

SECOND DIVISION

[G.R. No. 173283, September 17, 2008]

**SCENARIOS, INC. AND/OR RHOTZIV BAGO, PETITIONERS, VS.
JELLY VINLUAN, RESPONDENT.**

DECISION

TINGA, J.:

The instant petition assails the Decision^[1] and Resolution^[2] of the Court of Appeals dated 25 October 2005 and 21 June 2006, respectively, in CA-G.R. SP No. 85387 reinstating the decision of the labor arbiter which ordered the reinstatement of respondent Jelly Vinluan without loss of seniority rights, full backwages and payment of other money claims.

On 8 August 2000, respondent, a former setman of Scenarios, Inc., filed a complaint for illegal dismissal, underpayment of salaries and nonpayment of benefits against petitioners Scenarios, Inc. and Rhotziv Bago and a certain Jess Jimenez.^[3] Summons were issued and sent by registered mail to "Mr. Jess Jimenez" with address at "Scenario, Inc./GMA Complex, EDSA, corner Timog Avenue, Diliman, Quezon City 1104."^[4] However, the summons envelope bore the mark "RETURN TO SENDER" and "UNCLAIMED."^[5] Notices of hearing were also sent by registered mail separately to Rhotziv Bago and/or Jess Jimenez, both addressed at "Scenarios, Inc., GMA Complex, EDSA, corner Timog Avenue, Diliman, Quezon City 1104."^[6] Petitioners failed to appear during the scheduled hearings. As a result, their right to file their position paper was deemed waived by the labor arbiter. ^[7] On 17 November 2000, respondent filed his position paper.

In his Decision^[8] dated 26 April 2001, Labor Arbiter Salimathar Nambi ordered the reinstatement of respondent to his former position without loss of seniority rights and with full backwages from the time of dismissal up to the time of actual reinstatement, or, if not feasible, the payment of separation pay of one (1) month salary per year of service.^[9] Subsequently, a writ of execution^[10] dated 6 July 2001 was served on Scenarios, Inc. Claiming that it was the only time that they became aware of the proceedings before the labor arbiter, petitioners filed a Notice and Memorandum of Appeal^[11] with the National Labor Relations Commission (NLRC).

On 20 August 2003, after finding no proof that petitioners received the summons, the notices of hearing and the notice of the decision, the NLRC issued an order remanding the case to the labor arbiter for proper service of summons and appropriate proceedings.^[12] Respondent sought reconsideration of the order but his motion was denied by the NLRC.^[13]

Respondent then filed a petition for certiorari before the Court of Appeals assailing

the aforesaid orders of the NLRC. The Court of Appeals granted the petition and ruled that petitioners failed to overcome the presumption that the notices and summons had been regularly sent and received in the ordinary course of events.^[14] Relying on the certification of the Quezon City Central Post Office that petitioners had received a copy of the labor arbiter's decision on 5 June 2001, the Court of Appeals ruled that petitioners' appeal with the NLRC was belatedly filed on 2 August 2001.^[15] As a result of these findings the Court of Appeals reinstated the decision of the labor arbiter, but deleted the name "Tess Jimenez" from the dispositive portion since said person was not impleaded in the petition.^[16]

Petitioners posit that they were denied due process when the labor arbiter decided the case even in the absence of sufficient proof that the summons and notices were delivered to them.^[17] They maintain that there was no proof that the notices were sent to the addressees, neither was there a certification from the postmaster that notices were delivered and received by them. Moreover, they argue that there was no valid service of summons on Scenarios, Inc., considering that no proof that summons were received by persons authorized to receive them, since Jess Jimenez, the person named in the summons, is a complete stranger to Scenarios, Inc.^[18]

The petition has no merit.

