

TWELFTH DIVISION

[CA-G.R. SP NO. 130953, November 28, 2014]

AU MANAGEMENT SERVICES, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (FIFTH DIVISION) AND GRACE A. LAXAMANA, RESPONDENTS.

DECISION

DIMAAMPAO, J.:

This is a *Petition for Certiorari* ascribing grave abuse of discretion against the National Labor Relations Commission for issuing the twin *Resolutions* dated 10 January 2013^[1] and 2 May 2013^[2] which dismissed the Appeal for non-perfection, and denied the *Motion for Reconsideration* thereof, in NLRC LAC No. (OFW-L) 09-000829-12.

The controversy has its provenance in a *Complaint for Payment of Wages and Refund of Placement Fee, Food and Accommodation Allowance* filed by private respondent Grace Laxamana (Grace) against petitioner AU Management Services, Inc. (AU Services). The records reflect that Grace was an overseas worker who was deployed by AU Services as a factory worker of Prosperity Electronics Co. Ltd. Her Employment Contract^[3] was for two years, and her monthly salary was fixed at New Taiwan (NT) \$17,280.^[4]

Grace left for Taiwan in June 2009. However, she was surprised to discover that the expenses for her food and accommodation were deducted from her salary. Likewise, AU Services charged her with placement and processing fee amounting to P125,000.00 when the standard fee was supposedly fixed only at an amount equivalent to her one month salary.

At the end of Grace's contract, Prosperity Electronics Co. Ltd. extended her employment for one year. But then, on the sixth month of her service, she was unceremoniously repatriated back to the Philippines.

For its part, AU Services averred that the salary of Grace was subject to a deduction of NT \$4,000 for food and accommodation. It denied collecting P125,000.00 as placement fee, as it merely charged Grace NT \$17,280 or P21,600.00 which is equivalent to her salary of one month.^[5] AU Services likewise claimed that it was not liable for the unexpired portion of the one-year extension contract given that the employment contract of Grace was renewed without its knowledge or participation.

Ensuingly, the Labor Arbiter rendered a *Decision*^[6] dated 28 August 2012, disposing

"**WHEREFORE**, foregoing premises considered, judgment is hereby rendered declaring that complainant (Grace) was underpaid for two (2) years. Hence, respondents AU MANAGEMENT SERVICES, INC. and/or ATTY. MARIANO O. GUINTO must pay the amount of NT\$34,560.00 representing the difference between complainant's (Grace's) salaries under the employment contract and the amount she actually received plus ten percent (10%) as attorney's fees or the total sum of THIRTY EIGHT THOUSAND SIXTEEN (NT\$38,016.00) NEW TAIWAN DOLLARS. Her claim for the unexpired portion of her extended contract as well as refund of excess placement fees are DISMISSED.

The award shall be converted into Philippine Currency based on the prevailing rate at the time of payment.

SO ORDERED."^[7]

AU Services sought recourse before the NLRC. However, the *Partial Appeal*^[8] was dismissed for non-perfection through the first assailed *Resolution*. The NLRC declared that the surety bond furnished by AU Services was secured by a Time Deposit Certificate with a maturity date of 15 October 2012,^[9] without any indication that it would be renewed or that it would be in effect until after the final disposition of the case. Besides, the supporting documents attached to the surety bond were not certified by the authorized custodians of the issuing agency.

AU Services moved for reconsideration but the NLRC paid no heed to its protestation as it pointed out in the second challenged *Resolution* that this was not a case of belated payment, but an absolute non-payment of the appeal fee.

Left with no recourse, AU Services (now, petitioner) comes to Us for relief anchored on these grounds:

I

PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DISMISSING THE MEMORANDUM OF PARTIAL APPEAL FILED BY THE PETITIONER ON THE GROUND OF TECHNICALITY.

II

PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DECLARING THAT PRIVATE RESPONDENT IS ENTITLED TO HER MONEY CLAIMS PARTICULARLY HER SALARY DIFFERENTIALS.

The Petition fails to impress.

Petitioner endeavors to downplay the importance of the appeal bond required of employers who seek recourse before the NLRC from an adverse ruling rendered by the Labor Arbiter. It asseverates that non-payment of the appeal bond is neither a fatal nor a jurisdictional defect.

Contrary to petitioner's stance, there is no rule more settled than that regurgitated in **Olores v. Manila Doctors College**^[10]—

"x x x (I)t must be emphasized that Article 223 of the Labor Code states that an appeal by the employer to the NLRC from a judgment of a Labor Arbiter, which involves a monetary award, may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the NLRC, in an amount equivalent to the monetary award in the judgment appealed from.

Sections 4 (a) and 6 of Rule VI of the New Rules of Procedure of the NLRC, as amended, reaffirm the explicit jurisdictional principle in Article 223. The relevant provisions state:

SECTION 4. REQUISITES FOR PERFECTION OF APPEAL. — (a) The appeal shall be: 1) filed within the reglementary period provided in Section 1 of this Rule; 2) verified by the appellant himself in accordance with Section 4, Rule 7 of the Rules of Court, as amended; 3) in the form of a memorandum of appeal which shall state the grounds relied upon and the arguments in support thereof, the relief prayed for, and with a statement of the date the appellant received the appealed decision, resolution or order; 4) in three (3) legibly type written or printed copies; and 5) accompanied by i) proof of payment of the required appeal fee; ii) posting of a cash or surety bond as provided in Section 6 of this Rule; iii) a certificate of non-forum shopping; and iv) proof of service upon the other parties.

x x x x x x

SECTION 6. BOND. — In case the decision of the Labor Arbiter or the Regional Director involves a monetary award, an appeal by the employer may be perfected only upon the posting of a bond, which shall either be in the form of cash deposit or surety bond equivalent in the amount to the monetary award, exclusive of damages and attorney's fees.

The posting of a bond is indispensable to the perfection of an appeal in cases involving monetary awards from the decisions of the Labor Arbiter. The lawmakers clearly intended to make the bond a mandatory requisite for the perfection of an appeal by the employer as inferred from the provision that an appeal by the employer may be perfected "only upon the posting of a cash or surety bond." The word "only" makes it clear that the posting of a cash or surety bond by the employer is the essential and exclusive means by which an employer's appeal may be perfected. **Moreover, the filing of the bond is not only mandatory, but a jurisdictional requirement as well, that must be complied with in order to confer jurisdiction upon the NLRC. Non-compliance therewith renders the decision of the Labor Arbiter final and executory. This requirement is intended to assure the workers that if they prevail in the case, they will receive the money judgment in their favor upon the dismissal of the**