

FIRST DIVISION

[G.R. No. 175251, May 30, 2011]

**RODOLFO LUNA, PETITIONER, VS. ALLADO CONSTRUCTION CO.,
INC., AND/OR RAMON ALLADO, RESPONDENTS.**

DECISION

LEONARDO-DE CASTRO, J.:

This is a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure seeking to reverse and set aside the Decision^[1] dated July 28, 2006 of the Court of Appeals as well as its Resolution^[2] dated September 28, 2006 denying the motion for reconsideration filed by petitioner.

As narrated in the Court of Appeals' July 28, 2006 Decision, the facts of this case are as follows:

[Respondent] Allado Construction Co., Inc. is a juridical entity engaged in the construction business; [respondent] Ramon Allado is the President of the said corporation.

[Petitioner] filed a complaint before the Executive Labor Arbiter Arturo Gamolo, RAB Branch XI, Davao City, alleging that he was an employee of herein [respondents], having been a part of [respondents'] construction pool of personnel. He had continuously rendered services as a warehouseman and a timekeeper in every construction project undertaken by [respondents]. Sometime in the afternoon of November 24, 2001, while at [respondents'] construction site in Maasim, Sarangani Province, he was given a travel order dated November 24, 2001 to proceed to [respondents'] main office in Davao City for reassignment. Upon arrival at the office of [respondents] on November 26, 2001, he was told by one Marilou Matilano, personnel manager of [respondents], to sign several sets of "Contract of Project Employment". He refused to sign the said contracts. Because of his refusal, he was not given a reassignment or any other work. These incidents prompted him to file the complaint.

[Respondents], on the other hand, alleged that on November 29, 2001, [petitioner] applied for a leave of absence until December 6, 2001, which was granted. Upon expiration of his leave, [petitioner] was advised to report to the company's project in Kablacan, Sarangani Province. However, he refused to report to his new assignment and claimed instead that he had been dismissed illegally.^[3]

Finding that petitioner should be deemed to have resigned,^[4] the Labor Arbiter dismissed petitioner's complaint for illegal dismissal against respondents, but ordered the latter to pay the former the amount of P18,000.00 by way of financial assistance. The dispositive portion of the Decision^[5] dated June 26, 2002 of the Labor Arbiter is as follows:

WHEREFORE, foregoing considered, judgment is hereby rendered dismissing the action for illegal dismissal but ordering respondent ALLADO CONSTRUCTION CO., INC. to extend complainant RODOLFO LUNA the amount of PESOS: EIGHTEEN THOUSAND PESOS (P18,000.00) by way of financial assistance to tide him over during his post-employment with the former.^[6]

Only respondents interposed an appeal with the National Labor Relations Commission (NLRC), purely for the purpose of questioning the validity of the grant of financial assistance made by the Labor Arbiter.

In its Resolution^[7] dated May 9, 2003, the NLRC reversed the June 26, 2002 Decision of the Labor Arbiter and declared respondents guilty of illegal dismissal and ordered them to pay petitioner one-month salary for every year of service as separation pay, computed at P170.00 per day and full backwages from November 21, 2001 up to the finality of the decision. The dispositive portion of the May 9, 2003 NLRC Resolution reads:

WHEREFORE, the appeal is Granted and the assailed Decision is reversed and vacated; A new judgment is rendered declaring respondents-appellant guilty of illegal dismissal and to pay complainant-appellant one (1) month salary for every year of service as separation pay, computed at P170.00 per day and full backwages from November 21, 2001 up to the finality of the decision.^[8]

Respondents moved for reconsideration but their motion was denied in the NLRC Resolution^[9] dated September 30, 2003 due to lack of merit.

