

TOYOTA ALABANG, INC., PETITIONER, VS. EDWIN GAMES, RESPONDENT.

G.R. No. 206612. August 17, 2015

Ponente: SERENO, C.J.

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SERENO, C.J.:

Remaining at bench is the Motion for Reconsideration[1] of petitioner Toyota Alabang, Inc. We had unanimously denied[2] its Petition for Review on Certiorari with Urgent Prayer for Injunctive Relief,[3] which sought the nullity of the Court of Appeals (CA) Decision and Resolution.[4] The CA affirmed the Resolutions[5] of the National Labor Relations Commission (NLRC) dismissing petitioner's appeal for non-perfection and for lack of merit. In effect, the NLRC sustained the ruling[6] of the labor arbiter (LA) finding that petitioner had illegally dismissed respondent Edwin Games (Games).

In gist, the antecedent facts are as follows:

Games, who worked as a foreman for petitioner, allegedly stole its vehicle lubricants. Subsequently, it charged him with qualified theft before the trial court. Two years thereafter, or on 24 August 2007, Games filed a Complainant for illegal dismissal, nonpayment of benefits, and damages against petitioner. The latter, through counsel, failed to file its Position Paper on the date set on 15 November 2007.

Several resettings of the hearings ensued. During the 21 December 2007 hearing, petitioner manifested that it had failed to file its Position Paper because its handling lawyer was no longer connected with the company. Then, in the hearing of 11 January 2008, petitioner failed to appear and even reneged on submitting its pleading. Accordingly, on 25 January 2008, the case was declared submitted for decision.

On 5 February 2008, the LA ruled against petitioner and ordered the latter to pay Games P535,553.07 for his separation pay, back wages, service incentive leave pay and attorney's fees resulting from his illegal dismissal. Petitioner no longer filed a motion for reconsideration. As a result, the LA's ruling became final and executory.

The LA issued a Writ of Execution, which petitioner sought to quash. It prayed that the proceedings be reopened, explaining that it had failed to present evidence because of its counsel's negligence in filing the appropriate pleadings. The LA denied the claims of petitioner. Aggrieved, the latter appealed before the NLRC.

The appeal of petitioner was denied due course because it had failed to show proof of its security deposit for the appeal bond under Section 6, Rule VI of the 2005 NLRC Rules of Procedure. According to the NLRC, the bonding company's mere declaration in the Certification of Security Deposit that the bond was fully secured[7] was not tantamount to a faithful compliance with the rule, because there must first be an accompanying assignment of the employer's bank deposit.

On the merits, the NLRC dismissed the case on the basis of the rule that no appeal may be taken from an order of execution of a final judgment.[8] For the NLRC, petitioner's failure to appeal the LA Decision already made the ruling final and executory.

Petitioner elevated the case to the CA via a Petition for Certiorari, but the action was dismissed. Firstly, the CA ruled that the NLRC did not gravely abuse its discretion in denying the appeal, given that petitioner had failed to comply faithfully with the bond requirement. Secondly, it echoed the ruling of the NLRC that a final judgment is no longer appealable. Thirdly, the CA found that petitioner's own negligence had caused it to lose its right to appeal.

Aggrieved, petitioner filed a Petition for Review on Certiorari with Urgent Prayer for Injunctive Relief before this Court. It disputed the finding that it did not show proof of its security deposit for the appeal bond. It also insisted that its counsel's gross negligence justified the reopening of the proceedings below.

By way of a minute Resolution, this Court denied the petition considering that the allegations, issues and arguments raised by petitioner failed to sufficiently show that the CA had committed any reversible error in the challenged decision and resolution as to warrant the exercise of this Court's discretionary appellate jurisdiction. Hence, the instant Motion for Reconsideration.

The determinative issues in this case remain the same. This Court is tasked to review, on reconsideration, whether or not the CA committed a reversible error in refusing to reopen the proceedings below.

RULING OF THE COURT

To recall, the LA's decision finding that petitioner illegally dismissed respondent was already final and executory because of petitioner's failure to file a timely appeal. Therefore, the labor dispute between the parties should have been considered a closed case by then, and no longer subject to appeal. At that point, Games should have already reaped the benefits of a favorable judgment. Still, petitioner sought the reopening of the case, which the tribunals a quo denied.

This Court maintains that the CA correctly refused to reopen the proceedings below. The reopening of a case is an extraordinary remedy,[9] which, if abused, can make a complete farce of a duly promulgated decision that has long become final and executory. Hence, there must be good cause on the movant's part before it can be granted.

In this case, petitioner itself was negligent in advancing its case. As found by the appellate court, petitioner was present during the mandatory conference hearing in which the latter was informed by the LA of the need to file a Position Paper on 15 November 2007. However, petitioner not only reneged on the submission of its Position Paper, but even failed to move for the filing of the pleading at any point before the LA resolved the case on 5 February 2008.

Moreover, petitioner had failed to exhibit diligence when it did not attend the hearing on 11 January 2008, or any of the proceedings thereafter, despite its manifestation that it no longer had any legal representative. Given the instances of negligence by petitioner itself, the Court finds that the CA justly refused to reopen the case in the former's favor. Definitely, petitioner cannot now be allowed to claim denial of due process when it was petitioner who was less than vigilant of its rights.[10]

At this stage of appellate review, Justice Lucas P. Bersamin dissents and votes to remand the case to the LA for the reception of petitioner's evidence. He posits three reasons as follows:

First, he states that the NLRC gravely abused its discretion in requiring petitioner to post an appeal bond, because this requirement does not cover an appeal from a decision of the LA denying a motion to quash a writ of execution.

