicitor General, Hanjin failed to prove that it had no appeal or any other efficacious remedy against the decision of the Court of Appeals and the proper remedy of a party aggrieved is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure. As provided in Rule 45, decisions, final orders or resolutions of the Court of Appeals in any case, i.e., regardless of the nature of the action or proceedings involved, may be appealed to us by filing a petition for review on certiorari, which would be but a continuation of the appellate process over the original case. On the other hand, a special civil action under Rule 65 is an independent civil action based on the specific grounds therein provided and, as a general rule, cannot be availed of as a substitute for the lost remedy of appeal.[17]

Moreover, petitioner should have appealed the NLRC's adverse ruling of illegal dismissal to the Court of Appeals. This, petitioner failed to do. The records reveal that only private respondent Ramos appealed the NLRC's decision to the Court of Appeals praying for the award of the full monetary value of the unexpired portion of his employment contract, and not merely his three months salary as provided under Republic Act No. 8042.[18] Thus, with regard to petitioner, the factual findings of illegal dismissal by the NLRC had already become final.

In Asuncion v. National Labor Relations Commission,[19] we ruled that perfection of an appeal within the statutory or reglementary period is not only mandatory but also jurisdictional and failure to do so renders the questioned decision final and executory, thus depriving the appellate court jurisdiction to alter the final judgment, much less to entertain the appeal.[20] As we said, although Hanjin had the opportunity to appeal its case, it did not.

Likewise, by availing of a wrong or inappropriate mode of appeal, the petition merits an outright dismissal pursuant to Circular No. 2-90[21] which provides that, "an appeal taken to either Supreme Court or the Court of Appeals by the wrong or inappropriate mode shall be dismissed."[22]

Moreover, a perusal of the issues raised by petitioners, although alleging grave abuse of discretion, are clearly for the correction of errors of judgment, not errors of jurisdiction.[23] If indeed errors of facts and erroneous appreciation of facts had been committed by the appellate court, still these would not amount to grave abuse of discretion. Where the issue or question involved affects the wisdom of the decision - not the jurisdiction of the court to render the decision - the same is beyond the province of a special civil action for certiorari.[24]

Neither can we treat the instant petition as one having been filed under Rule 45. We can only treat a petition wrongly filed under Rule 65 as one filed under Rule 45 if petitioner had alleged grave abuse of discretion in its petition under the following circumstances: (1) If the petition is filed within 15 days from notice of the judgment or final order or resolution appealed from; or (2) If the petition is meritorious.[25] The instant case, however, does not fall under either of the two exceptions because Hanjin's petition was filed 60 days after notice of the assailed judgment and in our considered view, the issues presented by the petition lacks merit.

Conformably then, we are constrained to dismiss the instant petition for utter lack of merit.

WHEREFORE, the petition is hereby DISMISSED. The Decision dated August 27, 2004 and the Resolution dated March 9, 2005 of the Court of Appeals in CA-G.R. SP No. 74536 are AFFIRMED. Costs against petitioner.

SO ORDERED.

Carpio Morales, Velasco, Jr., Nachura,[*] and Brion, JJ., concur.

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[*] Additional member in lieu of Associate Justice Dante O. Tinga who is on sabbatical leave.

[1] Rollo, pp. 40-50. Penned by Associate Justice Ruben T. Reyes (now a retired member of this Court), with Associate Justices Perlita J. Tria Tirona and Jose C. Reyes, Jr. concurring.

[2] Id. at 52-54.

[3] Id. at 132-147.

[4] CA rollo, p. 66.

[5] Id. at 69-72.

[6] Id. at 72.

[7] Rollo, pp. 96-98.

[8] Id. at 94.

[9] Id. at 95.

[10] Id. at 100-104.

[11] Id. at 146-147.

[12] Id. at 50.

[13] Id. at 15-16.

[14] SECTION 1. Petition for certiorari. - When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46.

[15] SECTION 1. Filing of petition with Supreme Court. - A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition shall raise only questions of law which must be distinctly set forth.

[16] Davao Merchant Marine Academy v. Court of Appeals, G.R. No. 144075, April 19, 2006, 487 SCRA 396, 404.

[17] Fortune Guarantee and Insurance Corporation v. Court of Appeals, G.R. No. 110701, March 12, 2002, 379 SCRA 7, 14.

[18] An Act to Institute the Policies of Overseas Employment and Establish a Higher Standard of Protection and Promotion of the Welfare of Migrant Workers, Their Families and Overseas Filipinos in Distress, and for Other Purposes, approved on June 7, 1995.

[19] G.R. No. 109311, June 17, 1997, 273 SCRA 498.

[20] Rollo, pp. 315-316.

[21] Guidelines to be Observed in Appeals to the Court of Appeals and to the Supreme Court (March 9, 1990).

[22] Sea Power Shipping Enterprises, Inc. v. Court of Appeals, G.R. No. 138270, June 28, 2001, 360 SCRA 173, 180.

[23] VMC Rural Electric Service Cooperative, Inc. v. Court of Appeals, G.R. No. 153144, October 16, 2006, 504 SCRA 336, 351.

[24] Danzas Corporation v. Abrogar, G.R. No. 141462, December 15, 2005, 478 SCRA 80, 87, citing Land Bank of the Philippines v. Court of Appeals, G.R. No. 129368, August 25, 2003, 409 SCRA 455, 482.

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[25] Hanjin Engineering and Construction Co., Ltd. v. Court of Appeals, G.R. No. 165910, April 10, 2006, 487 SCRA 78, 97.

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