G.G. SPORTSWEAR MANUFACTURING CORP. AND NARI K. GIDWANI, PETITIONERS, VS. THE HON. NATIONAL LABOR RELATIONS COMMISSION, THE HON. LABOR ARBITER FACUNDO LEDA, EMILY REFUGIO, PRISC...

G.R. No. 175406. July 15, 2009

Ponente: BRION, J.

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BRION, J.:

We review G.G. Sportswear Manufacturing Corporation's (GGSMC) and Nari K. Gidwani's (Gidwani) challenge, under Rule 45 of the Rules of Court,[1] to the decision[2] and resolution[3] of the Court of Appeals (CA) rendered in CA-G.R. SP. No. 70297.

The Factual Background

The case arose from several complaints for illegal dismissal, illegal rotation/constructive dismissal, illegal suspension, and various money claims filed by several workers (complainants) against petitioners GGSMC and Gidwani, as GGSMC President. The consolidated cases were filed by: Emily O. Refugio, et al.. (NLRC-NCR Case No. 00-09-06811-97); Francia T. Lopez, et al.. (Case No. 00-09-06840-97); Lorellie Magpili, et al. (Case No. 00-10-07435-97); Emily Refugio, et al. (Case No. 00-12-05551-97); andPriscilla S. Gaddi (Case No. 00-06-04732-98).

During the hearing on January 14, 1999, Atty. Cesar Vitales (Atty. Vitales) manifested that he was'withdrawing as counsel for the petitioners and that he would file his Notice of Withdrawal soon. In the same hearing, the Labor Arbiter directed the parties to file their position papers.[4] The order to file position paper was reiterated in a formal order dated January 18, 1999. This order was sent to Atty. Vitales' address on record and to the petitioners' Mandaluyong address.[5]

In due time, the complainants complied with the directive; complainant Priscilla Gaddi (Gaddi), represented by counsel Atty. Leticia L. Nicolas, filed her position paper on February 12, 1999, while the rest of the complainants, represented by Cezar F. Maravilla, Jr., filed theirs on April 21, 1999.[6] The petitioners did not file their position paper and were deemed to have waived their right to be heard for their failure to file their position paper despite sufficient time and notice given.[7]

In a Motion to Withdraw as Counsel of Record for the Respondents dated February 8, 1999, Atty. Vitales stated that:

> - At the time material to the filing of the pleading to include the motion for the consolidation of cases, undersigned have [sic] undertaken assistance and accommodation for the respondents in gratis;
>
> - Assurance was made that a counsel of choice for the respondents will soon enter his appearance to relieve the undersigned of this responsibility;

> - Time has elapsed and still the undersigned has not yet been changed by a counsel of choice by the respondents thereby impeding and practically affecting my other cases with my clients that need immediate and more than equal attention for that matter;
>
> - In order not to delay and obstruct speedy disposition of the cases, I am formally withdrawing my appearance as counsel of record for the respondents and tenders this same irrevocably as of this date.

In her position paper, Gaddi alleged that she used to work as an export staff of GGSMC from February 14,1995 (with a monthly salary of P5,600.00) until she was required to go on leave on January 11, 1998 because of the company's alleged financial difficulties and temporary stoppage of operations. The company, however, did not stop its operations and has not done so up to the present time. Since she went on leave, she had never been asked to return to work and had not received her 13[th] month pay for 1997 and 1998, nor had her leave commutations and other benefits been given to her. She demanded payments of these benefits, but the company only responded with promises.

Complainants Emily Refugio, Apolonia Evangelista, Hedelina Laylay, Lorellie Magpili, Myrna Melchor, Dolores Hepolito, Virginia Garcia, Anita Pregunta, Joebert Ladublan, Cristina Cabbab, Eduardo Temple, Lita Garcia, Emelyn Barauebo, Imelda Millendez, Cleo Tadique, Neressa Mercado, Brenda Conchada, Arnulfo Agtuca, Honorata Calpito, Nelly Baluyot, and Brenda Guarin claimed that when they filed a case for underpayment of wages, 13[th] month pay, and damages,[8] they were approached by representatives of the company who requested that they withdraw their claims. They refused; their refusal started the harassment that saw them placed on work rotation that they protested. Thereafter, they were asked to explain alleged "blocking" activities.[9] They submitted their explanation, but, as if on cue, they were dismissed from their employment without any investigation or hearing.