Second, he writes that in any event, the NLRC erred in requiring petitioner to accompany the appeal bond with proof of a security deposit or collateral securing the bond. He bases this point on the fact that the bonding

company has already issued a Certificate of Security Deposit declaring that the appeal bond was fully secured by a security deposit equivalent to the judgment award.

Third, he advances the opinion that there may be merit in the Rule 45 petition filed by petitioner. He cites that it had a just cause to dismiss respondent after he had allegedly stolen its vehicle lubricants.

Before discussing these points, it is apropos to elucidate that this Court must be faithful to the framework of resolving labor cases on appellate review before this Court. *Universal Robina Sugar Milling Corporation v. Acibap* explains:[11]

This Court's power of review in a Rule 45 petition is limited to resolving matters pertaining to any perceived legal errors, which the CA may have committed in issuing the assailed decision. In reviewing the legal correctness of the CA's Rule 65 decision in a labor case, we examine the CA decision in the context that it determined, i.e., the presence or absence of grave abuse of discretion in the NLRC decision before it and 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 NLRC decision challenged before it. (Emphasis supplied)

Based on the foregoing, the task at hand involves a determination of whether or not the CA gravely erred in finding that the NLRC did not exceed its jurisdiction in refusing to grant petitioner's entreaty to reopen the case. In other words, as long as the exercise of discretion below is based on well-founded factual and legal bases,[12] no abuse of discretion amounting to lack or excess of jurisdiction can be imputed, and we are then justified to deny due course both to the Rule 45 petition and the concomitant Motion for Reconsideration.

The tribunals below gave overwhelming justifications for their rulings. In contrast, the first point espoused in the dissenting opinion has no basis. The paraphrased proposition that "an appeal bond is not required in appeals from decisions of the LA denying a motion to quash a writ of execution" lacks any citation sourced from a statute or case law. Article 223 of the Labor Code and Section 6, Rule VI of the 2011 NLRC Rules of Procedure, uniformly state thus:

In case the decision of the Labor Arbiter or the Regional Director involves a monetary award, an appeal by the employer may be perfected only upon the posting of a bond, which shall either be in the form of cash deposit or surety bond equivalent in amount to the monetary award, exclusive of damages and attorney's fees. (Emphasis supplied)

Evidently, the above rules do not limit the appeal bond requirement only to certain kinds of rulings of the LA. Rather, these rules generally state that in case the ruling of the LA involves a monetary award, an employer's appeal may be perfected only upon the posting of a bond. Therefore, absent any qualifying terms,[13] so long as the decision of the LA involves a monetary award, as in this case,[14] that ruling can only be appealed after the employer posts a bond.

Clearly, this construction is but proper considering the avowed purpose of appeal bonds demanded by the law from employers in labor cases. This matter was discussed by the Court in *Computer Innovations Center v. NLRC*,[15] to wit:

As earlier stated, the underlying purpose of the appeal bond is to ensure that the employee has properties on which he or she can execute upon in the event of a final, providential award. The non payment or woefully insufficient payment of the appeal bond by the employer frustrates these ends. Respondent Cariño alleges in his Comment before this Court that petitioner Quilos and his wife have since gone abroad, and wonders aloud whether he still would be able to collect his monetary award considering the circumstances. Petitioners, in their Reply and Memorandum, do not aver otherwise. Indeed, such eventuality appears plausible considering that

Quilos himself did not personally verify the petition, and had in fact executed a Special Power of Attorney in favor of his counsel, Atty. Bernabe B. Alabastro, authorizing the filing of cases in his name. It does not necessarily follow that the absence of Quilos from this country precludes the execution of the award due Cariño. However, if the absence of Quilos from this country proves to render impossible the execution of judgment in favor of Cariño, then the latter's victory may sadly be rendered pyrrhic. The appeal bond requirement precisely aims to prevent empty or inconsequential victories by the laborer, and it is hoped that herein petitioners' refusal to post the appropriate legal appeal bond does not frustrate the ends of justice in this case. (Emphasis supplied)

If we are to construe otherwise, then an aggrieved party may simply seek the quashal of a writ of execution, instead of going through the normal modes of appeal, to altogether avoid paying for an appeal bond. This ruse will then circumvent the requirement of both labor rules and jurisprudence^[16] to post an appeal bond before contesting the LA's grant of monetary award. Hence, the first point is not only incorrect, but also dangerous.

The second point likewise fails to justify the grant of petitioner's Motion for Reconsideration. This point refers to the proper construction of Section 6, Rule VI of the 2011 NLRC Rules of Procedure, which demands that an appeal bond must be accompanied by a "proof of security deposit or collateral securing the bond."

According to the NLRC and the CA, the bonding company's mere declaration in the Certification of Security Deposit that the bond is fully secured^[17] is not tantamount to a faithful compliance with the rule, because there must first be an accompanying assignment of the employer's bank deposit. On the other hand, the dissent sees this declaration as an act that satisfies Section 6, Rule VI of the 2011 NLRC Rules of Procedure. For this reason, he opines that the NLRC should have entertained the appeal of petitioner.

Notwithstanding this issue, the NLRC has given a well-founded reason for refusing to entertain petitioner's appeal, namely, no appeal may be taken from an order of execution of a final and executory judgment.

