433 Phil. 911

FIRST DIVISION

[G.R. No. 143574, July 11, 2002]

MANILA HOTEL CORPORATION, PETITIONER, VS. COURT OF APPEALS AND SAMUEL ALCORDO, RESPONDENTS.

D E C I S I O N

YNARES-SANTIAGO, J.:

This is a petition for review on *certiorari* seeking to set aside the Resolutions[1] of the Court of Appeals[2] in CA-G.R. SP No. 57760, which dismissed petitioner's special civil action for certiorari assailing the October 29, 1999 decision of the National Labor Relations Commission in NLRC NCR CN. 00-12-09877-98.[3]

Private respondent was hired by petitioner on March 23, 1998 as Food and Beverage Director with a salary of P75,000.00 a month. On November 30, 1998, however, his services were terminated on the ground of loss of confidence due to his inability to improve the profitability of the restaurants under his responsibility. Private respondent filed a complaint for illegal dismissal against petitioner.

On June 14, 1999, the Labor Arbiter rendered a decision[4] dismissing the complaint for illegal dismissal on the ground that private respondent, a managerial employee, was hired not only to oversee the operations of the restaurants but precisely to improve their profitability. Hence, the failure of private respondent to meet this condition despite regular monthly evaluation by petitioner, showing the substantial drop in the profitability of the department under his control, justified his dismissal for loss of confidence. Petitioner was, however, ordered to pay private respondent's one month salary of P80,000.00 in lieu of the 30-day advance notice of dismissal, plus an indemnity of P5,000.00 for its failure to comply with procedural due process.

Petitioner appealed to the National Labor Relations Commission (NLRC) which reversed the decision of the Labor Arbiter on October 29, 1999. It ruled that petitioner failed to prove that private respondent was hired subject to the condition that he would improve the profitability of the restaurants, and that the unsatisfactory performance of said restaurants was due to the fault or negligence of private respondent. The dispositive portion of the said decision reads:

> WHEREFORE, the decision appealed from is hereby REVERSED, and respondent Manila Hotel Inc. is ordered to pay the complainant the following: (1) full backwages, inclusive of allowances, from December 1, 1998 up to date of finality of this decision; (2) separation pay equivalent to one month salary for every year of service, reckoned from March 23, 1998 up to the date of finality of this decision; and (3) moral and exemplary damages amounting to P50,000.00 and 30,000.00, respectively.
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> SO ORDERED.[5]

A motion for reconsideration of the foregoing decision was denied on January 12, 2000.[6]

A petition for certiorari was filed by petitioner with the Court of Appeals which dismissed the petition on the following grounds: 1) the petition was not accompanied with copies of the decision of the Labor Arbiter and the position paper of the parties; 2) the certificate of non-forum shopping was signed by Atty. Martin B. Isidro, petitioner's counsel and Assistant Vice-President, Personnel Department; and 3) the petition was not accompanied with a board resolution authorizing Atty. Martin B. Isidro to act for and in behalf of petitioner.

A motion for reconsideration was filed by petitioner alleging that the failure to attach said documents to the petition was due to inadvertence or oversight.[7] Attached to the motion were copies of the omitted decision of the Labor Arbiter, the position papers, as well as the required board resolution.[8]

On June 8, 2000, the Court of Appeals denied the motion for reconsideration stressing that under Rule 46, Section 3, in relation to Rule 65, Section 1 of the 1997 Rules of Civil Procedure, failure to append copies of relevant documents is sufficient ground for the dismissal of the petition. Hence, the instant petition for review on certiorari praying for a liberal interpretation of the rules of procedure.

The petition is without merit.

Pertinent portion of Rule 65, Section 1 and Rule 46, Section 3 of the 1997 Rules of Civil Procedure, provide:

> SECTION 1. Petition for certiorari.—
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> x x x x x x x x x
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> The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.
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> SECTION 3. Contents and filing of petition; effect of noncompliance with requirements. -
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> x x x x x x x x x
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> It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution or ruling subject thereof, such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto. . . . .
>
> x x x x x x x x x
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> **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)

The Court of Appeals outrightly dismissed petitioner's action on the ground that the petition was not accompanied with the required board resolution authorizing Atty.