

FIFTEENTH DIVISION

[CA-G.R. SP NO. 91441, August 18, 2006]

**DENZEL PLASTIC, INC. AND/OR DANNY TAN, PETITIONERS, VS.
THE HONORABLE NATIONAL LABOR RELATIONS COMMISSION
(DIVISION III), GUADENCIO MILA AND RAMON RIVERA,
RESPONDENTS.**

D E C I S I O N

REYES, J.:

This pertains to the petition for certiorari filed on 26 September 2005 by petitioners Denzel Plastic, Inc. and/or Danny Tan, which seeks to annul or set aside the order of the public respondent NLRC dated 11 August 2005 when it denied their Appeal with Motion to Reduce Supersedeas Bond, in CA No. 044846-05. The sole issue of the petition is

“Whether the respondent Commission committed grave abuse of discretion amounting to lack or excess of jurisdiction when it denied the petitioners’ Motion to Reduce Supersedeas Bond to P10,000.00 cash, by rigidly maintaining and insisting on the fling of a supersedes bond in the amount of P569,228.08 for two claimant-workers.” (*Rollo, pp 41*)

The antecedent facts of the case are as follows:

The petitioner Denzel Plastic, Inc. (Referred to as Company) is a small-capitalized domestic corporation engaged in the small-scale production of plastic bottles servicing outside job orders. (*Ibid, pp. 39*) The private respondents were employed by the company as machine operators.

In Labor Case No. 0305-IS-005, the private respondents sued the company for its refusal to comply with the minimum wage law, social welfare benefits law and other similar laws for the protection and benefit of labor. The case was decided favorably, for the private respondents. Unfortunately, the private respondents were not able to enjoy the privilege of being paid their minimum wage and other statutory benefits for they were not allowed to enter the company’s premises. The private respondents were then, arbitrarily and illegally dismissed without compliance with the two-notice rule. When they were dismissed, they were not paid a single centavo as separation pay and retirement benefits (*Ibid, pp. 11-12*). Feeling aggrieved, they filed the instant case of illegal dismissal with monetary claims (*NLRC NCR Case No. 00-09-10916-03*).

As a defense the company contended that no liability may be imputed to them considering that the termination of employment was brought forth by the unavoidable circumstance of “lack of business orders” compounded by unstoppable financial collapse. (*Ibid, pp. 48*)

After the submission of the parties' position papers and other relevant documents, Labor Arbiter Cresencio G. Ramos, Jr. decided the case in favor of the private respondents. In his decision dated 31 May 2005, he ratiocinates, among others, that:

"In the case at bench, not even the aspect of alleged financial reverses or losses suffered by respondents was duly established. All that the respondents relied to for their defense was unsubstantiated averment(s) of "financial collapse" brought about by alleged lack of "business orders". This taken into consideration, respondents' defense simply could not be upheld." (Ibid, pp. 51)

The petitioners thereby filed on 29 June 2005 an Appeal with Motion to Reduce Supersedeas Bond to the public respondent NLRC, by posting only a supersedeas bond of ten thousand (P10, 000.00). (***Ibid, pp 52-53***) The Commission in its assailed Order dated 11 August 2005 denied the said appeal with motion to reduce supersedeas bond, stating, among others, that:

"After a review of respondents-appellants instant motion. We find that the same does not proffer any valid or justifiable reason that would warrant a reduction of the appeal bond. Hence, the same must be denied.

WHEREFORE, respondents-appellants are hereby ordered to post a cash or surety bond in the amount equivalent to the monetary award granted in the appealed decision (less the P10,000.00 cash bond already posted) and a joint declaration, indemnity agreement and collateral security in case respondents-appellants opted to post a surety bond which shall be issued by a reputable bonding company duly accredited by this Commission or the Supreme Court to transact business as required by Art.223 of the Labor Code as amended and Section 6, Rule VI of the NLRC New Rules of procedure as amended within an unextendible period of ten (10) calendar days from receipt of this Order, otherwise, the appeal shall be dismissed for non-perfection thereof." (***Ibid, pp. 64-66***)

The petitioners then filed before us this instant petition for certiorari, with amendment thereto (***Ibid., pp. 39 to 44***).

In their petition they pointed out that the Labor arbiter committed an error in finding that the cause of the dismissal is on the aspect of retrenchment. They contended that the Labor Arbiter should consider closure or cessation of business as a ground for the dismissal of the employees. In the light of the financial straits of the petitioners, it would be just and proper to reduce the appeal bond. (***Ibid., p. 42***)

The petition failed to persuade us.

Prefatorily, we note that in plethora of cases decided by the Supreme Court and in a more recent case of ***Bascon vs Court of Appeals, GR No. 144899, February 5, 2004***; "The findings of facts of the NLRC are deemed binding and conclusive upon the Court. We have repeatedly said that the Court is not trier of facts. Thus, resort to judicial review of the decisions of the NLRC in a special civil action for certiorari under Rule 65 of the Rules of Court is generally limited to the question of grave