An appeal is not a matter of right, but is a mere statutory privilege. It may be availed of only in the manner provided by law and the rules.^[18] Thus, a party who seeks to elevate an action must comply with the requirements of the 2011 NLRC Rules of Procedure as regards the period, grounds, venue, fees, bonds, and other requisites for a proper appeal before the NLRC; and in Section 6, Rule VI, the aforesaid rules prohibit appeals from final and executory decisions of the Labor Arbiter.

In this case, petitioner elevated to the NLRC an already final and executory decision of the LA. To recall, after petitioner learned of its former counsel's negligence in filing a Position Paper before the LA, it nonetheless failed to file a motion reconsideration to question the ruling of the LA that it illegally dismissed Games. At that point, the Decision was already final and executory, so the LA dutifully issued a Writ of Execution. Petitioner sought the quashal of the writ of execution and the reopening of its case only at that stage; and only after it was rebuffed by the LA did petitioner appeal before the NLRC. Based on the timeline, therefore, the LA's adverse Decision had become final and executory even prior to petitioner's appeal before the NLRC contesting the denial of the Motion to Quash the Writ of Execution. Consequently, the NLRC dismissed the appeal based on its clear prohibition under Section 5, Rule V of the 2011 NLRC Rules of Procedure.^[19]

The NLRC's reasoning that no appeal may be taken from an order of execution of a final and executory judgment is also rooted in case law. Jurisprudence dictates that a final and executory decision of the LA can no longer be reversed or modified.^[20] After all, just as a losing party has the right to file an appeal within the prescribed period, so does the winning party have the correlative right to enjoy the finality of the resolution of the case.^[21] On this basis, the CA did not grievously err when it concluded that the ruling of the NLRC denying petitioner's appeal was not baseless, arbitrary, whimsical, or despot.^[22]

Finally, as regards the third point pertaining to the advancement of the merits^[23] of the case, it may no longer be properly considered by this Court. To adjudicate on the merits of the instant appeal would require the reopening of the whole case, a step that all the tribunals below - the LA, the NLRC, and the CA- have already refused to take.

As correctly ruled by the CA, the reopening of a case is, by default, not allowed merely on the ground that the counsel has been negligent in taking the required steps to protect the interest of the client, such as timely filing a pleading, appearing during hearings, and perfecting appeals.^[24] An exception arises only when there is good cause and excusable negligence on the client's part.^[25]

Both the explanation of the CA and the records undeniably show no good cause or excusable negligence on the part of the client - petitioner Toyota Alabang, Inc. given the totality of the instances of the latter's own negligence in these proceedings, viz: (1) despite being informed, during the mandatory conference hearing, of the necessity to file a Position Paper, petitioner reneged on its duty to timely submit its Position Paper to the LA on 15 November 2007; (2) after manifesting that it no longer had a counsel, petitioner was still absent on 11 January 2008, the date when it could still have submitted its belated Position Paper; (3) thereafter, it altogether absented itself from all the proceedings before the LA; (4) at no point before the LA's resolution of the case on 5 February 2008 did petitioner file a Position Paper; and (5) after allowing the LA Decision to attain finality as a result of its non-submission of an appeal or a motion for reconsideration, petitioner belatedly sought the quashal of the execution of the LA Decision granting compensation to respondent.

Despite the overwhelming lapses mentioned above, the dissent maintains that petitioner cannot be considered negligent by any measure. According to the dissent, petitioner could not be faulted for failing to file a position paper because the filing of pleadings has been entrusted to its counsel. For the dissent, "given the nature and extent of its business and operations, the petitioner could not be expected to supervise and monitor all the cases it had entrusted to its lawyer." But, this stance is baseless as can be seen by the lack of legal citation in the dissent.

More importantly, this Court cannot give special treatment to petitioner. In our past cases, this Court already held that the failure of the counsel to file the required position papers before the LA is not a ground to declare that petitioner had been deprived of due process; and is not a cause to conclude that the proceedings a quo had been null and void.^[26] In *Building Care Corporation v. Macaraeg*,^[27] this Court thoroughly explained that:

It is, however, an oft-repeated ruling that the negligence and mistakes of counsel bind the client. A departure from this rule would bring about never-ending suits, so long as lawyers could allege their own fault or negligence to support the client's case and obtain remedies and reliefs already lost by the operation of law. The only exception would be, where the lawyer's gross negligence would result in the grave injustice of depriving his client of the due process of law. In this case, there was no such deprivation of due process. Respondent was able to fully present and argue her case before the Labor Arbiter. She was accorded the opportunity to be heard.

We have consistently held that the requirements of due process are satisfied when the parties are given the opportunity to submit position papers wherein they are supposed to attach all the documents that would prove their claim in case it be decided that no hearing should be conducted or was necessary.^[28] Here, petitioner, despite being given several chances to pass its position paper, did not at all comply. Worse, petitioner also had other instances of negligence. Consequently, this Court cannot redo the whole proceedings of the Labor Arbiter who had already afforded due process to the former.

Given the foregoing reasons, juxtaposed with the high threshold for resolving appellate reviews in labor cases before this Court, we rule for the denial of petitioner's Motion for Reconsideration.

WHEREFORE, the Petition for Review with Urgent Prayer for Injunctive Relief filed by Toyota Alabang, Inc. is DENIED with FINALITY. No further pleadings shall be entertained in this case. Let an Entry of Judgment be issued in due course.

SO ORDERED.

Leonardo-De Castro, Perez, and Perlas-Bernabe, JJ., concur.

Bersamin, J., dissents.

[1] Rollo, pp. 159-169; filed on 8 January 2014.

