

THIRD DIVISION

[G.R. No. 192573, October 22, 2014]

RICARDO N. AZUELO, PETITIONER, VS. ZAMECO II ELECTRIC COOPERATIVE, INC., RESPONDENT.

DECISION

REYES, J.:

Before this Court is a petition for review on *certiorari*^[1] under Rule 45 of the Rules of Court seeking to annul and set aside the Decision^[2] dated February 26, 2010 and Resolution^[3] dated June 10, 2010 issued by the Court of Appeals (CA) in CA-G.R. SP No. 107762, which affirmed the Decision^[4] dated September 22, 2008 and Resolution^[5] dated December 15, 2008 of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 052567-07.

The Facts

Petitioner Ricardo N. Azuelo (Azuelo) was employed by the respondent ZAMECO II Electric Cooperative, Inc. (ZAMECO) as a maintenance worker. It appears that sometime in March 2006, Azuelo filed with the Regional Arbitration Branch (RAB) of the NLRC in San Fernando City, Pampanga a Complaint^[6] for illegal dismissal and non-payment of benefits against ZAMECO. The complaint was docketed as NLRC Case No. RAB 111-03-9912-06 and was assigned to Labor Arbiter (LA) Mariano L. Bactin (LA Bactin). After several mediations, LA Bactin ordered the parties to submit their respective position papers on July 14, 2006.

On July 14, 2006, Azuelo, instead of submitting his position paper, moved that the submission of his position paper be extended to August 4, 2006, which was granted by LA Bactin. On August 4, 2006, Azuelo again failed to submit his position paper. LA Bactin then directed Azuelo to submit his position papers on August 22, 2006. On the said date, Azuelo, instead of submitting his position paper, moved for the issuance of an order directing ZAMECO to furnish him with a complete copy of the investigation report as regards his dismissal. ZAMECO opposed the said motion, asserting that it has already furnished Azuelo with a copy of its investigation report.

On November 6, 2006, LA Bactin issued an Order,^[7] which reads:

Record shows that respondent has already filed its position paper while complainant, despite ample opportunity given him, failed to file his[,] leaving this office with no option but to dismiss this case for lack of interest.

WHEREFORE, let this case be, as it is hereby dismissed for lack of

[merit].

SO ORDERED.^[8]

Azuelo received a copy of LA Bactin's Order dated November 6, 2006 on November 17, 2006.

On November 21, 2006, Azuelo again filed a complaint with the RAB of the NLRC in San Fernando City, Pampanga for illegal dismissal with money claims against ZAMECO, containing the same allegations in his first complaint. The case was docketed as NLRC Case No. RAB-III-11-10779-06 and was assigned to LA Reynaldo V. Abdon (LA Abdon).

On December 20, 2006, ZAMECO filed a Motion to Dismiss^[9] the second complaint filed by Azuelo on the ground of *res judicata*. ZAMECO pointed out that Azuelo had earlier filed a similar complaint, which was dismissed by LA Bactin due to his unreasonable failure to submit his position paper despite ample opportunity given to him by LA Bactin. ZAMECO likewise averred that Azuelo should have appealed from LA Bactin's Order dated November 6, 2006 instead of filing a complaint for illegal dismissal anew.

Azuelo opposed ZAMECO's motion to dismiss,^[10] alleging that the dismissal of his first complaint by LA Bactin was without prejudice. He explained that his failure to submit his position paper was due to ZAMECO's refusal to furnish him with the complete documents pertaining to his illegal dismissal. He further claimed that, since the dismissal of his first complaint was without prejudice, his remedy was either to file a motion for reconsideration or to re-file the case within 10 days from receipt of the order of dismissal.

On March 12, 2007, LA Abdon issued an Order,^[11] which dismissed Azuelo's second complaint for illegal dismissal on the ground of *res judicata*. LA Abdon pointed out that the dismissal of Azuelo's first complaint for illegal dismissal was with prejudice; that the appropriate remedy available to Azuelo against LA Bactin's dismissal of the first complaint was to appeal from the same and not to file a second complaint for illegal dismissal.

On appeal, the NLRC, in its Decision^[12] dated September 22, 2008, affirmed the Order issued on March 12, 2007 by LA Abdon. The NLRC pointed out that LA Bactin gave Azuelo ample opportunity to submit his position paper, which he still failed to do. That his failure to prosecute his action for unreasonable length of time indeed warranted the dismissal of his first complaint, which is deemed to be with prejudice, unless otherwise stated. Considering that the Order issued on November 6, 2006 by LA Bactin did not qualify the nature of the dismissal of the first complaint, the NLRC opined that the said dismissal is with prejudice. Thus, the filing of the second complaint for illegal dismissal is already barred by the prior dismissal of Azuelo's first complaint.

