

ROMINA N. BISMONTE, JENNIFER P. DACILLO, ERWIN C. FORMENTOS, JOHNNY M. NARZOLES, LANIE L. LATOMBO, ENRIQUE C. HERNANDEZ, NELSON G. BISMONTE, AND MICHAEL S. VILLANUEVA, PETITIONE...

G.R. No. 229326. November 05, 2018

Ponente: PERLAS-BERNABE, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-229326/>

PERLAS-BERNABE, J.:

Before the Court is a petition for review on certiorari[1] filed by petitioners Romina N. Bismonte, Jennifer P. Dacillo, Erwin C. Formentos, Johnny M. Narzoles, Lanie L. Latombo, Enrique C. Hernandez, Nelson G. Bismonte, and Michael S. Villanueva (petitioners) assailing the Decision[2] dated May 26, 2016 and the Resolution[3] dated January 9, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 138986, which annulled and set aside the Decision[4] dated May 30, 2014 and the Resolutions dated July 7, 2014,[5] September 30, 2014,[6] and October 21, 2014[7] of the National Labor Relations Commission (NLRC) in NLRC LAC No. 07-001985-12, and accordingly, reinstated the Decision[8] dated March 14, 2014 of the Labor Arbiter (LA) dismissing petitioners' complaint for, inter alia, illegal dismissal against respondents Golden Sunset Resort and Spa and Ricardo "Ricky" Reyes (respondents).

The Facts

Petitioners alleged that on different dates, respondents hired them as resort staff, specifically as housekeepers, maintenance personnel, waiters, spa and massage attendants, cooks, dishwashers, and concierges. Three (3) of the petitioners asserted that they were dismissed without any just or authorized cause and without affording them due process; while five (5) of them claimed that they were constructively dismissed when their work schedule was unjustifiably reduced from six (6) to three (3) working days a week, resulting in a substantial reduction of their income. Furthermore, petitioners also accused respondents of not paying them their entitled benefits, such as holiday pay, overtime pay, service incentive leave pay, and their share from the service charge.[9] Thus, petitioners, along with several others, filed several complaints[10] for, inter alia, illegal dismissal against respondents.

For their part, respondents maintained that they did not hire petitioners as regular employees, but merely as seasonal employees. They explained that during the lean seasons, i.e., rainy seasons, they either reduce their workers' duties to just thrice a week, or even do not require them to report for work, in which case, they are allowed to find employment elsewhere. Further, respondents posited that their engagement to their staff is akin to an "independent contractorship" in that they neither have the power to dismiss nor control the performance of their staff, and that they are free to perform their assigned tasks as long as they accomplish them within the time that they were contracted for work.[11]

The LA Ruling

In a Decision[12] dated March 14, 2014, the LA dismissed petitioners' complaints.[13] The LA concluded that there was no employer-employee relationship between petitioners and respondents given that the former failed to prove that the latter: (a) had the power to control petitioners' work performances; and (b) were interested in the means and methods on how to perform their respective jobs.[14]

Dissatisfied, petitioners appealed[15] to the NLRC.

The NLRC Ruling

In a Decision[16] dated May 30, 2014, the NLRC set aside the LA ruling, and accordingly entered a new one: (a) dismissing the complaint for illegal dismissal; and (b) ordering respondents to pay petitioners the aggregate amount of P1,076,833.50, representing their salary differentials, holiday pay, service incentive leave pay, and 13[th] month pay.[17]

The NLRC deemed petitioners as regular employees of respondents, considering that: (a) petitioners were issued company identification cards, signifying that they were bona fide employees of respondents; (b) respondents issued various certifications explicitly stating that petitioners were their employees; and (c) the nature of petitioners' work for respondents were necessarily and desirable to the latter's business.[18] This notwithstanding, the NLRC ruled that three (3) of the petitioners failed to establish the fact of their actual dismissal; while the reduction of working days of the five (5) other petitioners did not constitute constructive dismissal as there was a valid ground for such reduction, i.e., onset of the rainy season.[19] Finally, the NLRC held that petitioners were entitled to their money claims as respondents failed to show any proof that the same had already been paid.[20]

Respondents partially moved for reconsideration,[21] but the same was denied in a Resolution[22] dated July 7, 2014. Thereafter, respondents filed a Manifestation with Motion to Set Aside Entry of Judgment and Declare the Decision and Resolution Void Ab Initio,[23] principally contending that petitioners failed to file their appeal on time, and thus, the NLRC should not have taken cognizance of their appeal.[24] Such motion was denied by the NLRC in a Resolution[25] dated September 30, 2014. Respondents again moved for reconsideration,[26] but was also denied in a Resolution[27] dated October 21, 2014.