[2] Id. at 157. In a Resolution dated 30 September 2013, the Court resolved to deny the Petition for Review on Certiorari filed by petitioner on 27 May 2013

[3] Id. at 3-38; filed on 25 April 2013.

[4] The CA Decision dated 9 October 2012 and Resolution dated 25 March 2013 in CA-G.R. SP No. I 14885 were penned by Associate Justice Normandie B. Pizarro, with Associate Justices Amelita G. Tolentino and Sesinando E. Villon concurring.

[5] The NLRC Resolutions dated 20 January 2010 and 11 May 2010 in NLRC NCR Case No. 00-08-09201-07 were penned by Commissioner Perlita B. Velasco, with Commissioner Romeo L. Go concurring.

[6] The Decision dated 5 February 2008 was penned by Labor Arbiter Marita V. Padolina.

[7] Rollo, p. 155.

[8] 2011 NLRC Rules of Procedure, Rule V, Sec. 5.

[9] Pascual v. Court of Appeals, 360 Phil. 403 (1998).

[10] (Catubay v. NLRC, GR. No. 119289, [April 12, 2000]. 386 PHIL 648-661)

[11] G.R. No. 186439, 15 January 2014.

[12] Garcia v. House of Representatives Electoral Tribunal, 371 Phil. 280 (1999).

[13] Vera v. Cuevas, 179 Phil. 307 (1979).

[14] Rollo, p. 147. The LA ordered petitioner to pay the following amounts: (1) P135,454 separation pay; (2) P348,320.09 backwages; and (3) P3,092.34 service incentive leave pay.

[15] 500 Phil. 573, 584-585 (2005).

[16] AFP General Insurance Corporation v. Molina, 579 Phil. 114 (2008); Stolt-Nielsen Marine Services, Inc. v. NLRC, 513 Phil. 642 (2005); Navarro v. NLRC, 383 Phil. 765 (2000); Fernandez v. NLRC, 349 Phil. 65 (1998); Globe General Services and Security Agency v. NLRC, 319 Phil. 531 (1995).

[17] Rollo, p. 155.

[18] Lepanto Consolidated Mining Corp. v. Icao, GR. No. 196047, 15 January 2014, 714 SCRA 1.

[19] Section 5. Prohibited Pleadings and Motions. -The following pleadings and motions shall not be allowed and acted upon nor elevated to the Commission: x x x h) Appeal from the issuance of a certificate of finality of

decision by the Labor Arbiter; i) Appeal from orders issued by the Labor Arbiter in the course of execution proceedings. x x x.

[20] Building Care Corporation v. Macaraeg, GR. No. 198357, 10 December 2012, 687 SCRA 643; Marmosy Trading, Inc. v. CA, GR. No. 170515, 6 May 2010, 620 SCRA 315; Siy v. NLRC, 505 Phil. 265 (2005); Tan v. Timbal, Jr., 487 Phil. 497 (2004); J.D. Legaspi Construction v. NLRC, 439 Phil. 13 (2002).

[21] Philux, inc. v. NLRC, 586 Phil. 19, 33-34 (2008), citing Borja Estate v. Spouses Ballad, 498 Phil. 694, 708 (2005).

[22] Philippine Advertising Counselors, Inc. v. NLRC, 331 Phil. 694 (1996).

[23] Rollo, pp. 145-146. On the merits, the LA held that respondent was terminated by petitioner without just cause and due process of law. The LA found that even if petitioner found the box containing the alleged stolen properties inside the Toyota Altis driven by respondent, the latter "was not guilty of anything as it was Janus Demetrio who placed the same inside the car" of which respondent has no knowledge."

[24] Eco v. Rodriguez, 107 Phil. 612 (1960).

[25] Ruben E. Agpalo, Comments on the Code of Professional Responsibility and the Code of Judicial Conduct, 263 (2001); Producers Bank of the Philippines v. Court of Appeals, 430 Phil. 812 (2002); Macapagal v. Court of Appeals, 338 Phil. 206 (1997); Ramones v. NLRC, GR. No. 94012, 17 February 1993, 219 SCRA 62; Republic v. Tajanlañgit, 117 Phil. 670 (1963); Fernandez v. Tan Tiong Tick, III Phil. 773 (1961).

[26] STI Drivers Assn. v. Court of Appeals, 441 Phil. 166 (2002); Catubay v. NLRC, 386 Phil. 648 (2000); Gandara Mill Supply v. NLRC, 360 Phil. 871 (1998); Villa Rhecar Bus v. De La Cruz, 241 Phil. 14 (1988).

[27] Building Care Corp. v. Macaraeg, G.R. No. 198357, 10 December 2012, 687 SCRA 643, 648-649.

[28] Consolidated Rural Bank, Inc. J. v. NLRC, 361 Phil. 172 (1999).

DISSENTING OPINION

BERSAMIN, J.:

Recognizing the imbalance of power between Management and Labor, the Court often gravitates towards the latter as a measure of compassion under the principle of social justice. However, our mandate to protect and promote the rights of employees should not lead us to ignore altogether the cause of the employers whose rights are just as forcefully protected under the law. In dispensing justice between Management and Labor, therefore, we should bear in mind that in the realm of labor law, the proposition that technical rules of procedure should not rigidly apply equally favors Management and Labor.[1]

For this reason, I DISSENT. I call for caution and prudence in dealing with the employer's motion for reconsideration. If we were to deny the motion for reconsideration, we would be fixated with technicalities that force us to overlook the substantial merits of the petition.

