

DEE HWA LIONG ELECTRONICS CORPORATION (DEECO) AND/OR JANET DEE, PETITIONERS, VS. EMELINDA PAPIONA, RESPONDENT.

G.R. No. 173127. October 17, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Emelinda Papiona (respondent) was employed as a sales clerk by petitioner Dee Hwa Liong Electronics Corporation (DEECO) of which its co-petitioner Janet Dee (Janet) is a co-owner. On February 22, 2003, respondent had a heated altercation with petitioner Janet in the presence of employees and store customers over respondent's failure to answer Janet's calls via the office intercommunication system or intercom. Respondent immediately went home as, by her claim, she feared for her life. Two days later, respondent filed a complaint for illegal (constructive) dismissal against petitioners.[1]

Petitioners' repeated instructions for her[2] to report for work remained unheeded, respondent explaining to petitioners, by letter of March 10, 2003,[3] that she feared for her life.

By Decision of November 20, 2003,[4] the Labor Arbiter dismissed respondent's complaint in light of the following observations:

In this case there is no showing that [petitioners] had committed any act that can be construed as ample basis for the complainant to consider herself constructively dismissed. While it is undisputed that complainant and individual respondent Janette Dee had a heated argument on February 22, 2003 in front of other employees and store customers, which may have embarrassed complainant, the incident could not be legally considered as sufficient basis for the claim of the complainant that she was constructively dismissed.

It should be noted that right after the incident, complainant decided to go home and thereafter failed to report for work. Instead, on February 24, 2003, complainant filed the complaint for alleged constructive dismissal against the respondents. But with her failure to report for work without official leave of absence, [petitioners] lost no time in directing complainant to report for work x x x. [Although] after a month from the incident, complainant explained that her safety in her work place was no longer assured, as her foe was a co-owner of the company x x x, this Office finds her explanation as flimsy.

It should be noted that respondent company is engaged in the sales of electronic goods and employs more than a hundred employees as stated in complainant's pro-forma complaint and as such, during store operations, it is open to the public. The fear of complainant for her safety is therefore unfounded as any untoward incident in the premises would be open to the eyes of the public as well as to the employees of the establishment who could easily prevent any attempt on the life of the complainant.

As it is, the records are wanting of proof that complainant was dismissed, either openly or constructively. The fact that complainant was directed to report for work after absenting herself without official leave and before the respondents had been informed and summoned by this Office to respond to the complaint, further militate against her claim of constructive dismissal

x x x x (Underscoring supplied)

On appeal by respondent, the National Labor Relations Commission (NLRC), by Decision of September 9, 2005,[5] affirmed the Labor Arbiter's decision with the modification that in lieu of reinstatement, petitioners were ordered to pay respondent "separation pay equivalent to at least one (1) month[']s pay for every year of service from January 1989 to February 22, 2003,"[6] computed at P91,000.[7]

Petitioners sought reconsideration of the NLRC's award of separation pay which was denied by Resolution of December 7, 2005.[8]

On Petition for Certiorari[9] before the Court of Appeals, petitioners argued that "[s]ince both the Labor Arbiter and [the NLRC] found that there was no illegal dismissal, x x x respondent should not be entitled to separation pay." [10]

By Resolution of January 26, 2006,[11] the Court of Appeals dismissed the Petition for Certiorari because (1) petitioners' counsel failed to sign the petition, (2) "[c]opies of pleadings and documents x x x relevant and pertinent to the petition were not attached thereto x x x," (3) the verification and certification of non forum shopping "failed to give the assurance that the allegations of the petition are true and correct not only of personal knowledge but also based on authentic records," and (4) "[t]here is no written explanation as to why copies of the petition were not personally served upon respondents [sic] x x x."

Petitioners filed a Motion for Reconsideration of the appellate court's dismissal of their petition, explaining the flaws in their petition as follows:

Petitioners seek reconsideration of the Resolution. Due to oversight, undersigned counsel failed to sign the original copy of page 7 of the petition. However, records show that undersigned counsel signed the rest of the original duplicate copies of the petition.

Likewise the explanation why service upon respondents was not done personally was inadvertently omitted on page 7 of the petition because there was no more space available at the bottom of the prayer. Due to the distance between his office and that of the adverse counsel, as well as that of the National Labor Relations Commission, undersigned counsel sent the copies of the petition to the parties via registered mail.

Attached are copies of the petition in support of this motion.

Copies of pertinent documents were already attached to the petition as Annexes "A" to "D". However, undersigned counsel is attaching additional pertinent pleading as follows:

- Position Paper of the petitioners as Annex "E";
- Position Paper of private respondent as Annex "F";
- Reply of the petitioners as Annex "G";
- Reply of private respondent as Annex "H";
- Memorandum of Appeal of private respondent as Annex "I"; and
- Manifestation/ Comment dated January 13, 2004 by petitioners as Annex "J".

