

THIRD DIVISION

[G.R. NO. 168988, June 19, 2007]

FERNANDO G. MANAYA, PETITIONER, VS. ALABANG COUNTRY CLUB INCORPORATED, RESPONDENT.

DECISION

CHICO-NAZARIO, J.:

This is a Petition for Review on *Certiorari* under Rule 45 of the 1997 Rules of Civil Procedure filed by Fernando G. Manaya (petitioner) assailing: (1) the Decision^[1] of the Court of Appeals in CA-G.R. SP No. 75417, dated 9 May 2005, granting the Petition of Alabang Country Club Inc. (respondent) and setting aside the Resolutions dated 30 August 2002 and 30 October 2002 of the National Labor Relations Commission (NLRC); and (2) the Resolution^[2] of the Court of Appeals dated 21 July 2005 denying petitioner's Motion for Reconsideration of its earlier Decision.

The assailed decision of the Court of Appeals reversed the Resolution of the NLRC dismissing the appeal of the respondent for failure to perfect its appeal within the statutory period. Instead, the Court of Appeals ordered the NLRC to give due course to the appeal of the respondent.

The antecedent facts are:

Petitioner alleged that on 21 August 1989, he was initially hired by the respondent as a maintenance helper^[3] receiving a salary of P198.00 per day. He was later designated as company electrician. He continued to work for the respondent until 22 August 1998 when the latter, through its Engineering and Maintenance Department Manager, Engr. Ronnie B. de la Cruz, informed him that his services were no longer required by the company.^[4] Petitioner alleged that he was forcibly and illegally dismissed without cause and without due process on 22 August 1998.^[5] Hence, he filed a Complaint^[6] before the Labor Arbiter. He claimed that he had not committed any infraction of company policies or rules and that he was not paid his service incentive leave pay, holiday pay and 13th month pay. He further asserted that with his more or less nine years of service with the respondent, he had become a regular employee. He, therefore, demanded his reinstatement without loss of seniority rights with full backwages and all monetary benefits due him.^[7]

In its Answer, respondent denied that petitioner was its employee. It countered by saying that petitioner was employed by First Staffing Network Corporation (FSNC), with which respondent had an existing Memorandum of Agreement dated 21 August 1989. Thus, by virtue of a legitimate job contracting, petitioner, as an employee of FSNC, came to work with respondent, first, as a maintenance helper, and subsequently as an electrician. Respondent prayed for the dismissal of the complaint insisting that petitioner had no cause of action against it.

In a Decision, dated 20 November 2000, the Labor Arbiter held:

WHEREFORE, premises considered, complainant Fernando G. Manaya is hereby found to be a regular employee of respondent Alabang Country Club, Inc., as aforesaid. His dismissal from the service having been effected without just and valid cause and without the due observance of due process is hereby declared illegal. Consequently, respondent Alabang Country Club, Inc. is hereby ordered to reinstate complainant to his former position without loss of seniority rights and other benefits appurtenant thereto with full backwages in the partial amount of P160,724.48 as computed by Ms. Ma. Concepcion Manliclic and duly noted by Ms. Ma. Elena L. Estadilla, OIC-CEU, NCR-South Sector which computation has been made part of the records.

Furthermore, respondent Alabang Country Club, Inc. and First Staffing Network Corporation are hereby ordered to pay complainant, jointly and severally the following amounts by way of the following:

1. Service Incentive Leave 2,961.75
2. 13th Month Pay 15,401.10, and
3. Attorney's fees of ten (10%) percent of the total

monetary award herein adjudged due him, within ten (10) days from receipt hereof.^[8]

Respondent filed an Appeal with the NLRC which dismissed the same.^[9] In a Resolution dated 30 August 2002, the NLRC held:

PREMISES CONSIDERED, instant appeal from the Decision of November 20, 2000 is hereby DISMISSED for failure to perfect appeal within the statutory period of appeal. The Decision is now final and executory.^[10]

The NLRC found that respondent's counsel of record Atty. Angelina A. Mailon of Monsod, Valencia and Associates received a copy of the Labor Arbiter's Decision on or before 11 December 2000 as shown by the postal stamp or registry return card.