The Ruling on Compulsory Arbitration

In a consolidated decision dated December 28, 1999,[10] Labor Arbiter Facundo Leda found that the complainants were illegally dismissed. He ordered GGSMC and Gidwani to reinstate the complainants and to pay them, jointly and severally, their backwages, attorney's fees and the 13th month pay of Gaddi for 1997 at P151,289.60, and P140,884.74 each for the others, for a total liability of P3,109,869.14. The Notice of Judgment/Decision was sent to GGSMC and to Gidwani at their Mandaluyong address under Registry Receipt Nos. 0449 and 0450, respectively, and both were duly received and signed for at that address.[11]

Gaddi filed a motion for the immediate issuance of a writ of execution of the labor arbiter's decision. The petitioners received notices of hearing of the motion at their Mandaluyong addresses[12] and, through their counsel, Atty. Marie Rosario Concepcion, opposed the motion on the ground that the company had earlier filed with the Securities and Exchange Commission (SEC) a petition for suspension of payments.[13] The petitioners reasoned out that while the SEC initially dismissed their petition through the September 17,1999 Order, the petition was reinstated pursuant to a decision of the CA.[14]

The labor arbiter granted the motion for the issuance of a writ of execution in an order dated January 21, 2002 on the ground that the SEC did not order the suspension of the execution of the labor arbiter's decision which had become "final and executory for failure of the respondents to file an appeal within the reglementary period."[15] The labor arbiter issued the writ of execution on February 28, 2002.[16] Subsequently (i.e., on March 15, 2002), the petitioners filed an opposition claiming that they never received a copy of the decision of the labor arbiter, although they received a copy of the motion for the issuance of a writ of execution.

On April 24, 2002, the petitioners sought relief from the CA through a petition for certiorari under Rule 65 of the Rules of Court.[17] They charged the Labor Arbiter with grave abuse of discretion for issuing the writ of

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execution despite their pending petition for declaration of suspension of payments and their failure to properly receive their copies of the arbitral decision.

The CA Ruling

The CA dismissed the petition without prejudice to the company's right to secure relief from the SEC for suspension of payments.[18] The CA held that while the Securities Regulation Code of 2000 transferred to the appropriate Regional Trial Court jurisdiction over all cases enumerated under Section 5 of Presidential Decree (PD))No. 902-A,[19] the SEC retained "jurisdiction over pending suspension of payments/rehabilitation cases filed as of June 30, 2000."[20] Thus, GGSMC's Amended Petition for Suspension of Payments and for approval of a Debt Repayment Schedule, already before the SEC when RA No. 8799 took effect, should continue with that tribunal until final disposition.

The CA explained that under Section 6 of PD No. 902-A, the mere filing of the petition for suspension of payment does not operate to suspend all actions for claims against the petitioning corporation; only the "appointment of a management committee, the rehabilitation receiver, board or body ipso facto causes the suspension of all actions for claims against the petitioning corporation pending before any other court, tribunal, board or body." Without this SEC action, the CA concluded that the labor arbiter could act on the complainants' motion for execution and issue the necessary writ of execution. It therefore found no grave abuse of discretion on the part of the labor arbiter when he issued the order of January 21,2002[21] and the writ of execution dated February 28, 2002.[22]

The petitioners moved for reconsideration of this ruling, but the CA denied the motion,[23] paving the way for the filing of the present petition for review on certiorari.[24]

The Petition

In assailing the appellate court's decision, the petitioners contended that:

> 1. They never actually received the decision of the labor arbiter dated December 28, 1999. Their former counsel, Atty. Vitales, withdrew his appearance as early as February 8, 1999. In fact, the Arbiter mentioned the counsel's manifestation to withdraw in the decision itself.
>
> 2. All pleadings filed by the other parties and the orders, resolutions, and decision of the labor arbiter should have been addressed to the petitioners' new counsel; in his absence, the decision should have been addressed to the petitioners themselves.
>
> 3. The labor arbiter sent a copy of the decision to the petitioners' former address in Mandaluyong City, despite the fact that the company's present address at 773 J.P. Rizal Street, Makati City was already known and was already a part of the records of the case.
>
> 4. The labor arbiter issued the summons together with a copy of the complaint to their Makati address; Gaddi furnished the petitioners her position paper at their Makati address. The petitioners thus wondered why the labor arbiter sent his subsequent orders and the decision to the company's old address in Mandaluyong City.
>
> 5. The CA did not pass upon the matter except to note that it was one of the grounds raised by the petitioners in their petition for certiorari.
>
> 6. At the time the labor arbiter issued the order dated January 21, 2002 and the writ of execution dated February 28, 2002, their petition for declaration of suspension of payments was still pending, a situation which "should have deterred the public respondent from proceeding with the labor cases filed by the private respondents." The petitioners, however, refrained from discussing the matter further in view of "the dismissal of the SEC case in the Resolution of this Court in G.R. No. 146526 entitled Hongkong and Shanghai Banking Corp., et al. v. G.G. Sportswear Mfg. Corp.