Unperturbed, respondents elevated their cause to the Court of Appeals *via* a petition for *certiorari* under Rule 65 of the Rules of Court to set aside the aforementioned NLRC issuances and to reinstate the Labor Arbiter's decision with the modification that the award of financial assistance be deleted. In its Decision dated July 28, 2006, the Court of Appeals granted respondents' petition for *certiorari* and disposed of the case in this wise:

ACCORDINGLY, the assailed Orders of respondent Commission are hereby SET ASIDE. The Decision of the Labor Arbiter in NLRC Case No. RAB XI-12-01312-01 is hereby REINSTATED with the MODIFICATION that the award of financial assistance is deleted.^[10]

Relying on jurisprudence, the Court of Appeals held that it was grave abuse of discretion for the NLRC to rule on the issue of illegal dismissal when the only issue raised to it on appeal was the propriety of the award of financial assistance. The Court of Appeals further ruled that financial assistance may not be awarded in cases of voluntary resignation.

Expectedly, petitioner filed a motion for reconsideration but this was denied by the Court of Appeals in its Resolution dated September 28, 2006.

Hence, this petition for review wherein the petitioner puts forward for resolution the following issues:

(A) WHETHER OR NOT THE NLRC, IN THE EXERCISE OF ITS INHERENT POWERS, COULD STILL REVIEW ISSUES NOT BROUGHT DURING THE APPEAL;

(B) WHETHER OR NOT RESPONDENT COURT OF APPEALS EXERCISED GRAVE ABUSE OF DISCRETION IN DISREGARDING (1) THE FINDINGS OF FACT OF THE NLRC; (2) THE PRINCIPLE OF SOCIAL JUSTICE; AND (3) EXISTING JURISPRUDENCE WITH RESPECT TO AWARD OF FINANCIAL ASSISTANCE; and

(C) WHETHER OR NOT RESPONDENT COURT OF APPEALS EXHIBITED BIAS AND PARTIALITY WHEN IT RENDERED THE SUBJECT DECISION AND RESOLUTION CONSIDERING THE HASTY AND IMPROVIDENT ISSUANCE OF A WRIT OF PRELIMINARY INJUNCTION TO FRUSTRATE PETITIONER IN IMPLEMENTING THE FINAL AND EXECUTORY JUDGMENT OF THE NLRC RENDERED IN FAVOR OF PETITIONER.^[11]

Anent the first issue, petitioner argues that the NLRC has the authority to review issues not brought before it for appeal. Petitioner bases this argument on Article 218(c) of the Labor Code, which provides:

ART. 218. Powers of the Commission. - The Commission shall have the power and authority:

x x x x

(c) To conduct investigation for the determination of a question, matter or controversy within its jurisdiction, proceed to hear and determine the disputes in the absence of any party thereto who has been summoned or served with notice to appear, conduct its proceedings or any part thereof in public or in private, adjourn its hearings to any time and place, refer technical matters or accounts to an expert and to accept his report as evidence after hearing of the parties upon due notice, direct parties to be joined in or excluded from the proceedings, **correct, amend, or waive any error, defect or irregularity whether in substance or in form**, give all such directions as it may deem necessary or expedient in the

determination of the dispute before it, and dismiss any matter or refrain from further hearing or from determining the dispute or part thereof, where it is trivial or where further proceedings by the Commission are not necessary or desirable. (Emphasis supplied.)

Furthermore, petitioner attempts to reinforce his position by citing *New Pacific Timber & Supply Company, Inc. v. National Labor Relations Commission*,^[12] where the Court expounded on the powers of the NLRC as provided for by Article 218(c) of the Labor Code, to wit:

Moreover, under Article 218(c) of the Labor Code, **the NLRC may, in the exercise of its appellate powers, "correct, amend or waive any error, defect or irregularity whether in substance or in form."** Further, Article 221 of the same provides that: "In any proceeding before the Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process. x x x."^[13] (Emphasis supplied.)

We find petitioner's argument to be untenable.