Service of notices and resolutions, including summons, in cases filed before the labor arbiters is governed by Sections 5 and 6 of Rule III of the New NLRC Rules of Procedure.^[19] The said provisions read:

Section 5. *Service of Notices and Resolutions.*—(a) Notices or summons and copies of orders, resolutions or decisions shall be served on the parties to the case personally by the bailiff or duly authorized public officer within three (3) days from receipt thereof or by registered mail; Provided that in special circumstances, service of summons maybe effected in accordance with the pertinent provisions of the Rules of Court, Provided further that in cases of decisions and final awards, copies thereof shall be served on both parties and their counsel by registered mail, provided further that in cases where a party to a case or his counsel on record personally seeks service of the decision upon inquiry thereon, service to said party shall be deemed effected upon actual receipt thereof; provided finally, that in case where the parties are so numerous, service shall be made on counsel and upon such number of complainants as may be practicable, which shall be considered substantial compliance with Article 224(a) of the Labor Code, as amended. (Emphasis supplied)

x x x.

Section 6. *Proof and completeness of service.*—The return is prima facie proof of the facts indicated therein. Service by registered mail is complete upon receipt by the addressee or his agent; but if the addressee fails to claim his mail from the post office within five (5) days from the date of first notice of the postmaster, service shall take effect after such time. (Emphasis supplied)

Following the explicit language of the above-quoted Section 5, it has been held that service by registered mail is complete after five (5) days from the date of first notice of the postmaster in the event that the addressee fails to claim his registered mail from the post office.^[20] Moreover, it is a fundamental rule that unless the contrary is proven, official duty is presumed to have been performed regularly and judicial proceedings regularly conducted. This presumption of the regularity of the quasi-judicial proceedings before the NLRC includes the presumption of regularity of service of summons and other notices.^[21] It is therefore incumbent upon herein petitioners to rebut that legal presumption with competent and proper evidence, for the return of the registered mail as "unclaimed" is *prima facie* proof of the facts indicated therein.

From the records, we see that the envelope containing the summons addressed to Jess Jimenez, Scenarios, Inc./GMA Complex, EDSA, corner Timog Avenue, Diliman, Quezon City 1104, is marked "RETURN TO SENDER" and "UNCLAIMED" and has the notations "SECOND NOTICE DATE 8/14" and "LAST NOTICE DATE 9/6."^[22] There is also an unsigned Registry Return Receipt attached to the said envelope.^[23] It appears that Jess Jimenez has been notified at least twice.^[24] At the very least, petitioners had five (5) days from the 14 August 2000 notice within which to claim the summons. As petitioners failed to do so, the service was deemed complete at the end of the said five-day period.

However, petitioners allege that Jess Jimenez, the person named in the summons, is a complete stranger to Scenarios, Inc., and thus no valid service of summons was made on Scenarios, Inc. This is a factual matter which the Court is not in a position to resolve. Besides, the name of respondent Scenarios, Inc. itself is mentioned on the face of the letter envelope. In any case, when the summons was sent, the labor arbiter could only rely on the name and address indicated by respondent in the complaint. There was no way to determine, at that point, whether Jess Jimenez is an employee or an officer of Scenarios, Inc.

Petitioners likewise maintain that there was no valid service of the notices of hearing and that they did not receive the said notices. They also add that they did not receive a copy of the labor arbiter's decision. The records tell us a different story.

Scrutinizing the records, we find that excluding the mandatory conference scheduled on 25 August 2000, five (5) dates were set by the labor arbiter for the hearing of the case: 25 August 2000, 5 September 2000, 2 October 2000, 17 October 2000, and 17 November 2000.^[25] Per the handwritten notation in the notices, they had all been sent by registered mail to either Jess Jimenez and/or Rhotziv P. Bago and to respondent. While no registry return receipts were attached to the notices sent to petitioners, we note that certifications from Quezon City Central Post Office indicate that at least two (2) of the notices were delivered at the address indicated therein, one received on 17 October 2000 and another on 25 October 2000.^[26] Both were received by a certain Mr. M. Sulit.

The records furthermore indicate that petitioners had been furnished a copy of the decision of the labor arbiter. As indicated in the certification issued by the Quezon City Central Post Office, a notice of judgment/decision was served by registered mail on petitioners, delivered on 5 June 2001 and received by a certain S/G Cuevas.^[27]