Antecedents

Respondent Edwin Games worked as a foreman at the Quality Control Department of petitioner Toyota Alabang, Inc. since August 1997. On December 14, 2005,[2] during a routine inspection of the car that Games was driving to test outside of the petitioner's premises, the security guard on duty found a box of expensive vehicle lubricants

belonging to the petitioner inside the car's compartment. Games underwent inquest proceedings that led to the filing on December 16, 2005 of an information for frustrated qualified theft in the Regional Trial Court (RTC), Branch 197, in Las Pinas City (docketed as Criminal Case No. 05-1283).[3]

Almost two years later, or on August 24, 2007, Games filed a complaint for illegal dismissal. The petitioner claims that its previous counsel negligently failed to attend the scheduled hearings and to file any position paper or pleading in its behalf.

On February 5, 2008, Labor Arbiter Marita V. Padolina rendered a decision declaring that Games had been illegally dismissed due to the absence of both substantive and procedural due process,[4] disposing:

WHEREFORE, premises considered, judgment is hereby rendered ordering TOYOTA ALABANG INC., to pay complainant Edwin B. Games separation pay in the amount of P135,454.00, backwages in the amount of P348,320.00, service incentive leave pay in the amount of P3,092.34 and attorney's fees in the amount of P48,686.64 or a total amount of FIVE HUNDRED THIRTY FIVE THOUSAND FIVE HUNDRED FIFTY THREE PESOS AND SEVEN CENTAVOS (P535,553.07).

All other claims are dismissed for want of factual basis.

SO ORDERED.

A writ of execution was issued after the petitioner's counsel failed to appeal the decision.[5]

On October 17, 2008, the petitioner, through a new counsel, filed a motion to quash the writ of execution, and prayed, among others, for there- opening of the case for the reception of its evidence. Unfortunately, however, Labor Arbiter Padolina denied the motion to quash, and her order was received by the petitioner on January 27, 2009.[6]

The petitioner consequently filed a memorandum of appeal, but the National Labor Relations Commission (NLRC)-First Division issued its resolution on January 20, 2010 denying the appeal for failure to attach an assignment of bank deposit that would serve as proof of security deposit of its appeal bond pursuant to Section 6, Rule VI of the 2005 NLRC Revised Rules of Procedure. The NLRC further noted that the petitioner was estopped from questioning the writ because it voluntarily made a partial payment with an undertaking to pay the balance at a later date; and ruled that an order of execution or garnishment of a final and executory judgment was not appealable.[7] The petitioner then moved for reconsideration, but its motion was denied on May 11, 2010.[8]

The petitioner elevated the matter to the Court of Appeals (CA) on certiorari,[9] but its petition was dismissed,[10] with the CA holding that the petitioner was not denied due process because it was able to participate in the scheduled hearings through its representative and counsel.[11]

The petitioner moved to reconsider, but the CA denied the motion on March 25, 2013.[12]

Hence, this appeal,[13] in which the petitioner argues that: (a) Section 6, Rule VI of the 2005 NLRC Revised Rules of Procedure did not require proof of actual assignment of bank deposit; and (b) the gross negligence of its previous counsel to attend the hearings and file the appropriate pleadings in its behalf amounted to the denial of due process.

The Court denied the petition for review on certiorari in the resolution promulgated on September 30, 2013.[14]

Before the Court now is the petitioner's motion for reconsideration,[15] whereby it maintains that it had substantially complied with the requirements of an appeal as prescribed under Section 6, Rule VI of the 2005 NLRC Rules of Procedure.

I VOTE TO GRANT the motion for reconsideration for the following reasons.

I

The Certificate of Security Deposit constitutes proof of security deposit required in Section 6(c), Rule VI of the 2005 NLRC Rules of Procedure

The petitioner posits that the Certificate of Security Deposit executed by Visayan Surety and Insurance Corporation attached to the memorandum of appeal was sufficient proof of security deposit as required by Section 6(c), Rule VI of the 2005 NLRC Rules of Procedure.[16] Hence, the NLRC erred in requiring an "assignment of bank deposit" as proof of security deposit.

I find for the petitioner.

To require an "assignment of bank deposit" as proof of security deposit constituted grave abuse of discretion on the part of the NLRC, for there was nothing in Section 6(c), Rule VI of the 2005 NLRC Rules that prescribed the requirement. The provision only demanded "proof of security deposit or collateral securing the bond," and did not specify that an assignment of bank deposit should constitute as proof of security deposit. Clearly, the rule mentioned only a "check" as an unacceptable security.

Verily, the certificate constituted sufficient proof of security deposit, as borne out by its text, to wit:

CERTIFICATION OF SECURITY DEPOSIT

This certifies "V.S.I.C Bond No. G-FE-2009/522, MLA/G(16)4000 in the amount of Php 535,553.07 issued in NLRC- NCR-Case No. 00-08-091201-2007 entitled EDWIN B. GAMES versus TOYOTA ALABANG, INC., is fully secured by a Security Deposit of equivalent amount.

This certification is issued in compliance with the provisions of Section 6, Rule VI of the New Rules of Procedure of the National Labor Relations Commission (as amended by Resolution No. 01-02, series of 2002).

x x x x[17] (Emphasis supplied)

Moreover, Visayan Surety and Insurance Corporation solidarily bound itself as a surety with the petitioner as the principal debtor to assure the fulfillment of its obligation.[18] Hence, there was no rhyme or reason to still further require the petitioner to execute a deed of assignment or a deposit in favor of the NLRC in order to secure the payment of the money judgment.

