

## THIRD DIVISION

[ G.R. No. 173115, April 16, 2009 ]

**ATTY. VIRGILIO R. GARCIA, PETITIONER, VS. EASTERN  
TELECOMMUNICATIONS PHILIPPINES, INC. AND ATTY.  
SALVADOR C. HIZON, RESPONDENTS.**

**[G.R. NOS. 173163-64]**

**EASTERN TELECOMMUNICATIONS PHILIPPINES, INC. AND ATTY.  
SALVADOR C. HIZON, PETITIONERS, VS. ATTY. VIRGILIO R.  
GARCIA, RESPONDENT.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

Assailed before Us *via* consolidated petitions for *certiorari* under Rule 45 of the Rules of Court is the Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. SP No. 88887 and No. 89066 dated 24 March 2006, which dismissed the petitions for *certiorari* questioning the Decision<sup>[2]</sup> of the National Labor Relations Commission (NLRC) dated 21 March 2003, docketed as NLRC NCR CA No. 028901-01. The NLRC reversed the decision of the Labor Arbiter dated 30 September 2002, finding the preventive suspension and dismissal of Atty. Virgilio R. Garcia illegal, and dismissed the case for lack of jurisdiction.

The facts are not disputed.

Atty. Virgilio R. Garcia was the Vice President and Head of Business Support Services and Human Resource Departments of the Eastern Telecommunications Philippines, Inc. (ETPI).

ETPI is a corporation duly organized and existing under the laws of the Republic of the Philippines.

Atty. Salvador C. Hizon is the President/Chief Executive Officer of ETPI.

On 16 January 2000, Atty. Garcia was placed under preventive suspension based on three complaints for sexual harassment filed by Atty. Maria Larrie Alinsunurin, former manager of ETPI's Office of the Legal Counsel; Ms. Emma Valeros-Cruz, Assistant Vice President of ETPI and former secretary of Atty. Garcia; and Dr. Mercedita M. Macalintal, medical retainer/company physician of ETPI. In response to the complaints, the Human Resources Department constituted a Committee on Decorum to investigate the complaints. By reason of said complaints, Atty. Garcia was placed in preventive suspension. The committee conducted an investigation where Atty. Garcia was given copies of affidavits of the witnesses against him and a chance to defend himself and to submit affidavits of his witnesses. The Committee

submitted a report which recommended his dismissal.<sup>[3]</sup> In a letter dated 14 April 2000, Atty. Hizon advised Atty. Garcia that his employment with ETPI was, per recommendation of the Committee, terminated effective 16 April 2000.

A *complaint-affidavit for illegal dismissal* with prayer for full backwages<sup>[4]</sup> and recovery of moral and exemplary damages was *filed on 11 July 2000* by Atty. Virgilio R. Garcia against ETPI and Atty. Salvador C. Hizon.<sup>[5]</sup> The case, docketed as NLRC NCR-30-07-02787-00, was assigned to Labor Arbiter Patricio P. Libo-on. The parties submitted their respective position papers,<sup>[6]</sup> reply position papers<sup>[7]</sup> and rejoinders.<sup>[8]</sup> Per agreement of the parties, ETPI and Atty. Hizon filed a sur-rejoinder on 6 March 2001.<sup>[9]</sup> Atty. Garcia manifested that he was no longer submitting a sur-rejoinder and was submitting the case for resolution.

On 15 April 2001, Atty. Garcia filed a Motion to Inhibit, praying that Labor Arbiter Libo-on inhibit himself from further proceeding with the case, on the ground that he was a fraternity brother of Atty. Hizon.<sup>[10]</sup> Atty. Garcia thereafter filed a second Motion to Inhibit<sup>[11]</sup> on 10 May 2001. ETPI and Atty. Hizon opposed said motion, arguing that the reason on which it was grounded was not one of those provided by law.<sup>[12]</sup> In an Order dated 13 June 2001, said motions were denied.<sup>[13]</sup> Atty. Garcia appealed said order before the NLRC via a Memorandum on Appeal dated 4 July 2001,<sup>[14]</sup> to which ETPI and Atty. Hizon filed an Answer.<sup>[15]</sup>

