PASIG CYLINDER MFG., CORP., A.G. & E ALLIED SERVICES, MANUEL ESTEVANEZ, SR., AND VIRGILIO GERONIMO, SR., PETITIONERS, VS. DANILO ROLLO, REYNALDO ORANDE, RONIE JOHN ESPINAS, ROGE...

G.R. No. 173631. September 08, 2010

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

For review[1] are the rulings[2] of the Court of Appeals affirming the dismissal of a labor case for late filing and payment of the appeal bond.

The Facts

Petitioners Pasig Cylinder Manufacturing Corporation and A.G. & E Allied Services are cylinder gas tank manufacturers and repairers commonly operated by their officers, petitioners Manuel Estevanez, Sr. and Virgilio Geronimo, Sr. (Geronimo). Respondents, numbering 19, sued[3] petitioners before the National Labor Relations Commission (NLRC) for constructive dismissal and payment of employment benefits and damages. Respondents alleged that they were employees of petitioners whom petitioners arbitrarily denied regular work since December 1999 and, in May 2000, were altogether refused entry to their workplace. Respondents also claimed underpayment of wages and non-payment of 13[th] month pay, service incentive leave pay, and holiday pay.

Petitioners denied respondents' claims, contending that the loss of a major client constrained them to reduce the volume of work and shorten respondents' workweek to three days. Respondents reacted adversely to the downscaling and refused to follow shift assignments, disrupting what remains of petitioners' business. As a compromise, petitioners offered respondents separation benefits equivalent to a portion of their total years of service but respondents rejected the offer.[4]

The Ruling of the Labor Arbiter

The labor arbiter[5] ruled for respondents,[6] found petitioners liable for constructive dismissal with the ancillary obligation to pay backwages and separation pay in lieu of reinstatement. Further, the arbiter held petitioners liable for wage differential, holiday pay, 13[th] month pay, and service incentive leave pay, save for respondents Danilo Rollo, Emelito Lobo, Ronnie John Espinas, Jose Ronnie Serenio, Roberto Pinuela, Reynaldo Orande, and David Oclarino whom the arbiter found to have received payment for these benefits. In sum, the arbiter found petitioners liable for P3,132,335.57. The arbiter refused to award damages for lack of basis.[7]

On 24 September 2001, a copy of the arbiter's ruling, sent through mail, was received by one Arnel Naronio (Naronio), the security guard manning the compound where several businesses, including petitioners', operated.

The document was given to petitioners the following day, 25 September 2001. Ten days later, on 5 October 2001, petitioners filed their appeal with the NLRC with a motion to reduce the amount of the appeal bond to P100,000, enclosing a bond in that amount. Petitioners attached to their appeal copies of payrolls, payment ledgers, leave applications, and other documents allegedly indicating payment to respondents of 13[th] month pay, service incentive leave pay, and holiday pay.

The Ruling of the NLRC

The NLRC found the appeal barred by prescription and dismissed it. The NLRC reckoned the 10-day appeal period under Article 223 of the Labor Code, as amended, from Naronio's receipt of the arbiter's ruling on 24 September 2001. Consequently, the NLRC deemed petitioners' appeal bond similarly barred by prescription, not to mention that its amount was less than the monetary award adjudged in the appealed ruling.[8]

After unsuccessfully seeking reconsideration,[9] petitioners appealed to the Court of Appeals in a petition for certiorari. On the issue of prescription, petitioners contended that instead of counting the appeal period from 24 September 2001, the NLRC should have done so from their receipt of the arbiter's ruling on 25 September 2001, consistent with relevant jurisprudence. Thus reckoned, their appeal and appeal bond, filed on 5 October 2001, were filed within the 10-day appeal period.

On the validity of their reduced appeal bond, petitioners cited precedents allowing such practice for valid reasons. Petitioners submitted that the large amount of the monetary award and their downscaled operations constrained them to seek a reduction of the appeal bond's amount.

On the merits, petitioners reiterated their non-liability, maintaining that respondents reacted adversely to the downscaled operations by going on unauthorized leaves and making known their intention to cease reporting for work. Petitioners also claimed that there is no basis to hold them liable for non-payment of employment benefits because they were not remiss in their obligations under the Labor Code as borne out by the company records they submitted to the NLRC.

The Ruling of the Court of Appeals

The Court of Appeals sustained the NLRC and dismissed the petition. The appellate court saw no reason to disturb the NLRC's ruling, invoking the mandatory nature of appellate prescriptive periods, and, in labor cases, of the timely filing of the proper amount of appeal bond. Petitioners' motion for reconsideration was similarly denied.[10]

Hence, this petition.

