562 Phil. 743

THIRD DIVISION

[G.R. No. 157775, October 19, 2007]

LEYTE IV ELECTRIC COOPERATIVE, INC., PETITIONER, VS. LEYECO IV EMPLOYEES UNION-ALU, RESPONDENT.*

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Resolution [1] dated September 4, 2002 of the Court of Appeals (CA) in CA- G.R. SP No. 72336 which dismissed outright petitioner's Petition for *Certiorari* for adopting a wrong mode of appeal and the CA Resolution[2] dated February 28, 2003 which denied petitioner's Motion for Reconsideration.

The facts:

On April 6, 1998, Leyte IV Electric Cooperative, Inc. (petitioner) and Leyeco IV Employees Union-ALU (respondent) entered into a Collective Bargaining Agreement (CBA)[3] covering petitioner rank-and-file employees, for a period of five (5) years effective January 1, 1998.

On June 7, 2000, respondent, through its Regional Vice-President, Vicente P. Casilan, sent a letter to petitioner demanding holiday pay for all employees, as provided for in the CBA.[4]

On June 20, 2000, petitioner, through its legal counsel, sent a letter-reply to Casilan, explaining that after perusing all available pay slips, it found that it had paid all employees all the holiday pays enumerated in the CBA.[5]

After exhausting the procedures of the grievance machinery, the parties agreed to submit the issues of the interpretation and implementation of Section 2, Article VIII of the CBA on the payment of holiday pay, for arbitration of the National Conciliation and Mediation Board (NCMB), Regional Office No. VIII in Tacloban City.[6] The parties were required to submit their respective position papers, after which the dispute was submitted for decision.

While admitting in its Position Paper[7] that the employees were paid all of the days of the month even if there was no work, respondent alleged that it is not prevented from making separate demands for the payment of regular holidays concomitant with the provisions of the CBA, with its supporting documents consisting of a letter demanding payment of holiday pay, petitioner's reply thereto and respondent's rejoinder, a computation in the amount of P1,054,393.07 for the unpaid legal holidays, and several pay slips.

Petitioner, on the other hand, in its Position Paper,[8] insisted payment of the holiday pay in compliance with the CBA provisions, stating that payment was presumed since the formula used in determining the daily rate of pay of the covered employees is Basic Monthly Salary divided by 30 days or Basic Monthly Salary multiplied by 12 divided by 360 days, thus with said formula, the employees are already paid their regular and special days, the days when no work is done, the 51 un-worked Sundays and the 51 un-worked Saturdays.

On March 1, 2001, Voluntary Arbitrator Antonio C. Lopez, Jr. rendered a Decision[9] in favor of respondent, holding petitioner liable for payment of unpaid holidays from 1998 to 2000 in the sum of P1,054,393.07. He reasoned that petitioner miserably failed to show that it complied with the CBA mandate that holiday pay be "reflected during any payroll period of occurrence" since the payroll slips did not reflect any payment of the paid holidays. He found unacceptable not only petitioner's presumption of payment of holiday pay based on a formula used in determining and computing the daily rate of each covered employee, but also petitioner's further submission that the rate of its employees is not less than the statutory minimum wage multiplied by 365 days and divided by twelve.

On April 11, 2001, petitioner filed a Motion for Reconsideration[10] but it was denied by the Voluntary Arbitrator in a Resolution[11] dated June 17, 2002. Petitioner received said Resolution on June 27, 2002. [12]

Thirty days later, or on July 27, 2002,[13] petitioner filed a Petition for *Certiorari*[14] in the CA, ascribing grave abuse of discretion amounting to lack of jurisdiction to the Voluntary Arbitrator: (a) for ignoring that in said company the divisor for computing the applicable daily rate of rank-and-file employees is 360 days which already includes payment of 13 un- worked regular holidays under Section 2, Article VIII of the CBA;[15] and (b) for holding the petitioner liable for the unpaid holidays just because the payroll slips submitted as evidence did not show any payment for the regular holidays.[16]

