

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**FILIPINAS (Pre-fabricated Bldg.)  
SYSTEMS “FILSYSTEMS,” INC. and  
FELIPE A. CRUZ, JR.,**

*Petitioners,*

*-versus-*

**G.R. No. 153859  
December 11, 2003**

**NATIONAL LABOR RELATIONS  
COMMISSION and CRESENCIANO  
BEBANCO, JUANITO R. BENZON, REY  
NUALLA, BONIFACIO TORRES,  
ERNESTO SINONEQUE and EMILIO  
ANEANO,**

*Respondents.*

X-----X

**DECISION**

**PUNO, J.:**

The facts reveal that a complaint for illegal dismissal and monetary claims for service incentive leave, 13<sup>th</sup> month pay and night shift differential was filed by respondents against petitioners before the National Labor Relations Commission.<sup>[1]</sup> The complaint was assigned to Labor Arbiter Donato G. Quinto, Jr. who ordered the parties to file their position paper. Respondents complied, but not the petitioners despite several warnings and time extensions. The inaction was

construed as a waiver by petitioners of their right to present evidence.<sup>[2]</sup>

The Labor Arbiter decided the complaint on the merit and ruled in favor of respondents. He sustained their claim of illegal dismissal as petitioners failed to adduce contrary evidence. Petitioners were ordered to reinstate respondents. The monetary claims of the respondents were likewise granted.<sup>[3]</sup>

Petitioners appealed to the National Labor Relations Commission. For the first time, they submitted evidence that respondents were project employees and that their dismissal was due to the discontinuation of the Jaka Tower I project where they were assigned. Respondents, however, assailed the jurisdiction of the NLRC over the appeal for failure of the petitioners to file the appeal bond within the ten (10)-day reglementary period. They further contended that it was too late for petitioners to present evidence in the NLRC.

The NLRC nevertheless assumed jurisdiction over the appeal. Due to the evidence presented by petitioners on the issue of illegal dismissal, it remanded the case to the Labor Arbiter for further proceedings.<sup>[4]</sup> Respondents' motion for reconsideration was denied.<sup>[5]</sup>

Respondents then repaired to the Court of Appeals on a Petition for Certiorari. The appellate court ruled that the NLRC did not have jurisdiction over the appeal since the appeal bond of the petitioners was filed out of time. It reinstated the decision of the Labor Arbiter.<sup>[6]</sup> Petitioners' motion for reconsideration proved futile.

Hence this petition where petitioners raise the following issues:

1. Whether or not the Court of Appeals erred and committed grave abuse of discretion in finding and ruling that the NLRC has not acquired jurisdiction on the appeal of the petitioners for submitting an appeal bond seven (7) days beyond the ten (10)-day reglementary (sic) period in perfecting an appeal;
2. Whether or not the Court of Appeals erred and committed grave abuse of discretion in finding and ruling that:

“The remand of the case to the Labor Arbiter due to the conflicting claims of the parties, comes as a surprise to us. As a quasi-judicial agency vested with jurisdiction to resolve labor disputes, it is but natural for the NLRC to encounter conflicting claims while discharging its mandate. To insist on a policy of remanding a case to the Labor Arbiter each time conflicting claims arise in a case would be an abdication of duty by the NLRC as conflicts are inherent and integral in all disputes, whether labor or otherwise.

x x x

x x x

x x x”

3. Whether or not the Court a quo erred and committed grave abuse of discretion in giving due course to the private respondent’s petition for certiorari under Rule 65 of the 1997 Rules on Civil Procedure; and in annulling and setting aside the Resolutions (of) the NLRC, and reinstating the Decision of the Labor Arbiter ordering the reinstatement of the private respondents, with full backwages, and monetary awards for 13th month pay and Service Incentive Leave pay.<sup>[7]</sup>

We affirm. The Labor Code provides a ten (10)-day period from receipt of the decision of the Arbiter for the filing of an appeal together with an appeal bond if the decision involves a monetary award in favor of the employees, viz:

ART. 223. Appeal. — Decisions, awards, or orders of the Labor Arbiter are final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards, or orders.

In case of a judgment involving a monetary award, an appeal by the employer may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Commission in the amount equivalent to the monetary award in the judgment appealed from.

x x x

x x x

x x x. (*Emphasis supplied*)

The NLRC Rules of Procedure<sup>[8]</sup> likewise require the appeal and the appeal bond to be filed within the ten (10)-day reglementary period:

Section 1. Periods of Appeal. — Decisions, awards, or orders of the Labor Arbiter and the POEA Administrator shall be final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards, or orders of the Labor Arbiter or of the Administrator, and in case of a decision or of the Regional Director or his duly authorized Hearing Officer within five (5) calendar days from receipt of such decisions, awards or orders. If the 10th or 5th day, as the case may be, falls on a Saturday, Sunday or a holiday, the last day to perfect the appeal shall be the next working day.