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The Respondents' Position

The respondents vigorously opposed the petitioners' arguments and argued that there was effective service of the labor arbiter's decision on the petitioners. They posited, among others, that the petitioners never notified the labor arbiter that the company office factory/plant in Mandaluyong City no longer existed and that only the office in Makati City remained operational. The decision served on the petitioners at their address in Mandaluyong City was a valid service of judgment because both offices operate under the same name and are considered as one entity. Even assuming that the petitioners did not receive their copy of the labor arbiter's decision of December 28, 1.999, receipt by their counsel of record, not the petitioners' receipt, determined the timelines of their appeal. The petitioners never denied the receipt of a copy of the decision by their former counsel, Atty. Vitales. The petitioners' failure to perfect an appeal within the reglementary period despite notice rendered the decision final and executory, especially when no appeal bond was posted as required by law.

On the petitioners' claim that a suspension of payments petition was still pending with the SEC, the respondents submitted that the appellate court correctly ruled that the mere filing of a petition for suspension of payments does not operate to suspend all actions against a petitioning corporation; only upon the appointment of a management committee, rehabilitation receiver, board or body shall all actions for claims against the corporation be suspended. In fact, the petitioners admitted that the petition for suspension of payments "has been rendered moot and academic in view of the dismissal by the Honorable Court of the petition for declaration of suspension of payments of petitioners in another case x x x."[25]

The petitioners replied to the respondents' arguments on May 29, 2007,[26] principally on the issue of the effective service of the labor abiter's decision at the Mandaluyong office; they argued that their former counsel's motion to withdraw as counsel was not set for hearing as required by Section 26, Rule 136 of the Rules of Court;[27] to avoid the predicament of a counsel being bound to render services even if he had already withdrawn and the client being at the mercy of said counsel, Article 224 of the Labor Code requires that the parties and their counsels of record shall be separately furnished with copies of the decision of the Labor Arbiter. With such mode of service, the client cannot claim ignorance of the decision rendered in the case. They argued, too, that while the labor arbiter knew of the withdrawal of appearance of Atty. Vitales, he did not act on the latter's motion to withdraw as counsel. There was no need for the petitioners to file any notice of change of address considering that their address at 773 J.P. Rizal St., Makati City was already part of the records of the case, thus:

> a. the summons, together with a copy of the complaint, was served on the petitioners at 773 J.P. Rizal St., Makati City;
>
> b. the respondents themselves indicated 773 J.P. Rizal St., Makati City as the address of the company;
>
> c. Gaddi furnished the petitioners a copy of her position paper at 773 J.P. Rizal St., Makati City.

The petitioners only became aware of the labor arbiter's decision when they received a copy of the motion for execution through their new counsel.

The Court's Ruling

We rule that the CA did not commit any reversible error in dismissing the petition when it upheld: (1) the labor arbiter's order dated January 21, 2002[28] granting the respondents' motion for the issuance of a writ of execution; and (2) the issuance of the writ of execution on February 28, 2002.[29]

First. The pendency of the company's petition for suspension of payments with the SEC has been rendered moot by the ruling of this Court in another case involving the company on this same issue. The petitoners themselves admitted that —

While it may be true that this ground utilized in the Court of Appeals by the petitioner may have been rendered moot and academic in view of the dismissal by this Honorable Court of the petition for declaration of suspension of payments of petitioners in another case, it is the respectful submission of the petitioners that at the time the public respondent issued his order dated January 21, 2002 and Writ of Execution dated February 28,2002, there was still a pending petition for declaration of suspension of payments.[30]

As the appellate court correctly noted, the filing of the petition without further SEC action on the appointment of a receiver was not sufficient reason to prevent the NLRC from acting on a matter pending before it. As matters now stand, the company's petition for suspension of payments no longer exists, thus totally rendering the issue moot.