At any rate, the petitioner submitted a certification from the Philippine Business Bank stating that it had set aside the amount of P535,553.07 under a Certificate of Time Deposit in the name of Toyota Alabang, Inc.[19] This submission sufficiently indicated the willingness on the part of the petitioner to submit to the judgment of the Labor Arbiter in the event of an adverse ruling.

Well to stress that the purpose in requiring a bond was to assure the employee that he would receive the money judgment in his favor upon the denial of the employers' appeal. The bond requirement was intended to discourage the employer from using the appeal to delay, or even evade, the obligation to satisfy the employee's just and lawful claims.[20] Given the actions taken by the petitioner, there was no reason to doubt its sincerity to be bound by the ruling of the Labor Arbiter in favor of Games.

It is more in line with the desired objective of our labor laws to resolve controversies on their merits that the filing of a bond in appeals involving monetary awards should be given liberal construction.[21]

Furthermore, Section 6(c), Rule VI of the NLRC Rules applies to appeals from decisions of the Labor Arbiter involving a monetary award to the employee. Conversely, an appeal from an order denying a motion to quash a writ of execution does not require a bond.

The ponente opines in her December 23, 2014 reply, however, that the cited rule generally covers appeals from rulings of the Labor Arbiter involving a monetary award, and includes the denial of a motion to quash a writ of execution.

I humbly differ from this opinion considering that a writ of execution is not a decision, but an order directing the sheriff to enforce, implement or satisfy the final decisions, orders or awards of the Labor Arbiter or the Commission. The appeal bond requirement cannot be made to apply herein; hence, the NLRC gravely abused its discretion in requiring the petitioner to comply with the inapplicable rule.

The requirement of an appeal bond notwithstanding, the NLRC should have treated the petitioner's appeal as akin to a petition for relief from judgment that was permissible under Section 15, Rule V of the 2005 NLRC Rules of Procedure. It cannot be denied that the negligence of its previous counsel prevented the petitioner from meaningfully participating in the proceedings before the Labor Arbiter, and even from filing its appeal.

II

The dismissal of respondent employee
rested on evidently substantial grounds

The petitioner maintains that Games was validly dismissed for stealing company property. As a result of his offense, the petitioner properly charged him criminally, such that the information for frustrated qualified theft was then filed in court.[22] He was subsequently arraigned, and then tried. Under the circumstances, stealing company property constituted serious misconduct, and involved no less the commission of a crime against the employer, either or both of which were just causes for terminating an employee under Article 288 of the Labor Code, as amended.

The accusation for frustrated qualified theft should not be ignored by the Court because Games had been caught in flagrante delicto. He need not be found guilty beyond reasonable doubt for the crime, for it was enough that substantial evidence established his culpability. If we were to ignore his having committed a very serious offense against the interest of the petitioner as his employer in order to still favor the latter as a way of serving the liberal policy towards Labor, we would be preferring technicality to substance. I wish to remind that the constitutional policy to provide full protection to Labor is not meant to be a sword to oppress Management. Our commitment to the cause of Labor should not prevent us from sustaining the employer when it is in the right.[23]

With all due respect, I humbly differ from the ponente's view that "a final and executory decision of the LA can no longer be reversed or modified." [24] The Court is first and foremost a court of law and justice, and for that reason it may relax the rule on finality of judgments in order to serve the ends of substantial justice. This the Court has not hesitated to do in meritorious circumstances. The Court emphatically did so in favor of the employer in *McBurnie v. Ganzon*: [25]

It is also recognized that in some instances, the prudent action towards a just resolution of a case is for the Court to suspend rules of procedure, for "the power of this Court to suspend its own rules or to except a particular case from its operations whenever the purposes of justice require it, cannot be questioned." In *De Guzman v. Sandiganbayan*, the Court, thus, explained:

[T]he rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be avoided. Even the Rules of Court envision this liberality. This power to suspend or even disregard the rules can be so pervasive and encompassing so as to alter even that which this

Court itself has already declared to be final, as we are now compelled to do in this case. x x x.

x x x x

The Rules of Court was conceived and promulgated to set forth guidelines in the dispensation of justice but not to bind and chain the hand that dispenses it, for otherwise, courts will be mere slaves to or robots of technical rules, shorn of judicial discretion. That is precisely why courts in rendering real justice have always been, as they in fact ought to be, conscientiously guided by the norm that when on the balance, technicalities take a backseat against substantive rights, and not the other way around. Truly then, technicalities, in the appropriate language of Justice Makalintal, "should give way to the realities of the situation." x x x. (Citations omitted)

Consistent with the foregoing precepts, the Court has then reconsidered even decisions that have attained finality, finding it more appropriate to lift entries of judgments already made in these cases. In *Navarro v. Executive Secretary*, we reiterated the pronouncement in *De Guzman* that the power to suspend or even disregard rules of procedure can be so pervasive and compelling as to alter even that which this Court itself has already declared final. The Court then recalled in *Navarro* an entry of judgment after it had determined the validity and constitutionality of Republic Act No. 9355, explaining that:

Verily, the Court had, on several occasions, sanctioned the recall of entries of judgment in light of attendant extraordinary circumstances. The power to suspend or even disregard rules of procedure can be so pervasive and compelling as to alter even that which this Court itself had already declared final. In this case, the compelling concern is not only to afford the movants-intervenors the right to be heard since they would be adversely affected by the judgment in this case despite not being original parties thereto, but also to arrive at the correct interpretation of the provisions of the [Local Government Code (LGC)] with respect to the creation of local government units. x x x. (citations omitted)

In *Muñoz v. CA*, the Court resolved to recall an entry of judgment to prevent a miscarriage of justice. This justification was likewise applied in *Tan Tiac Chiong v. Hon. Cosico*, wherein the Court held that:

The recall of entries of judgments, albeit rare, is not a novelty. In *Munoz v. CA*, where the case was elevated to this Court and a first and second motion for reconsideration had been denied with finality, the Court, in the interest of substantial justice, recalled the Entry of Judgment as well as the letter of transmittal of the records to the Court of Appeals. (citations omitted)

In *Barnes v. Judge Padilla*, we ruled:

[A] final and executory judgment can no longer be attacked by any of the parties or be modified, directly or indirectly, even by the highest court of the land.

