

EMILIO VENEGAS (DOING BUSINESS UNDER THE NAME AND STYLE OF) D'BEER PLAZA, PETITIONER, VS. SECOND DIVISION, NATIONAL LABOR RELATIONS COMMISSION, EDUARDO G. MAGNO, AND MELANIO DIA...*G.R. No. 92758. August 31, 1992*

Ponente: NARVASA, C.J.

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By Resolution dated April 25, 1990, this Court[1] initially dismissed the petition in the case at bar “no grave abuse of discretion being thereby shown on the part of the NLRC in denying, in the light of the established facts on record, the petitioner’s petition for relief under Rule 38 of the Rules of Court and affirming the decision of the Labor Arbiter dated March 13, 1987.”[2] Under date of May 18, 1990, the petitioner filed a motion for reconsideration of this Resolution, and a supplement thereto dated May 25, 1990. By direction of this Court, comment on the motions was filed in behalf of the respondents, and a reply thereto submitted by the petitioner. The Court thereafter gave due course to the petition and required memoranda of the parties, principally so that it would have an opportunity to rule on the issue involving the loss of adjudicatory power of the Commission en banc occasioned by Republic Act No. 6715.

The present proceeding in this Court had its origin in a case in the Office of the Labor Arbiter at Manila, commenced by complaint of respondent Melanio Diaz against Emilio Venegas (doing business under the name and style of “D’Beer Plaza”), alleging that the latter had illegally dismissed him from employment. The case resulted, after appropriate proceedings, in a judgment by Labor Arbiter Eduardo Magno dated March 13, 1987 finding that Melanio’s employment had indeed been illegally terminated and sentencing Venegas to pay him two (2) years’ back wages only, “considering** (Venegas’) financial difficulties;” separation pay equivalent to one-half (1/2) monthly salary for every year of service; and 10% of the total amount due as attorney’s fees.

No appeal was taken from this decision; and the reason, according to Venegas, was that his counsel misunderstood the decision; he took it to mean that Venegas was being made to pay only separation pay for two (2) years, a verdict which he found acceptable. They allegedly discovered their error only when they received notice of the execution of the judgment. Venegas’ attorney thereupon filed with the National Labor Relations Commission a petition for relief from judgment in accordance with Rule 38 of the Rules of Court.

The National Labor Relations Commission en banc, which took cognizance of the petition for relief, originally denied the same in a resolution dated August 27, 1987. However, on Venegas’ motion for reconsideration, the Commission en banc set aside that resolution of dismissal, reinstated the petition which it declared to be sufficient in form and substance, and issued a writ of preliminary injunction upon a bond of P10,000.00 enjoining enforcement of the arbiter’s decision.

Two years later, or on August 8, 1989, the petition for relief was denied for lack of merit by the Second Division of the NLRC which also lifted the writ of preliminary injunction issued as aforestated by the Commission en

banc. Said Second Division also denied Venegas' motion for reconsideration by Resolution dated February 20, 1990. In the latter resolution, the Second Division drew attention to certain facts on record, including the following:

1. About a month after rendition by the Arbiter of his decision of March 13, 1987, or on April 19, 1987, the Research and Information Unit of the NLRC computed the total monetary award granted by said decision. A copy thereof was furnished the petitioner on May 18, 1987 and the Labor Arbiter scheduled hearings thereon on May 22 and June 15, 1987 in neither of which was there an appearance by petitioner or his counsel, despite notice.
2. Venegas' petition for relief was not filed until August 5, 1987. An answer thereto was presented, and a reply to said answer submitted. Thereafter hearings were had on January 19, 1988, December 7, and 27, 1988 and August 8, 1989.

The resolution further declared that the claimed failure of Venegas' counsel to understand the terms of the Labor Arbiter's decision despite its being "couched in simple English" constituted inexcusable negligence warranting no relief, and Venegas was bound by his attorney's error or neglect.

Venegas then instituted the special civil action of certiorari at bar, questioning the authority of the Second Division to overturn the acts of the Commission en banc of giving due course to the petition for relief from the Labor Arbiter's judgment and restraining execution thereof. Venegas also insists that there was excusable negligence justifying extension of relief to him in accordance with Rule 38.

The authority of the Second Division to take cognizance of the petition for relief, which had earlier been acted on by the NLRC en banc, emanates from Republic Act No. 6715,[3] which took effect on March 21, 1989.[4] The law amended Article 213 of the Labor Code, among others, by divesting the National Labor Relations Commission en banc of adjudicatory powers which thenceforth could be exercised only through the Commission's divisions, five (5) having been created for the purpose. Upon effectivity of the law, the Commission en banc could sit only for purposes of (a) promulgating rules and regulations governing the hearing and disposition of cases before any of its divisions and regional branches, and (b) formulating policies affecting its administration and operations;[5] but no longer for purposes of hearing and deciding cases.

In virtue of this amendment, the Commission en banc lost jurisdiction to act on Venegas' petition for relief. The matter had perforce to be referred to the proper Division having jurisdiction under the new statute; and this was the Second Division, to which the law has assigned cases coming from the National Capitol Region.

As regards the matter of counsel's claimed negligence as warranting relief under Rule 38, the Second Division's analysis and rejection of that thesis is riot only free of any grave abuse of discretion but in truth appears to be entirely consistent with law and logic. The Division adverted to the very statements of Venegas' counsel, viz.:

"(3) That even if there was yet time to appeal, I did not consider advising (sic) my client to take the said step considering that in my understanding of the dispositive part of the decision, Mr. EMILIO N. VENEGAS was no longer liable to pay Mr. MELANIO DIAZ any backwages but only the separation pay for two (2) years at the rate of one-half (1/2) month salary per year;

"(4) That it was only when the writ of execution was issued when I realized my mistake in which I had to explain my erroneous advice to my client of not making an appeal from the judgment. x x x" (Underscoring supplied.),

and in light thereof, declared it to be "indubitably clear" that -

" * * counsel's negligence is not at all excusable in nature as to warrant a re-opening of Melanio Diaz's case.

The dispositive portion of the decision in question is couched in simple English and admits no interpretation other than what it purports to be. Hence, for counsel to admit of having erroneously read the same, points to his gross negligence which ultimately binds his client. Well settled is the rule that clients are bound by the action of their counsels in the conduct of a case, for as the Supreme Court puts it, in the case of *Cabalis vs. Nery* (L-31988, 21 November 1979) ‘if the lawyer’s mistake and negligence were admitted as reasons for reopening cases, there would never be an end to a suit so long as counsel had not been sufficiently diligent or experienced or learned.’“

WHEREFORE, in reiteration of earlier action, the petition is DENIED for lack of merit, with costs against petitioner.

SO ORDERED.

Padilla, Regalado, Nocon, and Melo, JJ., concur.

[1] First Division

[2] Rollo, p. 83

[3] Introducing important amendments to the Labor Code; SEE footnote 3, *infra*

[4] After publication in two newspapers of general circulation.

[5] SEE (Joint) Decision prom. March 5, 1991 in G.R. No. 87211 (*JOVENCIO L. MAYOR v. HON. CATALINO MACARAIG, et al.*); G.R. No. 90044 (*PASCUAL V. REYES v. HON. FRANKLIN DRILON*); G.R. NO. 91547 (*CEFERINO E. DULAY, et al. v. HON. CATALINO MACARAIG, JR., etc., et al.*); G.R. No. 917301 (*CONRADO B. MAGLAYA v. HON. CATALINO MACARAEG, et al.*); G.R. No. 94518 (*ROLANDO D. GAMBITO v. THE SECRETARY OF LABOR AND EMPLOYMENT, et al.*).

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