SUPREME COURT
SECOND DIVISION

ROBERTO FULGENCIO, ROLANDO A. LAYA, SR., SUSANO A. ATIENZA, CARLITO S. DE GUZMAN, HERMAN DELIMA, EDGARDO H. REYES, RAMIL HERNANDEZ, WILFREDO Y. BRUN, ROMULO C. MAGPILI, GERARDO S. DE GUZMAN, JORGE CIPRIANO, CRISOSTOMO D. DOROMPILI, JAIME CALIPAYAN (deceased), and ANGELITO REALINGO,
Petitioners,

-versus-

G.R. No. 141600
September 12, 2003

NATIONAL LABOR RELATIONS COMMISSION (FIRST DIVISION) and RAYCOR AIRCONTROL SYSTEMS, INC.,
Respondents.
x----------x

D E C I S I O N

CALLEJO, SR., *J.*:

This is a Petition for Review on Certiorari filed under Rule 45 of the 1997 Rules of Civil Procedure, assailing the September 10, 1999

Resolution of the Court of Appeals (CA) in CA-G.R. SP No. 54641 which dismissed outright the petitioners' petition for certiorari for alleged failure to comply with the formal requirements of the rules, and its January 18, 2000 Resolution denying the petitioners' motion for reconsideration.

As culled from the records, the petition at bar stemmed from the following factual antecedents:

The private respondent Raycor Aircontrol Systems, Inc. was engaged in the installation of airconditioning systems in the buildings of its clients. In connection with such installation work, the herein petitioners were among those hired by the private respondent to work in various capacities, such as tinsmith, leadsman, aircon mechanic, installer, welder and painter.

On different dates in 1992, the private respondent served the petitioners with uniformly worded notices of termination of employment. As a result, the petitioners joined other employees in filing three separate cases of illegal dismissal against the private respondent, docketed as NLRC-NCR Nos. 00-03-01930-92, 00-05-02789-92 and 00-07-03699-92. The proceedings in all the cases were subsequently consolidated.

On January 22, 1993, the Labor Arbiter rendered judgment dismissing the complaints for lack of merit.[1] On appeal, the National Labor Relations Commission (NLRC) reversed the labor arbiter's findings and ruled as follows:

WHEREFORE, the appealed Decision is hereby SET ASIDE and a new one entered ordering respondent to:

1. Immediately reinstate complainants to their former positions without loss of seniority rights and privileges; and

2. Pay them full backwages from the time they were dismissed up to the time they are actually reinstated.[2]

The private respondent's motion for reconsideration having been denied by the NLRC, the private respondent filed a petition for

certiorari[3] assailing the above-quoted decision with the Supreme Court which rendered judgment on September 9, 1996,[4] the decretal portion of which reads:

> WHEREFORE, the foregoing considered, the assailed Decision is hereby SET ASIDE and a new one rendered holding that petitioner has failed to discharge its burden of proof in the instant case and therefore ORDERING the reinstatement of private respondents as regular employees of petitioner, without loss of seniority rights and privileges and with payment of backwages from the day they were dismissed up to the time they are actually reinstated. No costs.
>
> SO ORDERED.

The judgment of the court became final and executory on November 18, 1996.[5] The private respondent filed a motion for clarification claiming that it had offered reinstatement to the petitioners on July 13, 1992 but that the latter spurned its offer. The Court denied the said motion. The case was remanded to the NLRC for implementation. In due course, the Research and Information Unit of the NLRC computed the benefits due the petitioners and submitted an updated computation on April 15, 1997, viz:

> RE: UPDATED COMPUTATION OF AWARD
>
> AS PER NLRC DECISION DATED NOV. 29, 1993[6]

Name	Backwages (as of 4/30/96)	Additional Backwages	TOTAL
1. Rolando Laya, Sr.	P179,674.60	P54,232.10	P233,906.70
2. Romulo Magpili	180,637.60	54,232.10	234,869.16
3. Wilfredo Brun	179,474.62	54,232.10	233,706.72
4. Ramil Hernandez	179,474.62	54,232.10	233,706.72
5. Eduardo Reyes	179,474.62	54,232.10	233,706.72
6. Crisostomo Dorompili	179,474.62	54,232.10	233,706.72
7. Herman Delima	174,489.12	54,232.10	228,721.22
8. Angelito Realizo	191,672.48	54,232.10	245,904.58
9. Roberto Fulgencio	191,672.48	54,232.10	245,904.58
10. Susano Atienza	191,672.48	54,232.10	245,904.58
11. Jorge Cipriano	191,672.48	54,232.10	245,904.58
12. Gerardo de Guzman	191,672.48	54,232.10	245,904.58