Aside from reiterating the contentions raised before the Court of Appeals, petitioners call the Court's attention to an alleged clerical error in the dispositive portion of the arbiter's ruling awarding 13[th] month pay to the seven respondents whom the arbiter had excluded from such benefit.

The Issues

The petition raises the following issues:

(1) Whether petitioners' appeal and appeal bond filed with the NLRC were barred by prescription; and

(2) If in the negative, whether petitioners are liable (a) for constructive dismissal; and (b) non-payment of 13[th] month pay, service incentive leave pay, and holiday pay.[11]

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The Ruling of the Court

We hold that (1) petitioners' appeal with the NLRC was seasonably filed and their submission of a reduced appeal bond was justified; (2) petitioners are liable for illegal dismissal; and (3) the questions on respondents' receipt of 13[th] month pay, service incentive leave pay, and holiday pay and the arbiter's erroneous award of 13[th] month pay to seven of the respondents are factual issues properly resolved by the NLRC on remand.

On the Threshold Issues of Timeliness of Appeal
and Filing of Appeal Bond

Petitioners' Appeal Seasonably Filed

The resolution of the question on the timeliness of petitioners' appeal with the NLRC hinges on the reckoning of the 10-day appeal period under Article 223 of the Labor Code, as amended. Petitioners submit that the reckoning point is their receipt on 25 September 2001 of the mailed copy of the arbiter's ruling; respondents counter that it is Naronio's receipt of the ruling on 24 September 2001. The one day difference is pivotal because petitioners filed their appeal on the 10[th] day from their receipt of the arbiter's ruling, and, accordingly, on the 11[th] from the receipt by Naronio. The NLRC and the Court of Appeals found merit in respondents' submission. We find merit in petitioners' and thus, reverse.

Sections 5 and 6, Rule III of the NLRC's new rules of procedure (NLRC rules), as amended in 1999,[12] on the service of notices and resolutions and proof of completeness of service, provide:

> SECTION 5. SERVICE OF NOTICES AND RESOLUTIONS. - (a) x x x in cases of decision[s] and final awards, copies thereof shall be served on both parties and their counsel/representative by registered mail; x x x
>
> For purposes of computing the period of appeal, the same shall be counted from receipt of such decisions, awards, or orders by the counsel of record.
>
> SECTION 6. PROOF AND COMPLETENESS OF SERVICE. - The return is prima facie proof of the facts indicated therein. Service by registered mail is complete upon receipt by the addressee or his agent; but if the addressee fails to claim his mail from the post office within five (5) days from the date of first notice of the postmaster, service shall take effect after such time. (Emphasis supplied)

It appears that petitioners were not represented by counsel before the arbiter.[13] Thus, the arbiter's ruling was mailed to Geronimo and two other individuals[14] with a common address at "#98 San Guillermo St., Buting, 1601 Pasig City."[15] Following the NLRC rules, service of the ruling is completed upon its receipt by Geronimo or his agent from which the 10-day period for appeal will be counted. It is not disputed that Geronimo received a copy of the arbiter's ruling on 25 September 2001. The question then is whether the receipt the day before, 24 September 2001, of the same document by Naronio constitutes receipt by petitioners' "agent" within the contemplation of Section 6, Rule III of the NLRC rules. We hold that it does not.

Under the Rules of Court and Section 6 (formerly Section 5[16]), Rule III of the NLRC rules, the word "agent" for purposes of serving court processes on juridical persons refers to -

> [a] representative so integrated with the corporation sued as to make it a priori supposable that he will realize his responsibilities and know what he should do with any legal papers served on him. x x x
>
> x x x x
>
> [I]t does not necessarily connote an officer of the corporation. However, though this may include employees other than officers of a corporation, this does not include employees whose duties are not so integrated to the

> business that their absence or presence will not toll the entire operation of the business.[17] (Emphasis supplied)

It cannot be determined from the records who hired Naronio; but it is also undisputed that petitioners are not his employers. Indeed, Naronio serviced all the businesses operating within the compound where the arbiter's ruling was mailed. Thus, it is not even necessary to determine whether Naronio's "duties are not so integrated to the business that [his] absence or presence will not toll the entire operation" of petitioners' business. This test presupposes that the recipient of the legal document is employed by the addressee. For remedial law purposes, Naronio's receipt of any processes intended for petitioners was receipt by a stranger, without legal significance to petitioners.[18]

Hence, there is merit in petitioners' submission that they seasonably filed their appeal on 5 October 2001, the 10[th] day from their receipt of the arbiter's ruling on 25 September 2001, or within the appeal period in Article 223 of the Labor Code. For ruling to the contrary, thus denying due course to petitioners' appeal, the appellate court committed reversible error of law.[19]

