

**LIMUELL C. NARCISO, OMAR C. MATUGUINA, ERIC MATUGUINA,
AZENITH MAG-ASO, LILIBETH MASCARIÑAS, LUTGARDO OGAMA,
LOLITO COLLAMAT, IRIS MATUGUINA AND ELMER BANILAD,
CARLOS B. MATUGUI...**

G.R. No. 194176. September 10, 2014

Ponente: REYES, J.

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REYES, J.:

This is a petition for review on certiorari[1] under Rule 45 of the Rules of Court assailing the Decision[2] dated March 25, 2010 and the Resolution[3] dated September 30, 2010 of the Court of Appeals (CA) in CA-G.R. CEB-SP. No. 02021 which affirmed the Order[4] dated February 22, 2006 of the National Labor Relations Commission (NLRC) dismissing the appeal filed by the petitioners for failure to attach thereto a certificate of non-forum shopping.

The Facts

Petitioners were the employees of Pacific Traders Manufacturing Corporation (PTMC), a domestic corporation engaged in the business of manufacturing furniture and fixtures for export. They were hired on different dates from 1999 to 2002 and in various capacities such as framer, attacher, finisher, assembler, etc.[5]

Tabok Workers Multi-Purpose Cooperative (TWMPC) is a cooperative duly registered with the Cooperative Development Authority among the purposes of which is "to engage in job out works of rattan and wood companies to the Pacific Rattan Manufacturing Corporation and other manufacturing companies." [6]

The present controversy arose when the petitioners filed in 2004, complaints for illegal dismissal with money claims[7] against PTMC and TWMPC before the Regional Arbitration Branch No. VII, NLRC, Cebu City docketed as NLRC RAB-VII Case No. 10-2076-2004 and NLRC RAB-VII Case No. 10-2047-2004.[8]

The petitioners alleged that they were regular employees of PTMC. Sometime in 2000, PTMC referred them to TWMPC in view of PTMC's refusal to sign a casual or probationary employment contract with them. They claimed to have been treated indifferently by TWMPC and were not given the proper labor benefits. When they reported the matter to the Department of Labor and Employment (DOLE), TWMPC terminated them from employment without just or authorized cause.[9]

PTMC denied that the petitioners were its regular employees and instead claimed that they were hired on a contractual or casual basis to meet the volume of orders from its foreign buyers which can no longer be accommodated by its regular employees. The petitioners were assigned to PTMC by TWMPC, one of its legitimate job contractors. PTMC asserted that the petitioners were paid all the salaries and benefits due them under the law and when their contracts expired, they voluntarily executed "Releases and Quitclaims." PTMC also averred that when it found out about the petitioners' illegal dismissal complaint, it had long terminated its relations with them.[10]

TWMPC confirmed that the petitioners were its bonafide members. They agreed to work on specific works on particular job orders contracted by TWMPC with different companies. Sometime in 2004, TWMPC's Board of Directors contemplated to try a "pakyaw system" instead of the per hour system of compensation. After being informed of such plan, the petitioners disagreed. The disagreement was eventually settled when the petitioners verbally acquiesced to withdraw their membership from TWMPC provided they will be paid separation pay and other amounts they were entitled to receive as cooperative members. Despite this verbal agreement, however, the petitioners filed complaints before the DOLE and the NLRC RAB-VII.[11] The DOLE case was later on dismissed upon an amicable settlement between the petitioners and TWMPC.[12]

The complaints before the NLRC RAB-VII were consolidated and jointly resolved by the Labor Arbiter[13] (LA) in its Decision dated July 21, 2005. The LA ruled that the petitioners were not illegally dismissed. However, TWMPC was directed to pay their separation pay as well as the amount of benefits due them as members of the cooperative. The LA declared that the petitioners were not employees of PTMC which was accordingly discharged from any liability.[14] The LA dismissed the petitioners' money claims for lack of factual basis.[15]

The petitioners and TWMPC appealed to the NLRC.[16] In its Order dated February 22, 2006, the NLRC dismissed both appeals outright for failure to attach the requisite Certificate of Non-Forum Shopping. The NLRC reasoned that appeal is a mere statutory privilege and the period and manner for its perfection are not only mandatory but also jurisdictional.[17]

Petitioners moved for the reconsideration of the foregoing order. They also submitted a Motion to Admit Certificate of Non-Forum Shopping pleading for a liberal application of procedural rules in the interest of substantial justice.[18]

The NLRC denied reconsideration in its Resolution dated May 25, 2006. The February 22, 2006 NLRC Resolution became final and executory on July 10, 2006 and an entry of judgment was issued on August 10, 2006.[19]

The petitioners persisted in their cause and elevated the matter to the CA via a petition for certiorari under Rule 65 of the Rules of Court ascribing grave abuse of discretion to the NLRC.