Anent the certification on forum shopping, attached herewith is page 8 of the petition where the certification was revised in accordance with the aforesaid resolution of this Honorable Court.[12]

The Court of Appeals denied petitioners' Motion for Reconsideration on the ground that "any subsequent compliance with the formal requirements for filing a petition as prescribed by the rules will not per se warrant a

reconsideration of [the] dismissal." Additionally it stated as follows:

[E]ven on the substantive aspect, We find nothing clear in the petition about the NLRC's alleged grave abuse of discretion amounting to lack or excess of jurisdiction. Indeed, the petition is patently without merit and the questions raised therein are too unsubstantial to require consideration (par. 2, Sec. 8, rule 65 of the Rules of Court).[13]

Hence, this Petition for Review on Certiorari.

The Court of Appeals dismissed petitioners' petition for certiorari on technical grounds, i.e., non-compliance with Rules 7, 13, and 65 of the Rules of Court.[14] In their present petition, however, petitioners submit as "lone issue x x x whether or not Article 279 of the Labor Code of the Philippines which mandates the grant of separation pay in lieu of reinstatement should also apply in [the] case of an employee who was not illegally dismissed." [15] They, however, glossed over the issue of their failure to comply with the Rules-basis of the appellate court's dismissal of their petitions. On that score alone, the petition fails.

While Section 6, Rule 2 of the Rules of Court provides for a liberal construction of the rules in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding, the same can not be used as a vehicle to ignore the Rules at will and at random to the prejudice of the orderly presentation and assessment of the issues and their just resolution.[16]

At all events, since petitioners did not in the present petition assign as error the appellate court's dismissal of their petition for certiorari for non-compliance with the Rules, following Section 8 of Rule 51 of the Rules of Court which reads:

SEC. 8. Questions that may be decided. - No error which does not affect the jurisdiction over the subject matter or the validity of the judgment appealed from or the proceedings therein will be considered unless stated in the assignment of errors, or closely related to or dependent on an assigned error and properly argued in the brief, save as the court may pass upon plain errors and clerical errors.

this Court will not consider the same to thus render the decision of the Court of Appeals final.

This Court is not unmindful of instances where, consistent with the spirit of liberality infused in the Rules of Court, it overlooked the lack of proper assignment of errors and considered errors not assigned. Concomitant to a liberal application of the Rules, however, the party invoking it should at least proffer a reason behind its failure to comply therewith,[17] an exceptionally meritorious one to warrant liberality.[18]

Petitioners have, however, neither invoked such liberality nor offered any reason for its failure to comply with the Rules of Court - whether in their present Petition for Review on Certiorari or in their Reply, even after respondent, who is not a lawyer,[19] pointed out such flaw in her comment to the Petition.[20] The general rule must thus stand; to rule otherwise would be to countenance petitioners' glaring disregard of the Rules.

WHEREFORE, the petition is DENIED.

Costs against petitioners.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Tinga, and Velasco, Jr., JJ., concur.

[1] Records, p. 2.

[2] Id. at 24, 28-29.

[3] Id. at 26.

[4] Id. at 92-97.

[5] Id. at 122-128.

[6]Id. at 127.

[7] Id. at 197.

[8] Id. at 141-142.

[9] CA rollo, pp. 2-10.

[10]Id. at 5.

[11]Id. at 36-37.

[12]CA rollo, pp. 100-101.

[13]Id. at 81.

[14] The Court of Appeals' statement in its June 1, 2006 Resolution that "even on the substantive aspect, [it found] nothing clear in the petition about the NLRC's alleged grave abuse of discretion amounting to lack or excess of jurisdiction" being a mere obiter dictum.

[15]Rollo, p. 6. Underscoring supplied.

[16]Prudential Guarantee and Assurance, Inc. v. Court of Appeals, G.R. No. 146559, August 13, 2004, 436 SCRA 478, 483, citing Sea Power Shipping Enterprises, Inc. v. Court of Appeals, 360 SCRA 173, 181 (2001).

[17] Prudential Guarantee and Assurance, Inc. v. Court of Appeals, supra, citing Lapid v. Laurea, G.R. No. 139607, October 28, 2002, 391 SCRA 277, 285 (2002), and Banco Filipino Savings and Mortgage Bank v. Court of Appeals, G.R. No. 132703, June 23, 2000, 334 SCRA 305, 318.

[18] Enriquez v. Enriquez, G.R. No. 139303, August 25, 2005, 468 SCRA 77, 86, citations omitted.

[19]Respondent represented herself in all of the proceedings.

[20]Rollo, pp. 94-95.

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