

GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (NLRC), DIONISIO BANLASAN, ALFREDO T. TAFALLA, TELESFORO D. RUBIA, ROGELIO A. ALVAREZ, D...

G.R. No. 180045. November 17, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court, seeking to reverse and set aside the Decision[1] and the Resolution[2] of the Court of Appeals (CA) dated September 7, 2006 and September 27, 2007, respectively, in CA-G.R. SP No. 50450.

The facts of the case are as follows:

Respondents Dionisio Banlasan, Alfredo T. Tafalla, Telesforo D. Rubia, Rogelio A. Alvarez, Dominador A. Escobal, and Rosauro Panis were employed as security guards by DNL Security Agency (DNL Security). By virtue of the service contract entered into by DNL Security and petitioner Government Service Insurance System on May 1, 1978, respondents were assigned to petitioner's Tacloban City office, each receiving a monthly income of P1,400.00. Sometime in July 1989, petitioner voluntarily increased respondents' monthly salary to P3,000.00.[3]

In February 1993, DNL Security informed respondents that its service contract with petitioner was terminated. This notwithstanding, DNL Security instructed respondents to continue reporting for work to petitioner. Respondents worked as instructed until April 20, 1993, but without receiving their wages; after which, they were terminated from employment.[4]

On June 15, 1995, respondents filed with the National Labor Relations Commission (NLRC), Regional Arbitration Branch No. VIII, Tacloban City, a complaint against DNL Security and petitioner for illegal dismissal, separation pay, salary differential, 13[th] month pay, and payment of unpaid salary.

On September 30, 1997, Labor Arbiter (LA) Benjamin S. Guimoc rendered a decision[5] against DNL Security and petitioner, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in this manner[,] to wit:

- Finding no illegal dismissal of complainants;
- Ordering respondent DNL Security Agency only to pay complainants the amount of P176,130.00 representing separation pay; the amount of P42,666.40 representing wages of complainants from February 1993 to April 20, 1993;
- Ordering as joint and solidary liability by the respondents DNL Security Agency and GSIS the amount of P48,385.87 representing salary differential[;] the amount of P55,564.92 as 13[th] month pay; all in the

aggregate sum of THREE HUNDRED TWENTY-TWO THOUSAND SEVEN HUNDRED FORTY-SEVEN & 19/100 (P322,747.19) to be paid by both or either of the said respondent within ten (10) days from receipt of this decision and to be deposited with the cashier of this office for proper disposition.

SO ORDERED.[6]

The LA found that respondents were not illegally terminated from employment because the employment of security guards is dependent on the service contract between the security agency and its client. However, considering that respondents had been out of work for a long period, and consonant with the principle of social justice, the LA awarded respondents with separation pay equivalent to one (1) month salary for every year of service, to be paid by DNL Security. Because DNL Security instructed respondents to continue working for petitioner from February 1993 to April 20, 1993, DNL Security was also made to pay respondents' wages for the period. The LA further granted respondents' claim of salary differential, as they were paid wages below the minimum wage, as well as 13[th] month pay. For these monetary awards, petitioner was made solidarily liable with DNL Security, as the indirect employer of respondents.[7]

DNL Security filed a motion for reconsideration, while petitioner appealed to the NLRC.[8]

In a resolution[9] dated December 9, 1997, the NLRC treated DNL Security's motion for reconsideration as an appeal, but dismissed the same, as it was not legally perfected. It likewise dismissed petitioner's appeal, having been filed beyond the reglementary period.

Undaunted, petitioner filed a petition for certiorari under Rule 65 of the Rules of Court before the CA. On September 7, 2006, the CA rendered the assailed Decision[10] affirming the NLRC ruling. Petitioner's motion for reconsideration was denied by the CA on September 27, 2007.