13. Jaime Calipayan	191,672.48	54,232.10	245,904.58
14. Gerardo de Guzman	192,630.28	54,232.10	246,862.38
15. Florencio Espina	191,761.77	54,232.10	245,993.87

TOTAL AWARD (as of 4/15/97)			P3,600,607.69
			==========

Computation of Additional Backwages

5/1/96 – 2/5/97 = 9.16 mos.		
P165 x 26 days x 9.16 mos.	=	P39,296.40
2/6/97 – 4/15/97 = 2.30 mos.		
P 180 x 26 days x 2.30 mos.	=	10.764.00
		_____
		P50,060.40
13th Mo. Pay (1/12 of P50,060.40)		4,171.70
		_____
Total		P54,232.10
		==========

The Labor Arbiter approved the computation in an Order dated August 15, 1997.[7]

Meanwhile, on motion of the petitioners, a writ of execution[8] was issued by the Labor Arbiter on January 28, 1998, directing the sheriff of the NLRC, as follows:

> NOW THEREFORE, you are hereby commanded to accompany complainants Rolando Laya Sr., Romulo Magpili, Wilfredo Brun, Ramil Hernandez, Eduardo Reyes, Crisostomo Dorompili, Hernan Delima, Angelito Ralizo, Roberto Fulgencio, Susano Atienza, Jorge Cipriano, Gerardo de Guzman, Jaime Calipay, Carlito de Guzman and Florencio Espino to the premises of respondent located at Room 306, 20th Century Building, Mandaluyong City, for the purpose of reinstating them to their former position and collect from said respondent the amount of P3,960,668.45 corresponding to complainants' backwages and attorney's lien. If you fail to collect sufficient amount in cash, you are further commanded to satisfy the award from the movable and immovable properties of respondent not exempt from execution and deposit the amount you have with the Cashier of this Office. You may also collect your execution fees in the amount of P4,450.60 pursuant to Section 5, Rule IX of the Manual of Instructions for Sheriffs and

likewise to turnover the same to the Cashier or authorized Disbursing Officer of this Office. You shall return this writ within fifteen (15) days from receipt hereof with the proceedings endorsed thereon.[9]

Pursuant to the above writ, the sheriff on February 10, 1998 garnished the funds of the private respondent amounting to P3,960,668.45 which was in the possession of Intel Technology Philippines, Inc.[10] The same amount was subsequently remitted by Intel to the Cashier of the NLRC on March 19, 1998.[11]

On February 13, 1998, the private respondent appealed the January 27, 1998 Order of the Labor Arbiter to the NLRC which rendered judgment on June 16, 1998, to wit:

> We therefore sum up our ruling as follows:
>
> a) The backwages of the complainant will not be reduced by their salaries obtained elsewhere during the period of their dismissal until the offer of reinstatement was made.
>
> b) The computation of backwages stopped on July 13, 1992, when the return-to-work [order] was made by the respondent but was refused by the complainants.
>
> c) The backwages should be based on the complainants' wage rate in 1992.
>
> d) The complainants are awarded 13th Month Pay.
>
> x x x
>
> WHEREFORE, the appeal is hereby GRANTED but the petition for preliminary injunction is DENIED for being moot and academic. The Cashier is hereby ordered to release the amount of TWO HUNDRED TWO THOUSAND THIRTY PESOS AND TWENTY-NINE CENTAVOS (P202,030.29) for distribution to the individual complainants in accordance with the above

> computation and to remit the balance of the garnished and deposited amount to the respondent.[12]

The petitioners filed a motion for the reconsideration of the above-quoted decision, contending that by computing the backwages of the petitioners up to July 13, 1992 only, the NLRC modified the already final and executory decision of the Supreme Court. The NLRC issued an Order dated May 11, 1999 denying the said motion.[13] On August 31, 1999, the petitioners filed a petition for certiorari with a prayer for the issuance of a writ of preliminary injunction[14] with the CA which outrightly dismissed the petition in a Resolution dated September 10, 1999,[15] which reads:

> Section 3, Rule 46 as amended by the Supreme Court in Bar Matter No. 803 which took effect on September 1, 1998 provides that "In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received." The petition has no such statement of material dates, violating the aforecited rule and is a sufficient ground for the dismissal thereof.
>
> Also, We note that the petitioners have failed to include in their petition the required explanation on why personal service upon the respondents was not resorted to pursuant to Sec. 11, Rule 13 of the 1997 Rules of Civil Procedure, as amended. Strict compliance with this rule is mandated. (Solar Team Entertainment, Inc. vs. Hon. Helen Bautista-Ricafort, et al., G.R. No. 132007, August 5, 1998).
>
> Petition is hereby DISMISSED outright.[16]

The petitioners instituted the present recourse, assigning to the CA the following errors:

I

THE HONORABLE COURT OF APPEALS ERRED IN DISMISSING OUTRIGHT THE PETITION FOR CERTIORARI WITH WRIT OF PRELIMINARY INJUNCTION ON THE ALLEGED GROUND THAT THE SAID "PETITION HAS NO SUCH STATEMENT OF MATERIAL DATES," IN VIOLATION OF RULE 65.

II

THE HONORABLE COURT OF APPEALS ERRED IN STRICTLY ADHERING TO TECHNICALITIES, RATHER THAN IN SUBSTANTIAL COMPLIANCE, IN THE APPLICATION OF THE PROVISIONS OF THE RULES OF COURT.[17]

We find the petition meritorious.

It appears that the petitioners failed to indicate in their petition with the CA the dates showing when they received notice of the NLRC's June 16, 1998 Decision, and the date when they filed a motion for reconsideration therefrom, in violation of Section 3, Rule 46 of the Revised Rules of Court, as amended.[18] Petitioners also failed to include in their petition the required explanation under Section 11, Rule 13 of the same Rules[19] as to why personal service upon the respondents was not resorted to. The petitioners, however, submit that they raised meritorious arguments in their petition; hence, the dismissal thereof by the CA on a mere technicality would cause a miscarriage of justice. The petitioners, therefore, invoke considerations of substantial justice for this Court to give their petition due course and pray that the questioned resolutions be set aside.

For its part, the private respondent asserts that the CA did not commit any reversible error in dismissing the petition in CA-G.R. SP No. 51288 for it simply applied the express and categorical mandate of the Rules. The private respondent argues that while it is true that the Rules of Court should be liberally construed, it is also equally true that the Rules cannot be ignored since strict observance thereof is

indispensable to the orderly and speedy discharge of judicial business.

We agree that for the petitioners' failure to comply with Section 3, Rule 46 and Section 11, Rule 13 of the Revised Rules of Court, as amended, the petition should be dismissed, pursuant to the last paragraph of Section 3 of Rule 46 of the Rules. In the case of Solar Team Entertainment, Inc. vs. Ricafort,[20] cited in the assailed September 10, 1999 Resolution of the CA, we indeed underscored the mandatory character of Section 11 of Rule 13, thus:

> We thus take this opportunity to clarify that under Section 11, Rule 13 of the 1997 Rules of Civil Procedure, personal service and filing is the general rule, and resort to other modes of service and filing, the exception. Henceforth, whenever personal service or filing is practicable, in light of the circumstances of time, place and person, personal service or filing is mandatory. Only when personal service or filing is not practicable may resort to other modes be had, which must then be accompanied by a written explanation as to why personal service or filing was not practicable to begin with. In adjudging the plausibility of an explanation, a court shall likewise consider the importance of the subject matter of the case or the issues involved therein, and the prima facie merit of the pleading sought to be expunged for violation of Section 11. This Court cannot rule otherwise, lest we allow circumvention of the innovation introduced by the 1997 Rules in order to obviate delay in the administration of justice.

