PANTRANCO NORTH EXPRESS, INC., PETITIONER, VS. EDUARDO SISON AND THE NATIONAL LABOR RELATIONS COMMISSION, RESPONDENTS.

G.R. No. 77292. April 10, 1987

Ponente: FELICIANO, J.

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FELICIANO, J.:

The Court deliberated on the Petition for Certiorari dated 9 February 1987 seeking to set aside the resolutions dated 22 August 1986, 24 November 1986 and 14 January 1987 of the public respondent National Labor Relations Commission (NLRC) in NLRC Case No. 7-2640-84, the Comment dated 6 March 1987 filed by the Solicitor General and the Comment dated 27 March 1987 filed by the private respondent.

NLRC resolution dated 22 August 1986 dismissed petitioner's appeal from the decision of the Labor Arbiter dated 31 July 1985 as having been filed one (1) day late. The NLRC resolution states that per the record, a copy of that decision was personally served upon petitioner's counsel "on August 9, 1985 as evidenced by the Sheriff's Return dated August 8, 1985". Obviously, either "August 9, 1985" or "August 8, 1985" is erroneous (or possibly both; the record offers no help on this matter) since the Sheriff's Return cannot correctly be dated prior to the date of service of the decision. Upon the other hand, petitioner expressly states in its verified petition that it received the Labor Arbiter's decision on 12 August 1985 and interposed its appeal on 22 August 1985 (Petition, paragraph 3.02). NLRC resolution dated 22 August 1986 itself states that: "Respondent's (petitioner herein) counsel has ten (10) calendar days to file his appeal which should be reckoned from August 12, 1985 up to August 21, 1985, respectively". The Court takes judicial notice of the fact that August 12, 1985 fell on a Monday. The NLRC resolution may thus be read as saying that petitioner's counsel received a copy of the decision on 12 August 1985 since, in the ordinary course of business, such receipt would not have occurred the preceeding day, August 11, 1985, which was a Sunday. If so, then the NLRC committed an error in its computation of the period for appeal, since under Article 13 of the Civil Code, in computing a period, "the first day shall be excluded, and the last day included". The petitioner's appeal was therefore not, as the NLRC resolution asserts, "late for one calendar day" but rather filed within the reglementary period.

If it be assumed hypothetically that the NLRC believed the petitioner's counsel to have received a copy of the Labor Arbiter's decision on 9 August 1985 (a Friday), then the NLRC was again mistaken in ruling that the ten calendar day period should be reckoned from 12 August 1985. Petitioner's appeal would, in this hypothesis have been filed late, not one calendar day as NLRC said, but three calendar days late, as both the Solicitor General and the private respondent casually suggest.

In view of the singularly opaque character of the 22 August 1985 NLRC resolution, the Court agrees with the Solicitor General that substantial justice will be better served by allowing the petitioner's appeal in this case and the merits thereof, if any, threshed out in the NLRC.

WHEREFORE, the Court resolved to GRANT the petition due course and to issue the writ of certiorari. The

NLRC resolutions dated 22 August 1986, 24 November 1986 and 14 January 1987 are hereby SET ASIDE and the public respondent NLRC is directed to reinstate the petitioner's appeal and to proceed accordingly. No pronouncement as to costs.

SO ORDERED.

Yap, (Chairman), Narvasa, Melencio-Herrera, Cruz, Gancayco, and Sarmiento, JJ., concur.

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