Hence, the present petition raising the following errors:

The Court of Appeals committed a reversible error in finding that the public respondent NLRC did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing the appeal of the petitioner GSIS, considering that:

1. The Court of Appeals disregarded the facts and circumstances evidencing the timeliness of the petitioner GSIS' appeal before the NLRC and sacrificed substantial justice in the altar of dubious technicalities; and
2. The Court of Appeals misapplied the law and mistakenly affirmed the public respondent NLRC's decision that the petitioner GSIS is jointly and severally liable with DNL Security Agency for payment of the unsubstantiated amounts of Salary Differentials and the 13[th] Month Pay to the private respondent security guards.[11]

Petitioner insists that its appeal before the NLRC was filed on time, having been filed through registered mail on October 27, 1997, as evidenced by Registry Receipt No. 34581 countersigned by the postmaster. It adds that, even assuming that the appeal was indeed filed one day late, the NLRC should not have strictly applied the Rules in order to effect substantial justice. Petitioner also claims that although the body of the LA decision made DNL Security solely liable for respondents' wages from February 1993 to April 20, 1993, and for their separation pay, the dispositive portion thereof made petitioner solidarily liable for said awards. Petitioner further questions the award of monetary benefits for lack of evidence to substantiate said claims. Lastly, petitioner argues that the enforcement of the decision is impossible, considering that petitioner's charter unequivocally exempts it from execution.[12]

We partly grant the petition.

The resolution of the petition before us involves the appreciation and determination of factual matters, mainly on the issue of whether petitioner's appeal was seasonably filed before the NLRC.

Timeliness of an appeal is a factual issue. It requires a review or evaluation of the evidence which would show when the appeal was actually mailed to and received by the NLRC.[13] In this case, to prove that it mailed the notice of appeal and appeal memorandum on October 27, 1997, instead of October 28, 1997, as shown by the stamped date on the envelope, petitioner presented Registry Receipt No. 34581 bearing the earlier date.

Under Section 3, Rule 13 of the Rules of Court, where the filing of pleadings, appearances, motions, notices, orders, judgments, and all other papers with the court/tribunal is made by registered mail, the date of mailing, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of filing.[14]

Thus, the date of filing is determinable from two sources: from the post office stamp on the envelope or from the registry receipt, either of which may suffice to prove the timeliness of the filing of the pleadings. If the date stamped on one is earlier than the other, the former may be accepted as the date of filing. This presupposes, however, that the envelope or registry receipt and the dates appearing thereon are duly authenticated before the tribunal where they are presented.[15]

In any case, even if the appeal was filed one day late, the same should have been entertained by the NLRC. Indeed, the appeal must be perfected within the statutory or reglementary period. This is not only mandatory, but also jurisdictional. Failure to perfect the appeal on time renders the assailed decision final and executory and deprives the appellate court or body of the legal authority to alter the final judgment, much less entertain the appeal. However, this Court has, time and again, ruled that, in exceptional cases, a belated appeal may be given due course if greater injustice will be visited upon the party should the appeal be denied. The Court has allowed this extraordinary measure even at the expense of sacrificing order and efficiency if only to serve the greater principles of substantial justice and equity.[16]

Technicality should not be allowed to stand in the way of equitably and completely resolving the rights and obligations of the parties. We have consistently held that technical rules are not binding in labor cases and are not to be applied strictly if the result would be detrimental to the working man.[17]

The Court notes, however, that while the CA affirmed the dismissal by the NLRC of petitioner's appeal for being filed out of time, it nonetheless delved into the merits of the case. This notwithstanding, we do not entirely agree with the appellate court's conclusion affirming in toto the LA decision.

In this case, the LA's discussion of the issues appears to be in conflict with his final conclusion. This would have required a measure of clarification. But instead of looking into the errors allegedly committed by the LA, the NLRC dismissed the appeal on a mere technicality. The CA likewise failed to correct the apparent mistake in the LA decision. Thus, we are constrained to review the merits of the case.

We need not discuss DNL Security's responsibility as respondents' direct employer because DNL Security's failure to interpose an appeal from the LA decision has resulted in the finality of the LA decision. The only issue that we should resolve is the matter of petitioner's liability as indirect employer.

