

FIRST DIVISION

[G.R. No. 187122, February 22, 2012]

NEGROS SLASHERS, INC., RODOLFO C. ALVAREZ AND VICENTE TAN, PETITIONERS, VS. ALVIN L. TENG, RESPONDENT.

DECISION

VILLARAMA, JR., J.:

Before us is a petition for review on certiorari assailing the Decision^[1] dated September 17, 2008 and Resolution^[2] dated February 11 2009 of the Court of Appeals (CA) in CA-G.R. SP No. 00817. The appellate court had reversed and set aside the September 10, 2004 Decision^[3] and March 21, 2005 Resolution^[4] of the National Labor Relations Commission (NLRC) and reinstated with modification the Decision^[5] of the Labor Arbiter finding respondent to have been illegally dismissed.

The facts are undisputed.

Respondent Alvin Teng is a professional basketball player who started his career as such in the Philippine Basketball Association and then later on played in the Metropolitan Basketball Association (MBA).

On February 4, 1999, Teng signed a 3-year contract^[6] (which included a side contract and agreement for additional benefits and bonuses) with the Laguna Lakers. Before the expiration of his contract with the Laguna Lakers on December 31, 2001, the Lakers traded and/or transferred Teng to petitioner Negros Slashers, with the latter assuming the obligations of Laguna Lakers under Teng's unexpired contract, including the monthly salary of P250,000, P50,000 of which remained to be the obligation of the Laguna Lakers. On March 28, 2000, the management of the Laguna Lakers formally informed Teng of his transfer to the Negros Slashers.^[7] Teng executed with the Negros Slashers the Player's Contract of Employment.^[8]

On Game Number 4 of the MBA Championship Round for the year 2000 season, Teng had a below-par playing performance. Because of this, the coaching staff decided to pull him out of the game. Teng then sat on the bench, untied his shoelaces and donned his practice jersey. On the following game, Game Number 5 of the Championship Round, Teng called-in sick and did not play.

On November 21, 2000, Vicente Tan, Finance Head of Negros Slashers, wrote^[9] Teng requiring him to explain in writing why no disciplinary action should be taken against him for his precipitated absence during the crucial Game 5 of the National Championship Round. He was further informed that a formal investigation would be conducted on November 28, 2000. The hearing, however, did not push through because Teng was absent on the said scheduled investigation. Hearing was rescheduled for December 11, 2000. On said date, the investigation proceeded,

attended by Teng's representatives, Atty. Arsenio Yulo and Atty. Jose Aspiras.^[10] A subsequent meeting was also conducted attended by the management, coaching staff and players of the Negros Slashers team, wherein the team members and coaching staff unanimously expressed their sentiments against Teng and their opposition against the possibility of Teng joining back the team.^[11]

On March 16, 2001, the management of Negros Slashers came up with a decision, and through its General Manager, petitioner Rodolfo Alvarez, wrote^[12] Teng informing him of his termination from the team.

On July 28, 2001, Teng filed a complaint before the Office of the Commissioner of the MBA pursuant to the provision of the Uniform Players Contract which the parties had executed. Subsequently, on November 6, 2001, Teng also filed an illegal dismissal case with the Regional Arbitration Branch No. VI of the NLRC.^[13]

On July 16, 2002, the Labor Arbiter issued a decision finding Teng's dismissal illegal and ordering petitioner Negros Slashers, Inc. to pay Teng P2,530,000 representing his unpaid salaries, separation pay and attorney's fees. The Labor Arbiter ruled that the penalty of dismissal was not justified since the grounds relied upon by petitioners did not constitute serious misconduct or willful disobedience or insubordination that would call for the extreme penalty of dismissal from service. The dispositive portion of the Labor Arbiter's decision reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring the dismissal of complainant illegal and respondents Negros Slashers, Inc. are hereby ordered to **PAY** complainant the total sum of **TWO MILLION FIVE HUNDRED THIRTY THOUSAND (P2,530,000.00) PESOS** representing complainant's unpaid salaries, separation pay and attorney's fee, the award to be deposited with this Office within ten (10) days from receipt of this Decision.

All other claims are hereby *DISMISSED* for lack of merit.

SO ORDERED.^[14]

The case was then appealed to the NLRC. On September 10, 2004, the NLRC issued a Decision setting aside the July 16, 2002 Decision of the Labor Arbiter and entering a new one dismissing the complaint for being premature since the arbitration proceedings before the Commissioner of the MBA were still pending when Teng filed his complaint for illegal dismissal. The dispositive portion of the NLRC Decision reads:

WHEREFORE, premises considered, the decision of the Executive Labor Arbiter a quo is hereby **REVERSED** and **SET ASIDE**. A new one is entered, dismissing the instant case for being premature.

SO ORDERED.^[15]

Teng filed a motion for reconsideration, but it was denied for being filed beyond the ten-day reglementary period provided for in Section 15,^[16] Rule VII of the NLRC Rules of Procedure.

Aggrieved, Teng filed a petition for certiorari with the CA assailing the NLRC Decision dated September 10, 2004 and the Resolution dated March 21, 2005 denying his motion for reconsideration.