In its herein assailed Decision[20] dated March 25, 2010, the CA dismissed the petition upon finding that the petitioners failed to file the certificate of non-forum shopping within the reglementary period of filing a Memorandum of Appeal. Instead, they belatedly submitted the same in their motion for reconsideration of the NLRC resolution dismissing their appeal. The CA also ruled that the petitioners failed to cite any compelling reason which will warrant a relaxation of procedural rules. The CA stressed that the petitioners were not denied their right to appeal because it is actually a mere statutory privilege which must be perfected in the manner provided by law. The CA reiterated the NLRC's ruling that rules on perfection of appeal are not only mandatory but jurisdictional as well.[21]

The petitioners moved for reconsideration[22] but their motion was denied in the CA Resolution[23] dated September 30, 2010.

Hence, the present appeal arguing, in the main, that the CA erred in "strictly applying the requirement of certificate of non-forum shopping despite the presence of highly exceptional situation.[24]

The Ruling of the Court
The petition is denied.

At the outset, it bears to emphasize that "the findings of the NLRC are generally binding and should be treated

with finality. The CA only looks at the facts to determine if a tribunal, board or officer exercising judicial or quasi-judicial functions acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction in appreciating the facts."[25]

Hence, in ruling on the correctness of the CA's review of the NLRC decision, this Court is confined to a review of the case solely on pure questions of law. We are tasked to view the CA decision in the same context that the petition for certiorari it ruled upon was presented; we have to examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, not on the basis of whether the NLRC decision on the merits of the case was correct. In other words, we have to be keenly aware that the CA undertook a Rule 65 review, not a review on appeal, of the challenged NLRC decision. In question form, the question to ask is: Did the CA correctly determine whether the NLRC committed grave abuse of discretion in ruling on the case?[26]

Grave abuse of discretion connotes utter absence of any basis for the NLRC ruling.[27] The attendant facts and records on hand show otherwise.

A certificate of non-forum shopping is a requisite for the perfection of an appeal. This is clearly enunciated in Section 4, Rule VI of the 2005 Revised Rules of Procedure of the NLRC (2005 NLRC Rules),[28] thus:

Sec. 4. Requisites For Perfection Of Appeal. - a) The appeal shall be: 1) filed within the reglementary period provided in Section 1 of this Rule; 2) verified by the appellant himself in accordance with Section 4, Rule 7 of the Rules of Court, as amended; 3) in the form of a memorandum of appeal which shall state the grounds relied upon and the arguments in support thereof, the relief prayed for, and with a statement of the date the appellant received the appealed decision, resolution or order; 4) in three (3) legibly typewritten or printed copies; and 5) accompanied by i) proof of payment of the required appeal fee; ii) posting of a cash or surety bond as provided in Section 6 of this Rule; iii) a certificate of non-forum shopping; and iv) proof of service upon the other parties. (Emphasis, italics and underscore ours)

The petitioners aver that the CA should have granted their petition for certiorari and relaxed the NLRC Rules of Procedure because on page 53 of their memorandum on appeal is the caption "Verification and Certification." However, the counsel for the petitioners inadvertently deleted the paragraphs intended for the certification of non-forum shopping. They assert that they were in a hurry in preparing the memorandum due to the very limited time of 10 days to file the same. They proffer these as justifiable causes for their non-compliance with the NLRC Rules of Procedure and submit that their belated filing of the certificate in their motion for reconsideration was substantial compliance. They further aver that the outright dismissal of their appeal on a mere technicality would seriously impair the orderly administration of justice.

The petitioners' arguments are devoid of merit. The subsequent compliance with the requirement does not excuse a party's failure to comply therewith in the first instance. While the Court, in certain cases, has excused non-compliance with the requirement to submit a certificate of non-forum shopping, such liberal posture has always been grounded on special circumstances or compelling reasons which made the strict application of the rule clearly unjustified or inequitable.[29]

Here, the reasons cited by the petitioners for their failure to attach the certificate in their appeal memorandum can hardly be considered as special circumstances or compelling reasons to warrant a liberal application of the rules of procedure. Moreover, based on the facts of the case, a strict application of a technical rule will not prejudice the administration of justice in view of the petitioners' unmeritorious claims.