^[11] Said counsel did not file a withdrawal of appearance. Instead, a Memorandum of Appeal^[12] dated 26 December 2000 was filed by the respondent's new counsel, Atty. Arizala of Tierra and Associates Law Office. Reckoned from 11 December 2000, the date of receipt of the Decision by respondent's previous counsel, the filing of the Memorandum of Appeal by its new counsel on 26 December 2000 was clearly made beyond the reglementary period. The NLRC held that the failure to perfect an appeal within the statutory period is not only mandatory but jurisdictional. The appeal having been belatedly filed, the Decision of the Labor Arbiter had become final and executory.^[13]

Respondent filed a Motion for Reconsideration,^[14] which the NLRC denied in a Resolution dated 30 October 2002.^[15] The NLRC held that the decision of the Labor Arbiter has become final and executory on 28 November 2002; thus, Entry of Judgment, dated 8 January 2003^[16] was issued.

Respondent filed a Petition for *Certiorari*^[17] under Rule 65 of the Rules of Court before the Court of Appeals. In a Decision dated 9 May 2005,^[18] the Court of Appeals granted the petition and ordered the NLRC to give due course to respondent's appeal of the Labor Arbiter's Decision. Petitioner filed a Motion for Reconsideration which was denied by the Court of Appeals in a Resolution^[19] dated 21 July 2005.

Not to be dissuaded, petitioner filed the instant petition before this Court.

The issue for resolution:

WHETHER OR NOT THE COURT OF APPEALS COMMITTED AN ERROR WHEN IT ORDERED THE NLRC TO GIVE DUE COURSE TO THE APPEAL OF RESPONDENT ALABANG COUNTRY CLUB, INCORPORATED EVEN IF THE SAID APPEAL WAS FILED BEYOND THE REGLEMENTARY PERIOD OF TEN (10) DAYS FOR PERFECTING AN APPEAL.^[20]

Essentially, the issue raised by the respondent before the NLRC in assailing the decision of the Labor Arbiter pertains to the finding of the Labor Arbiter that petitioner was a regular employee of the respondent.

In granting the petition, the Court of Appeals relied mainly on the case of *Aguam v. Court of Appeals*,^[21] where this Court held that litigation must be decided on the merits and not on technicalities. The appellate court further justified the grant of respondent's petition by saying that the negligence of its counsel should not bind the respondent.^[22]

The Court of Appeals gave credence to respondent's claim that its lawyer abandoned the case; hence, they were not effectively represented by a competent counsel. It further held that the respondent, upon its receipt of the Decision of the Labor Arbiter on 15 December 2000, filed its appeal on 26 December 2000 through a new lawyer. The appeal filed by respondent through its new lawyer on 26 December 2000 was well within the reglementary period, 25 December 2000 being a holiday.

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.^[23] 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.

For negligence not to be binding on the client, the same must constitute gross negligence as to amount to a deprivation of property without due process.^[24] This does not exist in the case at bar. Notice sent to counsel of record is binding upon the client and the neglect or failure of counsel to inform him of an adverse judgment resulting in the loss of his right to appeal is not a ground for setting aside a judgment, valid and regular on its face.^[25]

Even more, it is respondent's duty as a client to be in touch with his counsel so as to be constantly posted about the case. It is mandated to inquire from its counsel

about the status and progress of the case from time to time and cannot expect that all it has to do is sit back, relax and await the outcome of the case.^[26]

On this score, we hold that the notice to respondent's counsel, Atty. Angelina A. Mailon on 11 December 2000 is the controlling date of the receipt of the decision.

We now come to the issue of whether or not the Court of Appeals properly gave due course to the petition of the respondent before it.

Of relevance is Section 1, Rule VI of the 2005 Revised Rules of the NLRC –

Section 1. PERIODS OF APPEAL. – Decisions, resolutions or orders of the Labor Arbiter shall be final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt thereof; and in case of decisions, resolutions or orders of the Regional Director of the Department of Labor and Employment pursuant to Article 129 of the Labor Code, within five (5) calendar days from receipt thereof. If the 10th or 5th day, as the case may be, falls on a Saturday, Sunday or holiday, the last day to perfect the appeal shall be the first working day following such Saturday, Sunday or holiday.

