EDGAR PERPETUO FERMIN E. HIPOL, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION-FIFTH DIVISION, UNION CEMENT CORPORATION AND/OR EDNEL V. PASCUAL, RESPONDENTS.

G.R. No. 181818. December 18, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the Resolutions[1] dated July 12, 2007 and January 8, 2008, respectively, of the Court of Appeals (CA) which dismissed outright petitioner Edgar E. Hipol's petition for certiorari.

Hipol began his employment with respondent United Cement Corporation (UCC) in 1996 as a Planner at the Motorpool Section of the Quarry Department. In the course of his employment, Hipol was assigned and promoted to different positions within UCC. At the time of his termination from UCC in 2004, Hipol held a supervisory level position.

Sometime in 2004, UCC conducted an investigation on Hipol's supposed theft of company property, i.e., metal plates. Thereafter, based on its finding of Hipol's culpability, UCC dismissed him for loss of trust and confidence.

On January 25, 2005, Hipol filed a complaint for illegal dismissal against UCC and co-respondent Ednel V. Pascual, UCC's Vice- President and Davao Plant Manager. In his decision,[2] the Labor Arbiter found UCC liable for illegal dismissal. The Labor Arbiter held that UCC failed to establish the fact of commission of a theft, much less, Hipol's culpability therefor. The Labor Arbiter noted that UCC failed to describe the missing metal plates and the alleged loss thereof was not even reported to the police. Thus, the Labor Arbiter rendered judgment ordering: (a) Hipol's reinstatement to his former position without loss of seniority rights and privileges; and (b) payment of backwages computed from the time of his dismissal, moral and exemplary damages, and attorney's fees. In all, the Labor Arbiter awarded Hipol the total amount of P1,185,835.25.

Not surprisingly, respondents appealed the Labor Arbiter's decision to the National Labor Relations Commission (NLRC). In 2006, the NLRC affirmed the Labor Arbiter's decision but reduced the award of moral and exemplary damages to P100,000.00 and P50,000.00, respectively. However, on motion for reconsideration of respondents, and in another turn of events, the NLRC reversed and set aside its earlier resolution. Ultimately, the NLRC dismissed Hipol's complaint for lack of merit.

Posthaste, Hipol filed a petition for certiorari before the CA which the latter, as previously adverted to, dismissed outright for the following reasons:

- Deficient payment of the docket and other lawful fees in the amount of P1,000.00;

- Failure of counsel to indicate in the petition his Roll of Attorneys number;

- Failure of counsel to indicate in the petition the place of issue of his IBP O.R.;

- Failure to append a legible copy of Appendix "E" of Annex "E"; and

- Improper verification, as it is not based on personal knowledge.

Indefatigably, Hipol filed a motion for reconsideration explaining that the procedural lapses were made in good faith and substantially complied with, to wit:

- The petition for certiorari contained a reservation on Hipol's willingness and readiness to pay any deficiency that may be further assessed by the CA over and above the amount of P3,500.00 initially tendered therein. This amount of P3,500.00 was based on a prior inquiry made by Hipol's counsel via long distance, as counsel's office is located outside Cagayan de Oro City. To settle the deficiency, counsel submitted Postal Money Order No. B 1110052630, in the amount of P1,000.00.

- The Roll of Attorneys number of Hipol's counsel can be found in the Verification and Certification of Non-Forum Shopping page of the petition for certiorari, as counsel notarized the same. Counsel's Roll of Attorneys number is below her name following the notarial commission serial number.

- The place of issue of Hipol's counsel's IBP Official Receipt is the same as that of the Professional Tax Receipt (PTR). Thus, for brevity, counsel consolidated and indicated below her IBP and PTR numbers the places where counsel's IBP Official Receipt and PTR were issued.

- The illegible Appendix "E" of "Annex "E" is only one of the annexes to the petition for certiorari. Thus, the outright dismissal of the petition based thereon is a harsh penalty. In this regard, Hipol readily submitted a clearer copy of the questioned document. Purportedly, the original of the document is in the possession of respondents.

