

FIRST DIVISION

[G.R. NO. 154284, October 27, 2006]

**BIBIANA FARMS & MILLS, INC., PETITIONER, VS. NATIONAL
LABOR RELATIONS COMMISSION (5TH DIVISION) AND ROGELIO
MAJASOL, RESPONDENTS.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Assailed in the herein Petition for *Certiorari* under Rule 65 of the Rules of Court is the Resolution dated June 11, 2002, rendered by the Court of Appeals^[1] (CA) in CA-G.R. SP No. 69403, which denied petitioner's motion for reconsideration of its Resolution dated September 19, 2001 denying the petition of private respondent for failure to pay docket fees, and directing private respondent to file his reply to petitioner's Comment.

Petitioner is a corporation engaged in hog and cattle raising, and corn milling, while Rogelio Majasol (private respondent) was employed therein as assistant to the head of the feeds mixing department.

On June 5, 1998, petitioner's security guards caught private respondent, as he was about to go out, with a tupperware-full of feeds. When confronted about it, he told the guards that he was going to feed it to his chicks. The matter was reported to the management and an inquiry was conducted. Private respondent was not allowed to report for work anymore in the afternoon of June 5.

On June 15, 1998, a conference was held before the Department of Labor and Employment (DOLE) where attempts at an amicable settlement were made.^[2] However, before the case could be settled, a show-cause memorandum was issued to private respondent on June 17, 1998.^[3] In a reply dated June 19, 1998, private respondent denied the incident. Private respondent also stated that even if it was true, given the length of his service with petitioner, he does not deserve to be terminated.^[4]

On June 22, 1998, petitioner wrote private respondent informing him of their decision to separate him from employment. The notice of termination stated that petitioner was constrained to evaluate his case based on the affidavits of the security guards since he failed to submit his explanation within three days from service of the show-cause memo.^[5]

On June 23, 1998, private respondent lodged a complaint for illegal dismissal, non-payment of allowance and service incentive leave pay.^[6] The complaint was later amended to include vacation leave, unpaid wages, damages and attorney's fees.^[7]

In a Decision dated May 31, 1999, Labor Arbiter (LA) Noel Augusto S. Magbanua dismissed the complaint for illegal dismissal and ordered the payment of unpaid wages and proportionate 13th month pay in favor of private respondent.^[8]

The LA's decision was initially reversed and set aside by the National Labor Relations Commission (NLRC) in its Decision dated April 28, 2000.^[9] It was the NLRC's finding that petitioner's evidence does not support their claim that private respondent violated the trust and confidence reposed on him by virtue of his position.^[10] The NLRC also found that private respondent was not accorded due process, and his termination was not commensurate to his violation.^[11]

On motion for reconsideration, the NLRC, in its Resolution dated July 31, 2000, revised its decision and ruled that private respondent's dismissal is legal and with regard to due process. The NLRC set aside its order to reinstate private respondent, deleted all awards for money claims and reinstated the LA's award for unpaid wages and proportionate 13th month pay.^[12]

Private respondent filed a motion for reconsideration of the NLRC's Resolution, but this was denied per Resolution dated May 31, 2001.^[13]

Private respondent then filed a special civil action for *certiorari* with the CA, which, in a Resolution dated September 19, 2001, dismissed the petition on the ground of failure to pay docket fees.^[14] On private respondent's motion for reconsideration, the CA granted the same per Resolution dated February 4, 2002.^[15] Petitioner then filed a motion for reconsideration of said Resolution but the CA denied this in the assailed Resolution dated June 11, 2002.^[16]

Hence, the present petition based on the sole ground that:

THE RESPONDENT COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT REVERSED THE RESOLUTION DATED 19 SEPTEMBER 2001 DISMISSING THE PETITION FOR FAILURE TO PAY THE NECESSARY DOCKET FEES.^[17]

The thrust of petitioner's argument is that private respondent's failure to pay the docket fees is a case of negligence. According to petitioner, respondent had until September 4, 2001, within which to pay the docket fees; instead, he waited until October 15, 2001, or until after the CA first dismissed his petition that he paid the same. Petitioner also argues that private respondent's claim that payment of docket fees in the form of cash was originally enclosed in the petition should not be accepted; and given the mandatory nature of the payment of docket fees within the reglementary period, the CA should not have reconsidered its previous dismissal of the petition.

The Court denies the petition, as the CA did not commit any *grave abuse of discretion* in admitting private respondent's belated payment of docket fees and reinstating his petition.

Section 3, Rule 46 of the 1997 Rules of Civil Procedure, provides:

SEC. 3. *Contents and filing of petition; effect of non-compliance with requirements.* - The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.

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The petitioner shall pay the corresponding docket and other lawful fees to the clerk of court and deposit the amount of P500.00 for costs at the time of the filing of the petition.

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition. (Emphasis supplied)

Under the foregoing rule, non-compliance with any of the requirements shall be a sufficient ground for the dismissal of the petition. Corollarily, the rule is that a court cannot acquire jurisdiction over the subject matter of a case, unless the docket fees are paid. And where the filing of the initiatory pleading is not accompanied by payment of the docket fees, the court may allow payment of the fee within a reasonable time but in no case beyond the applicable prescriptive or reglementary period.^[18]

In several cases, however, the Court entertained certain exceptions due to the peculiar circumstances attendant in these cases, which warrant a relaxation of the rules on payment of docket fees. It was held in *La Salette College v. Pilotin*,^[19] that the strict application of the rule may be qualified by the following: **first, failure to pay those fees within the reglementary period allows only discretionary, not automatic, dismissal**; **second**, such power should be used by the court in conjunction with its exercise of sound discretion in accordance with the tenets of justice and fair play, as well as with a great deal of circumspection in consideration of all attendant circumstances.^[20]

Thus, in *Villamor v. Court of Appeals*,^[21] the Court sustained the decision of the CA to reinstate the private respondents' appeal despite having paid the docket fees almost one year after the notice of appeal was filed, finding that there is no showing that the private respondents deliberately refused to pay the requisite fee within the reglementary period and abandon their appeal. The Court also found that it was imperative for the CA to review the ruling of the trial court to avoid a miscarriage of justice. Thus, the Court concluded, "Under the circumstances obtaining in the case at bar, we see no cogent reason to reverse the resolutions of the respondent court. It is the policy of the court to encourage hearing of appeals on their merits. To resort to technicalities which the petitioner capitalizes on in the instant petition would only tend to frustrate rather than promote substantial justice."^[22]