

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
THIRD DIVISION**

**SOUTHECH DEVELOPMENT CORP.  
and/or REMCOR and RICARDO LU,  
*Petitioners,***

***-versus-***

**G.R. No. 149590  
January 12, 2005**

**NATIONAL LABOR RELATIONS  
COMMISSION (Third Division),  
RODRIGO LAPEZ, SR. and REYNALDO  
GAMUTAN,  
*Respondents.***

X-----X

**DECISION**

**CARPIO MORALES, J.:**

From the Decision of the Court of Appeals setting aside the resolution of the National Labor Relations Commission (NLRC), which dismissed the belatedly filed appeal of herein respondents Rodrigo Lapez, Sr. and Reynaldo Gamutan from a labor arbiter's decision, and accordingly directing the NLRC to give due course to respondents' appeal, petitioners Southech Development Corporation (SDC) and/or REMCOR and Ricardo Lu lodged the present petition for review on certiorari.

Culled from the rollo of the case in this Court and in the Court of Appeals are the following antecedent facts:

Respondents were employed as machine operators of petitioner SDC in the early 1990s. Sometime in September 1999, respondents were directed to submit their explanation why they should not be disciplinarily dealt with for insubordination. They did submit their respective explanations which the management found to be unsatisfactory, drawing it to suspend them for one month. By petitioners' account, respondents refused to acknowledge receipt of the notice of suspension. Respondents were thus advised by the SDC president, petitioner Ricardo Lu, to report to his house but they paid him no heed. Instead, they filed a complaint for illegal dismissal against petitioners.

After the parties had submitted their respective position papers, the labor arbiter, resolving the complaint on the following issues:<sup>[1]</sup>

1. Whether or not the severance of complainants' employment with the respondent establishment was illegally effected, if so;
2. Whether or not complainants are entitled to the relief prayed for herein, such as reinstatement with payment of full backwages and all monetary benefits, moral and exemplary damages, as well as attorney's fees; and
3. Whether or not complainants are entitled to their monetary claims, such as: differentials, overtime pay, 13th month pay, legal holiday pay, premium pay for holiday, and service incentive leave within the three year prescriptive period with interest at the legal rate until actual payment, held in the negative with respect to the first and second issues in this wise:<sup>[2]</sup>

Admittedly, on September 28, 1999, when they were allegedly told to stop working, complainants were directed to see Mr. Lu at his residence in Caloocan City, purposely to discuss the controversy, complainants refused and ignored such directive and instead proceeded

to this Office and filed the instant complaint. The foregoing facts clearly reveal no act of termination having been effected by respondents. Conversely, this Office views that it was complainants who severed their employment relationship with the respondents. The charge therefore of illegal dismissal must be dismissed. Consequently, the claim for reinstatement and payment of backwages, and damages are likewise dismissed.

Likewise, the claim for lack of due process must fail. As clearly perused from the record, complainants were dully afforded the opportunity to explain their sides on the accusation lodged against them. In fact, they both submitted an explanation letter to that effect (Annexes “3” and “4”, respondents’ position paper) the submission of the same was never denied by herein complainants. And even if assuming that the contested memorandum of suspension (Annexes “5” and “5”), submitted by respondents were indeed not served to herein complainants, the mere fact that they admitted having refused respondents’ directive to see Mr. Lu at his residence in Caloocan City, which undoubtedly displays complainants’ arrogant attitude towards their employer, renders the fact that respondents have exhausted all the means to give complainants the opportunity to further explain their sides, but which the latter ignored. (Emphasis and underscoring supplied)

As for the third and last issue, the labor arbiter also held in the negative “for failure of [herein respondents] to clearly establish the particulars of such claims.”

The labor arbiter, however, granted respondents’ claim for payment of 13th month pay and service incentive leave pay “for failure of [herein petitioners] to show convincing proof(s) (sic) that they have extended . . . the aforesaid mandated benefits.”

Accordingly, the labor arbiter disposed as follows:<sup>[3]</sup>

WHEREFORE, premises considered, judgment is hereby rendered, as follows:

1. Dismissing the claim for illegal dismissal, as well as, the claims for reinstatement and payment of backwages and damages for lack of merit;
2. Dismissing the claims for differentials, overtime pay, legal holiday pay, and premium pay for holiday, for lack of legal basis;
3. Ordering respondents to pay complainants' 13<sup>th</sup> month pay, service incentive leave pay and attorney's fees in the following amounts:
 

|                             |   |                       |
|-----------------------------|---|-----------------------|
| a) 13 <sup>th</sup> Mo. Pay | - | P32,451.12            |
| b) Service Incentive Leave  | - | 6,240.60              |
| c) Attorney's fees          | - | <u>3,869.17</u>       |
| TOTAL                       |   | - P42,560.89<br>===== |

Respondents' counsel, CABELLERO AUMENTADO MONTES LAW OFFICE, does not deny that a copy of the decision of the labor arbiter was received at its office at 840 Extremadura St., España, Manila on July 14, 2000.<sup>[4]</sup> Atty. Amado Auditor Caballero who appeared for respondents on behalf of the law office avers, however, that he was at the time "attending to his cases in the province of Bohol, his home province, and he was able to receive the said Decision of the Labor Arbiter only on September 8, 2000."<sup>[5]</sup>

On September 12, 2000 or on the 60th day following its receipt of copy of the labor arbiter's decision, respondents' counsel appealed the decision to the NLRC.