However, this Court has relaxed this rule in order to serve substantial justice considering (a) matters of life, liberty, honor or property, (b) the existence of special or compelling circumstances, (c) the merits of the case, (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (e) a lack of any showing that the review sought is merely frivolous and dilatory, and (f) the other party will not be unjustly prejudiced thereby.

Relaxation of the rules in this instance is proper in view of the emerging trend in our jurisprudence to afford every party-litigant the amplest opportunity for the proper and just determination of his cause free from the constraints of technicalities.[26] In *Aguam v. Court of Appeals*,[27] we said that disposing an appeal based on technicalities only gives a wrong impression of speedy disposal of cases while inappropriately resulting in miscarriage of justice.

Manila Trading & Supply Co. v. Zulueta, et al.,[28] even underscored the need to dig deep into the core of the controversy involving a malfeasance of an employee towards his employer, thus:

[T]he right of an employer to freely select or discharge his employees, is subject to regulation by the State basically in the exercise of its paramount police power. (Commonwealth Acts Nos. 103 and 213). But much as we should expand beyond economic orthodoxy, we hold that an employer cannot legally be compelled to continue with the employment of a person who admittedly was guilty of misfeasance or malfeasance towards his employer, and whose continuance in the service of the latter is patently inimical to his interests. The law, in protecting the rights of the laborer, authorizes neither oppression nor self-destruction of the employer. There may, of course, be cases where the suspension or dismissal of an employee is whimsical or unjustified or otherwise illegal in which case he will be protected. Each case will be scrutinized carefully and the proper authorities will go to the core of the controversy and not close their eyes to the real situation.

In view of the gravity of the misconduct committed by Games, the motion for reconsideration is undeniably meritorious, and should be granted. The petitioner must be given the sufficient opportunity to prove its claim, and thus rebut the unfair finding of the Labor Arbiter that Games had been illegally dismissed, to wit:

The box in the Toyota Altis car which complainant drive test belong to respondent Toyota Alabang and it was the security guard who took the same.

The fact that complainant was not afforded the opportunity to be heard shows that complainant was terminated without due process of law.

Even if complainant found the box inside the Toyota Altis, the complainant is not guilty of anything as it was Janus Demetrio who placed the same inside the car of which complainant has no knowledge.[29]

Given that the Labor Arbiter found the absence of both substantive and procedural due process in dismissing Games, the more that the petitioner should be allowed to fully ventilate its side on the matter. This is only fair because Games brought his complaint for illegal dismissal almost two years after his arrest for qualified theft, indicating its being an afterthought. According to *Agabon v. National Labor Relations Commission*,^[30] the absence of procedural due process did not nullify the dismissal that was based on a just cause. Such situation did not entitle the employee to backwages, reinstatement or separation pay, damages and attorney's fees under Article 285 of the Labor Code, as amended.

Assuming that the allegations of the petitioner were true, then Games was not entitled to the monetary award representing the reliefs accorded to an illegally dismissed employee under Article 285 of the Labor Code. At best, he could only be entitled to nominal damages of P30,000.00 pursuant to *Agabon*. The disparity between the monetary award to Games, and the nominal damages recognized in *Agabon* inevitably warrants a remand of the case for appropriate reception of evidence.

III

The petitioner should not suffer from the gross negligence committed by its counsel

Generally, the negligence of counsel binds the client. Nonetheless, the courts accord relief to the client who suffers by reason of the lawyer's gross or palpable mistake: (a) where reckless or gross negligence of counsel deprives the client of due process of law; (b) when its application will result in outright deprivation of the client's liberty or property; or (c) where the interests of justice^[31] or equity^[32] so require. These exceptions obtain in this case.

The petitioner showed that its former counsel did not appear during the scheduled hearings, did not file the position paper, and did not timely appeal the adverse result. Such omissions of counsel occurred without its knowledge and consent, and resulted in its inability to fully participate in the proceedings below. The counsel's negligence prevented it from ably defending its interest, and led to the denial of its right to due process. Hence, it should not be allowed to suffer the consequences of its former lawyer's palpable and gross negligence.

Unfortunately, the ponencia would make it appear that the petitioner was equally guilty of negligence. I respectfully disagree.

Negligence does not obtain on the part of the petitioner for its brief participation during the preliminary stages of the proceedings below, particularly the mandatory conciliation and mediation conference. A mandatory and conciliation proceeding does not provide litigants with an opportunity to be heard and present evidence in its behalf. Section 3, Rule V of the 2005 NLRC Rules of Procedure provides that the purpose of the mandatory and conciliation conference shall be to (1) amicably settle the case upon a fair compromise; (2) determine the real parties in interest; (3) determine the necessity of amending the complaint and including all causes of action; (4) define and simplify the issues in the case; (5) enter into admissions or stipulations of facts; and (6) thresh out all other preliminary matters.

