

SECOND DIVISION

[G.R. No. 165284, April 16, 2008]

**MP ACEBEDO OPTICAL SHOPS/ ACEBEDO OPTICAL CO., INC.,
PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION
AND RODRIGO C. SANTIAGO RESPONDENTS.**

DECISION

QUISUMBING, J.:

Petitioners seek the reversal of the Decision^[1] dated April 16, 2002 of the Court of Appeals in CA-G.R. SP No. 60062, dismissing their petition for certiorari against the Resolution^[2] dated March 31, 2000 of the National Labor Relations Commission (NLRC) in NLRC NCR CN 00-05-03491-97. Also assailed is the Resolution^[3] dated August 4, 2004 of the Court of Appeals, denying their motion for reconsideration.

The case stemmed from the following antecedent facts:

On April 1, 1996, respondent Rodrigo C. Santiago was hired as one of the accountants of Acebedo Optical Shops/Acebedo Optical Co., Inc. Subsequently, he was appointed as Chief Accountant of the Acebedo Group of Companies, *i.e.*, MP Acebedo Optical Shop, Acebedo Optical Co., Acebedo Trading Company, and M.L.R. Acebedo Commercial.

During the first week of April 1997, respondent took a five-day leave of absence. When he requested for an additional two-day leave, the Human Resources Department informed him that the extension was no longer necessary since the Acebedo Group of Companies (Acebedo) had already decided to dismiss him effective April 9, 1997.

Aggrieved, respondent filed a complaint for illegal dismissal, unpaid salaries and allowances, 13th month pay, non-payment of per diem for 1996, unremitted SSS and Pag-Ibig Fund contributions and tax withheld for 1996 to 1997.

Petitioners countered that they evaluated respondent's performance in March 1997 and discovered that he had many shortcomings. It was also ascertained that he ordered the printing of accountable documents and distributed them to optical retail outlets without proper control and formal authorization from his supervisor. Hence, Acebedo formed a committee to deliberate on respondent's performance which recommended his lateral transfer to another position. When respondent learned this, he refused to follow the recommendation and went on unofficial leave. He also abandoned his post without notice.

On April 9, 1997, petitioners dismissed respondent due to loss of trust and confidence.

On April 30, 1998, the Labor Arbiter rendered a decision on the complaint filed by respondent, in this wise:

WHEREFORE, respondents are hereby ordered to reinstate complainant Rodrigo C. Santiago to his former position without loss of seniority rights and other privileges appurtenant thereto, with full backwages from the time of his dismissal until actual reinstatement.

All other monetary claims of complainant are hereby dismissed for lack of merit.

SO ORDERED.^[4]

Petitioners appealed to the NLRC. On March 31, 2000, the NLRC dismissed the same for being filed late.^[5]

Petitioners elevated the case to the Court of Appeals *via* a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure. Petitioners argued that the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction in affirming the Labor Arbiter's decision.

In dismissing the petition, the appellate court noted that petitioners' former counsel received a copy of the Labor Arbiter's decision on July 20, 1998. However, petitioners filed their memorandum of appeal and paid the appeal fee only on June 17, 1999, which was way beyond the ten-day reglementary period under Article 223^[6] of the Labor Code and Section 1,^[7] Rule VI of the NLRC New Rules of Procedure.

Petitioners now come to this Court contending that the Court of Appeals committed grave, palpable, and patent errors in:

I.

DECLARING THAT THE HONORABLE COMMISSION HAD NO AUTHORITY TO ENTERTAIN PETITIONERS' APPEAL AND TO REVERSE THE DECISION OF THE LABOR ARBITER *A QUO*;

II.

UPHOLDING THE DECISION AS WELL AS THE RESOLUTION OF THE PUBLIC RESPONDENT IN DECLARING THAT THE TERMINATION OF PRIVATE RESPONDENT WAS ILLEGAL;

UPHOLDING THE PUBLIC RESPONDENT IN ORDERING THE PAYMENT OF FULL BACKWAGES IN FAVOR OF THE PRIVATE RESPONDENT.^[8]

The crux of the present controversy is whether petitioners' appeal from the decision of the Labor Arbiter to the NLRC was perfected within the reglementary period.

While petitioners admit that they failed to file their memorandum of appeal seasonably, they contend that it was due to their former counsel's failure to receive the Labor Arbiter's Decision dated April 30, 1998. Petitioners add that they learned