

VIRGINIA SECRETARIO, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND NORTH LUZON MAHOGANY EXPORTERS, INC., RESPONDENTS.

G.R. No. 75879. July 15, 1992

Ponente: NOCON, J.

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NOCON, J.:

This petition for certiorari seeks to annul the resolution dated January 29, 1986 of public respondent National Labor Relations Commission (NLRC) dismissing the appeal of petitioner Virginia Secretario from the decision dated February 6, 1985 of the NLRC Regional Arbitration Branch No. II, Tuguegarao, Cagayan for being filed out of time.

The facts are as follows: Petitioner's husband, Desiderio Secretario, was employed by private respondent North Luzon Mahogany Exporters, Inc. (North Luzon, for brevity) as foreman of the company's concession guard.

On October 21, 1982, Secretario was with a team of company employees on their way to North Luzon's logging area at Mamit, Sta. Teresita, Cagayan, when the team encountered a group of five (5) unidentified armed men. The group handed a letter addressed to North Luzon's management to Secretario, who refused to accept it. The team proceeded to the logging area, leaving behind, Secretario, who was talking with the armed men. Secretario did not follow the team to the logging area; neither did he show up at North Luzon's offices at Lallo, Cagayan, nor did he return to his home. When the team failed to find Secretario, his disappearance was reported to the police. The search for Secretario proved futile.[1]

North Luzon gave petitioner P3,000.00 and promised to hire her daughter. The promise was not fulfilled, and the company stopped paying Secretario's Social Security System premiums.[2]

On June 7, 1984, petitioner filed a complaint against North Luzon with the NLRC Regional Arbitration Branch No. II, in Tuguegarao, Cagayan, praying that her husband's separation pay, holiday and incentive pay be paid to her.

On February 6, 1985, after the parties had submitted their respective position papers, the labor arbiter rendered his decision dismissing the complaint for insufficiency of evidence.

The aforementioned decision was received by petitioner on February 12, 1985.[3] On February 18, 1985, petitioner filed by registered mail her memorandum of appeal and paid the corresponding docket fee, which was received by the NLRC on February 25, 1985.[4]

On January 29, 1986, the NLRC issued the questioned resolution dismissing the appeal on the ground that the same was filed beyond the ten (10) calendar day period prescribed by the rules for perfecting an appeal to the NLRC. When her motion for reconsideration was denied by the NLRC on July 24, 1986 for lack of merit, petitioner filed the instant petition for certiorari and mandamus.

Petitioner argued that her appeal was filed on time since it was sent by registered mail on February 18, 1985, just six (6) days after receiving the adverse decision.

We agree. Section 1, Rule 13 of the Rules of Court provides that where the filing of pleadings, appearances, motions, notices, orders and other papers with the court are made by sending them 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.

As observed by the Solicitor General, records clearly show that registry receipt and the post office stamp on the mailing envelope unerringly indicate that the filing fee and memorandum of appeal were sent by registered mail on February 18, 1985, and therefore filed on said date. Since petitioner received the questioned decision on February 12, 1985, her appeal therefrom was timely filed.

Respondent NLRC contended that petitioner should have attached the registry receipt to the memorandum of appeal to show the date of filing. We find this contention devoid of merit. There is no need to attach the registry receipt to the memorandum of appeal inasmuch as the mailing envelope thereof was part of the records of the case. As mentioned earlier, one of the ways of determining the date of mailing is the post office date stamped on the envelope, which in this case was February 18, 1985.

WHEREFORE, the petition for certiorari and mandamus is hereby GRANTED. The Resolutions of the National Labor Relations Commission dated January 29, 1986 and July 24, 1986 are annulled and set aside. Respondent Commission is ordered to give due course to appeal of the petitioner and to decide the same on the merits. No costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.

[1] Solicitor General's Manifestation and Motion in Lieu of Comment, pp. 1-2.

[2] *Id.*, p. 2.

[3] *Id.*, p. 3.

[4] *Id.*, citing Records, pp. 25-35, 48-50.

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