Second. The company cannot blame the labor arbiter for the directions the labor cases have taken. The records do not indicate what actually transpired between Atty. Vitales and the company on the matter of representation, but we find it significant that the company never questioned that Atty. Vitales did in fact withdraw. For his part, Atty. Vitales did not simply disappear; he duly manifested his intention to withdraw during the January 14, 1999 hearing,[31] and in fact did not formally withdraw until he filed his motion of withdrawal on February 8, 1999.[32] We quoted Atty. Vitales' motion to withdraw as it speaks volumes about how the petitioners viewed the labor complaints against them; they did not even bother to engage the services of a new counsel despite their counsel's withdrawal. Implied in all these is the petitioners' admission that they knew of and accepted the withdrawal but failed to protect their interests by engaging a new counsel; they only took notice when they were jolted by Gaddi's motion for the issuance of a writ of execution.

Third. The petitioners questioned the service of the labor arbiter's decision because their present address is at 773 J.P. Rizal St., Makati City. They admitted, however, that a copy of the decision was sent to the address in Mandaluyong City.[33] Again, the petitioners cannot blame the labor arbiter for service at their Mandaluyong address because nowhere in the records of either the NLRC or the CA does it appear that they advised the labor arbiter that they no longer maintained an office in Mandaluyong City. This is significant considering that in the "complaint form"[34] filed with the NLRC-NCR, complainant Gaddi entered as "place of work" 582 Magalona St., Mandaluyong City. This is the same situation for the other complainants; they also entered in the standard complaint the address of the petitioners in Mandaluyong City.[35] Also, notices of hearing and summons were sent to the petitioners' Mandaluyong address;[36] the petitioners' representative, Atty. German Pascua, on two occasions, responded to these notices before the withdrawal of Atty. Vitales.[37] We find it interesting that the labor arbiter sent a notice of the hearing on the motion for execution at the petitioners' Mandaluyong address,[38] and this notice duly attracted the petitioners' attention because a new counsel, Atty. Marie Rosario Concepcion, appeared at the hearing of the motion.[39] Under the circumstances, and specifically, without any notification from the petitioners that they had vacated the Mandaluyong workplace and are holding office solely at their Makati address, the petitioners cannot blame the labor arbiter for the service of his decision at the Mandaluyong address. What is important is that the decision was duly served and received at the petitioners' address of record pursuant to Article 224 of the Labor Code that the petitioners cite. In the absence of a counsel of record who had then withdrawn, service on the petitioners themselves was proper.

Fourth. We find it strange that despite the withdrawal of their counsel - a fact not unknown to the company - the petitioners did not engage a new counsel to pursue the case in their behalf. In fact, Atty. Vitales - then still counsel of record - was informed at the hearing of January 14, 1999 that a position paper had to be filed; both the company and Atty. Vitales were likewise formally notified by the formal order of January 18, 1999 that a position paper had to be filed. Both the company and Gidwani never responded. Copies of the decision were thus sent to the company and Gidwani and were duly received at their Mandaluyong address, yet again, they failed to respond. Only after a notice of hearing on the respondents' ex parte motion for execution, again sent to the petitioners'

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Mandaluyong address, that the petitioners bothered to respond and oppose the motion.

On deeper consideration of the developments in the case, we believe that the claim that they did not receive their copies of the labor arbiter's decision was a mere afterthought. In the opposition dated May 18, 2001 that the petitioners filed to the ex-parte motion for the issuance of a writ of execution, the sole basis cited was the pending petition for suspension of payments before the SEC;[40] nothing was said about any failure to receive a copy of the labor arbiter's decision. On January 21, 2002, the labor arbiter granted the respondents' motion through an order duly served on the parties;[41] a writ of execution dated February 28, 2002 soon followed. The record shows that the respondents' counsel received the January 21, 2002 order on February 28,2002.[42] It was only at this point that the petitioners, in an opposition filed on March 15, 2002, state in passing that they did not receive a copy of the labor arbiter's decision; to be exact, they made the bare and unsubstantiated claim that —

> [I]t bears stressing at this junction that while herein respondents received a copy of the Motion for Execution, they never received a copy of the decision of the Honorable Labor Arbiter. Apparently, the decision was served on respondents' former office which was already at the time in the possession of a third party. Whoever received a copy of the decision was not authorized to do so and definitely not the proper person to receive the same because respondents already had been evicted in the said premises. Hence, strictly speaking, the decision in this case remains underserved up to now.

