

## THIRD DIVISION

[ G.R. No. 126703, December 29, 1998 ]

**GANDARA MILL SUPPLY AND MILAGROS SY, PETITIONERS, VS.  
THE NATIONAL LABOR RELATIONS COMMISSION AND  
SILVESTRE GERMANO, RESPONDENTS.**

### D E C I S I O N

**PURISIMA, J.:**

At bar is a special civil action for Certiorari under Rule 65 of the Revised Rules of Court, assailing the Resolution<sup>[1]</sup> of the National Labor Relations Commission<sup>[2]</sup> (NLRC) promulgated on May 22, 1996, and NLRC Resolution<sup>[3]</sup> dated July 23, 1996, denying petitioner's motion for reconsideration in NLRC NCR 00-02-1653-94.

From the records on hand, it appears that:

Milagros Sy, owner of Gandara Mill Supply, at No. 708 Gandara St., Binondo, Manila, was the respondent in NLRC Case No. 02-01653-94 instituted by Silvestre Germano (*now the private respondent*).

On February 6, 1995, the private respondent, without notifying his employer, Milagros Sy, did not report for work until February 11, 1995. Like any expectant father, he chose to be near his wife who was then about to deliver. The wife gave birth on February 12, 1995. Upon private respondent's request, Milagros Sy extended some financial assistance to the Germano couple.

The petition avers inter alia that Gandara Mill Supply is a small business enterprise with only two (2) employees, including the herein private respondent, to do manual work. With inadequate manpower, the absence of just one worker can spell untold difficulties in its operations. Matters became even worse when private respondent, without informing his employer, was absent for a long time, so much so that the former incurred the ire of the latter. Two (2) weeks after, private respondent returned to duty, and to his surprise, he was met by his employer to personally tell him that someone had been hired to take his place. He was advised, however, that he was to be re-admitted in June 1996.

On February 27, 1995, a case of illegal dismissal was commenced by the private respondent with the Department of Labor and Employment.

To buy peace, petitioner offered P5,000.00 but to no avail. The offer was flatly rejected by private respondent. When conciliation efforts proved futile, the Labor Arbiter directed the parties to submit their position papers on or before April 28, 1995, which deadline was extended to May 5, 1995. In his Order of May 9, 1995, Labor Arbiter Facundo L. Leda gave petitioner a "*last opportunity to file/submit their (sic) Position Paper within seven (7) days from receipt hereof otherwise their (sic)*

right to be heard are (sic) deemed waived and this case will be decided on the basis of the documents on file." [4]

Despite receipt of the aforesaid Order, however, petitioner still failed to comply therewith, prompting the Labor Arbiter to hand down a decision on January 29, 1996, disposing, thus:

*"**WHEREFORE,** decision is hereby rendered ordering respondent/s Gandara Mill Supply and/or Milagros Sy to pay complainant Silvestre Germano the sum of **SIXTY FIVE THOUSAND SIX HUNDRED EIGHTY FIVE PESOS AND 90/100 (P65,685.90)** representing separation pay, backwages, SLIP and attorney's fee as discussed and computed above."*

On March 4, 1996, petitioner appealed said decision to the NLRC. To the appeal, an Opposition was interposed on March 15, 1996.

On May 22, 1996, the NLRC dismissed petitioner's appeal for failure to post a cash or surety bond.

The appeal was predicated on the submission that petitioner's business is small, on which invoked ground petitioner sought exemption from posting a bond. Should its prayer for exemption of a bond be denied, petitioner asked for at least twenty (20) days to put up such bond.

The petition attacks the July 23, 1996 Resolution of public respondent, affirming the decision of the Labor Arbiter dated January 29, 1996. On August 14, 1996, a Motion for Execution was presented by private respondent. NLRC entered its judgment on August 26, 1996.

On September 6, 1996, private respondent sent in an Ex-parte Motion for Execution, which was granted. The corresponding Writ of Execution issued on September 13, 1996.

