

SIXTEENTH DIVISION

[CA-G.R. SP NO. 76756, August 14, 2006]

ROLANDO L. CERVANTES, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, J.S. CONTRACTOR, PAL MARITIME CORP., AND/OR WESTERN SHIPPING AGENCIES,PTE, LTD. RESPONDENTS.

D E C I S I O N

DIMARANAN-VIDAL, J.:

Before Us is the *Petition for Certiorari*^[1] under Rule 65 of the Revised Rules of Court filed by Petitioner ROLANDO L. CERVANTES (hereinafter Petitioner) which seeks to annul the Decision^[2] dated 21 JUNE 2002 of the NATIONAL LABOR RELATIONS COMMISSION (NLRC) which set aside the Decision^[3] dated 2 JULY 1999 of Labor Arbiter DONATO G. GUINTO JR. in NLRC-NCR OCW Case No. (M) 00-10-2852-96 entitled *Rolando L. Cervantes vs. PAL Maritime Corporation and Western Shipping Agencies, PTE. LTD.* and the NLRC Resolution^[4] dated 26 December 2002, denying Petitioner's Motion for Reconsideration of the aforesaid Decision.

THE FACTS

The instant controversy stemmed from a complaint for illegal dismissal with claims for unpaid salaries under the contract, actual, moral and exemplary damages and attorney's fees filed by the Petitioner against Respondents PAL MARITIME CORPORATION (hereinafter Respondent PAL) and WESTERN SHIPPING AGENCIES (hereinafter Respondent Western).

Petitioner was hired by herein Respondents on 21 June 1996 for the position of Master on board the "Vessel M/V Themistocles" for a contract period of ten (10) months. By virtue thereof the Petitioner joined his assigned vessel on 1 July 1996 at the port of Cristobal, Panama.

Months before the expiration of his contract, Petitioner was repatriated to Manila on 13 October 1995. However, it was only on 13 October 1996, after the lapse of one year, more or less, when the Petitioner finally filed a complaint before the Office of the Labor Arbiter against the Respondents for Illegal Dismissal with claims for unpaid salary, actual, moral and exemplary damages and attorney's fees.

As no amicable settlement was reached, the Labor Arbiter directed the parties to submit their respective position papers together with their corresponding pieces of evidence. It was the contention of the Petitioner that he was repatriated to Manila despite of his diligent and effective performance of duties as Master on board the vessel "M/V Themistocles".

This was countered by the Respondents, alleging that Petitioner's repatriation was

brought about by the latter's voluntary offer of relief and resignation. It was further maintained by the Respondents that said complaint was a mere afterthought and was solely designed to harass the Private Respondents.

On 23 October 2000, Labor Arbiter DONATO G. QUINTO, JR., rendered its Decision ruling in favor of the Petitioner and holding the Respondents *jointly and severally* liable for Petitioner's claim for unpaid salaries amounting to US\$7,440.00, the dispositive portion thereof reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring complainant Rolando L. Cervantes to have been illegally dismissed and ordering respondents PAL Maritime Corporation and Western Shipping Agencies PTE., LTD to pay, jointly and severally, the amount of US\$7,440.00, or its peso equivalent at the time of payment, representing his salary for the unexpired portion of his contract, plus 10% thereof as attorney's fees, all as discussed and computed above :

SO ORDERED.^[5]

Thereupon, the Respondents filed a Notice of Appeal with the NLRC. However, the Respondents failed to attach a copy of the "Joint Declaration", which should accompany the appeal bond, as required by Section 6, Rule VI of the NLRC Revised Rules of Procedure. Prompting the Petitioner to file a Motion to Dismiss Appeal for lack of merit.

On 23 October 2000, the NLRC issued an order directing the Respondents to file their "Joint Declaration". Consequently, Petitioner filed a Motion for Reconsideration and Dismissal of the Appeal on the ground that Private Respondents' omission in accompanying their memorandum of appeal with a "Joint Declaration" under oath prevented the perfection of an appeal and ultimately infects the jurisdiction of the Commission to entertain said appeal.^[6]

On 21 June 2002, the NLRC rendered the assailed Decision reversing the abovementioned Decision of the Labor Arbiter, the *fallo* of which reads:

"Considering that complainant was not illegally dismissed, the award of salaries for the unexpired portion of the contract has no basis.,

"It is therefore recommended that the appealed Decision is hereby SET ASIDE and NEW ONE ENTERED DISMISSING the complaint for lack of merit.

SO ORDERED.^[7]

On 26 December 2002, the NLRC in a subsequent Resolution^[8] denied Petitioner's motion for reconsideration.

Hence, the instant petition.

THE ISSUES

As can be gleaned from the instant Petition, *supra*, the Petitioner anchored his petition on the following grounds:

1. Whether or not NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it did not dismiss the appeal of private respondents despite the late submission of the joint declaration as mentioned in Section 6, Rule VI of the NLRC, Revised Rule of Procedures;
2. Whether or not NLRC committed grave abuse of discretion in referring the appealed decision of Labor Arbiter Quinto, Jr., to Labor Arbiter Concepcion;
3. Whether or not NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it abdicated its jurisdiction and dismissed the case.

OUR RULING

The petition must fail.

Petitioner contends that the Respondents' omission of accompanying their memorandum of appeal with a joint declaration under oath as required by the NLRC Rules of Procedure prevented the perfection of the appeal. This contention lacks a leg to stand on. Rule VI, Section 3 of the NLRC Rules of Procedure categorically provides:

"Section 3. Requisites for Perfection of Appeal. – a) The appeal shall be filed within the reglementary period as provided in Section 1 of this Rule; shall be under oath with proof of payment of the required appeal fee and the posting of a cash or surety bond as provided in Section 5 of this Rule; shall be accompanied by a memorandum of appeal which shall state the ground relied upon and arguments in support thereof; the relief prayed for; and a statement of date when the appellant received the appealed decision, order, or award and proof of service on the other party.

A mere notice of appeal without complying with the other requisites aforestated shall not stop the running of the period for perfecting an appeal."

As shown by the records, the Respondents' appeal was duly perfected by the posting of the necessary surety bond equal to the monetary amount, filing of the notice of appeal and appeal memorandum within the reglementary period. What is clearly required by the law is the simultaneous filing of the surety bond, notice of appeal and appeal memorandum.

An appeal is an essential part of the judicial system and litigants should not be deprived of their right to appeal on a mere technicality when it can easily be rectified by directing the parties to submit the required documents. In the case of *Del Rosario vs. NLRC*^[9], the Supreme Court ruled that the NLRC has the inherent power to allow late payment of the appeal fee. Accordingly, the rule of technicality must yield to the broader interests of substantial justice. Parenthetically, in the case of *FEM's elegance Lodging House, et al vs. Murillo, et al.*^[10], the High Tribunal held