In a Resolution[17] dated September 4, 2002, the CA dismissed outright petitioner's Petition for *Certiorari* for adopting a wrong mode of appeal. It reasoned:

> Considering that what is assailed in the present recourse is a Decision of a Voluntary Arbitrator, the proper remedy is a petition for review under Rule 43 of the 1997 Rules of Civil Procedure; hence, the present petition for certiorari under Rule 65 filed on August 15, 2002, should be rejected, as such a petition cannot be a substitute for a lost appeal. And in this case, the period for appeal via a petition for review has already lapsed since the petitioner received a copy of the Resolution denying its motion for reconsideration on June 27, 2002, so that its last day to appeal lapsed on July 12, 2002.
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> x x x x[18]

Petitioner filed a Motion for Reconsideration[19] but it was denied by the CA in a Resolution[20] dated February 28, 2003.

Hence, the present petition anchored on the following grounds:

> (1) The Honorable Court of Appeals erred in rejecting the petition for certiorari under Rule 65 of the Rules of Court filed by herein petitioner to assail the Decision of the Voluntary Arbitrator. [21]
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> (2) Even if decisions of voluntary arbitrator or panel of voluntary arbitrators are appealable to the Honorable Court of Appeals under Rule 43, a petition for certiorari under Rule 65 is still available if it is grounded on grave abuse of discretion. Hence, the Honorable Court of Appeals erred in rejecting the petition for certiorari under Rule 65 of the Rules of Court filed by herein petitioner.[22]
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> (3) The Honorable Court of Appeals erred in refusing to rule on the legal issue presented by herein petitioner in the petition for certiorari that it had filed and in putting emphasis instead on a technicality of procedure. The legal issues needs a clear-cut ruling by this Honorable Court for the guidance of herein petitioner and private respondent.[23]

Petitioner contends that Rule 65 of the Rules of Court is the applicable mode of appeal to the CA from judgments issued by a voluntary arbitrator since Rule 43 only allows appeal from judgments of particular quasi-judicial agencies and voluntary arbitrators authorized by law and not those judgments and orders issued under the Labor Code; that the petition before the CA did not raise issues of fact but was founded on jurisdictional issues and, therefore, reviewable through a special civil action for *certiorari* under Rule 65; that technicalities of law and procedure should not be utilized to subvert the ends of substantial justice.

In its Comment,[24] respondent avers that *Luzon Development Bank v. Association of Luzon Development Bank Employees*[25] laid down the prevailing rule that judgments of the Voluntary Arbitrator are appealable to the CA under Section 1, Rule 43 of the Rules of Court; that having failed to file the appropriate remedy due to the lapse of the appeal period, petitioner cannot simply invoke Rule 65 for its own convenience, as an alternative remedy.

In its Reply,[26] petitioner submits that the ruling in *Luzon Development Bank* does not expressly exclude the filing of a petition for *certiorari* under Rule 65 of the Rules of Court to assail a decision of a voluntary arbitrator. It reiterates that technicalities of law and procedure should not be utilized to subvert the ends of substantial justice.

It has long been settled in the landmark case *Luzon Development Bank* that a voluntary arbitrator, whether acting solely or in a panel, enjoys in law the status of a quasi-judicial agency; hence, his decisions and awards are appealable to the CA. This is so because the awards of voluntary arbitrators become final and executory upon the lapse of the period to appeal; [27] and since their awards determine the rights of parties, their decisions have the same effect as judgments of a court. Therefore, the proper remedy from an award of a voluntary arbitrator is a petition

for review to the CA, following Revised Administrative Circular No. 1-95, which provided for a uniform procedure for appellate review of all adjudications of quasi-judicial entities, which is now embodied in Section 1, Rule 43 of the 1997 Rules of Civil Procedure, which reads:

> SECTION 1. *Scope.* — This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi- judicial functions. Among these agencies are the Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Department of Agrarian Reform under Republic Act No. 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Inventions Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and **voluntary arbitrators** authorized by law.[28] (Emphasis supplied)