Nonetheless, we resolve to give due course to the petition to avert a miscarriage of justice. For judicial cases do not come and go through the portals of a court of law by the mere mandate of technicalities. Where a rigid application of the rules will result in a manifest failure or miscarriage of justice, technicalities should be disregarded in order to resolve the case.[21] In Aguam vs. CA,[22] we ruled that:

> The court has the discretion to dismiss or not to dismiss an appellant's appeal. It is a power conferred on the court, not a duty. The "discretion must be a sound one, to be exercised in accordance with the tenets of justice and fair play, having in

> mind the circumstances obtaining in each case." Technicalities, however, must be avoided. The law abhors technicalities that impede the cause of justice. The court's primary duty is to render or dispense justice. "A litigation is not a game of technicalities." "Lawsuits unlike duels are not to be won by a rapier's thrust. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts." Litigations must be decided on their merits and not on technicality. Every party litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the unacceptable plea of technicalities. Thus, dismissal of appeals purely on technical grounds is frowned upon where the policy of the court is to encourage hearings of appeals on their merits and the rules of procedure ought not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure, not override substantial justice. It is a far better and more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal to attain the ends of justice rather than dispose of the case on technicality and cause a grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.[23]

The rules of procedure are merely tools designed to facilitate the attainment of justice. They were conceived and promulgated to effectively aid the court in the dispensation of justice. Courts are not slaves to or robots of technical rules, shorn of judicial discretion. In rendering justice, courts have always been, as they ought to be, conscientiously guided by the norm that on the balance, technicalities take a backseat against substantive rights, and not the other way around. Thus, if the application of the Rules would tend to frustrate rather than promote justice, it is always within our power to suspend the rules, or except a particular case from its operation.[24]

In this case, the Court finds compelling reasons to disregard the petitioners' procedural lapses in order to obviate a patent injustice. And to avert further delay, we have also opted to resolve the petition on its merits rather than remand the case to the appellate court, a

remand not being necessary where, as in the instant case, the ends of justice would not be subserved thereby and we are in a position to resolve the dispute based on the records before us.[25]

We are convinced beyond cavil that the NLRC committed a grave abuse of its discretion amounting to lack or excess of jurisdiction in reversing the order of the Labor Arbiter, for in so doing, the NLRC modified the decision of this Court in Raycor Aircontrol Systems, Inc. vs. NLRC.[26]

It bears stressing that in our decision in G.R. No. 114290, we specifically enjoined the petitioners' reinstatement coupled with the payment of backwages, from the time of their dismissal up to the time of their actual reinstatement. However, the NLRC, in its assailed June 16, 1998 Decision, directed the payment of the petitioners' backwages from the time of dismissal up to July 13, 1992, thus sustaining the claim of the private respondent that when the petitioners were directed to return to work on the said date, they refused. In so doing, the NLRC sought to enforce the final judgment in G.R. No. 114290 in a manner contrary to the explicit terms thereof. We cannot and should not countenance such a travesty. Thus, in Solidbank Corporation vs. Court of Appeals,[27] we held that:

> It is a settled general principle that a writ of execution must conform substantially to every essential particular of the judgment promulgated. Execution not in harmony with the judgment is bereft of validity. It must conform, more particularly, to that ordained or decreed in the dispositive portion of the decision.
>
> Corollary thereto, it must be stressed that a judgment which has acquired finality becomes immutable and unalterable, and hence may no longer be modified in any respect except only to correct clerical errors or mistakes — all the issues between the parties being deemed resolved and laid to rest. This is meant to preserve the stability of decisions rendered by the courts, and to dissuade parties from trifling with court processes. One who has submitted his case to a regular court necessarily commits himself to abide by whatever decision the court may render. Any error in the decision which has not been considered in a

> timely motion for reconsideration or appeal cannot be impugned when such error becomes apparent only during execution.
>
> We note that in its Decision dated June 16, 1998, the NLRC reversed the Labor Arbiter's dismissal of the case and directed the payment of backwages, to be reckoned from the time of the petitioners' dismissal up to the time of their actual reinstatement.[28] If the private respondent believed the aforesaid computation to be erroneous in the light of the factual circumstances obtaining between the parties, it should have assigned the same as an error when it filed its petition for certiorari in G.R. No. 114290 assailing the said NLRC judgment. The private respondent did not do so. Although the private respondent filed a motion for clarification of the decision of this Court in the said case, the said motion was, however, denied by this Court in its Resolution dated October 15, 1997[29] considering that entry of judgment had already been made.