The NLRC, in its decision dated 20 December 2001, set aside the order of Labor Arbiter Libo-on and ordered the re-raffling of the case.<sup>[16]</sup> ETPI and Atty. Hizon moved for the reconsideration<sup>[17]</sup> of the decision, but the same was denied.<sup>[18]</sup> Consequently, the case was re-raffled to Labor Arbiter Ramon Valentin C. Reyes.<sup>[19]</sup>

The parties were directed to submit their respective memoranda.<sup>[20]</sup> Atty. Garcia filed his memorandum<sup>[21]</sup> on 9 July 2002 while ETPI and Atty. Hizon submitted their memorandum<sup>[22]</sup> on 22 July 2002. On 16 August 2002, with leave of court, ETPI and Atty. Hizon *filed a Reply Memorandum, raising for the first time the issue of lack of jurisdiction*.

In his **decision dated 30 September 2002**, Labor Arbiter Reyes found the preventive suspension and subsequent dismissal of Atty. Garcia illegal. The dispositive portion of the decision reads:

WHEREFORE, premises all considered, judgment is hereby rendered, finding the preventive suspension and the dismissal illegal and ordering the respondents to:

1. Reinstate complainant to his former position without loss of seniority rights and other benefits appurtenant to the position that complainant received prior to the illegal dismissal;
2. Pay complainant his backwages which for purpose of appeal is computed to the amount of P4,200,000.00 (P150,000 x 28);

3. Pay complainant Moral damages in the amount of P1,000,000.00 and Exemplary damages in the amount of P500,000.00.<sup>[23]</sup>

On 14 November 2002, Atty. Garcia filed an Ex-Parte Motion for the Issuance of a Writ of Execution.<sup>[24]</sup> On 20 November 2002, Labor Arbiter Reyes issued a Writ of Execution insofar as the reinstatement aspect of the decision was concerned.<sup>[25]</sup> ETPI and Atty. Hizon filed a Very Urgent Motion to Lift/Quash Writ of Execution on 28 November 2002.<sup>[26]</sup> Per Sheriff's Return on the Writ of Execution, said writ remained unsatisfied because ETPI and Atty. Hizon refused to reinstate Atty. Garcia to his former position.<sup>[27]</sup>

On 29 November 2002, Atty. Garcia filed an Ex-Parte Motion for the Issuance of an Alias Writ of Execution praying that said writ be issued ordering the sheriff to enforce the decision by garnishing the amount of P450,000.00 representing his monthly salaries for two months and 13<sup>th</sup> month pay from any of ETPI's bank accounts.<sup>[28]</sup> Atty. Garcia manifested that he was no longer filing any responsive pleading to the Very Urgent Motion to Lift/Quash Writ of Execution because the Labor Arbiter lost jurisdiction over the case when an appeal had been perfected.<sup>[29]</sup> In an Order dated 10 December 2002, Labor Arbiter Reyes denied the Very Urgent Motion to Lift/Quash Writ of Execution, explaining that it still had jurisdiction over the reinstatement aspect of the decision, notwithstanding the appeal taken, and that the grounds relied upon for the lifting or quashing of the writ were not valid grounds.<sup>[30]</sup> Labor Arbiter Reyes subsequently issued a 1<sup>st</sup> Alias Writ of Execution dated 11 December 2002 ordering the sheriff to proceed to the premises of ETPI to reinstate Atty. Garcia and/or garnish the amounts prayed for.<sup>[31]</sup> Per Sheriff's Return dated 17 January 2003, the 1<sup>st</sup> Alias Writ of Execution was satisfied with the amount of P450,000.00 being released for proper disposition to Atty. Garcia.<sup>[32]</sup>