Section 2, Rule 43 of the 1997 Rules of Civil Procedure which provides that:

> SEC. 2. *Cases not covered.* - This Rule shall not apply to judgments or final orders issued under the Labor Code of the Philippines.

did not alter the Court's ruling in *Luzon Development Bank*. Section 2, Rule 42 of the 1997 Rules of Civil Procedure, is nothing more than a reiteration of the exception to the exclusive appellate jurisdiction of the CA,[29] as provided for in Section 9, *Batas Pambansa Blg.* 129,[30] as amended by Republic Act No. 7902:[31]

> (3) Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commissions, including the Securities and Exchange Commission, the Employees' Compensation Commission and the Civil Service Commission, **except those falling within** the appellate jurisdiction of the Supreme Court in accordance with the Constitution, **the Labor Code of the Philippines under Presidential Decree No. 442, as amended,** the provisions of this Act and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948.

The Court took into account this exception in *Luzon Development Bank* but, nevertheless, held that the decisions of voluntary arbitrators issued pursuant to the Labor Code do not come within its ambit, thus:

> x x x. The fact that [the voluntary arbitrator's] functions and powers are provided for in the Labor Code does not place him within the exceptions to said Sec. 9 since he is a quasi-judicial instrumentality as contemplated therein. It will be noted that, although the Employees' Compensation Commission is also provided for in the Labor Code, Circular No. 1-91, which is the forerunner of the present Revised Administrative Circular No. 1-95, laid down the procedure for the appealability of its decisions to the

> Court of Appeals under the foregoing rationalization, and this was later adopted by Republic Act No. 7902 in amending Sec. 9 of B.P. 129.
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> A *fortiori*, the decision or award of the voluntary arbitrator or panel of arbitrators should likewise be appealable to the Court of Appeals, in line with the procedure outlined in Revised Administrative Circular No. 1-95, just like those of the quasi-judicial agencies, boards and commissions enumerated therein.
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> This would be in furtherance of, and consistent with, the original purpose of Circular No. 1-91 to provide a uniform procedure for the appellate review of adjudications of all quasi-judicial entities not expressly excepted from the coverage of Sec. 9 of B.P. 129 by either the Constitution or another statute. Nor will it run counter to the legislative intendment that decisions of the NLRC be reviewable directly by the Supreme Court since, precisely, the cases within the adjudicative competence of the voluntary arbitrator are excluded from the jurisdiction of the NLRC or the labor arbiter.[32]

This ruling has been repeatedly reiterated in subsequent cases[33] and continues to be the controlling doctrine. Thus, the general rule is that the proper remedy from decisions of voluntary arbitrators is a petition for review under Rule 43 of the Rules of Court.

Nonetheless, a special civil action for *certiorari* under Rule 65 of the Rules of Court is the proper remedy for one who complains that the tribunal, board or officer exercising judicial or quasi-judicial functions **acted in total disregard of evidence material to or decisive of the controversy.**[34] As this Court elucidated in *Garcia v. National Labor Relations Commission*[35] -

> [I]n *Ong v. People*, we ruled that certiorari can be properly resorted to **where the factual findings complained of are not supported by the evidence on record**. Earlier, in *Gutib v. Court of Appeals*, we emphasized thus:
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> > [I]t has been said that a wide breadth of discretion is granted a court of justice in *certiorari* proceedings. The cases in which certiorari will issue cannot be defined, because to do so would be to destroy its comprehensiveness and usefulness. So wide is the discretion of the court that authority is not wanting to show that *certiorari* is more discretionary than either prohibition or mandamus. In the exercise of our superintending control over inferior courts, we are to be guided by all the circumstances of each particular case "as the ends of justice may require." So it is that the **writ will be granted where necessary to prevent a substantial wrong or to do substantial justice.** [36]

In addition, while the settled rule is that an independent action for *certiorari* may be availed of only when there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law [37] and *certiorari* is not a substitute for the lapsed remedy of appeal, [38] there are a few significant exceptions when the extraordinary