X X X

X X X

X X X

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 surety bond as provided in Section 5 of this Rule (which provides how much and where the appeal fee is to be paid); shall be accompanied by a memorandum of appeal which shall state the grounds relied upon and the arguments in support thereof; the relief prayed for; and a statement of the date when the appellant received the appealed decision, order or award and proof of service on the other party of such appeal.

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

X X X

X X X

X X X

Section 7. No Extension of Period. — No motion or request for extension of the period within which to perfect an appeal shall be allowed.

X X X

X X X

X X X

We have consistently ruled that payment of the appeal bond is a jurisdictional requisite for the perfection of an appeal to the NLRC.<sup>[9]</sup> It is only in rare instances that the court relaxes the rule upon a showing of substantial compliance with it and to prevent patent injustice.

In the case at bar, petitioners alleged that they received a copy of the Arbiter's decision on October 31, 1998.<sup>[10]</sup> Their memorandum of appeal was dated November 9, 1998, but their appeal bond to stay execution of the decision was executed only on November 17, 1998.<sup>[11]</sup> The records show no partial payment of the bond was made during the reglementary period nor was there any explanation for its late filing. Given these facts, the late filing of the bond divested the NLRC of its jurisdiction to entertain petitioners' appeal.

Likewise, we cannot countenance the late submission of petitioners' evidence with the NLRC. Petitioners should have adduced their evidence on the issue of illegal dismissal before the Labor Arbiter. They failed to do so despite the opportunities given to them by the Arbiter. It was only when an adverse decision was rendered against them by the Arbiter that they offered to submit their evidence before the NLRC refuting respondents' complaint of illegal dismissal. Such a practice cannot be tolerated for it will defeat the speedy administration of justice involving our poor workers. Moreover, it smacks of unfairness.

Yet, this is not all. Petitioners likewise ran roughshod of the procedural rules of the appellate court. Respondents' comment alleges that the appellate court already declared its judgment final and executory. An entry of judgment was made after petitioners' motion for reconsideration of the appellate court's decision was denied on October 31, 2001 and no petition was filed before this Court. Atty. Rodolfo P. Orticio, however, moved for cancellation of the entry of judgment on the ground that he is the new counsel of the petitioners and that he received a copy of the denial of their motion for reconsideration only on June 19, 2002. He contended that his request for cancellation was filed within the allowable period. In a resolution dated August 20, 2002 denying the request, the Court of Appeals ruled that:

From the records, it appears that when the decision and resolution denying the Motion for Reconsideration dated 31 October 2001 were received, Atty. Orticio was not yet the counsel for private respondent. In fact, he filed his notice of appearance on 23 November 2001 after receipt on 9 November 2001 by private respondent's former counsel, Atty. Louis Acosta, of the resolution denying the motion for reconsideration. A judgment becomes final provided there was proper service of notice thereof. In this case, the records clearly show there was such proper service upon private respondent's former counsel, Atty. Louis Acosta. Therefore, the decision of 2 April 2001 did become final and executory, leaving Us no more discretion to recall the entry of judgment.<sup>[12]</sup>

It is thus contended by respondents that the petition at bar should not be allowed as the decision of the appellate court has already become final.

Again, we agree. Petitioners should have filed the present petition within fifteen days under Rule 45 of the Rules of Court, viz:

SECTION 1. Filing of petition with Supreme Court. — A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition shall raise only questions of law which must be distinctly set forth.

SECTION 2. Time for filing. — The petition shall be filed within fifteen (15) days from notice of the judgment or final order or resolution appealed from, or of the denial of the petitioner's motion for new trial or reconsideration filed in due time after notice of the judgment.

Petitioners received a copy of the denial of their motion for reconsideration of the Court of Appeals' decision on November 9, 2001. They filed an extension of time to file the petition at bar on June 16, 2002, alleging that they have a new counsel. We note,

however, that petitioners obtained the services of present counsel on November 23, 2001. Thus, there was ample time for their counsel to appeal to this Court the adverse ruling of the appellate court. The appeal was not seasonably made by said counsel and such procedural lapse is binding on petitioners.

**IN VIEW WHEREOF**, the petition is dismissed. The decision of the Labor Arbiter is reinstated with the modification that if reinstatement of respondents is not feasible, they should be paid separation pay in accordance with law.

**SO ORDERED.**

**Quisumbing, Austria-Martinez, Callejo, Sr. and Tinga, JJ.,  
concur.**

---

[1] Records, p. 2.

[2] Id. at 36.

[3] Rollo, pp. 66–73.

[4] Id. at 74–82.

[5] Id. at 83–84.

[6] Id. at 156–162.

[7] Id. at 28–29.

[8] Rule VI, NLRC Rules of Procedure, as amended.

[9] Santos vs. Velarde, G.R. No. 140753, April 30, 2003.

[10] Records, p. 94.

[11] Id. at 144.

[12] Rollo, pp. 197–198.