

THIRD DIVISION

[G.R. No. 187693, July 13, 2010]

INTERTRANZ CONTAINER LINES, INC. AND JOSEFINA F. TUMIBAY, PETITIONERS, VS. MA. TERESA I. BAUTISTA, RESPONDENT.

D E C I S I O N

BRION, J.:

For resolution is the present Petition for Review on *Certiorari*^[1] which assails the Decision^[2] and the Resolution^[3] of the Court of Appeals (CA), rendered on November 26, 2008 and April 29, 2009, respectively, in CA-G.R. SP No. 101611.^[4]

The Antecedents

Petitioners Intertranz Container Lines, Inc. and Josefina F. Tumibay (*petitioners*) are engaged in local and international freight forwarding services. On February 14, 2002, the petitioners employed Ma. Teresa I. Bautista as Customs Representative.

On September 10, 2004, Bautista filed a complaint against the petitioners for illegal dismissal, money claims, moral and exemplary damages and attorney's fees. She stated that as the company's customs representative, she attended to the processing of import documents of the company's clients and the delivery of their cargoes. Her daily work schedule was from 8:30 a.m. to 5:30 p.m., but her duties required her to work up to midnight without overtime compensation. Her monthly salary was increased to P8,000.00 upon her promotion as account officer with the duty of looking for clients. The company did not give her incentive leave and 13th month pay. On July 15, 2004, the petitioners terminated her employment without a valid reason and prior investigation; by reason of her dismissal, she suffered and continues to suffer extreme mental anguish and serious anxiety. She also claimed that Tumibay shouted at her when she was dismissed, and threatened to shoot her if she did not leave.

In defense, the petitioners alleged that on July 11, 2004, Bautista was caught red-handed overcharging the company for truck rental; she requested a cash advance of P6,000.00 to pay for the rental, but she actually paid the trucking service only P4,500.00, keeping for herself the balance of P1,500.00.^[5] On July 12, 2004, Rhandy Villaflores, the company's Marketing Manager, asked Bautista to explain her side regarding the truck rental overcharge but she merely denied the accusation. On July 15, 2004, Villaflores submitted a report on the matter to Tumibay, who informed Bautista of the findings and asked her to explain her side. Bautista denied any wrongdoing and justified her taking a share from the truck rental as her referral fee, by claiming that she was the one coordinating/dealing with the trucking company. Bautista's insolent reply angered Tumibay who then told Bautista to

resign; instead of resigning, she filed the complaint. On July 19, 2004, Bautista, representing herself as manager of a competitor company, Ramaga Cargo Express, sent a letter, dated July 18, 2004, to Sandvik Tamrock Phils., Inc., soliciting business, an act of "moon shining."^[6] To avoid being formally charged with a fraudulent and dishonest act, Bautista opted to leave the company and stopped reporting for work. Since Bautista, by her acts, intentionally severed her employment with the company, a letter of notice for her to return to work and a show cause letter would have been a futile exercise. Moreover, the petitioners maintained that Bautista's dishonest acts constituted a just and valid cause for her dismissal, pursuant to company rules and regulations.

The petitioners denied liability for Bautista's money claims as they paid her 13th month benefits (except in 2004 when Bautista went on absence without leave) and service incentive pay. Her claim for overtime pay allegedly lacked basis because it was not supported by a pre-approved overtime schedule and a daily time record; as a member of the marketing department, she had no regular working hours. The petitioners likewise argued that Bautista cannot claim damages for mental anguish and anxiety because it was her own fraudulent and dishonest act that caused her dismissal from the company. In addition, Tumibay cannot be held personally liable for corporate acts done in her capacity as managing director of the company.

The Compulsory Arbitration Proceedings

On June 15, 2005, Labor Arbiter Aliman D. Mangandog rendered a decision^[7] declaring Bautista's dismissal illegal. He ordered Bautista's reinstatement and directed the petitioners to pay her, jointly and severally, P409,262.89 representing backwages and other monetary benefits, P500,000.00 as moral damages, P300,000.00 as exemplary damages, and P120,926.29 as attorney's fees.