On September 17, 2008 the CA rendered the assailed Decision setting aside the September 10, 2004 Decision and March 21, 2005 Resolution of the NLRC and reinstating with modification the Labor Arbiter's Decision.

The CA reinstated the findings of the Labor Arbiter that Teng was illegally dismissed because the grounds relied upon by petitioners were not enough to merit the supreme penalty of dismissal. The CA held that there was no serious misconduct or willful disobedience or insubordination on Teng's part. On the issue of jurisdiction, the CA ruled that the Labor Arbiter had jurisdiction over the case notwithstanding the pendency of arbitration proceedings in the Office of the Commissioner of the MBA.

Petitioners sought reconsideration of the above ruling, but their motion was denied by the CA in a Resolution^[17] dated February 11, 2009.

Petitioners now come to this Court assailing the Decision dated September 17, 2008 and Resolution dated February 11, 2009 of the CA.

Firstly, petitioners argue that respondent Teng and his counsel committed a blatant violation of the rule against forum shopping. Petitioners aver that on July 28, 2001, Teng filed a complaint before the MBA pursuant to the voluntary arbitration provision of the Uniform Players Contract he executed with Negros Slashers, Inc. During the pendency of said complaint, Teng filed another complaint for illegal dismissal with the Labor Arbiter. It is petitioners' position that Teng lied by certifying under oath that there is no similar case pending between him and Negros Slashers, Inc., when in fact, months before he had filed a complaint with the MBA alleging the same factual antecedents and raising the same issues.

Secondly, petitioners argue that the CA erred in ruling that Teng's offenses were just minor lapses and irresponsible action not warranting the harsh penalty of dismissal. Petitioners allege that the CA paid scant attention to two very important pieces of evidence which would clearly show the gravity and seriousness of the offenses committed by Teng. Petitioners claim that these two documents, i.e., the minutes of the meeting^[18] of players, management, and coordinating staff, and a petition^[19] by the players to the management not to allow Teng to come back to the team, would show that Teng should not have been treated as an ordinary working man who merely absented himself by feigning sickness when called upon to work. Petitioners argue that the nature of the work and team atmosphere should have been considered and given credence. By neglecting these two documents, the CA failed to appreciate the gravity of the misconduct committed by Teng and the effects it had on the basketball organization.

Petitioners also argue that respondent's petition for certiorari with the CA should have been dismissed outright because it was filed beyond the reglementary period. Petitioners point out that Teng received the NLRC Decision on October 15, 2004 and therefore had ten days^[20] or until October 25, 2004 within which to file a motion for reconsideration. But he filed his motion for reconsideration only on October 26, 2004 and said motion was denied^[21] on March 21, 2005 for being filed late. Thereafter he filed his petition for certiorari^[22] with the CA on June 20, 2005. Petitioners contend that the petition for certiorari was filed beyond the period allowed by the Rules of Court because the 60-day period to file the petition for certiorari should have started to run from the receipt of the NLRC decision on October 15, 2004. And it should have expired on December 14, 2004 because it was as if no motion for reconsideration was filed in the NLRC. Further, petitioners argue that the CA could not take cognizance of the case because it is a settled rule that certiorari as a special civil action will not lie unless a motion for reconsideration is first filed before the NLRC to allow it an opportunity to correct its errors. In this case, since the motion for reconsideration was filed late, it should have been treated as if no motion for reconsideration was filed.

Teng, on the other hand, maintains that there is no violation of the rule against forum shopping. He submits that he indeed filed his complaint before the MBA as early as July 28, 2001. Unfortunately, for more than three months, the supposed voluntary arbitration failed to yield any result until the MBA itself was dissolved. It was only on November 2001, after exhausting the arbitration process, did he file his complaint before the Labor Arbiter. In other words, it was only after the MBA failed to come up with a resolution on the matter did he opt to seek legal redress elsewhere.

On the merits, Teng relies on the reasoning of the Labor Arbiter in finding that his alleged lapses and misconduct were too minor to justify the extreme penalty of dismissal from service. In large part, he quotes the Labor Arbiter's decision, and emphasizes the Labor Arbiter's statements that (1) loosening of the shoe laces and the donning of the practice jersey are not indicative of serious misconduct that would justify dismissal from employment; (2) it cannot be concluded that he merely feigned sickness when he informed the Coach of his inability to play during Game No. 5; and (3) there is no showing of any bad faith or ill motive on his part that would qualify his actions as serious, severe and grave as to warrant termination from service.

Teng also argues that the CA aptly clarified and explained the legal reason why the petition for certiorari was given due course despite some procedural lapses regarding the motion for reconsideration with the NLRC. Teng stresses that jurisprudence allows the relaxation of procedural rules even of the most mandatory character in the interest of substantial justice. In this particular case, justice and equity calls for the relaxation of the reglementary period for filing a motion for reconsideration as well as the rule prohibiting the filing of a petition for certiorari without first filing a motion for reconsideration.

Simply put, the basic issues for our resolution are as follows: (1) whether the CA erred in giving due course to respondent Teng's petition for certiorari despite its late filing; (2) whether Teng violated the rule on forum shopping when he filed a complaint for illegal dismissal with the Regional Arbitration Branch of the NLRC while