585 Phil. 83

SECOND DIVISION

[G.R. No. 159302, August 22, 2008]

CITIBANK, N.A., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND ROSITA TAN PARAGAS, RESPONDENT.

R E S O L U T I O N

CARPIO MORALES, J.:

For consideration are respondent's Motion for Leave to Admit (Attached Second Motion for Reconsideration) and her SECOND MOTION FOR RECONSIDERATION (MR), both dated July 22, 2008.

At the outset, the Court notes respondent's claim that she learned of the Resolution dated April 23, 2008 denying her earlier motion for reconsideration only when she inquired about the status of her case with the Judicial Records Section of this Court last July 9, 2008. She admits, however, that copy of the Resolution may have been sent to the Law Firm of M.M. Lazaro & Associates, her counsel of record, with which she has had no communication ever since she filed her earlier motion. The reason proffered by respondent for such lack of communication was that her case was being handled by the said counsel on a *pro bono* basis and "she found it difficult to dismiss his services without creating any negative impression, or straining their relations," considering that she "still owes her lawyer for a debt of gratitude for handling this case." [1]

Records with this Court show that notice of the April 23, 2008 Resolution was received by the above-mentioned counsel for respondent last **June 5, 2008**. Notice to respondent's counsel is notice to her.

> It is axiomatic that when a client is represented by counsel, notice to counsel is notice to client. In the absence of a notice of withdrawal or substitution of counsel, the Court will rightly assume that the counsel of record continues to represent his client and receipt of notice by the former is the reckoning point of the reglementary period. As heretofore adverted, the original counsel did not file any notice of withdrawal. Neither was there any intimation by respondent at that time that it was terminating the services of its counsel. [2]

The Motion for Leave and the attached Second MR, which respondent filed on **July 24, 2008**, were thus filed way out of time.

At all events, the Court has delved into the substance of respondent's Motion for Leave and Second MR and found the same to be bereft of merit.

In her Motion for Leave, respondent admits having been once advised by counsel that second MRs are prohibited but that there have been instances where the rules

were suspended by this Court to make them conformable to
law and justice and to subserve the overriding public interest. She submits that this is a situation where a second MR should be allowed.

As for her second MR, respondent outlines her arguments in paragraphs 7.1 to 7.4 of her motion for leave, as follows:

> 7.1. Petitioner's second motion for extension of time and the petition for review on certiorari were already denied with finality in the Court's Resolution dated January 14, 2004;
>
> 7.2. Private respondent['s] claim for her retirement benefits was included in her position paper;
>
> 7.3. Both the Labor Arbiter's Decision dated June 29, 1998 and the NLRC Resolution dated October 24, 2004 did not make any findings of serious misconduct allegedly committed by the private respondent;
>
> 7.4. Petitioner failed to comply with Section 3, Rule 45 of the Revised Rules of Procedure, Revised Circular No. 1-88 and Supreme Court Circular No. 19-91;
>
> 7.5. Petitioner's counsel failed to indicate his attorney' roll number in all the documents he filed in Court in violation of Bar Matter No. 1132 of the Supreme Court.[3]

Respondent correctly argues that the prohibition against second MRs is not absolute, there being instances where the same are allowed in the interest of justice. Indeed, this was the reason why the second MR of **petitioner** was granted by this Court, by Resolution of August 17, 2005, paving the way to the reinstatement of its petition which was eventually decided in its favor. In that Resolution, the Court found ththat extraordinarily persuasive reasons for granting ns for granting petitioner's second second MR were present; that the petition appearthat the petition appeared meritorious on its face; and that the ends of and that the ends of substantial justice would be better served by allowing the motion.[4] would be better served by the allowing the motion.

With regard to **respondent's** Motion for Leave and second MR, she has not shown any extraordinarily persuasive reasons, let alone merely persuasive reasons, for this Court to grant the same.

Respondent's above-quoted arguments in paragraphs 7.1 and 7.4 in her Motion for Leave both involve procedural issues which were already addressed by this Court in its Resolution of August 17, 2005 granting petitioner's second MR. *Novelty Philippines, Inc. v. CA*[5] further reinforces the Court's line of reasoning taken in the Resolution - where the merits of the case were given precedence over technicalities, *viz*:

> The policy of our judicial system is to encourage full adjudication of the merits of an appeal. In the exercise of its equity jurisdiction, this Court may reverse the dismissal of appeals that are grounded merely on technicalities. Moreover, procedural niceties should be avoided in labor