On July 11, 2005, the petitioners filed with the National Labor Relations Commission (NLRC) a Notice of Appeal, accompanied by a Memorandum of Appeal, an Appeal Bond for P531,000.00, and a Motion to Reduce Appeal Bond. On July 14, 2005, Bautista moved for the execution of the reinstatement aspect of the labor arbiter's decision. On August 4, 2005, Bautista filed a Motion for Payroll Reinstatement, which the arbiter granted in an Order dated December 15, 2005,^[8] despite the petitioners' opposition.^[9] The petitioners moved for reconsideration of the labor arbiter's payroll reinstatement order.^[10]

On April 18, 2006, the NLRC issued an Order^[11] directing the petitioners to replace, within ten (10) days, the appeal bond they posted on July 11, 2005, on the ground that the accreditation of the bondsman - the Summit Guaranty and Insurance Company, Inc. - expired on July 31, 2005 and had not been renewed. On May 8, 2006, the petitioners filed, instead of the required bond, a Motion for Reconsideration with Motion for Suspension/Extension,^[12] asking for a period of one month to replace the bond. While the motions were pending, the petitioners submitted, on June 1,

2006, a Manifestation with Motion, attached to which was a copy of the newly secured bond.

In a decision dated January 8, 2007, the NLRC dismissed the petitioners' appeal for non-perfection,^[13] as they filed the replacement bond beyond the 10-day period. Ten days later or on January 17, 2007, the NLRC issued a Resolution^[14] dismissing the petitioners' motion for reconsideration of the labor arbiter's order of December 15, 2005, granting Bautista's payroll reinstatement. The petitioners filed separate motions for reconsideration of the NLRC decision dismissing the appeal and the resolution denying the motion for reconsideration of the payroll reinstatement order. The NLRC denied both motions in a resolution promulgated on October 22, 2007.^[15] The NLRC issued an Entry of Judgment on January 8, 2008,^[16] the basis for the Writ of Execution of January 22, 2008.^[17]

Recourse to the CA

The petitioners sought relief from the CA through a petition for *certiorari*^[18] under Rule 65 of the Rules of Court charging the NLRC with grave abuse of discretion in: (1) denying their appeal for non-perfection; (2) ordering Bautista's reinstatement in the payroll pending appeal; and (3) issuing the entry of judgment and the writ of execution without prior notice and service of the motion, and before the lapse of the appeal period.

In the decision of November 26, 2008,^[19] the CA denied the petition and affirmed the assailed decision and resolution of the NLRC. It found that the NLRC correctly dismissed the petitioners' appeal for non-perfection. The CA noted that the bond that the petitioners posted on July 11, 2005 was valid only until July 31, 2005, the expiry date of the accreditation of the surety firm that issued the bond. The CA further noted that the petitioners posted a new bond on June 1, 2006, beyond the 10-day period mandated by the NLRC. The appellate court also ruled that Bautista's payroll reinstatement, the entry of judgment, and the issuance of the writ of execution were proper since the decision of the labor arbiter had become final and executory.

The petitioners moved for reconsideration of the CA decision, but the CA denied the motion on April 29, 2009.^[20]

The Petition and Related Incidents

The petitioners now seek to reverse the CA decision, contending that the appellate court gravely abused its discretion in affirming the NLRC decision dismissing their appeal for non-perfection. They contend that the CA had been too strict in applying the rules on appeal bond considering that: (1) they perfected their appeal by posting a valid appeal bond on July 11, 2005; (2) when they were required by the NLRC to file a replacement bond within 10 days from receipt of its April 18, 2006 order on the matter, they moved for reconsideration, as well as a 30-day extension to post the new bond; and (3) within the extension period prayed for, or on June 1, 2006, they filed the replacement bond. They objected to Bautista's payroll reinstatement arguing that she is guilty of dishonesty, a just cause for dismissal.

On July 6, 2009, the Court required respondent Bautista to comment on the petition.^[21]

On July 14, 2009, the petitioners moved^[22] for a temporary restraining order (TRO)/writ of injunction "to prevent, enjoin, restrain" the NLRC Sheriffs from enforcing the 2nd Alias Writ of Execution dated June 3, 2009,^[23] and from conducting the auction sale on July 17, 2009 or anytime thereafter over the petitioners' property, real or personal.^[24]

In a Resolution dated July 15, 2009, the Court granted the motion,^[25] issued the TRO prayed for, and required the petitioners to post a cash or surety bond in an amount equivalent to the NLRC award of P1,330,189.18.^[26]

On July 24, 2009, the petitioners filed a Manifestation^[27] (of compliance), submitting to the Court copies of the surety bond issued by a reputable bonding company of indubitable solvency in the amount equivalent to the NLRC award, with supporting documents.^[28]

On September 14, 2009, Bautista filed her Comment,^[29] praying that the petition be dismissed for lack of merit, as it failed to establish any reversible error in the assailed NLRC and CA rulings.