The fact that there is no actual and direct employer-employee relationship between petitioner and respondents does not absolve the former from liability for the latter's monetary claims. When petitioner contracted DNL Security's services, petitioner became an indirect employer of respondents, pursuant to Article 107 of the Labor Code, which reads:

ART. 107. Indirect employer. - The provisions of the immediately preceding Article shall likewise apply to

any person, partnership, association or corporation which, not being an employer, contracts with an independent contractor for the performance of any work, task, job or project.

After DNL Security failed to pay respondents the correct wages and other monetary benefits, petitioner, as principal, became jointly and severally liable, as provided in Articles 106 and 109 of the Labor Code, which state:

ART. 106. Contractor or subcontractor. - Whenever an employer enters into a contract with another person for the performance of the former's work, the employees of the contractor and of the latter's subcontractor, if any, shall be paid in accordance with the provisions of this Code.

In the event that the contractor or subcontractor fails to pay the wages of his employees in accordance with this Code, the employer shall be jointly and severally liable with his contractor or subcontractor to such employees to the extent of the work performed under the contract, in the same manner and extent that he is liable to employees directly employed by him. x x x.

x x x x

ART. 109. Solidary liability. - The provisions of existing laws to the contrary notwithstanding, every employer or indirect employer shall be held responsible with his contractor or subcontractor for any violation of any provision of this Code. For purposes of determining the extent of their civil liability under this Chapter, they shall be considered as direct employers.

This statutory scheme is designed to give the workers ample protection, consonant with labor and social justice provisions of the 1987 Constitution.[18]

This Court's pronouncement in *Rosewood Processing, Inc. v. NLRC*[19] is noteworthy:

The joint and several liability of the employer or principal was enacted to ensure compliance with the provisions of the Code, principally those on statutory minimum wage. The contractor or subcontractor is made liable by virtue of his or her status as a direct employer, and the principal as the indirect employer of the contractor's employees. This liability facilitates, if not guarantees, payment of the workers' compensation, thus, giving the workers ample protection as mandated by the 1987 Constitution. This is not unduly burdensome to the employer. Should the indirect employer be constrained to pay the workers, it can recover whatever amount it had paid in accordance with the terms of the service contract between itself and the contractor.[20]

Petitioner's liability covers the payment of respondents' salary differential and 13th month pay during the time they worked for petitioner. In addition, petitioner is solidarily liable with DNL Security for respondents' unpaid wages from February 1993 until April 20, 1993. While it is true that respondents continued working for petitioner after the expiration of their contract, based on the instruction of DNL Security, petitioner did not object to such assignment and allowed respondents to render service. Thus, petitioner impliedly approved the extension of respondents' services. Accordingly, petitioner is bound by the provisions of the Labor Code on indirect employment. Petitioner cannot be allowed to deny its obligation to respondents after it had benefited from their services. So long as the work, task, job, or project has been performed for petitioner's benefit or on its behalf, the liability accrues for such services.[21] The principal is made liable to its indirect employees because, after all, it can protect itself from irresponsible contractors by withholding payment of such sums that are due the employees and by paying the employees directly, or by requiring a bond from the contractor or subcontractor for this purpose.[22]

Petitioner's liability, however, cannot extend to the payment of separation pay. An order to pay separation pay is invested with a punitive character, such that an indirect employer should not be made liable without a finding that it had conspired in the illegal dismissal of the employees.[23]

It should be understood, though, that the solidary liability of petitioner does not preclude the application of Article 1217 of the Civil Code on the right of reimbursement from its co-debtor, viz.:^[24]

Art. 1217. Payment made by one of the solidary debtors extinguishes the obligation. If two or more solidary debtors offer to pay, the creditor may choose which offer to accept.

He who made the payment may claim from his co-debtors only the share which corresponds to each, with the interest for the payment already made. If the payment is made before the debt is due, no interest for the intervening period may be demanded.

When one of the solidary debtors cannot, because of his insolvency, reimburse his share to the debtor paying the obligation, such share shall be borne by all his co-debtors, in proportion to the debt of each.

