

THIRTEENTH DIVISION

[CA-G.R. SP No. 126381, February 26, 2014]

**ROBERT DOMASIG, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION (NLRC), KONTAKTPOINT
CORPORATION/SAMUEL TE, RESPONDENTS.**

D E C I S I O N

YBAÑEZ, J.:

Before Us is a Petition for *Certiorari* filed by petitioner Robert Domasig pursuant to Rule 65 of the Revised Rules of Court seeking to annul and set aside the Decision rendered on 13 April 2012 by the Fourth Division of the National Labor Relations Commission (NLRC) in NLRC LAC Case No. 02-000655-12 (NLRC NCR Case No. 05-07652-11), as well as the Resolution promulgated on 15 June 2012 denying the Motion for Reconsideration thereof.

The Facts

On 16 May 2011, petitioner filed a complaint^[1] for illegal dismissal and underpayment of separation pay against private respondents Kontaktpoint Corporation and Samuel Te (Te).

The parties were required by the Labor Arbiter to submit their respective position papers after the preliminary mandatory conference with them yielded no positive results.

In his Position Paper^[2], petitioner alleged that, on 10 February 2010, he was employed as Aircon Technician by respondent Kontaktpoint Corporation, for a daily compensation of P404.00.

Petitioner narrated that, prior to the filing of the instant complaint, respondent Te asked him to buy a spare part for an aircon unit. Since he was not familiar with the assigned task, it took him quite some time to return to the shop. Consequently, respondent Te cursed him in front of many customers. Thereafter, respondents suspended him from April 16-26, 2011.

When respondent Te returned from China on 28 April 2011, he purportedly asked petitioner to sign a prepared resignation letter in exchange for his separation pay and certificate of employment. Thereafter, respondent Te's secretary brought him to the barangay office to sign an acknowledgment receipt of his separation pay, but respondents allegedly failed to give him his separation pay and certificate of employment. While he had signed some documents, he was allegedly unaware of the contents thereof. Thus, claiming that he signed the resignation letter involuntarily, petitioner claims that he was illegally dismissed by the respondents.

On the other hand, respondents, in their Position Paper^[3], countered that petitioner voluntarily resigned on 29 April 2011 when he submitted a duly notarized

resignation letter^[4], after which petitioner received the monetary value of his sick and vacation leave, proportionate 13th month pay and separation pay in the aggregate amount of P7,211.06^[5]. Consequently, petitioner executed a "Pagpapawala sa Karapatang Maghabol"^[6] (Quitclaim and Release) in favor of respondents.

On 29 November 2011, the Labor Arbiter rendered his Decision^[7] in favor of respondents and held that petitioner voluntarily resigned from employment.

Aggrieved with the said ruling, petitioner appealed from the said decision to the NLRC, which rendered the assailed Decision^[8] on 13 April 2012 affirming *in toto* the Labor Arbiter's findings.

Dissatisfied, petitioner filed a Motion for Reconsideration^[9] of the said decision, which was likewise denied by the NLRC in the assailed Resolution^[10] promulgated on 15 June 2012.

Said resolution was received by petitioner on 26 June 2012. However, it was only on 28 August 2012 that he filed the instant petition^[11]. Thus, on 12 September 2012, an Entry of Judgment^[12] was issued by the NLRC stating that its Decision dated 13 April 2012 became final and executory on 22 August 2012.

In his petition, the following issues^[13] were raised by petitioner, viz:

I.

WHETHER PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN AFFIRMING THAT THE PETITIONER WAS NOT ILLEGALLY DISMISSED;

II.

WHETHER PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DECLARING THAT THE PETITIONER IS NOT ENTITLED TO THE MONETARY CLAIMS PRAYED FOR.

Petitioner denies that he voluntarily resigned, and insists that he was illegally terminated by the private respondents. *First*, petitioner argues that there was no reason for him to resign and, if there was any, he should have written the same in his resignation letter. *Second*, petitioner avers that if he had truly intended to resign, it would have been more logical for him to resign before he had served his suspension, since he had just served his 10-day suspension meted by the respondents when he purportedly executed the resignation letter. *Third*, petitioner relies on the Sinumpaang Salaysay submitted by one Mark Dumlao, who allegedly witnessed how petitioner was verbally terminated. *Fourth*, petitioner argues that his

resignation letter was obviously pre-drafted by respondents, as it was not handwritten, contained an endnote at the bottom of the page, and was even notarized. Lastly, petitioner claims that his filing of a complaint for illegal dismissal on 16 May 2011 is inconsistent with the claim that he had resigned from employment.

On the other hand, respondents aver that the petition should be dismissed as the NLRC Decision dated 13 April 2012 had become final and executory as per Entry of Judgment^[14] issued on 12 September 2012. Since the petition was dated 24 August 2012, respondents argue that the same was filed after the 13 April 2012 Decision became final and executory. On the merits of the case, respondents argue that petitioner's resignation was voluntary, as shown by the resignation letter written in Filipino, a language fully understood by him. Respondents further contend that the fact that the resignation letter stated no reason at all is immaterial, since what is important is the fact that petitioner relinquished his ties with respondents.

Our Ruling

We find no merit to the petition.

Before delving into the merits of this petition, we deem it necessary to discuss the procedural issue raised by respondents.

Petition filed out of time.

The period or manner of *appeal* from the NLRC to the CA is governed by Rule 65 of the Revised Rules of Court, pursuant to the ruling of this Court in *St. Martin Funeral Home vs. National Labor Relations Commission*^[15]. Section 4 of Rule 65, as amended, *states that the petition may be filed not later than sixty (60) days from notice of the judgment, or resolution sought to be assailed*. The 60-day period is inextendible to avoid any unreasonable delay that would violate the constitutional rights of parties to a speedy disposition of their case.^[16]

Time and again, we have ruled that the perfection of an appeal within the statutory or reglementary period and in the manner prescribed by law is mandatory and jurisdictional. Failure to do so renders the questioned decision final and executory and deprives the appellate court of jurisdiction to alter the final judgment, much less to entertain the appeal.^[17] In labor cases, the underlying purpose of this principle is to prevent needless delay, a circumstance which would allow the employer to wear out the efforts and meager resources of the worker to the point that the latter is constrained to settle for less than what is due him.^[18]

In this case, records show that petitioner received a copy of the 15 June 2012 Resolution of the NLRC denying his motion for reconsideration on 26 June 2012. He had sixty (60) days, or until 25 August 2012, to file his petition for *certiorari*. 25 August 2012, however, was a Saturday. Thus, petitioner had until 27 August 2012, or the next working day, to file his petition. Petitioner, however, filed his petition on 28 August 2012, one day beyond the 60-day reglementary period. Clearly, the present petition was filed out of time. More importantly, the 15 June 2012 NLRC Resolution had already become final and executory, as shown by the Entry of Judgment^[19] issued by the NLRC on 12 September 2012.