Azuelo sought reconsideration^[13] of the Decision dated September 22, 2008 but it was denied by the NLRC in its Resolution^[14] dated December 15, 2008.

Azuelo then filed a petition for *certiorari*^[15] with the CA, alleging that the NLRC gravely abused its discretion in ruling that the dismissal of his first complaint was with prejudice, thus constituting a bar to the filing anew of his complaint for illegal dismissal against ZAMECO. He likewise asserted that, since the dismissal of his first complaint was without prejudice, the remedy available to him, contrary to LA Abdon's ruling, was to re-file his complaint, which he did.

On February 26, 2010, the CA rendered the herein assailed Decision,^[16] which denied the petition for *certiorari* filed by Azuelo. The CA held that the NLRC did not commit any abuse of discretion in affirming the dismissal of Azuelo's second complaint for illegal dismissal on the ground of *res judicata*. That the dismissal of the first complaint, which was with prejudice, bars the filing of a subsequent complaint for illegal dismissal based on the same allegations.

Azuelo's Motion for Reconsideration^[17] was denied by the CA in its Resolution^[18] dated June 10, 2010.

Hence, the instant petition.

Issue

Essentially, the issue set forth by Azuelo for the Court's resolution is whether the dismissal of his first complaint for illegal dismissal, on the ground of lack of interest on his part to prosecute the same, bars the filing of another complaint for illegal dismissal against ZAMECO based on the same allegations.

Ruling of the Court

The petition is denied.

At the outset, it should be stressed that in a petition for review under Rule 45 of the Rules of Court, such as the instant petition, where the CA's disposition in a labor case is sought to be calibrated, the Court's review is quite limited. In ruling for legal correctness, the Court has to view the CA decision in the same context that the petition for *certiorari* it ruled upon was presented to it; the Court has to examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, not on the basis of whether the NLRC decision on the merits of the case was correct.^[19]

"The phrase 'grave abuse of discretion' is well-defined in our jurisprudence. It exists where an act of a court or tribunal is performed with a capricious or whimsical exercise of judgment equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or personal hostility."^[20]

After a thorough review of the records of the instant case, the Court finds that the CA did not commit any reversible error in upholding the dismissal of Azuelo's second complaint for illegal dismissal on the ground of *res judicata*. The NLRC did not abuse its discretion in ruling that the Order issued on November 6, 2006 by LA Bactin,

which dismissed the first complaint filed by Azuelo, was an adjudication on the merits.

At the core of the instant petition is the determination of the nature of the dismissal of Azuelo's first complaint, *i.e.*, whether the dismissal is with prejudice as held by the labor tribunals. The Order issued on November 6, 2006 by LA Bactin is silent as to the nature of the dismissal; it merely stated that the complaint was dismissed due to Azuelo's failure, despite ample opportunity afforded him, to submit his position paper.

Ultimately, the question that has to be resolved is this - whether the dismissal of a complaint for illegal dismissal due to the unreasonable failure of the complainant to submit his position paper amounts to a dismissal with prejudice.

The 2005 Revised Rules of Procedure of the NLRC (2005 Revised Rules), the rules applicable at the time of the controversy, is silent as to the nature of the dismissal of a complaint on the ground of unreasonable failure to submit a position paper by the complainant. Nevertheless, the 2005 Revised Rules, particularly Section 3, Rule I thereof, provides for the suppletory application of the Rules of Court to arbitration proceedings before the LAs and the NLRC in the absence of any applicable provisions therein, *viz*:

Section 3. *Suppletory Application of the Rules of Court.* - In the absence of any applicable provisions in these Rules, and **in order to effectuate the objectives of the Labor Code**, the pertinent provisions of the Rules of Court of the Philippines may, **in the interest of expeditious dispensation of labor justice** and whenever practicable and convenient, be applied by analogy or in a suppletory character and effect. (Emphases ours)

The unjustified failure of a complainant in arbitration proceedings before the LA to submit his position paper is akin to the case of a complainant's failure to prosecute his action for an unreasonable length of time in ordinary civil proceedings. In both cases, the complainants are remiss, sans reasonable cause, to prove the material allegations in their respective complaints. Accordingly, the Court sees no reason not to apply the rules relative to unreasonable failure to prosecute an action in ordinary civil proceedings to the unjustified failure of a complainant to submit his position paper in arbitration proceedings before the LA.

In this regard, Section 3, Rule 17 of the Rules of Court provides that:

Section 3. *Dismissal due to fault of plaintiff.* — If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, **or to prosecute his action for an unreasonable length of time**, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. **This dismissal shall have the effect of an**