Lastly, we do not agree with petitioner that the enforcement of the decision is impossible because its charter unequivocally exempts it from execution. As held in *Government Service Insurance System v. Regional Trial Court of Pasig City, Branch 71*,^[25] citing *Rubia v. GSIS*: ^[26]

The processual exemption of the GSIS funds and properties under Section 39 of the GSIS Charter, in our view, should be read consistently with its avowed principal purpose: to maintain actuarial solvency of the GSIS in the protection of assets which are to be used to finance the retirement, disability and life insurance benefits of its members. Clearly, the exemption should be limited to the purposes and objects covered. Any interpretation that would give it an expansive construction to exempt all GSIS assets from legal processes absolutely would be unwarranted.

Furthermore, the declared policy of the State in Section 39 of the GSIS Charter granting GSIS an exemption from tax, lien, attachment, levy, execution, and other legal processes should be read together with the grant of power to the GSIS to invest its "excess funds" under Section 36 of the same Act. Under Section 36, the GSIS is granted the ancillary power to invest in business and other ventures for the benefit of the employees, by using its excess funds for investment purposes. In the exercise of such function and power, the GSIS is allowed to assume a character similar to a private corporation. Thus, it may sue and be sued, as also, explicitly granted by its charter x x x.^[27]

To be sure, petitioner's charter should not be used to evade its liabilities to its employees, even to its indirect employees, as mandated by the Labor Code.

WHEREFORE, premises considered, the Court of Appeals Decision and Resolution dated September 7, 2006 and September 27, 2007, respectively, in CA-G.R. SP No. 50450, are AFFIRMED with MODIFICATION. Petitioner Government Service Insurance System is declared solidarily liable with DNL Security to PAY respondents their wage differentials, thirteenth month pay, and unpaid wages from February 1993 to April 20, 1993, but is EXONERATED from the payment of respondents' separation pay.

SO ORDERED.

Carpio, (Chairperson), Peralta, Abad, and Mendoza, JJ., concur.

[1] Penned by Associate Justice Romeo F. Barza, with Associate Justices Isaias P. Dicdican and Priscilla Baltazar-Padilla, concurring; rollo, pp. 35-47.

[2] *Id.* at 48-49.

[3] *Id.* at 60.

[4] Id.

[5] Id. at 58-67.

[6] Id. at 66-67.

[7] Id. at 62-67.

[8] Id. at 79.

[9] Penned by Presiding Commissioner Irene Ceniza, with Commissioners Bernabe S. Batuhan and Amorito V. Cañete, concurring; id. at 77-81.

[10] Supra note 1.

[11] Rollo, pp. 15-16.

[12] Id. at 16-30.

[13] *Mangahas v. Court of Appeals*, G.R. No. 173375, September 25, 2008, 566 SCRA 373, 389.

[14] *San Miguel Corporation v. NLRC*, 259 Phil. 765, 769 (1989).

[15] Id. at 769.

[16] *ABS-CBN Broadcasting Corporation v. Nazareno*, G.R. No. 164156, September 26, 2006, 503 SCRA 204, 221.

[17] Id. at 221-222.

[18] *Manila Electric Company v. Benamira*, 501 Phil. 621, 644 (2005); *Mariveles Shipyard Corp. v. Court of Appeals*, 461 Phil. 249, 267 (2003).

[19] 352 Phil. 1013 (1998).

[20] Id. at 1033-1034. (Citations omitted.)

[21] *New Golden City Builders & Dev't. Corp. v. CA*, 463 Phil. 821, 833 (2003); id. at 1034.

[22] *Rosewood Processing, Inc. v. NLRC*, supra, at 1034.

[23] Id. at 1035.

[24] *Manila Electric Company v. Benamira*, supra note 18, at 645.

[25] G.R. Nos. 175393 and 177731, December 18, 2009, 608 SCRA 552.

[26] 476 Phil. 623 (2004).

[27] *Government Service Insurance System v. Regional Trial Court of Pasig City, Branch 71*, supra note 25, at 583-584. (Citations omitted.)

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