ARNOLD F. ANIB, PETITIONER, VS. COCA-COLA BOTTLERS PHILS., INC. AND/OR RHOGIE FELICIANO RESPONDENTS.

G.R. No. 190216. August 16, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

For resolution is the petition for review on certiorari filed by petitioner, Arnold F. Anib, assailing the Court of Appeals (CA) Resolution[1] dated March 18, 2009 and Minute Resolution dated April 29, 2009.

On March 3, 1993, petitioner was employed as helper by respondent, Coca-Cola Bottlers Philippines, Inc. Later on, he was assigned to supervise respondent's mini warehouse in Ayala St., Makati City.

On March 20, 2005, a national inventory of the contents of the warehouse was conducted, and the result tallied with the number reflected in the Daily Stock Situation Report (DSSR) that was prepared by petitioner.

On April 23, 2005, the warehouse was padlocked by its owner due to respondent's failure to pay rentals. The DSSR for that day reflected that there were 1,455 cases left in the warehouse. On May 17, 2010, the warehouse was reopened, as respondent was able to settle its obligations with the owner. A spot count was conducted by petitioner, together with Rollie Latosa (Logistics Coordinator), a representative from the third party logistics service provider (referred to as the 3PL), and the assigned salesman. They discovered that there was a shortage in the stocks with a value equivalent of P361,061.00.

On May 24, 2005, petitioner was notified in writing of the shortage and was required to explain why he should not be found guilty of violating the Code of Disciplinary Rules and Regulations. Petitioner asked for time to explain the shortage as his wife was sick at that time.

Meantime, the stocks at the warehouse were re-inventoried. This time, the re-inventory revealed a shortage of 1,412 cases amounting to P404,807.00.

On June 3, 2005, respondents sent petitioner a Notice of Investigation and Grounding, advising him that an investigation will be conducted. A hearing was conducted on June 27, 2005, during which petitioner claimed that he did not know how the shortage came about and that he simply adopted the beginning inventory and the delivery of the 3PL. He said he was not certain if the stocks mentioned in the April 23, 2005 DSSR actually entered the warehouse.

Respondent conducted further investigation and discovered other irregularities allegedly committed by petitioner. Respondent claimed that stocks were withdrawn from the warehouse and delivered to other outlets during the time that the warehouse was supposedly padlocked. Petitioner purportedly issued a receipt for an amount less than what was actually paid by the outlet, and he applied the overpayment to his other shortages. For these violations, petitioner was again made to explain. He then admitted the discrepancy in the receipt and requested that the shortage be deducted from his salary.

On December 28, 2005, petitioner received a Notice of Termination. He then filed a complaint for illegal dismissal against respondent.

On March 31, 2008, the Labor Arbiter rendered a decision sustaining petitioner's dismissal, thus:

> WHEREFORE, judgment is hereby made finding the complainant to have been validly dismissed from employment but, as discussed above, ordering the respondent company to pay him a separation pay computed at a half month's pay for every year of service.
>
> Other claims are DISMISSED for lack of merit.
>
> SO ORDERED.[2]

Petitioner then elevated the case to the National Labor Relations Commission (NLRC).

On September 22, 2008, the NLRC reversed the Labor Arbiter's Decision, finding that there was no basis for petitioner's dismissal. The NLRC said that the alleged discrepancy in the stocks can be settled by reconciling the account and by investigating all the persons involved, not only petitioner. It opined that the investigation was conducted not for the purpose of ferreting out the truth but to pin down petitioner and find justification for his termination. The dispositive portion of the NLRC decision reads:

> WHEREFORE, the foregoing premises considered, the instant appeal is hereby GRANTED. The Decision appealed from is REVERSED and SET ASIDE, and a new one is issued declaring COCA-COLA BOTTLERS PHILIPPINES, INC. guilty of illegal dismissal.
>
> Respondent-appellee is ordered to pay Arnold Anib the following:
>
> - full backwages computed from the time he was dismissed up to finality of this resolution;
>
> - separation pay in lieu of reinstatement; and
>
> - attorney's fees equivalent to 10% of the award.
>
> The complaint for damages and other monetary claims are DISMISSED for lack of merit.
>
> SO ORDERED.[3]

Both parties filed their respective motions for reconsideration, which were denied for lack of merit in the NLRC Resolution dated February 9, 2009.[4]

Petitioner filed a petition for certiorari with the CA. In a Resolution dated March 18, 2009, the CA denied outright the petition for failure to comply with Section 1 of Rule 65, Rules of Civil Procedure, as only a photocopy of the September 22, 2008 NLRC Resolution was submitted.[5] The CA further noted that --