By Resolution of September 29, 2000, the NLRC dismissed petitioners' appeal as it was filed beyond the 10-calendar day period to file one, it citing the cases of Paramount Vinyl Products Corporation vs. NLRC,<sup>[6]</sup> Imperial Textile Mills vs. NLRC<sup>[7]</sup> and St. Gothard Disco vs. NLRC<sup>[8]</sup> which hold that the perfection of an appeal

in the manner and within the period prescribed by law is not only mandatory but jurisdictional.

Respondents thereupon filed a petition for certiorari faulting the NLRC as follows:<sup>[9]</sup>

A.

THE PUBLIC RESPONDENT, WITH DUE RESPECT, COMMITTED GRAVE AND GRIEVOUS ERROR IN APPLYING THE RULES IN A VERY RIGID AND TECHNICAL SENSE, RESULTING IN DEPRIVATION OF PETITIONERS' RIGHT TO DUE PROCESS OF LAW.

B.

THE PUBLIC RESPONDENT, AGAIN WITH DUE RESPECT, GRAVELY ABUSED DISCRETION IN DENYING PETITIONERS' MOTION FOR RECONSIDERATION BY NOT APPLYING THE DOCTRINES OF LIBERALITY ENUNCIATED IN SEVERAL OPINIONS OF THE SUPREME COURT. (Underscoring supplied)

Finding for respondents, the Court of Appeals held that rules of technicality must yield to the broader interest of substantial justice, especially in labor cases if the result would be detrimental to the working men, it citing *Surigao del Norte Electric Cooperative vs. NLRC*,<sup>[10]</sup> inter alia. How the result would be detrimental to respondents if technicality were applied, the Court of Appeals did not state.

As adverted to above, the Court of Appeals set aside the NLRC resolution dismissing respondents' appeal and directed it to give due course to their appeal. Hence, the present petition of petitioners.

This Court has given imprimatur to the NLRC's disregard of procedural lapse in filing a belated appeal where there is an "acceptable reason" to excuse the tardiness. Among the reasons which have been recognized as acceptable are:

(a) counsel's reliance on the footnote of the notice of the decision of the Labor Arbiter that "the aggrieved party may appeal within ten (10) working days;" (b) fundamental consideration of substantial justice; (c) prevention of miscarriage of justice or of unjust enrichment, as where the tardy appeal is from a decision granting separation pay which was already granted in an earlier final decision; and (d) special circumstances of the case combined with its legal merits or the amount and the issue involved. A one-day delay in the perfection of the appeal was excused in *Pacific Asia Overseas Shipping Corp. vs. NLRC*, *Insular Life Assurance Co. vs. NLRC*, and *City Fair Corp. vs. NLRC*.<sup>[1]</sup>

In respondents' case, Atty. Caballero who appeared for their counsel-law office proffered, as earlier stated, that at the time copy of the labor arbiter's decision was received at the law office (on July 12, 2000), he was "attending to his cases in his home province." Such explanation-excuse does not lie, however. The receipt by respondents' counsel-law office of the labor arbiter's decision bound respondents, its clients. And the failure or negligence of respondents' counsel to timely lodge the appeal bound them.

While the rule that negligence of counsel binds the client may be relaxed where adherence thereto would result in outright deprivation of the client's liberty or property or where the interests of justice so require, respondents have not shown, nay alleged, why a relaxation of the rule is called for. On the contrary, the uncontroverted facts of the case incline against respondents.

**WHEREFORE**, the assailed decision of the Court of Appeals is hereby **REVERSED** and **SET ASIDE** and the resolution of the NLRC dismissing respondents' appeal is **REINSTATED**.

**SO ORDERED.**

**Panganiban, J., (Chairman), Sandoval-Gutierrez, Corona, and Garcia, JJ., concur.**

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[1] Court of Appeals (CA) Rollo at 45.

- [2] Id. at 46-47.
- [3] Id. at 47-48.
- [4] Id. at 13.
- [5] Ibid.
- [6] 190 SCRA 525 (1990).
- [7] 217 SCRA 237 (1993).
- [8] 218 SCRA 327 (1993).
- [9] CA Rollo at 12-13.
- [10] 309 SCRA 233 (1999).
- [11] Philippine Airlines, Inc. vs. NLRC, 263 SCRA 639, 658-659 (1996).

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