- At the time Hipol filed a petition for certiorari before the CA, Hipol was working in Papua New Guinea. Verification thereof was thus executed by Hipol's wife whom he constituted as his attorney-in-fact. Mrs. Hipol substantially complied with the requirements for Verification, considering that:

> 5.1 Mrs. Hipol is the wife and attorney-in-fact of petitioner; she caused the filing of petitioner's appeal with the NLRC; and, she knew the circumstances of the proceedings involving her husband's employment. She thus had personal knowledge of the appeal and its outcome.
>
> 5.2 The circumstances of petitioner's employment were attested to by petitioner himself (see Verification of the complainant- petitioner's Position Paper at page 24).
>
> 5.3 Mrs. Hipol was duly authorized by her husband to file the instant petition, as evidence by the Special Power of Attorney executed by petitioners (see Annex I of the Petition).

Notwithstanding the exhaustive explanation, the appellate court denied the motion for reconsideration.

Hence, this appeal, imploring us to reverse the CA dismissal and for a relaxation of the rules of procedure. The instant petition posits the following issues:

> - Whether a Verification based on knowledge and authentic records at hand executed by the attorney-in-fact of petitioner constitutes sufficient compliance with Section 4, Rule 7 of the Revise Rules of Court; and
>
> - Whether payment of the docket/filing fees in such amount as petitioner believed in good faith to be correct and the subsequent payment of the deficiency therein constitute sufficient or substantial compliance with the requirement.

We grant the petition.

We have, on a number of occasions, held that the subsequent and substantial compliance of an appellant may

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warrant the relaxation of the rules of procedure. We held in Jaro v. Court of Appeals,[3] thus:

> In Cusi-Hernandez v. Diaz and Piglas-Kamao v. National Labor Relations Commission, we ruled that the subsequent submission of the missing documents with the motion for reconsideration amounts to substantial compliance. The reasons behind the failure of petitioners in these two cases to comply with the required attachments were no longer scrutinized. What we found noteworthy in each case was the fact that petitioners substantially complied with the formal requirements. We ordered the remand of the petitions in these cases to the Court of Appeals, stressing the ruling that by precipitately dismissing the petitions "the appellate court clearly put a premium on technicalities at the expense of a just resolution of the case."
>
> We cannot see why the same leniency cannot be extended to petitioner. x x x
>
> If we were to apply the rules of procedure in a very rigid and technical sense, as what the Court of Appeals would have it in this case, the ends of justice would be defeated. In Cusi-Hernandez v. Diaz, where the formal requirements were liberally construed and substantial compliance were recognized, we explained that rules of procedure are mere tools designed to expedite the decision or resolution of cases and other matters pending in court. Hence, a strict and rigid application of technicalities that tend to frustrate rather than promote substantial justice must be avoided. We further declared that:
> "Cases should be determined on the merits, after full opportunity to all parties for ventilation of their causes and defenses, rather than on technicality or some procedural imperfections. In that way, the ends of justice would be served better."

In the similar case of Piglas-Kamao v. National Labor Relations Commission, we stressed the policy of the courts to encourage the full adjudication of the merits of an appeal.

In the case at bench, Hipol readily complied with the procedural lapses in his petition cited by the CA as reason for the dismissal thereof. In fact, it is noteworthy that the petition itself contained a statement of Hipol's readiness and willingness to comply with further assessments to be made by the CA as regards payment of the docket and other lawful fees. The ostensibly missing numbers of Hipol's counsel and the place of issue of the IBP Official Receipt were adequately explained in the motion for reconsideration. In all, Hipol subsequently and substantially complied with the procedural requirements initially found lacking or defective by the appellate court.

Undeniably, the CA was correct in dismissing outright Hipol's petition for certiorari. However, upon motion for reconsideration and with a full and complete explanation, the CA should have reconsidered its prior dismissal and reinstated the petition. It would not have been remiss for the CA to have adjudged Hipol's case based on the merits especially with the conflicting decisions rendered by the NLRC.

WHEREFORE, premises considered, the petition is GRANTED . The resolutions of the Court of Appeals dated July 12, 2007 and January 8, 2008 are hereby SET ASIDE. The case is REMANDED to the Court of Appeals which is directed to reinstate and give due course to the petition for certiorari in CA-G.R. SP No. 01734-MIN, and to decide the same on the merits.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Reyes, JJ., concur.

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[1] Penned by Associate Justice Rodrigo F. Lim, Jr., with Associate Justices Teresita Dy-Liacco Flores and Michael P. Elbinias, concurring; rollo, pp. 28-29, 31-33.

[2] Rollo, pp. 48-67.

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[3] G.R. No. 127536, February 19, 2002, 377 SCRA 282.

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