Aggrieved, respondents filed a petition for certiorari[28] before the CA.

The CA Ruling

In a Decision[29] dated May 26, 2016, the CA annulled and set aside the NLRC ruling, and accordingly, reinstated the LA's March 14, 2014 Decision.[30] The CA pointed out that since petitioners received the said LA Decision on March 21, 2014, they only had ten (10) days therefrom, or until March 31, 2014, within which to file their appeal to the NLRC, pursuant to Section 1, Rule VI of the 2011 NLRC Rules of Procedure.[31] However, a scrutiny of petitioners' appeal memorandum shows that the NLRC only received the same on April 2, 2014,[32] and as such, petitioners failed to file their appeal on time.[33] Furthermore, the CA opined that petitioners' counsel, the Public Attorney's Office (PAO), should have availed of the personal filing of such appeal before the NLRC instead of registered mail, considering the proximity of the PAO Office in San Pablo City, Laguna to the NLRC-Sub-Regional Arbitration Branch IV, also in San Pablo City, Laguna.[34]

Undaunted, petitioners moved for reconsideration[35] which was, however, denied in a Resolution[36] dated January 9, 2017; hence, this petition.

The Issue Before the Court

The core issue for the Court's resolution is whether or not the CA correctly ruled that: (a) petitioners failed to comply with the filing and service requirements in connection with their appeal to the NLRC; and (b) petitioners'

appeal to the NLRC was filed out of time.

The Court's Ruling

The petition is meritorious.

I.

At the outset, the Court notes that since the 2011 NLRC Rules of Procedure do not provide for specific rules on filing and service of pleadings, the Rules of Court provisions pertaining thereto, i.e., Rule 13 thereof, shall apply in a suppletory manner, pursuant to Section 3, Rule I[37] of the 2011 NLRC Rules of Procedure. In this regard, Section 11, Rule 13 of the Rules of Court reads:

Section 11. Priorities in modes of service and filing. – Whenever practicable, the service and filing of pleadings and other papers shall be done personally. Except with respect to papers emanating from the court, a resort to other modes must be accompanied by a written explanation why the service or filing was not done personally. A violation of this Rule may be cause to consider the paper as not filed.

There is a preference of personal filing and/or service over other modes as it expedites action or resolution on a pleading, motion, or other paper, and conversely, minimizes, if not eliminates, delays likely to be incurred if service or filing is done by mail.[38] This notwithstanding, case law instructs that the rule is not so rigid so as to exclude any exception from its application, and that the only condition for the exception to apply is that the pleading served or filed should be accompanied by a written explanation as to why personal service was not practicable.[39] "Thus, personal service is the general rule, and resort to other modes of service is the exception, so that where personal service is practicable, in the light of the circumstances of time, place, and person, personal service is mandatory. Only when personal service is not practicable may resort to other modes be had, which must then be accompanied by a written explanation as to why personal service or filing was not practicable to begin with." [40] "At this stage, the judge exercises proper discretion but only upon the explanation given. In adjudging the plausibility of an explanation, the court shall consider not only the circumstances, the time and the place but also the importance of the subject matter of the case or the issues involved therein, and the prima facie merit of the pleading involved." [41]

Should a party, however, fail to so attach this written explanation, Section 11, Rule 13 of the Rules of Court authorizes the courts (or in this case, the tribunal) to exercise their discretion to consider a pleading or paper as not filed. This notwithstanding, jurisprudence emphasizes that such discretionary power must be exercised properly and reasonably, taking into consideration, again, the practicability of personal service, the importance of the subject matter of the case or the issues involved therein, and the prima facie merit of the pleading sought to be expunged for violation of the aforesaid rule.[42]

In the determination of the plausibility of the written explanation (if there is one) or in the exercise of discretion as to whether a pleading should be expunged (in the absence thereof), the court/tribunal ought to be guided by the principle that substantial justice far outweighs rules of procedure.[43]

