

PEDIATRICA, INC., PETITIONER, VS. JOSELITO T. RAFAELES, RESPONDENT.

G.R. No. 180755. June 19, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

Before this Court is a petition for review on certiorari under Rule 45 of the Rules of Court seeking the annulment of the June 26, 2007 Decision and November 13, 2007 Resolution of the Court of Appeals (CA) in CA-G.R. CEB SP No. 02058.

Respondent Joselito Rafaelles was employed by petitioner Pediatrica, Inc. as a Professional Service Representative (PSR), more commonly known as a medical representative. As a PSR, he was responsible for detailing petitioner's products to doctors. During the period material to this case, he was assigned at Cebu City.[1]

In the course of his work, he was required to accomplish a Call Report Slip.[2] This document is a record of, among others, the doctors' names, when the PSR called upon said doctor, and the items or products (physician's samples) issued to those doctors. As a matter of strict policy, the company requires that the integrity and accuracy of the Call Report Slip be maintained at all times since it contains valuable information to aid in the company's operations and administration of its personnel.[3] Thus, petitioner considers as a serious offense the submission of an inaccurate Call Report Slip or one that contains false information or forged doctors' signatures.[4]

On February 27, 2004, petitioner issued a Memorandum to respondent asking him to explain certain discrepancies in some of the Call Report Slips he had submitted; in particular, those where some of the doctors' signatures did not appear to be genuine. As evidence, petitioner attached several disclaimers written by the doctors to the effect that they did not sign the subject Call Report Slips.[5]

In his written explanation, respondent alleged that he did not defraud petitioner of cash, stocks, and other properties, and that he did not falsify records, furnish false data, or commit dishonesty with deliberate intent to defraud the company. He claimed that, in their absence, the doctors authorized their respective clinic personnel to receive the samples. He also argued that since the disclaimers were not authenticated, these cannot be given credence.[6] During the hearing that followed, respondent claimed that when doctors were in a hurry, or did not want to talk to a PSR, he would just leave the samples in the doctor's cabinet and the secretaries would sign on the doctor's behalf.[7]

Subsequently, petitioner's Operations Director, Virgilio Marfori, personally inquired into the accuracy of respondent's claim that doctors often allowed their secretaries to sign the Call Report Slips, and he allegedly found that the doctors did not allow their nurses or secretaries to sign for them. One of the doctors, Dr. Limchiu, issued an affidavit to that effect.[8]

On April 29, 2004, respondent submitted a letter stating that he never said that the doctors allowed or instructed their secretaries or nurses to sign for them. He simply claimed that the secretaries or nurses signed for the doctors

as proof that the doctors received the samples meant for them. He added that the doctors' denials did not negate the fact that their secretaries or nurses signed the Call Report Slips acknowledging receipt of the samples.

In a Memorandum dated May 8, 2004, petitioner advised respondent that it was terminating his employment for violation of the provisions of the Company Handbook and for loss of confidence.[9]

Respondent filed a complaint for illegal dismissal, damages, and money claims against petitioner before the National Labor Relations Commission (NLRC), Regional Arbitration Branch No. VII, Cebu City.[10] The Executive Labor Arbiter rendered a decision[11] finding that respondent was illegally dismissed and ordered petitioner to reinstate complainant and pay him backwages and his money claims.

Petitioner appealed the decision. On January 25, 2006, the NLRC issued an Order[12] dismissing the appeal on the ground that the same was not perfected because it appeared that of the three joint declarants (the employer, its counsel, and the bonding company) in support of the appeal bond, only one of them - the bonding company representative - swore before the notary public.

Petitioner filed a motion for reconsideration.[13] It alleged that all three joint declarants swore before the notary public attaching, as proof thereof, a Certification from Notary Public Rogel R. Atienza that the representatives from Unilab (petitioner's parent company) and its counsel likewise appeared before the notary public and exhibited their respective Community Tax Certificates (CTC). The NLRC denied the motion saying that the jurat of the Joint Declaration indicated that only one exhibited his CTC before the notary public, confirming that the others did not so appear before the notary public.[14]

Petitioner filed a special civil action for certiorari before the CA. On July 25, 2007, the CA issued the assailed Decision.[15] It denied the petition and affirmed the NLRC decision. It ruled that petitioner did not comply with the requisites for appeal before the NLRC. The CA found that the Joint Declaration petitioner submitted was defective because the jurat portion did not contain the CTC numbers of the Unilab representatives and its counsel. Moreover, it found that the Joint Declaration was executed by Unilab, not by petitioner itself, which has a separate juridical personality. The CA brushed aside petitioner's contention that since Unilab was its parent company, the latter could post the bond on its behalf.