No motion or request for extension of the period within which to perfect an appeal shall be allowed.

Remarkably, in highly exceptional instances, we have allowed the relaxing of the rules on the application of the reglementary periods of appeal.^[27] Thus:

In *Ramos v. Bagasao*, 96 SCRA 395, we excused the delay of four days in the filing of a notice of appeal because the questioned decision of the trial court was served upon appellant Ramos at a time when her counsel of record was already dead. Her new counsel could only file the appeal four days after the prescribed reglementary period was over. In *Republic v. Court of Appeals*, 83 SCRA 453, we allowed the perfection of an appeal by the Republic despite the delay of six days to prevent a gross miscarriage of justice since the Republic stood to lose hundreds of hectares of land already titled in its name and had since then been devoted for educational purposes. In *Olacao v. National Labor Relations Commission*, 177 SCRA 38, 41, we accepted a tardy appeal considering that the subject matter in issue had theretofore been judicially settled, with finality, in another case. The dismissal of the appeal would have had the effect of the appellant being ordered twice to make the same reparation to the appellee.^[28]

We pronounced in those cases that technicality should not be allowed to stand in the way of equitably and completely resolving the rights and obligations of the parties.

In all these, the Court allowed liberal interpretation given the extraordinary circumstances that justify a deviation from an otherwise stringent rule.^[29]

Clearly, emphasized in these cases is that the policy of liberal interpretation is qualified by the requirement that there must be exceptional circumstances to allow the relaxation of the rules.^[30]

Absent exceptional circumstances, we adhere to the rule that certain procedural precepts must remain inviolable, like those setting the periods for perfecting an appeal or filing a petition for review, for it is doctrinally entrenched that the right to appeal is a statutory right and one who seeks to avail oneself of that right must comply with the statute or rules. The rules, particularly the requirements for perfecting an appeal within the reglementary period specified in the law, must be strictly followed as they are considered indispensable interdictions against needless delays and for orderly discharge of judicial business. Furthermore, the perfection of an appeal in the manner and within the period permitted by law is not only mandatory but also jurisdictional and the failure to perfect the appeal renders the judgment of the court final and executory. Just as a losing party has the right to file an appeal within the prescribed period, the winning party also has the correlative right to enjoy the finality of the resolution of his/her case.^[31]

In this particular case, we adhere to the strict interpretation of the rule for the following reasons:

Firstly, in this case, entry of judgment had already been made^[32] which rendered the Decision of the Labor Arbiter as final and executory.

Secondly, it is a basic and irrefragable rule that in carrying out and in interpreting the provisions of the Labor Code and its implementing regulations, the workingman's welfare should be the primordial and paramount consideration. The interpretation herein made gives meaning and substance to the liberal and compassionate spirit of the law enunciated in Article 4 of the Labor Code that "all doubts in the implementation and interpretation of the provisions of the Labor Code including its implementing rules and regulations shall be resolved in favor of labor."^[33]

In the case of *Bunagan v. Sentinel*^[34] we declared that:

[T]hat the perfection of an appeal within the statutory or reglementary period is not only mandatory, but jurisdictional, and failure to do so renders the questioned decision final and executory and deprives the appellate court of jurisdiction to alter the final judgment, much less to entertain the appeal. The underlying purpose of this principle is to prevent needless delay, a circumstance which would allow the employer to wear out the efforts and meager resources of the worker to the point that the latter is constrained to settle for less than what is due him. This Court has declared that although the NLRC is not bound by the technical rules of procedure and is allowed to be liberal in the interpretation of the rules in deciding labor cases, such liberality should not be applied where it would render futile the very purpose for which the principle of liberality is adopted. **The liberal interpretation stems from the mandate that the workingman's welfare should be the primordial and paramount consideration. We see no reason in this case to waive the rules on the perfection of appeal.**^[35]

The Court is aware that the NLRC is not bound by the technical rules of procedure and is allowed to be liberal in the interpretation of rules in