Reduced Appeal Bond not Fatal to
Petitioner's Appeal

Nor was petitioners' filing of a reduced appeal bond fatal to their appeal. True, Article 223 of the Labor Code requires the filing of appeal bond "in the amount equivalent to the monetary award in the judgment appealed from." However, both the Labor Code[20] and this Court's jurisprudence[21] abhor rigid application of procedural rules at the expense of delivering just settlement of labor cases. Petitioners' reasons for their filing of the reduced appeal bond - the downscaling of their operations coupled with the amount of the monetary award appealed - are not unreasonable. Thus, the recourse petitioners adopted constitutes substantial compliance with Article 223 consistent with our ruling in Rosewood Processing, Inc. v. NLRC,[22] where we allowed the appellant to file a reduced bond of P50,000 (accompanied by the corresponding motion) in its appeal of an arbiter's ruling in an illegal termination case awarding P789,154.39 to the private respondents.

Petitioners' Liability for Illegal Dismissal
and Non-payment of Benefits

No Reversible Error in the Arbiter's Finding
of Illegal Dismissal

We find no error in the labor arbiter's ruling on the question of petitioners' liability for constructive dismissal. It seems petitioners rested their case on the defense of respondents' abandonment of work.[23] For this cause to prosper, petitioners should have proved (1) that the failure to report for work was without justifiable reason, and (2) respondents' intention to sever the employer-employee relationship as shown by some overt acts.[24] Petitioners failed to discharge their burden of proof. On respondents' non-reporting for work, petitioners failed to rebut respondents' claim that they were denied entry to their work area and the records substantially support the arbiter's finding that respondents were placed on shifts "not by weeks but almost by month."[25] Further, petitioners fail to bring to our attention any overt acts of respondents showing clear intention to sever their employment relationship with petitioners. On the contrary, respondents' act of filing complaints before the NLRC for illegal dismissal shows intent to continue their employment and hold petitioners liable for their constructive dismissal and for non-compliance with labor laws on payment of benefits. We have consistently treated this fact as belying intent to abandon work.[26]

Accordingly, petitioners are liable for constructive dismissal for placing respondents on shifts of a few days per month and in eventually denying them workplace access, rendering respondents' employment impossible,

unreasonable or unlikely, leaving them no choice but to quit.

Resolution of the Issues of Payment of
Benefits and Double Payment of
13[th] Month Pay to Seven Respondents
Properly Pertains to the NLRC

Petitioners further claim that the documents they submitted to the NLRC prove payment to respondents of the labor benefits the arbiter awarded to them. The task of resolving this issue, purely factual, properly pertains to the NLRC as the quasi-judicial appellate body to which these documents were presented to review the arbiter's ruling. True, the labor arbiter was the ideal forum to receive and evaluate these pieces of evidence but the NLRC is not precluded from considering them in light of their apparent merit, consistent with equity and the basic notions of fairness.[27] In discharging this task, the NLRC is to take into account all the documents petitioners attached to their memorandum of appeal, particularly Annexes "GGGGGG" to "IIIIII," "KKKKKK" and "LLLLLL"[28] which are payment ledgers indicating acknowledgment by some respondents of their receipt of 13[th] month pay for 1998 and 1999. The NLRC should also pass upon petitioners' claim of erroneous award of 13[th] month pay to respondents Danilo Rollo, Emelito Lobo, Ronnie John Espinas, Jose Ronnie Serenio, Roberto Pinuela, Reynaldo Orande, and David Oclarino whom the arbiter found to have been paid such benefit.[29]

WHEREFORE, we GRANT the petition in part. We REVERSE the Decision dated 20 March 2006 and Resolution dated 19 July 2006 of the Court of Appeals and REMAND the case to the National Labor Relations Commission for resolution of the question on the liability of petitioners Pasig Cylinder Manufacturing Corporation, A.G. & E Allied Services, Manuel Estevanez, Sr., and Virgilio Geronimo, Sr. to respondents for payment of 13[th] month pay, service incentive leave pay, and holiday pay.

SO ORDERED.

Velasco, Jr.,[*]Peralta, Abad, and Mendoza, JJ., concur.

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[*] Designated additional member per Raffle dated 6 September 2010.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Decision dated 20 March 2006 and Resolution dated 19 July 2006, penned by Associate Justice Lucas P. Bersamin (now a member of this Court) with Associate Justices Renato C. Dacudao and Celia C. Librea-Leagogo, concurring.

[3] In two separate suits.

[4] Rollo, p. 95.

[5] Natividad M. Roma.

[6] In a Decision dated 14 September 2001.

[7] Rollo, pp. 97-112.

[8] Id. at 297.

[9] Their motion was denied in the Resolution dated 30 April 2002.

[10] See note 2.