ETPI and Atty. Hizon appealed the decision to the NLRC, filing a Notice of Appeal and Memorandum of Appeal,<sup>[33]</sup> which appeal was opposed by Atty. Garcia.<sup>[34]</sup> The appeal was docketed as NLRC NCR CA Case No. 028901-01. ETPI and Atty. Hizon filed a Supplemental Appeal Memorandum dated 23 January 2003 (With Very Urgent Motion for Issuance of Temporary Restraining Order).<sup>[35]</sup> In a Manifestation *ad Cautelam* dated 28 January 2003, without waiving their right to continue to question the jurisdiction of the Labor Arbiter, they informed the Labor Arbiter that they had filed a Supplemental Appeal Memorandum before the NLRC and asked that all processes relating to the implementation of the reinstatement order be held in abeyance so as not to render moot the reliefs prayed for in said Supplemental Appeal Memorandum.<sup>[36]</sup> They likewise filed on 31 January 2003 a Very Urgent Motion to Lift/Quash Order of Garnishment *ad Cautelam*, praying that the notice of garnishment on ETPI's bank account with Metrobank, Dela Costa Branch, or with other banks with which ETPI maintained an account and which received said notice of garnishment be immediately lifted/quashed.<sup>[37]</sup> On 12 February 2003, Atty. Garcia filed his Opposition to said Supplemental Appeal Memorandum.<sup>[38]</sup>

On 3 February 2003, Atty. Garcia filed an Ex-Parte Motion for the Issuance of a 2<sup>nd</sup> Alias Writ of Execution.<sup>[39]</sup> In an Order dated 5 February 2003, Labor Arbiter Reyes lifted the notice of garnishment on ETPI's bank account with Metrobank, Dela Costa

Branch.<sup>[40]</sup> On 10 February 2003, Labor Arbiter Reyes issued a 2<sup>nd</sup> Writ of Execution.<sup>[41]</sup>

In a Manifestation *ad Cautelam*<sup>[42]</sup> dated 10 February 2003, ETPI and Atty. Hizon said that they filed with the NLRC on 7 February 2003 an Urgent Petition (for Preliminary Injunction With Issuance of Temporary Restraining Order)<sup>[43]</sup> which prayed, *inter alia*, for the issuance of a temporary restraining order to restrain the execution pending appeal of the order of reinstatement and to enjoin the Labor Arbiter from issuing writs of execution or other processes implementing the decision dated 30 September 2002. They added that they also filed on 7 February 2003 a Notice to Withdraw<sup>[44]</sup> their Supplemental Appeal Memorandum dated 23 January 2003.

ETPI and Atty. Hizon, without waiving their right to continue to question the jurisdiction of the Labor Arbiter over the case, filed on 18 February 2003 a Motion to Inhibit, seeking the inhibition of Labor Arbiter Reyes for allegedly evident partiality in favor of the complainant in issuing writs of execution in connection with the order of reinstatement contained in his decision dated 30 September 2002, despite the pendency of an Urgent Petition (for Preliminary Injunction With Prayer for the Issuance of Temporary Restraining Order) with the NLRC, which sought the restraining of the execution pending appeal of the order of reinstatement.<sup>[45]</sup> The petition for injunction was docketed as NLRC NCR IC No. 0001193-02. Atty. Garcia filed an opposition,<sup>[46]</sup> to which ETPI and Atty. Hizon filed a reply.<sup>[47]</sup> Said motion to inhibit was subsequently granted by Labor Arbiter Reyes.<sup>[48]</sup> The case was re-raffled to Labor Arbiter Elias H. Salinas.<sup>[49]</sup>

In an Order dated 26 February 2003, the NLRC, in NLRC NCR IC No. 0001193-02, issued a temporary restraining order (TRO) enjoining Labor Arbiter Reyes from executing pending appeal the order of reinstatement contained in his decision dated 30 September 2002, and from issuing similar writs of execution pending resolution of the petition for preliminary injunction. It directed ETPI and Atty. Hizon to post a bond in the amount of P30,000.00 to answer for any damage which Atty. Garcia may suffer by reason of the issuance of the TRO.<sup>[50]</sup>

On **21 March 2003**, the NLRC rendered its decision in NLRC NCR CA Case No. 028901-01 **reversing the decision of Labor Arbiter Reyes and dismissing the case for lack of jurisdiction**. The decretal portion of the decision reads:

WHEREFORE, the decision appealed from is REVERSED, and the instant case DISMISSED for lack of jurisdiction.<sup>[51]</sup>

The Commission ruled that the dismissal of Atty. Garcia, being ETPI's Vice President, partook of the nature of an intra-corporate dispute cognizable by Regional Trial Courts and not by Labor Arbiters. It added that ETPI and Atty. Hizon were not barred by estoppel from challenging the jurisdiction of the Labor Arbiter over the instant case.