It is, therefore, crystal-clear that the manner of the computation of the petitioners' backwages is an issue which was already resolved by this Court in its decision in G.R. No. 114290 which had long acquired finality. Hence, the Court's decision in G.R. No. 114290, which directed the payment of the petitioners' backwages from the time they were dismissed up to the time they are actually reinstated, has become the "law of the case" which now binds the NLRC and the private respondent. The "law of the case" doctrine has been defined as "a term applied to an established rule that when an appellate court passes on a question and remands the case to the lower court for further proceedings, the question there settled becomes the law of the case upon subsequent appeal."[30] The private respondent, therefore, on appeal to the NLRC in the course of the execution proceedings in the case, is barred from challenging anew the issue of the manner in which the petitioners' backwages should be computed. Corollarily, the NLRC can no longer modify the ruling of the Court on the matter. Judgment of courts should attain finality at some point in time, as in this case, otherwise, there would be no end to litigation. In Hufana vs. Genato,[31] we held that:

> It is well established that when a right or fact has been judicially tried and determined by a court of competent jurisdiction, so long as it remains unreversed, it should be conclusive upon the parties and those in privity with them. The dictum therein laid down became the law of the case and what was once irrevocably established as the controlling legal rule or decision, continues to be binding between the same parties as long as the facts on which the decision was predicated, continue to be the facts of the case before the court. Hence, the binding effect and enforceability of that dictum can no longer be relitigated anew since said issue had already been resolved and finally laid to rest in that aforementioned case (Miranda vs. CA, 141 SCRA 306 [1986]), if not by the principle of res judicata, but at least by conclusiveness of judgment (Vda. de Sta. Romana vs. PCIB 118 SCRA 335 [1982]).

IN LIGHT OF ALL THE FOREGOING, the petition is **GRANTED**. The Decision of the NLRC dated June 16, 1998 is **SET ASIDE**. The Order of the Labor Arbiter dated August 15, 1997 is **AFFIRMED**.

SO ORDERED.

Bellosillo, Quisumbing, Austria-Martinez and Tinga, *JJ.*, concur.

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[1] Annex "A."
[2] Decision dated November 29, 1993 of the NLRC First Division in NCR CASE Nos. 00-03-01930-92, 00-05-02789-92, and 00-07-03699-92; Annex "B," Petition.
[3] The petition was docketed as G.R. No. 114290, entitled Raycor Aircontrol Systems, Inc. vs. NLRC and Rolando Laya, which was raffled to the Third Division of this Court.
[4] 261 SCRA 589 (1996).
[5] Annex "F."
[6] Annex "H."
[7] Annex "I."
[8] Annex "K."
[9] Rollo, pp. 112-113.
[10] Annex "L."
[11] Annex "M."

[12] Annex "L."
[13] Annex "M."
[14] Annex "N." The appeal was docketed as CA-G.R. SP No. 54641.
[15] Annex "P."
[16] Penned by Associate Justice Martin S. Villarama, Jr., with Associate Justices Angelina Sandoval Gutierrez (now an Associate Justice of the Supreme Court) and Romeo A. Brawner concurring; Annex "O," Petition.
[17] Rollo, pp. 23-24.
[18] SEC. 3. Contents and filing of petition; effect of non-compliance with requirements. —

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received. (Cir. No. 39-98)

xxx xxx xxx

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.

[19] SEC. 11. Priorities in modes of service and filing. — Whenever practicable, the service and filing of pleadings and other papers shall be done personally. Except with respect to papers emanating from the court, a resort to other modes must be accompanied by a written explanation why the service or filing was not done personally. A violation of this Rule may be cause to consider the paper as not filed.
[20] 293 SCRA 661 (1998).
[21] Tan Tiac Chiong vs. Hon. Cosico, A.M. No. CA-02-33, July 31, 2002.
[22] 332 SCRA 784 (2000).
[23] Id. at 789-790. (Italics ours.)
[24] Coronel vs. Hon. Desierto, G.R. No. 149022, April 8, 2003.
[25] Baylon vs. Fact-Finding Intelligence Bureau, G.R. No. 150870, December 11, 2002.
[26] 261 SCRA 589 (1996).
[27] G.R. No. 138131, March 12, 2002.
[28] See note 2, supra.
[29] Annex "E," Petition.
[30] Magellan Capital Management Corporation vs. Zosa; 355 SCRA 157 (2001).
[31] 365 SCRA 384 (2001).