Allegations such as these, being factual claims, stand as mere unsubstantiated allegations unless supported by hard evidence. Additionally, under the circumstances we outlined above, we cannot but conclude that the claim of failure to receive the labor arbiter's decision is completely bereft of factual and legal merit because it is contrary to what the records of the case contain. The serious legal consequences of the petitioners' omissions at the labor arbitration level - particularly, their failure to submit any position paper; their inattention to their legal representation; their failure to inform the labor arbiter of their change of address; and their consequent failure to seasonably appeal the labor arbiter's decision - are not made any lighter at the CA level by their failure to raise the issue of their receipt of the labor arbiter's decision in their motion for reconsideration of the CA decision.[43] All told, the petitioners simply did not pay enough attention to their cases at the arbitration level and deserve the fatal consequences of their inattention.

WHEREFORE, premises considered, the petition for review on certiorari filed by petitioners G.G. Sportswear Manufacturing Corporation and Nari K. Gidwani is hereby DENIED for lack of merit. The decision and resolution of the Court of Appeals in CA-G.R. SP. No. 70297 promulgated on May 18, 2006 and November 10, 2006, respectively, are hereby AFFIRMED.

SO ORDERED.

Quisumbing (Chairperson), Carpio Morales, Chico-Nazario,[*] and Leonardo-De Castro,[**] JJ., concur.

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[1] Rollo, pp. 11-25.

[2] Id., pp. 28-34; promulgated on May 18, 2006 and penned by Associate Justice Godardo A. Jacinto and concurred in by Associate Justice Juan Enriquez, Jr. and Associate Justice Vicente Q. Roxas.

[3] Id., pp. 36-37; promulgated on November 10, 2006.

[4] NLRC Records, p. 73.

[5] Id., pp. 74-77.

[6] Id., pp. 38-48.

[7] Id., p. 4.

[8] Angel Alcantara, et al. v. G.G. Sportswear Manufacturing Corporation, NLRC - NCR Case No. 00-00-04117-97 before Labor Arbiter Jose.

[9] Preventing allegedly the entry into company premises of complainants' co-workers on October 29, 1997; NLRC records, pp. 162,163, 164, 165, 166, 167, 168, 169 & 170.

[10] Supra note 4.

[11] NLRC Records, pp. 219-220.

[12] Under Registry Receipt duly receipted at the Mandaluyong address; NLRC Records, p. 229.

[13] SEC Case No. 08-97-5752.

[14] Issued by the Special 5th Division in CA-G.R. SP No. 55270.

[15] Rollo, p. 49.

[16] Id., pp. 53-56.

[17] G.G. Sportswear Mfg. Corporation and Mr. Naro K. Gadwani v. The Hon. National Labor Relations Commissioner, CA-G.R. SP No. 70297; rollo, p. 49.

[18] Id., pp. 53-56.

[19] Republic Act (RA) No. 8799, approved on July 19, 2000.

[20] RA No. 8799, Sec. 5.2.

[21] Supra note 15.

[22] Supra note 16.

[23] Supra note 3.

[24] Supra note 1.

[25] Rollo, p. 21.

[26] Id., pp. 97-102.

[27] The 2005 Revised Rules of Procedure of the National Labor Relations Commission, Rule II, Section 8(f), provides: Any change or withdrawal of counsel or representative should be made in accordance with the Rules of Court.

[28] Supra note 15.

[29] Supra note 16.

[30] Rollo, p. 21.

[31] Id., p. 40.

[32] Id., p. 18.

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[33] Id., pp. 18-19.

[34] Id., p. 58.

[35] NLRC records, pp. 2, 10, 24, 44, and 67.

[36] Id., pp. 17, 20, 22, 34, 37, 38, 39, & 40.

[37] Id., pp. 19, 28, and 41.

[38] Id., pp. 226-227.

[39] Id., p. 230.

[40] Rollo, pp. 50-58.

[41] NLRC records, p. 259.

[42] Id., unpaginated page following p. 259.

[43] CA Rollo, p. 106.

[*] Designated additional Member of the Second Division effective June 3, 2009 per Special Order No. 658 dated June 3, 2009.

[**] Designated additional Member of the Second Division effective May 11, 2009 per Special Order No. 635 dated May 7, 2009.

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