Atty. Garcia moved for the reconsideration<sup>[52]</sup> of the decision, which ETPI and Atty. Hizon opposed.<sup>[53]</sup> In a resolution dated 16 December 2003, the motion for reconsideration was denied for lack of merit.<sup>[54]</sup>

On 26 March 2003, Atty. Garcia filed a Motion to Inhibit, requesting Associate Commissioner Angelita A. Gacutan to inhibit herself from further participating in the deliberation and resolution of the case for manifest bias and partiality in favor of ETPI and Atty. Hizon. The motion was later withdrawn.<sup>[55]</sup>

On 3 April 2003, the NLRC made permanent the TRO it issued pursuant to its ruling in NLRC NCR CA Case No. 028901-01, that since the Labor Arbiter had no jurisdiction over the case, the decision of the Labor Arbiter dated 30 September 2002 was void.<sup>[56]</sup>

On 6 March 2004, the resolution dated 16 December 2003 became final and executory. Consequently, on 14 June 2004, an entry of judgment was made recording said resolution in the Book of Entries of Judgments.<sup>[57]</sup>

On 18 June 2004, ETPI and Atty. Hizon filed a Motion to Discharge and/or Release the Appeal Bond<sup>[58]</sup> in the amount of P5,700,000.00 that they had posted. <sup>[59]</sup>

On 9 July 2004, Atty. Garcia filed a Motion to Set Aside Finality of Judgment With Opposition to Motion to Discharge Appeal Bond,<sup>[60]</sup> claiming that he did not receive the resolution dated 16 December 2003 of the NLRC, the same having been sent to his former address at 9 Isidora St., Don Antonio Heights, Diliman, Quezon City, and not to his new address at 4 Pele St., Filinvest 2, Batasan Hills, Quezon City, where he had been receiving all pleadings, Resolutions, Orders and Decisions pertaining to the instant case since April 2001. On 19 July 2004, ETPI and Atty. Hizon filed their opposition thereto. On 23 August 2004, the NLRC, admitting that it missent the resolution dated 16 December 2003 denying Atty. Garcia's motion for reconsideration, issued an order *granting the motion*. It recalled and set aside the Entry of Judgment dated 14 June 2004 and denied the Motion to Discharge and/or Release the Appeal Bond.<sup>[61]</sup>

In its Motion for Reconsideration dated 17 September 2004, ETPI and Atty. Hizon argued that the NLRC correctly sent the resolution of 16 December 2003 to counsel's allegedly old address, considering that same was counsel's address of record, there being no formal notice filed with the NLRC informing it of a change of address. They contended that the aforesaid resolution had become final and executory, and that Atty. Garcia should bear the consequences of his inequitable conduct and/or gross negligence.<sup>[62]</sup> On 10 January 2005, the NLRC denied the motion for reconsideration.<sup>[63]</sup>

On 14 March 2005, Atty. Garcia appealed to the Court of Appeals *via* a Petition for *Certiorari*. It prayed that the Decision dated 21 March 2003 and resolution dated 16 December 2003 of the NLRC be annulled and set aside, and that the decision of the Labor Arbiter dated 30 September 2002 be reinstated.<sup>[64]</sup> The appeal was docketed as CA-G.R. SP No. 88887.

On 28 March 2005, ETPI and Atty. Hizon likewise filed a Petition for *Certiorari* asking that the Orders dated 23 August 2004 and 10 January 2005 of the NLRC be set aside; that its resolution dated 16 December 2003 be declared final and executory; and that the NLRC be directed to discharge and/or release Supersedeas Bond No.