

MA. GREGORIETTA LEILA C. SY, PETITIONER, VS. ALC INDUSTRIES, INC. AND DEXTER P. CERIALES, RESPONDENTS.

G.R. No. 168339. October 10, 2008

Ponente: CORONA, J.

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CORONA, J.:

In this petition for review on certiorari under Rule 45 of the Rules of Court, petitioner Ma. Gregorietta Leila C. Sy assails the March 30, 2005 decision[1] and May 31, 2005 resolution[2] of the Court of Appeals (CA) dismissing her complaint for non-payment of salary and allowances against respondents ALC Industries, Inc. (ALCII) and Dexter P. Ceriales.

Petitioner was hired by respondent corporation ALCII as a supervisor in its purchasing office. She was thereafter assigned to ALCII's construction project in Davao City as business manager and supervisor of the Administrative Division.[3] Her Davao assignment was from May 1997 to April 15, 1999.

Petitioner alleged that respondents refused to pay her salary beginning August 1998 and allowances beginning June 1998, despite her almost weekly verbal follow-up. Petitioner filed a complaint before the labor arbiter for unpaid salaries and allowances. Despite several notices and warnings, respondents did not file a position paper to controvert petitioner's claims.[4] The case was submitted for resolution based solely on petitioner's allegations and evidence.[5]

In his June 30, 2000 decision,[6] the labor arbiter ordered ALCII and/or Dexter Ceriales to pay petitioner P282,560 representing her unpaid salary and allowance.

Respondents filed an appeal with motion for reduction of bond in the National Labor Relations Commission (NLRC) without posting any cash or surety bond. In a resolution dated September 6, 2001, the NLRC dismissed respondents' appeal. It ruled that respondents failed to adduce substantial evidence to support their arguments of non-liability. Moreover, it found no justifiable reason to grant a reduction in the required bond.

Petitioner filed her first motion for issuance of writ of execution on November 16, 2001. From then on, four reiterating motions for the issuance of a writ of execution[7] were filed. Unknown to her, respondents were able to file a motion for reconsideration on time, accompanied by a joint undertaking/declaration[8] in lieu of the cash or surety bond.

Nevertheless, respondents' motion for reconsideration was denied.

On August 2, 2002, respondents filed a motion for clarification but this was likewise denied. Respondents questioned the NLRC's denial of their motion for clarification and reconsideration in the CA via a petition for certiorari and prohibition.

In its March 30, 2005 decision, the CA set aside the resolutions of the NLRC and the decision of the labor arbiter and dismissed petitioner's complaint. When her motion for reconsideration was denied, she filed a Rule 45

petition in this Court questioning the CA decision and resolution on the ground that the decision of the labor arbiter had become final and executory. Hence, the CA no longer had jurisdiction over respondents' petition for certiorari.

We agree.

Article 223 of the Labor Code provides:

Article 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 calendar days from receipt of such decisions, awards, or orders. xxx.

In case of a judgment involving a monetary award, an appeal by the employer may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Commission in the amount equivalent to the monetary award in the judgment appealed from. (emphasis supplied)

Section 1, Rule VI of the Rules of Procedure of the NLRC, as amended, likewise provides that the appeal must be filed within ten days from receipt of the decision, resolution or order of the labor arbiter. Moreover, Section 6 of the same rules provides that an appeal by the employer may be perfected only upon the posting of a cash or surety bond. As the right to appeal is merely a statutory privilege, it must be exercised only in the manner and in accordance with the provisions of the law. Otherwise, the right to appeal is lost.[9]

Although the NLRC Rules of Procedure may be liberally construed in the determination of labor disputes, there is, however, a caveat to this policy. Liberal construction of the NLRC rules is allowed only in meritorious cases, where there is substantial compliance with the NLRC Rules of Procedure or where the party involved demonstrates a willingness to abide by the rules by posting a partial bond.[10] In *Bunagan v. Sentinel Watchman and Protective Agency, Inc.*, [11] we held:

Although the NLRC is not bound by the technical rules of procedure and is allowed to be liberal in the interpretation of the rules in deciding labor cases, such liberality should not be applied where it would render futile the very purpose for which the principle of liberality is adopted; the liberal interpretation stems from the mandate that a workingman's welfare should be the primordial and paramount consideration.

Respondents have not shown any reason to warrant a liberal interpretation of the NLRC Rules of Procedure. For one, their failure to post an appeal bond during the reglementary period was directly violative of Article 223 of the Labor Code. In a long line of cases, we have ruled that the payment of the appeal bond is a jurisdictional requisite for the perfection of an appeal to the NLRC.[12] The lawmakers intended to make the posting of a cash or surety bond by the employer the exclusive means by which an employer's appeal may be perfected.[13] The rationale for this rule is:

The requirement that the employer post a cash or surety bond to perfect its/his appeal is apparently intended to assure the workers that if they prevail in the case, they will receive the money judgment in their favor upon the dismissal of the employers' appeal. It was intended to discourage employers from using an appeal to delay, or even evade, their obligation to satisfy their employee's just and lawful claims.[14]

The explanation advanced by respondents for their failure to pay the appeal bond belies their claim. The NLRC found that respondents did not pay the appeal bond on the mistaken notion that they were not liable for the monetary award and had already ceased operations due to bankruptcy.[15] Respondents belatedly filed a bond with their motion for reconsideration of the NLRC's dismissal of their appeal. We cannot countenance such flagrant disregard of established rules of procedure on appeals.