Petitioner's motion for reconsideration was denied in a Resolution dated November 13, 2007.[16] It then filed this Petition for Review seeking the reversal of the questioned CA Decision. It argues that the CA ruled contrary to law and jurisprudence when it upheld the NLRC's dismissal of its appeal on a perceived fatal technical error. Likewise, petitioner avers that the CA erred in affirming the NLRC, thus perpetuating the error and grave abuse of discretion committed by the Labor Arbiter in declaring the illegal dismissal of respondent, considering that the termination was for valid and just cause.

In support of its prayer for a Temporary Restraining Order (TRO) or Writ of Preliminary Injunction, petitioner contends that the CA's Decision is patently null and void for being contrary to law and jurisprudence and for being issued with grave abuse of discretion amounting to lack or excess of jurisdiction. It further argues that without the TRO or injunctive writ, it will suffer grave and irreparable damage and prejudice, since it will be forced to pay respondent's money claim to which he is not entitled. Thus petitioner will be deprived of the use of the fruits of its resources and the damages arising therefrom may not be indemnified. It also says that it will post the necessary bond in the amount this Court deems just and reasonable.

Acting on the Petition, this Court resolves to deny the same for failing to show that the CA, in issuing the assailed Decision and Resolution, committed reversible error.

The CA correctly affirmed the NLRC's Resolution dismissing petitioner's appeal for non-perfection thereof. There

was no grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the NLRC. It was well within the NLRC's prerogative to dismiss the appeal for failure of the petitioner to comply with the requirements under the NLRC Rules of Procedure.

Appeal is not a constitutional right but a mere statutory privilege. It must be exercised strictly in accordance with the provisions set by law.[17] The perfection of an appeal in the manner and within the period permitted by law is not only mandatory, but also jurisdictional. Failure to perfect the appeal renders the judgment of the court final and executory.[18]

Procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights. Like all rules, they must be followed except only, for the most persuasive of reasons, when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.[19]

Indeed, this Court had, on numerous occasions, veered away from the general rule and relaxed the application of technical rules when, in its assessment, the appeal on its face appeared absolutely meritorious. Truly, the Court had, in a number of instances, relaxed procedural rules in order to serve and achieve substantial justice.[20]

However, we find that the circumstances in this case do not warrant the relaxation of the rules. The Certification issued by the notary public will not save the day for petitioner. The same is merely a belated attempt to comply with the requirements under the NLRC Rules of Procedure and the Notarial Rules. Petitioner failed to explain how, if indeed the Unilab representatives and their legal counsel appeared before the Notary Public together with the bonding company representative, they failed to indicate their CTC numbers on the document knowing fully well - the legal counsel most especially - that the same is required by law. To allow such certification to "cure" the procedural lapse made by petitioner would undermine the integrity of notarized documents.

WHEREFORE, the foregoing premises considered, the Petition is DENIED and the June 26, 2007 Decision and November 13, 2007 Resolution of the Court of Appeals in CA-G.R. CEB SP No. 02058 are AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Velasco, Jr., and Peralta, JJ., concur.

[1] Rollo, p. 5.

[2] Id.

[3] Id. at 6.

[4] Id. at 7.

[5] Id. at 10-11.

[6] Id. at 11.

[7] Id. at 12.

[8] Id.

[9] Id. at 13.

[10] Id. at 87-88.

[11] Id. at 194-208.

[12] Id. at 307-308.

[13] Id. at 309-312.

[14] Id. at 313-314.

[15] Id. at 48-61.

[16] Id. at 63-64.

[17] *Spouses Manalili v. Spouses De Leon*, 422 Phil. 214, 220 (2001).

[18] *Cuevas v. Bais Steel Corporation, et al.*, 439 Phil. 793, 805 (2002).

[19] *Land Bank of the Philippines v. Ascot Holdings and Equities, Inc.*, G.R. No. 175163, October 19, 2007, 537 SCRA 396, 406 citing *Lazaro v. Court of Appeals*, G.R. No. 137761, April 6, 2000, 330 SCRA 208.

[20] *Air France Philippines v. The Honorable Judge Emilio L. Leachon*, G.R. No. 134113, October 12, 2005, 472 SCRA 439, 443.

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