The Court's Ruling

a. The Appeal Bond Issue

Jurisprudence tells us that in labor cases, an appeal from a decision involving a monetary award may be perfected only upon the posting of a cash or surety bond.^[30] The Court, however, has relaxed this requirement under certain exceptional circumstances in order to resolve controversies on their merits. These circumstances include: (1) fundamental consideration of substantial justice; (2) prevention of miscarriage of justice or of unjust enrichment; and (3) special circumstances of the case combined with its legal merits, and the amount and the issue involved.^[31]

Following jurisprudential standards, we find that a relaxation of the rules on the appeal bond requirement in this case is in order. It is clear from the records that the petitioners never intended to evade the posting of an appeal bond. They exerted earnest efforts to abide by the law and the rules on appeal with a notice of appeal, appeal memorandum, and an appeal bond for P531,000.00. They also moved to reduce the appeal bond. The petitioners might or might not have been aware that the accreditation of the bonding company expired on July 31, 2005 but when the bond was posted on July 11, 2005, the bonding company's accreditation and the bond it issued were still valid. Although the petitioners failed to file a replacement bond within 10 days from receipt of the NLRC order requiring them to do so, again, it cannot be said that they intended to ignore the order. With the plea that the 10-day period was too short, they filed a motion for reconsideration with motion for suspension/extension of time to file the replacement bond. They asked for 30 days to file a new bond and posted the replacement bond within the requested extended period.

The NLRC dismissed the petitioners' appeal for non-perfection/non-compliance with the appeal bond requirement without passing upon - in fact, completely ignoring - the petitioners' motion for time to post the required bond. The NLRC should have

granted the motion for extension since there was no showing that it was intended to delay the resolution of the case. More importantly, the petitioners exhibited good faith and willingness to post the bond within the period they asked for which, in fact, they did on June 1, 2006.^[32]

It is unfortunate that the NLRC chose to apply the strict letter of the law and the rules on the appeal bond requirement rather than look at the reasons behind the petitioners' plea for a relaxation of the requirement, with an eye on the interest of substantial justice and the merits of the case. The NLRC should have noted that Bautista had been charged by the petitioners of very serious offenses involving acts of dishonesty and engaging in competition with her employer. The awards made also appeared unusually high and out of line: P500,000.00 in moral damages, and P300,000.00 as exemplary damages, or double the monetary benefits in Bautista's favor - awards that even this Court does not mete out in labor cases.

We find, under the circumstances, that the NLRC had precipitately dismissed the appeal for non-perfection. As we held in *Phil. Geothermal, Inc. v. National Labor Relations Commission*,^[33] the petitioners' appeal should have been given due course, "in the broader interest of justice and with the desired objective of deciding the case on the merits."

b. Disposition of the Merits of the Dismissal

We now determine, given our ruling on the bond issue, at what level the dismissal issue should be resolved considering the length of time that the case has been pending. The case commenced on September 10, 2004, when Bautista filed the complaint for illegal dismissal. The case is more than five (5) years old already and needs to be resolved as expeditiously as possible. On this vital point, the Court's opinion in *Roman Catholic Archbishop of Manila v. Court of Appeals*^[34] is relevant -

[The] remand of the case x x x is not necessary where the Court is in a position to resolve the dispute based on the records before it. [T]he Court, x x x [will decide] actions on the merits [in order to expedite the settlement of a controversy and if] the ends of justice x x x would not be subserved by the remand of the case.

For this same reason, we find that the case should now be resolved without sending it back to the NLRC or to the CA for disposition. We noted earlier that the petitioners filed a memorandum of appeal^[35] which Bautista opposed.^[36] Thus, the issues have been joined and are ready for adjudication, and should forthwith be resolved in the interest of speedy justice.^[37]

c. The Merits of the Dismissal Issue

c.1. The Case for the Petitioners

The petitioners appealed^[38] the labor arbiter's decision on the main ground that the labor arbiter committed grave abuse of discretion in making conclusions of fact and law without credible evidence to support such conclusions which, if not corrected,