Section 4(c), Rule VI of the 2002 Rules of Procedure of the NLRC, which was in effect at the time respondents appealed the Labor Arbiter's decision, expressly provided that, on appeal, the NLRC shall limit itself only to the specific issues that were elevated for review, to wit:

RULE VI
Appeals

Section 4. Requisites for Perfection of Appeal. x x x.

x x x x

(c) Subject to the provisions of Article 218, once the appeal is perfected in accordance with these Rules, the Commission **shall limit itself to reviewing and deciding specific issues that were elevated on appeal.** (Emphasis supplied.)

As a testament to its effectivity and the NLRC's continued implementation of this procedural policy, the same provision was retained as Section 4(d), Rule VI of the 2005 Revised Rules of Procedure of the NLRC.

In the case at bar, the NLRC evidently went against its own rules of procedure when it passed upon the issue of illegal dismissal although the question raised by respondents in their appeal was concerned solely with the legality of the labor

arbiter's award of financial assistance despite the finding that petitioner was lawfully terminated.

To reiterate, the clear import of the aforementioned procedural rule is that the NLRC shall, in cases of perfected appeals, limit itself to reviewing those issues which are raised on appeal. As a consequence thereof, any other issues which were not included in the appeal shall become final and executory.

We are cognizant of the fact that Article 218(c) of the Labor Code grants the NLRC the authority to "correct, amend or waive any error, defect or irregularity whether in substance or in form" in the exercise of its appellate jurisdiction. However, a careful perusal of the body of jurisprudence wherein we upheld the validity of the NLRC's invocation of that prerogative would reveal that the said cases involved factual issues and circumstances materially dissimilar to the case at bar.

In *New Pacific Timber*,^[14] which petitioner cited, we ruled that there was no grave abuse of discretion on the part of the NLRC, using Article 218(c) as part basis, when it entertained the petition for relief filed by a party and treated it as an appeal, even if it was filed beyond the reglementary period for filing an appeal. Before that case, we invoked the same Labor Code provision in *City Fair Corporation v. National Labor Relations Commission*^[15] and *Judy Philippines, Inc. v. National Labor Relations Commission*^[16] to justify our ruling that the NLRC did not abuse its discretion when it allowed in both cases the appeal of a party even if it was filed a day, or even a few days, late. Similarly, we held in *Industrial Timber Corporation v. Ababon*,^[17] that substantial justice is best served by permitting the NLRC to allow a petition for relief filed by a party despite the earlier commission of a procedural defect of filing the motion for reconsideration three days late on the strength of Article 218(c) and other pertinent labor law provisions. In *Pison-Arceo Agricultural and Development Corporation v. National Labor Relations Commission*,^[18] we held that procedural rules governing service of summons are not strictly construed in NLRC proceedings owing to the relaxation of technical rules of procedure in labor cases as well as to Article 218(c). We likewise held in *Aguanza v. Asian Terminal, Inc.*,^[19] that the insufficiency of a supersedeas bond is a defect in form which the NLRC may waive. Furthermore, in *Independent Sagay-Escalante Planters, Inc. v. National Labor Relations Commission*,^[20] we ruled that the NLRC had ample authority, under Article 218(c), to disregard the circumstance that the appeal fee had been tardily paid by one party and to order both parties to present evidence before the Labor Arbiter in support of their claims. Lastly, in *Faeldonia v. Tong Yak Groceries*^[21] and *Mt. Carmel College v. Resuena*,^[22] we used Article 218(c) to justify the NLRC's reversal of the Labor Arbiter's factual conclusions. However, in both cases, there was no objection that the NLRC passed upon issues that were not raised on appeal.

On the other hand, it is already settled in jurisprudence that the NLRC may not rely on Article 218(c) of the Labor Code as basis for its act of reviewing an entire case above and beyond the sole legal question raised. In *Del Monte Philippines, Inc. v. National Labor Relations Commission*,^[23] which was correctly pointed out by the Court of Appeals as a case that is on all fours with the case at bar, we held that the NLRC cannot, under the pretext of correcting serious errors of the Labor Arbiter in the interest of justice, expand its power of review beyond the issues elevated by an