In this case, the CA correctly pointed out that an examination of petitioners' Notice of Appeal with Appeal Memorandum[44] reveals that it did not contain any written explanation as to why their counsel, the PAO, filed such pleading via registered mail instead of personal filing, especially considering that the PAO Office in San Pablo City, Laguna is just a stone's throw away from the NLRC-Sub-Regional Arbitration Branch IV located also in San Pablo, Laguna. Nonetheless, the Court believes that the filing via registered mail sans any written explanation may be excused, considering that the NLRC, the tribunal where the appeal was filed, allowed the admission of the same. More importantly, such appeal is ostensibly meritorious, as evidenced by the NLRC's May

30, 2014 Decision which modified the LA's March 14, 2014 Decision, at least insofar as the existence of employer-employee relationship between petitioners and respondents, and the former's entitlement to their money claims are concerned. Under these circumstances, the Court finds enough justification to relax technical rules of procedure in order to afford the litigants the amplest opportunity to properly and justly determine their rights and obligations to one another. In *Peñoso v. Dona*,^[45] the Court held:

Thus, dismissal of appeals purely on technical grounds is frowned upon where the policy of the court is to encourage hearings of appeals on their merits and the rules of procedure ought not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure, not override substantial justice. It is a far better and more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal to attain the ends of justice rather than dispose of the case on technicality and cause a grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.^[46]

II.

Section 3, Rule 13 of the Rules of Court provides that where pleadings are filed by registered mail, the date of mailing as shown by the post office stamp on the envelope or the registry receipt shall be considered as the date of filing. Based on this provision, the date of filing is determinable from two (2) sources: (1) from the post office stamp on the envelope or (2) from the registry receipt, either of which may suffice to prove the timeliness of the filing of the pleadings. "The Court previously ruled that if the date stamped on one is earlier than the other, the former may be accepted as the date of filing. This presupposes, however, that the envelope or registry receipt and the dates appearing thereon are duly authenticated before the tribunal where they are presented. When the photocopy of a registry receipt bears an earlier date but is not authenticated, the Court held that the later date stamped on the envelope shall be considered as the date of filing."^[47]

In this case, and as aptly pointed out by the NLRC in its September 30, 2014 Resolution,^[48] the envelope^[49] that contained petitioners' Notice of Appeal with Appeal Memorandum bears the post office stamp with the date of March 31, 2014. This is further supported by a Certification^[50] dated September 24, 2014, signed by Postmaster Gemma C. Medallon, stating that "Registered Letter No. 4297 posted on March 31, 2014 from [PAO], San Pablo City addressed to [NLRC], San Pablo City has been delivered to and received by Grace Espaldon on April 2, 2014."^[51] From the foregoing, it may be gleaned the petitioners' counsel indeed filed their appeal to the NLRC via registered mail on March 31, 2014, or exactly on the tenth (10th) day after they received a copy of the LA Decision on March 21, 2014. As such, their appeal before the NLRC was filed on time, in accordance with Section 1, Rule VI^[52] of the 2011 NLRC Rules of Procedure.

In sum, the CA erred in setting aside the NLRC rulings and affirming the LA ruling purely on technical grounds, i.e., that petitioners improperly availed of filing their appeal via registered mail and/or failed to file their appeal on time. However, since the appellate court did not tackle the substantial issues of this case, the Court deems it proper to remand the same to the CA for a resolution on the merits.

WHEREFORE, the petition is GRANTED. The Decision dated May 26, 2016 and the Resolution dated January 9, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 138986 are hereby SET ASIDE. The instant case is REMANDED to the CA for a resolution on the merits.

SO ORDERED.

Carpio (Chairperson), Caguioa, and A. Reyes, Jr., JJ., concur.

J. Reyes, Jr.,[*] J., on official leave.

[*] Designated Additional Member per Special Order No. 2587 dated August 28, 2018; on official leave.

[1] Rollo, pp. 12-42.

[2] Id. at 56-67. Penned by Associate Justice Edwin D. Sorongon with Associate Justices Ricardo R. Rosario and Marie Christine Azcarraga-Jacob, concurring.

[3] Id. at 69-70.

[4] Id. at 133-151. Penned by Presiding Commissioner Alex A. Lopez with Commissioners Gregorio O. Bilog III and Pablo C. Espiritu, Jr., concurring.

