

SECOND DIVISION

[G.R. No. 204275, December 09, 2015]

**LILIOSA C. LISONDRA, PETITIONER, VS. MEGACRAFT
INTERNATIONAL CORPORATION AND SPOUSES MELECIO AND
ROSEMARIE OAMIL, RESPONDENTS.**

DECISION

CARPIO, J.:

The Case

Before this Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court, assailing the Court of Appeals Resolutions in CA-G.R. SP No. 06178 dated 15 September 2011^[1] and 10 October 2012,^[2] dismissing petitioner Liliosa C. Lisondra's petition for *certiorari* under Rule 65, and denying her motion for reconsideration, respectively.

The Facts

The petition stems from a case for illegal dismissal filed by petitioner against Megacraft International Corporation (Megacraft) and Spouses Melecio and Rosemarie Oamil (Spouses Oamil) before the National Labor Relations Commission (NLRC), 7th Division, Cebu City.

On 2 June 2010, Labor Arbiter Emiliano C. Tiongco, Jr. rendered a Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring the constructive dismissal of complainant.

Respondents Megacraft and [S]pouses Melecio and Rosemarie Oamil are hereby ordered to jointly and severally pay complainant Lisondra the following:

1. Backwages --
----- P146,000.00

2. Separation
Pay ----- P 30,000.00

3. Pro. 13th
month pay 2009 P 7,291.62

4. Moral
Damages ----- P 30,000.00

	P213,291.62
5. Attorney's	
Fees -----	<u>P 21,329.16</u>

Total	P234,620.78

SO ORDERED.^[3]

Respondents appealed to the NLRC.

On 31 January 2011, the NLRC, 7th Division promulgated a Resolution dismissing the appeal:

WHEREFORE, the appeal of respondents is DISMISSED for failure to state the material date when they received the appealed Decision and for failure to comply with the requisites for the posting of a surety bond.

SO ORDERED.^[4]

Respondents then filed a Motion for Reconsideration. On 31 March 2011, the NLRC, 7th Division reversed its earlier resolution:

WHEREFORE, premises considered, the decision appealed from is hereby REVERSED AND SET ASIDE and a NEW ONE ENTERED declaring that complainant was not constructively dismissed herself [sic] from employment. Consequently, there is no basis for the grant of separation pay, backwages, moral damages and attorney's fees.

SO ORDERED.^[5]

Petitioner moved for reconsideration of the 31 March 2011 Decision, which the NLRC, 7th Division denied in its 25 May 2011 Resolution.^[6]

Petitioner then filed a petition for *certiorari* under Rule 65^[7] before the Court of Appeals.

The Ruling of the Court of Appeals

In the assailed 15 September 2011 Resolution, the Court of Appeals dismissed the petition because it suffered from the following "congenital infirmities":^[8]

1. [T]here was no proper proof of *service* of the Petition to the agency *a quo* and to the adverse parties. While petitioner filed her Affidavit of Service, and incorporated the registry receipts, petitioner still failed to comply with the requirement on proper proof of service. Post office receipt is not the required proof of service by registered mail. *Section 10, Rule 13* of the 1997 Rules of Civil Procedure specifically stated that service by registered mail is complete upon actual receipt by the addressee, or after five (5) days from the date he received the first notice of the postmaster, whichever is earlier. Verily, registry receipts cannot be considered as sufficient proof of service; they are merely evidence of the mail matter with the post

office of the sender, not the *delivery* of said mail matter by the post office of the addressee;

2. [W]hile the Petition indicated service of a copy thereof to the respondent's counsel, the Petition failed to incorporate therein a written explanation why the preferred personal mode of service to the *agency a quo* under *Section 11, Rule 13* of the 1997 Rules of Civil Procedure was not availed of;
3. [Petitioner's counsel failed to indicate on the Petition his Roll of Attorney's Number, in violation of Bar Matter No. 1132 dated November 12, 2002;
4. [T]he Notarial Certificate in the Verification and Certification of Non-Forum Shopping did not contain the province or city where the notary public was commissioned, in violation of *Section 2 (c), Rule VIII* of the 2004 Rules on Notarial Practice; and
5. [W]hile petitioner resorted to judicial review of the March 31, 2011 Decision and the May 25, 2011 Resolution of the NLRC, a *quasi-judicial* body, under Rule 65 of the 1997 Rules of Civil Procedure, she failed to implead the NLRC as public respondent in the instant Petition, in transgression of *Section 5, Rule 65* of the 1997 Rules of Civil Procedure.^[9]

Petitioner moved for reconsideration.^[10] On 10 October 2012, the Court of Appeals promulgated the assailed resolution denying the motion for reconsideration for lack of merit.^[11]

The Issue

The issue in this case is whether the Court of Appeals erred in dismissing the petition for *certiorari* filed by petitioner.

The Court's Ruling

The petition is granted.

Initially, the Court notes that the present petition itself barely complied with paragraph 2 of Section 1, Rule 65, that the "petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto x x x."

The records of this case show that copies of the decision of the Labor Arbiter and the resolutions of the NLRC, 7th Division being assailed before the Court of Appeals were not attached to the petition. That alone would have been enough cause for this case to be dismissed outright.

However, the Court finds that there is sufficient ground in this case for leniency in applying the rules of procedure, considering the opposing decisions of the Labor Arbiter and the NLRC, 7th Division.