> 1. the present petition was filed by herein petitioner without paying the required docketing and other legal fees;
>
> 2. a reading of the records of the present petition, however, discloses that petitioner herein submitted documents to the effect that he is an indigent;
>
> 3. surprisingly, the present petition is silent as to any plea of the petitioner to litigate the same as pauper; and
>
> 4. whether to allow herein petitioner or not to litigate the present petition as pauper, the same is left to the discretion of this Court upon compliance of the required documents supporting it.[6]

Thereafter, petitioner submitted his Compliance to the CA, where he alleged that the NLRC Decision attached to his petition was "certified photocopy" by Angelito V. Vives, NLRC Board Secretary IV, 3[rd] Division, on

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February 4, 2009. In support of his plea to litigate as an indigent, he attached to the Compliance the following documents: (1) Petitioner's Affidavit attesting that he is unemployed, that his family does not earn a gross income exceeding an amount double the monthly minimum wage of an employee, and that his family does not own real property with a fair market value exceeding P300,000.00; (2) Supplemental Affidavit; (3) Joint Affidavit of petitioner's neighbors; (4) Certification of Indigency of the Municipal Social Welfare & Development Office; and (5) Certification of the Municipal Assessor that petitioner does not own any real property.

In a Minute Resolution dated April 29, 2009, the CA merely noted the Compliance on the ground that the petition had already been dismissed per Resolution dated March 18, 2009.[7] Hence, petitioner filed this petition for review ascribing the following errors to the CA: (1) denying a pauper litigant free access to the courts, and (2) ruling based on pure technicality and not correcting the error of the NLRC in awarding separation pay instead of ordering reinstatement.

In its Comment to the Petition, respondent averred that petitioner violated the rule against forum shopping when he failed to inform the Court that another case - a petition for review filed by respondent, assailing the same NLRC Decision - was pending before the CA (docketed as CA G.R. SP No. 108476). Respondent therefore prays that the petition be dismissed on the ground of forum-shopping.

The petition is partly meritorious.

Indeed, under Section 5, Rule 7 of the Revised Rules of Court, a plaintiff or principal party to a complaint or other initiatory pleading is obliged to inform the court of the filing of the same or similar action within five days from such filing. Failure to do so makes the action susceptible to dismissal.In Rudecon Management Corp. v. Singson,[8] the Court clarified that the "same or similar action or claim" refers to a case wherein the parties, causes of action, issues and reliefs prayed for, are identical to those in the first case. Obviously then, petitioner did not violate this rule when he failed to inform the Court that a petition for certiorari filed by respondent was pending before the CA as such petition does not involve similar causes of action, issues and reliefs prayed for.

The CA should not have dismissed the petition for certiorari upon a mere technicality, that is, failure to attach a certified true copy of the assailed NLRC Decision. Incidentally, petitioner insisted in his Compliance that the copy of the assailed NLRC decision attached to the Petition was certified by a duly authorized officer of the NLRC.

Such mere technicality should not be allowed to impede petitioner's call for a just review of the decision in the illegal dismissal case, ordering the payment of separation pay in lieu of reinstatement.

It is well-settled that the application of technical rules of procedure may be relaxed to serve the demands of substantial justice, particularly in labor cases. Labor cases must be decided according to justice and equity and the substantial merits of the controversy.[9] Procedural niceties should be avoided in labor cases in which the provisions of the Rules of Court are applied only in suppletory manner. Indeed, rules of procedure may be relaxed to relieve a part of an injustice not commensurate with the degree of non-compliance with the process required.[10]

We therefore remand the case to the CA for further proceeding. However, it behooves the CA to resolve, initially, the issue of whether to allow petitioner to litigate the case as an indigent, taking into consideration the supporting documents that petitioner attached to his Compliance.

WHEREFORE, the petition is PARTLY GRANTED. The CA Resolution dated March 18, 2009 and Minute Resolution dated April 29, 2009 are SET ASIDE. The case is REMANDED to the Court of Appeals for further proceeding.

SO ORDERED.

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

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[1] Penned by Associate Justice Andres B. Reyes, Jr., with Associate Justices Jose C. Reyes, Jr. and Normandie B. Pizarro, concurring; rollo, pp. 53-54.

[2] Id. at 42.

[3] Id. at 50.

[4] Id. at 57.

[5] Id. at 53.

[6]Id. at 54

[7] Id. at 58.

[8] 494 Phil. 581, 601 (2005).

[9]Garcia v. PAL, Inc., 498 Phil. 808, 809 (2005).

[10] Id. at 822.

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