The issues posited for resolution :

**FIRST**, did the public respondent act with grave abuse of discretion in dismissing petitioner's appeal and in not giving petitioner a chance to prove that the private respondent was not illegally dismissed but was merely suspended for abandoning his job?; and

**SECOND**, did the public respondent act with grave abuse of discretion in awarding to the private respondent the amount of **SIXTY-FIVE THOUSAND SIX HUNDRED EIGHTY-FIVE AND 90/00 (P65,685.90)**, which amount petitioner assails as excessive?

To be sure, the petitioner was afforded a chance to show that the private respondent was not illegally dismissed. Unfortunately, petitioner failed to discharge its burden of proof.

In a long line of cases, the Court has consistently ruled that, findings of fact by quasi-judicial agencies like the NLRC are conclusive upon the court in the absence of proof of grave error in the appreciation of facts. Petitioner's bare allegation that it

was denied the right to be heard is negated by the Labor Arbiter's extension of much leniency to petitioner by allowing the latter to submit a position paper on April 28, 1995, then on May 5, 1995, and finally, seven (7) days from receipt of the Order dated May 9, 1995. Generally, reglementary periods are strictly observed to the end that orderly administration of justice be safeguarded. In the case under consideration, the public respondent had been quite liberal in observing and enforcing the rules. Consequently, petitioner's protestation of denial of opportunity to be heard is barren of any factual basis. The principle of laches finds a wide room for application here. Laches, in a general sense, is failure or neglect for an unreasonable length of time to do that which by exercising due diligence could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time warranting a presumption that the party entitled to assert it has either abandoned or declined to raise it. The doctrine of laches or "stale demands" is based upon grounds of public policy which require for the peace of society, discouragement of stale claims. And unlike the statute of limitations, it is not a mere question of time but is principally a question of inequity or unfairness or permitting a right or claim to be enforced or asserted. (*Tijam v. Sibonghanoy*, 23 SCRA 29). So also, in the Order, dated May 9, 1995, respondent Commission declared in clear and unequivocal terms that "failure to file a position paper is deemed a waiver of the right to be heard and that decisions will be based on the position paper submitted." Evidently, for making good his said Order, the Labor Arbiter cannot be faulted for acting arbitrarily .

Neither can grave error be ascribed to respondent NLRC for handing down its decision without petitioner's Position Paper. By its inaction, petitioner was properly considered to have waived or forfeited the right to refute private respondent's stance. Indeed, petitioner cannot now be permitted to belatedly complain of a denial of due process.

That petitioner was not represented by a lawyer in all the aforesaid proceedings was solely attributable to its own negligence or inattention to the case. While the court has held that representation by a lawyer is a fundamental right of litigants, petitioner has nobody to blame but itself for its failure to secure the services of counsel resulting to the dismissal of its case. In the case under scrutiny, petitioner was represented by a non-lawyer, Ramon Flores, who was present from the beginning of the case but failed to efficiently follow-up the case until the promulgation of judgment. While the right to due process is available to all the parties, it does not countenance self-serving excuses devised to undermine orderly administration of justice.

After a careful study, and a thorough examination of the pleadings and supporting documents, it appears decisively clear that private respondent Silvestre Germano was illegally dismissed. While a prolonged absence without leave may constitute as a just cause of dismissal, its illegality stems from the non-observance of due process. Applying the WenPhil Doctrine by analogy, where dismissal was not preceded by the twin requirement of notice and hearing, the legality of the dismissal in question, is under heavy clouds and therefore illegal. While it cannot be deduced unerringly from the records on hand that private respondent was really dismissed, there is no clear indication that the latter was to be reinstated. In fact, since the inception of the case, what petitioner merely endeavored was to compromise for a measly sum of P5,000.00, and no mention of taking respondent back to his job was ever offered as part of the deal to end the controversy. What can be surmised from