

## SECOND DIVISION

[ G.R. No. 119116, September 03, 1998 ]

**CRISANTO DAYONOT, PETITIONER, VS. NATIONAL LABOR  
RELATIONS COMMISSION, AUTOGRAPHICS INC., PAUL Y.  
RODRIGUEZ AND EUGENE L. TOPACIO, RESPONDENTS.**

### D E C I S I O N

**MARTINEZ, J.:**

In an illegal dismissal case filed by petitioner Dayonot against his employer, herein private respondents, the Labor Arbiter rendered a decision<sup>[1]</sup> in favor of petitioner which was affirmed by the National Labor Relations Commission (NLRC) and subsequently by this Court. After the decision became final and executory sometime in 1991, writs of execution were issued by the Labor Arbiter to Sheriff Leahmon Tolo to enforce the judgment. As the same were not fully satisfied, a third alias writ of execution was issued by the Labor Arbiter against private respondents. Sheriff Tolo levied a parcel of land located in Cebu City by sending a notice of levy to the Registry of Deeds of Cebu City. On November 18, 1992, he issued a notice of sheriff's sale setting the sale of the levied real property on December 10, 1992.<sup>[2]</sup> On the said date, Sheriff Tolo issued to petitioner a Certificate of Auction Sale which the former acknowledged before a Notary Public on March 18, 1993,<sup>[3]</sup> or more than 3 months after issuance. Petitioner thereafter caused the corresponding annotations on private respondents' certificate of title over the levied property.

Sometime in March, 1994, petitioner filed a Motion for issuance of a Certificate of a Definite Deed of Sale contending that the one-year period for redemption of the disputed real property had lapsed without any redemption being made. Private respondents, on the other hand, filed on May 17, 1994 an Omnibus Motion to Cancel petitioner's annotations in their certificate of title, and also to declare that the judgment in favor of petitioner had been fully satisfied.<sup>[4]</sup> They alleged that Sheriff Tolo was no longer a sheriff as early as January of 1992, and thus, all his acts, including the issuance of the certificate of auction sale subsequent to that day, are void and without effect. On July 7, 1994, the Labor Arbiter denied private respondents' omnibus motion and ordered the issuance of the Certificate of Sale to petitioner and to place him in possession of said property, thus:

"WHEREFORE, premises considered, the motion of the respondents is denied for lack of merit. Deputy Sheriff Mona Lisa A. Rendoque is hereby ordered to issue a Certificate of Sale to the auctioned property in favor of the complainant and also to place him in the possession of the said property."<sup>[5]</sup>

Private respondents appealed again to the NLRC which set aside the Labor Arbiter's ruling and annulled the Certificate of Sale after finding that Sheriff Tolo was already dismissed as sheriff at the time of the auction sale, the issuance of the certificate of

sale and the notarization of said certificate. The dispositive portion of the NLRC decision reads:

"WHEREFORE, this Commission hereby resolves:

- 1.To SET ASIDE the Order dated 7 July 1997 issued by Labor Arbiter Ernesto F. Carreon;
- 2.To annul the Certificate of Sale dated March 18, 1993;
- 3.To order the Sheriff of the Regional Arbitration Branch No. VII of this Commission to take appropriate action in relation with the property of herein respondent-appellant, in accordance with the provision of the NLRC Manual on Execution of Judgment.

SO ORDERED."<sup>[6]</sup>

When his motion for reconsideration was denied by the NLRC,<sup>[7]</sup> petitioner elevated the case via petition for *certiorari* to this Court. Initially, the petition was denied for failure of petitioner to submit proof of service as required by SC Circular No. 1-88. However, petitioner's motion for reconsideration was granted by the Court.<sup>[8]</sup>

The petition must fail.

We note at the outset that petitioner failed to state in his petition one of the material dates required under Circular No. 1-88, particularly the date when he filed a motion for reconsideration of the December 20, 1994 NLRC decision. Such failure contravenes requirement No. 4 of said SC Circular which provides:

"(4) *Verified statement of material dates.* - A petition shall in all cases contain a verified statement of the date when notice of the judgment, order or resolution subject thereof was received, when a motion for reconsideration, if any, was filed, and when notice of the denial thereof was received; otherwise, the petition may be dismissed." (Emphasis supplied)

and is sufficient ground for the outright dismissal of the petition. Moreover, upon a thorough examination of the Reply, the Memorandum and the annexes subsequently filed and submitted by petitioner, there was no mention nor any reference made on such material date.

Furthermore, the records reveal that the December 20, 1994 decision of the NLRC had become final and executory on March 6, 1995 per entry of judgment dated March 24, 1995.<sup>[9]</sup> Petitioner obviously evades the issue of finality of judgment mentioned by private respondents in their Comment. It should be noted that the purpose of a Reply filed in the Supreme Court is to respond to matters mentioned in the Comment.

Even if we disregard technicalities, the resolution of the case on the merits, still, will not favor petitioner. It is not disputed that at the time of the notice of levy, up to the alleged auction sale and the issuance of the certificate of sale and the notarization