[5] Id. at 152-154.

[6] Id. at 156-164.

[7] CA rollo, pp. 69-71.

[8] In NLRC Case Nos. RAB-IV-07-01054-11-B, RAB-IV-07-01055-11-B, and 07-01056-11-B. Rollo, pp. 235-243. Penned by Labor Arbiter Melchisedek A. Guan.

[9] Id. at 57-58. See also id. at 137-138.

[10] See id. at 366-374.

[11] Id. at 58. See also id. at 138-139.

[12] Id. at 235-243.

[13] Id. at 243.

[14] Id. at 240-242.

[15] See Notice of Appeal with Appeal Memorandum dated March 28, 2014; id. at 244-258.

[16] Id. at 133-151.

[17] Id. at 146-151.

[18] See id. at 142-144.

[19] Id. at 145.

[20] See id. at 146-150.

[21] See Partial Motion for Reconsideration of Decision dated May 30, 2014 dated June 26, 2014; id. at 262- 272.

[22] Id. at 152-154.

[23] Dated September 12, 2014. Id. at 273-279.

[24] See id. at 274-278.

[25] Id. at 156-164.

[26] See motion for reconsideration dated October 13, 2014; id. at 318-334.

[27] CA rollo, pp. 69-71.

[28] With Prayer for Preliminary Injunction and/or Temporary Restraining Order (TRO) dated December 22, 2014. Id. at 3-33.

[29] Rollo, pp. 56-67. Penned by Associate Justice Edwin D. Sorongon with Associate Justices Ricardo R. Rosario and Marie Christine Azcarraga-Jacob, concurring.

[30] Id. at 66.

[31] Approved on May 31, 2011.

[32] Rollo, p. 244.

[33] See id. at 60.

[34] Id. at 63-64.

[35] Dated June 15, 2016. Id. at 435-444.

[36] Id. at 69-70.

[37] Section 3, Rule I of the 2011 NLRC Rules of Procedure reads:

Section 3. Suppletory Application of the Rules of Court. – In the absence of any applicable provision in these Rules, and in order to effectuate the objectives of the Labor Code, the pertinent provisions of the Rules of Court of the Philippines may, in the interest of expeditious dispensation of labor[,] justice[,] and whenever practicable and convenient, be applied by analogy or in a suppletory character and effect.

[38] Magsaysay Maritime Corp. v. Enanor, G.R. No. 224115, June 20, 2018, citing Solar Team Entertainment, Inc. v. Ricafort, 355 Phil. 404, 413 (1998).

[39] Magsaysay Maritime Corp. v. Enanor, id.

[40] Pagadora v. Ilao, 678 Phil. 208, 225 (2011), citing Maceda v. Vda. de Macatangay, 516 Phil. 755, 764 (2006).

[41] Gahol v. Cobarrubias, 743 Phil. 246, 254 (2014), citing Pagadora v. Ilao, id.

[42] Magsaysay Maritime Corp. v. Enanor, supra note 38, citing Spouses Ello v. CA 499 Phil 398 409 (2005).

[43] Gahol v. Cobarrubias, supra note 41, at 255, citing Pagadora v. Ilao, supra note 40, at 226.

[44] Rollo, pp. 244-258.

[45] 549 Phil. 39 (2007).

[46] Id. at 46, citing Aguam v CA, 388 Phil. 587, 594 (2000).

[47] Quebral v. Angbus Construction, Inc., 798 Phil. 179, 189-190 (2016), citing Government Service Insurance System v. NLRC, 649 Phil. 538, 546 (2010).

[48] Rollo, pp. 156-164.

[49] NLRC records (Vol. II), p. 651.

[50] Rollo, p. 450.

[51] Id.; emphasis and underscoring supplied.

[52] Section 1, Rule VI of the 2011 NLRC Rules of Procedure reads:

Section 1. Periods of Appeal. – Decisions, awards, or orders of the Labor Arbiter shall be final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt thereof; and in case of decisions or resolutions of the Regional Director of the Department of Labor and Employment pursuant to Article 129 of the Labor Code, within five (5) calendar days from receipt thereof. If the 10[th] or 5[th] day, as the case may be, falls on a Saturday, Sunday or holiday, the last day to perfect the appeal shall be the first working day following such Saturday, Sunday or holiday.

x x x x

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.