Neither should we fault the petitioner for its failure to file the position paper despite having been informed of the necessity to file the same. The petitioner was not in the position to know the legal consequences of the non-filing of the position paper, for the knowledge was within the competence of the lawyer to whom it had already entrusted the duty and responsibility to take full charge of the legal matter.

The petitioner does not deserve condemnation for bestowing its full trust and confidence in its former counsel. Given the nature and extent of its business and operations, the petitioner could not be expected to supervise and monitor all the cases it had entrusted to its lawyer whose avowed duty was to protect and promote the client's interests at all times with utmost dedication and care.

The negligence of the petitioner's counsel should not also defeat an employer's prerogative to weed out an undesirable employee. To completely ignore the counsel's negligence, and thus to sideline the employer's lawful right to exercise its prerogatives, in order to favor a really unworthy employee would grossly undermine and render iniquitous the liberality that Labor deserves. In *Pampanga Bus Company v. Pambusco Employees' Union*,^[33] we said:

The right of a laborer to sell his labor to such persons as he may choose is, in its essence, the same as the right of an employer to purchase labor from any person whom it chooses. The employer and the employee have thus an equality of right guaranteed by the Constitution. If the employer can compel the employee to work against the latter's will, this is servitude. If the employee can compel the employer to give him work against the employer's will, this is oppression.

Furthermore, the interests of justice demand that we save the petitioner from the consequences of its counsel's reckless disregard of his duty. To reiterate, the respondent had undeniably stolen company property, and his act constituted a most valid and urgent ground for his dismissal from his employment and for which he must not be rewarded. Instead of being held to account for his willful and felonious acts, the ponencia's insistence on the strict application of the rules and the seeming disinterest in hearing the value of reason, inadvertently validates the employee's noxious behavior by generously rewarding him with separation pay, backwages, service incentive pay, and attorney's fees - awards which may arguably have been warranted, except that they are hinged on precarious technicality. Surely this is not how justice works. To allow the petitioner to be fully heard considering the visible merit of its cause will be more in consonance with the ends of justice. Needless to stress, the courts may waive or dispense with procedural rules in absolutely meritorious cases.^[34]

The constitutional policy of providing full protection to Labor is not intended to oppress or destroy Management. Indeed, the capital and management sector must also be protected under a regime of justice and the rule of law.^[35]

ACCORDINGLY, I VOTE TO GRANT the petitioner's motion for reconsideration, and TO REMAND the case

to the Labor Arbiter for reception of the petitioner's evidence.

[1] *Casimiro v. Stern Real Estate Inc.*, G.R. No. 162233, March 10, 2006, 484 SCRA 463, 478-479.

[2] *Rollo*, p. 72.

[3] *Id.*

[4] *Id.* at 142-147.

[5] *Id.* at 16-17.

[6] *Id.* at 17-18.

[7] *Id.* at 149-150.

[8] *Id.* at 152-153.

[9] Docketed as CA-G.R. SP No. 114885, entitled *Toyota Alabang, Inc. v. National Labor Relations Commission and Edwin Games*.

[10] *Id.* at 40-51.

[11] *Id.*

[12] *Id.* at 53-54.

[13] *Id.* at 12-32.

[14] *Id.* at 157-158.

[15] *Id.* at 159-188.

[16] The applicable rule at the time the NLRC dismissed the Memorandum of Appeal.

[17] *Rollo*, p. 194.

[18] Article 2047, New Civil Code.

[19] *Rollo*, p. 24.

[20] *Sy v. ALC Industries, Inc.*, G.R. No. 168339, October 10, 2008, 568 SCRA 367, 373; *Viron Garments Mftg., Co., Inc. v. NLRC*, G.R. 97357, March 18, 1992, 207 SCRA 339, 342.

[21] *Fernandez v. National Labor Relations Commission*, G.R. No. 105892, January 28, 1998, 285 SCRA 149, 165.

[22] *Rollo*, pp. 72-73.

[23] *Agabon v. National Labor Relations Commission*, G.R. No. 158693, November 17, 2004, 442 SCRA 573, 614.

[24] Reply dated December 23, 2014, p. 4.

[25] G.R. Nos. 178034 and 178117, G.R. Nos. 186984-85, October 17, 2013, 707 SCRA 646, 665-668, citing *Barnes v. Padilla*, G.R. No. 160753, September 30, 2004, 439 SCRA 675, 683-684.

[26] *Aujero v. Philippine Communications Satellite Corporation*, G.R. No. 193484, January 18, 2012, 663 SCRA

467, 478.

[27] G.R. No. 137672, May 31, 2000, 332 SCRA 784, 790.

[28] 69 Phil. 485, 486-487 (1940).

[29] Rollo, pp. 145-146.

[30] G.R. No. 158693, November 17, 2004, 442 SCRA 573.

[31] Victory Liner, Inc. v. Gammad, G.R. No. 159636, November 25, 2004, 444 SCRA 361; Azucena v. Foreign Manpower Services, G.R. No. 147955, October 25, 2004, 441 SCRA 346, 356.

[32] Escudero v. Dulay, G.R. No. L-60578, February 23, 1998, 158 SCRA 69, 78.

[33] 68 Phil. 541, 543 (1939).

[34] Supra note 26, at 479.

[35] National Federation of Labor v. NLRC, G.R. No. 127718, March 2, 2000, 327 SCRA 158, 166.

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