It is true that in labor cases, technical rules are not necessarily fatal and they can be liberally applied. However, this principle can only operate if, all things being equal, any doubt or ambiguity would be resolved in favor of

labor. Should the case be substantively unmeritorious, technicalities and limitations in procedural rules must be fully enforced.[30]

The claims advanced by the petitioners failed to yield substantive merit. First, their money claims have already been amicably settled and paid in the concurrent labor case they filed before the DOLE. The Quitclaim and Release signed by the petitioners show that they already received payment for their claims from TWMPD and PTMC. The quitclaims were duly attested by Atty. Joy Lily Elumir-Tan, Chief of the Labor Relations Division of the DOLE, Region VII, Cebu City.[31]

Second, the LA correctly ruled that the petitioners' allegations did not bear out a case for illegal dismissal. The alleged termination from employment was merely presumed by the petitioners from their disagreement with TWMPD when the latter announced its plans to shift to a "pakyaw system" of compensation instead of the per hour scheme. We defer to the factual findings of the LA considering its expertise on labor matters and its inimitable opportunity to assess the parties' claims first-hand. As observed by the LA, the petitioners verbally agreed to settle the disagreement by withdrawing their membership and monetary interests from the cooperative. They later on filed the illegal dismissal suit just to obtain more monetary consideration from TWMPD in the form of a separation pay. Meanwhile, PTMC was not the employer of the petitioners and it hired them long before the present controversy arose. They were hired as casual or contractual employees through their job contractor TWMPD.[32]

In fine, in the absence of justifiable and compelling reasons, a liberal application of procedural rules is not warranted in this case. The Court thus agrees with the CA that no grave abuse of discretion is attributable to the NLRC when it found no justification to excuse the absence of a certificate of non-forum shopping in the petitioners' memorandum on appeal.

WHEREFORE, in view of the foregoing, the petition is DENIED. The Decision dated March 25, 2010 and Resolution dated September 30, 2010 of the Court of Appeals in CA-G.R. CEB-SP. No. 02021 are hereby AFFIRMED.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Villarama, Jr., and Jardeleza, JJ., concur.

[1] Rollo, pp. 11-79.

[2] Penned by Associate Justice Socorro B. Inting, with Acting Executive Justice Edgardo L. De los Santos and Associate Justice Edwin D. Sorongon, concurring; id. at 87-94.

[3] Id. at 103-105.

[4] Not attached in the petition but referred to in the assailed CA Decision, id. at 89.

[5] Id. at 126-128.

[6] Id. at 194.

[7] Back wages, service incentive leave, 13th month pay, holiday premium, SSS, illegal deduction and attorney's fees, id. at 88.

[8] Id. at 200.

[9] Id. at 89.

[10] Id. at 127-132.

[11] Id. at 197-199.

[12] Id. at 200-201.

[13] Julie C. Rendoque, id. at 202.

[14] Id. at 17, 133, 202.

[15] Id. at 17.

[16] Id. at 202.

[17] Id. at 89.

[18] Id.

[19] Id. at 90, 133.

[20] Id. at 87-94.

[21] Id. at 90-93.

[22] Id. at 95-102.

[23] Id. at 103-105.

[24] Id. at 19.

[25] Sutherland Global Services (Philippines), Inc. and Janette G Lagazo v. Larry S. Labrador, G.R. No. 193107, March 24, 2014.

[26] Id.

[27] Diones Belza v. Danilo T. Canonero, Antonio N. Esquivel and Cezar I. Belza, G.R. No. 192479, January 27, 2014.

[28] This was the rule of procedure in effect at the time of the promulgation of the NLRC Resolutions assailed in the instant petition. At present, the 2011 NLRC Rules of Procedure is observed in cases filed before the NLRC.

[29] Mandaue Galleon Trade, Inc. v. Isidto, G.R. No. 181051, July 5, 2010, 623 SCRA414, 421.

[30] Rollo, p. 19.

[31] Id. at 220-255.

[32] Portions of the LA Decision were quoted in the petition, id. at 30-32.

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