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[11] Although petitioners also question their so-called solidary liability for the monetary award (rollo, p. 22), this issue was never raised below. At any rate, it is premature to pass upon the question as petitioners do not allege that execution has been attempted against the personal properties of individual petitioners.

[12] Under NLRC Resolution No. 3-99, Series of 1999, effective 1 January 2000. Although the NLRC rules were subsequently amended by Resolution No. 01-02, Series of 2002, the amendments substantially reiterated Sections 5 and 6, Rule III as Sections 6 and 7, Rule III.

[13] Their position paper was signed by one Manuel Z. Ambrosio (Ambrosio) in his capacity as "finance manager."

[14] Manuel Ambrosio and Johnny Amanglan, alleged president and finance manager, respectively, of petitioner Pasig Cylinder Manufacturing Corporation (whom respondents impleaded as respondent below).

[15] Rollo, p. 96.

[16] As amended by NLRC Resolution No. 1-96, Series of 1996.

[17] Pabon v. NLRC, 357 Phil. 7, 15-16 (1998) (internal citations omitted) (holding that a bookkeeper is an "agent" of a corporation).

[18] This mirrors our consistent treatment on the binding effect on counsel of a security personnel's receipt of legal processes for purposes of counting prescriptive periods. See e.g. Adamson Ozanam Educational Institution, Inc. v. Adamson University Faculty and Employees Association, G.R. No. 86819, 9 November 1989, 179 SCRA 279 and Lawin Security Services, Inc. v. NLRC, 339 Phil. 330 (1997) uniformly holding that receipt by the security guard of the building where a party's counsel holds office does not trigger the running of the 10-day prescriptive period under the Labor Code to seek reconsideration, applying suppletorily Section 4, Rule 13 of the Rules of Court (now Section 6, Rule 13 of the 1997 Rules of Civil Procedure) on personal service of pleadings, judgments and other papers.

[19] Even if petitioners' appeal was indeed belatedly filed by one day, due consideration of the merits of their claims on the improper payment of benefits to respondents justifies relaxation of Article 223, a procedure this Court had sanctioned. See e.g. City Fair Corporation v. NLRC, 313 Phil. 464 (1995) where we found no error in the NLRC's decision to give due course to an appeal filed one day late to delete the damages awarded to the employer.

[20] Article 221 mandates liberal application of rules of evidence in resolving labor disputes, thus: "Technical rules not binding and prior resort to amicable settlement. - In any proceeding before the Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process. x x x " (Emphasis supplied)

[21] See e.g. Rapid Manpower Consultants, Inc. v. NLRC, G.R. No. 88683, 18 October 1990, 190 SCRA 747 (remanding the case to the Philippine Overseas Employment Agency for reception of supplemental evidence on the legality of the respondents' dismissal and the propriety of the monetary award in their favor for unpaid employment benefits).

[22] 352 Phil. 1013 (1998) (limiting the solidary liability of petitioner as indirect employer of security personnel).

[23] Petitioners alleged in their position paper filed with the arbiter (rollo, p. 95):

> Complainants were not dismissed but were scheduled to work for three (3) days a week starting November 1999 because of lack of work x x x. Caltex (Phils.), Inc., which is respondents' only major source of LPG cylinder tank repair business, stopped delivering tanks for repair because of budgetary constraints. The only operation that remained was the repair of cylinder tanks of very few independent LPG dealers.
>
> x x x x
>
> Work schedules were posted regularly for the workers' information. However, complainants do not report for work as scheduled in obvious defiance of official orders thereby disrupting the flow of whatever is left of the company's operations. The complainants were absent without official leave when respondents learned later that they have filed this complaint. Complainants thereafter even categorically stated during a talk with x x x respondents' officer that they do not intend to return to work if asked to report when operations normalize. (Emphasis supplied)

[24] RBC Cable Master System v. Baluyot, G.R. No. 172670, 20 January 2009, 576 SCRA 668.

[25] Rollo, pp. 103-104.

[26] Globe Telecom, Inc. v. Florendo-Flores, 438 Phil. 756, 768 (2002); Kams Int'l., Inc. v. NLRC, 373 Phil. 950, 959 (1999).

[27] Philippine Telegraph and Telephone Corporation v. NLRC, G.R. No. 80600, 21 March 1990, 183 SCRA 451, 458. Here, we found the NLRC to have erred in not considering relevant evidence presented to it for the first time on appeal:

[E]ven if the evidence was not submitted to the labor arbiter, the fact that it was duly introduced on appeal to respondent commission is enough basis for the latter to have been more judicious in admitting the same, instead of falling back on the mere technicality that said evidence can no longer be considered on appeal. Certainly, the first course of action would be more consistent with equity and the basic notions of fairness. (Id. at 457-458)

[28] Rollo, pp. 278-280, 282-283.

[29] Id. at 105.

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