Moreover, the filing of a joint undertaking/declaration, filed way beyond the ten-day reglementary period for

perfecting an appeal and as a substitute for the cash or surety bond, did not operate to validate the lost appeal.

The decision of the labor arbiter therefore became final and executory for failure of respondents to perfect their appeal within the reglementary period. Clearly, the CA no longer had jurisdiction to entertain respondents' appeal from the labor arbiter's decision.

Respondents point out that we have occasionally allowed exceptions to mandatory and jurisdictional requirements in the perfection of appeals, such as disregarding unintended lapses on the basis of strong and compelling reasons.[16] This is true. However, the obvious motive behind respondents' plea for liberality is to thwart petitioner's claims. This we cannot allow. Respondents' lapses were far from unintentional. They were deliberate attempts to circumvent established rules.

Respondents' other contention that they were deprived of due process is likewise devoid of merit. Due process is satisfied when the parties are afforded fair and reasonable opportunity to explain their respective sides of the controversy.[17] In *Mariveles Shipyard Corp. v. CA*,[18] we held:

The requirements of due process in labor cases before a Labor Arbiter is satisfied when the parties are given the opportunity to submit their position papers to which they are supposed to attach all the supporting documents or documentary evidence that would prove their respective claims, in the event that the Labor Arbiter determines that no formal hearing would be conducted or that such hearing was not necessary. (emphasis supplied).

We ruled in *Times Transportation Company, Inc. v. Sotelo*:^[19]

To extend the period of appeal is to prolong the resolution of the case, a circumstance which would give the employer the opportunity to wear out the energy and meager resources of the workers to the point that they would be constrained to give up for less than what they deserve in law.

Although technical rules of procedure are not ends in themselves, they are necessary for an effective and expeditious administration of justice.[20] Litigations must end. Based on the material facts of this case, no cogent reason exists for us to depart from the general rule and create an exception by liberally construing the technical rules of procedure in favor of respondents.

WHEREFORE, the petition is hereby GRANTED. The March 30, 2005 decision and May 31, 2005 resolution of the Court of Appeals in CA-G.R. SP No. 80114 are REVERSED and SET ASIDE. The September 6, 2001 and May 24, 2002 resolutions of the NLRC affirming the June 30, 2000 decision of the labor arbiter are hereby REINSTATED.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Penned by Associate Justice Eugenio S. Labitoria (retired) and concurred by Associate Justices Arturo D. Brion (now Associate Justice of the Supreme Court) and Amelita G. Tolentino of the Special Third Division of the Court of Appeals. Rollo, pp. 48-57.

[2] Rollo, pp. 46-47.

[3] In a letter dated September 12, 1998, petitioner was designated as Project Manager. Rollo, pp. 13, 116. In other parts of the petition, the position was referred to as Administration and Business Manager. Rollo, p. 14.

[4] Respondents claimed that they were under the impression that their position paper was duly filed with and

received by the labor arbiter. It turned out, however, that the person tasked with the filing of such position paper failed to do so.

[5] Rollo, p. 16.

[6] Penned by labor arbiter Felipe T. Garduque II.

[7] Two more motions for execution were filed. The fifth motion was filed with petitioner's opposition/comment to respondents' motion for reconsideration dated January 21, 2002. The sixth motion for execution was filed with petitioner's motion for early resolution.

[8] Joint Undertaking/Declaration with Al Amanah Islamic Investment Bank of the Philippines. Rollo, p. 128.

[9] *Stolt-Nielsen Marine Services, Inc. v. NLRC*, G.R. No. 147623, 13 December 2005, 477 SCRA 516.

[10] *Id.*

[11] G.R. No. 144376, 13 September 2006, 501 SCRA 650.

[12] *Filipinas (Pre-Fabricated Bldg.) Systems "FIL-SYSTEMS," Inc. v. NLRC*, G.R. No. 153859, 11 December 2003, 418 SCRA 404.

[13] *Catubay v. NLRC*, G.R. No. 119289, 12 April 2000, 330 SCRA 440.

[14] *Orozco v. CA*, G.R. No. 155207, 29 April 2005, 457 SCRA 700.

[15] Rollo, p. 18.

[16] Rollo, p. 88, citing *Imperial Textile Mills, Inc. v. NLRC*, G.R. No. 101527, 19 January 1993, 218 SCRA 366. In this case, however, the rule on the posting of appeal bond was relaxed because when the appeal was made, there were still no implementing rules and regulations for the filing of a cash or surety bond.

[17] *Gutierrez v. Singer Sewing Machine Co.*, G.R. No. 140982, 23 September 2003, 411 SCRA 512.

[18] G.R. No. 144134, 11 November 2003, 415 SCRA 573.

[19] G.R. No. 163786, 16 February 2005, 451 SCRA 587.

[20] *Lanzadera v. Amethyst Security and General Services, Inc.*, G.R. No. 143604, 20 June 2003, 404 SCRA 505.

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