SUPREME COURT
FIRST DIVISION

ST. GOTHARD DISCO PUB & RESTAURANT, ROLAND WERRO AND EMILY WERRO,
***Petitioners*,**

-versus-

G.R. No. 102570
February 1, 1993

NATIONAL LABOR RELATIONS COMMISSION, IZRA MATULAC, HELIODORO JUDILLA, CRISPIN HERNANDEZ, RICARDO ELINON, RAMON BASILLA, PAULINE MAGLUCOT, ZOSIMO QUEQUE, ELENA BERAME, MAXIMA DIZON, LUZVIMINDA MONTERON, MAULITO TALON, GINA POLOYAPOY, MARCELINO CAGAS, CHARLOTTE DAVID, REYNALDO VIVERO, ULDARICO LAHOPIAS, JUDITH RACAZA, LOURDES MORALES, MA. ELENA PALAR-PELAR, PERLA GONZALES, WARLITO MATULAC, REBECCA AGTOTO, ERNESTO NOVILLA, CHONA LAUGO, GEMMA DORIS BAGUIO, GENARA TIANO, IRENEO NERI, AIDA LARGO,
***Respondents*.**
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D E C I S I O N

GRIÑO-AQUINO, *J.*:

The petitioner, St. Gothard Disco Pub & Restaurant, is a single proprietorship owned and managed by the spouses Roland and Emily Werro at Fulton Street, Lahug, Cebu City. It has in its employ some thirty-nine (39) employees.

When typhoon "RUFING" hit Cebu City on November 13, 1990, it damaged the building where the St. Gothard Disco Pub & Restaurant was located. The electrical connection and the water supply to the establishment were cut off for several weeks resulting in stoppage of the business. However, the unpaid rentals (which under the lease contract were to be computed in dollars but payable in pesos), accumulated to more than $10,000.00. Ultimately, the lease was terminated by the building owner for violation of its terms.

As a result of the stoppage of the business, twenty-eight (28) employees filed claims for separation pay and 13th month pay against the Werro spouses in the National Labor Relations Commission (NLRC), Regional Arbitration Branch (RAB) No. VII in Cebu City. On April 29, 1991, Labor Arbiter Gabino A. Velasquez, Jr. rendered a decision, awarding separation pay and 13th month pay to the claimants in the total sum of P234,758.93 (p. 106, Rollo) broken up as follows:

"WHEREFORE, premises considered, it is the considered view of this Labor Tribunal that complainants herein have a meritorious claim and therefore, yields to the conclusion that respondents be condemned to pay the following amounts as hereunder tabulated:

NAMES	PERIOD OF EMPLOYMENT	13th MONTH PAY	SEPARATION PAY
1. Ezra Matulac	12/29/89-11/22/90 (1 Mo.)	P 825.00	P 900.00
2. Hellodoro Judilla	10/87-11/12/90 (3 Yrs.)	60,075.00	60,075.00
3. Crispin Hernandez	08/ -11/14/90 (1 Yr.)	850.00	850.00
4. Ricardo Ilinon	3/21/89-11/14/90 (1 Yr.8 Mo.)	1,800.00	1,800.00

5. Ramon Basilla	3/15/89-11/13/90 (1 Yr.8 Mo.)	2,000.00	2,400.00
6. Pauline Maglocot	8/23/88-11/13/90 (2 Yrs.3 Mo.)	2,700.00	2,400.00
7. Zosimo Queque	6/19/87-11/13/90 (3 Yrs.5 Mo.)	6,833.33	6,833.33
8. Elena Berame	6/19-87-11/20/90 (3 Yrs.5 Mo.)	3,758.00	3,300.00
9. Luzviminda Monteron	6/15/87-11/13/90 (3 Yrs.5 Mo.)	3,758.33	3,300.00
10. Raulito Talon	6/15/87-11/13/90 (3 Yrs.5 Mo.)	4,779.16	4,650.00
11. Marcelina Cagas	07/85-11/13/90 (5 Yrs.4 Mo.)	6,913.33	10,370.00
12. Charlotte David	11/16/88-11/12/88 (2 Yrs.)	1,600.00	1,600.00
13. Reynaldo Vivero	06/88-11/13/90 (2 Yrs.5 Mo.)	2,900.00	2,400.00
14. Uldarico Lanupias	16/85-11/12/90 (5 Yrs.5 Mo.)	4,783.33	7,000.00
15. Lourdes Morales	01/89-11/13/90 (1 Yr.10 Mo.)	1,650.00	1,800.00
16. Ma. Elena Palarpalar	06/85-11/12/90 (5 Yrs.5 Mo.)	5,976.16	8,750.00
17. Perla Gonzaga	04/86-11/13/90 (4 Yrs. 7 Mo.)	5,912.50	6,600.00
18. Warlito Matulac	2/14/85-11/12/90 (5 Yrs. 9 Mo.)	7,124.99	9,500.00
19. Rebecca Agtolo	7/03/85-11/12/90 (5 Yrs. 4 Mo.)	3,150.00	4,750.00
20. Ernesto Novilia	7/14/89-11/14/90 (1 Yr. 4 Mo.)	1,466.66	1,100.00
21. Chona Laugo	5/14/85-11/12/90 (5 Yrs. 6 Mo.)	10,762.00	15,750.00
22. Ireneo Neri	6/05/85-11/12/90 (5 Yrs. 5 Mo.)	4,200.00	6,000.00
23. Aida Laugo	3/24/90-11/12/90 (8 Mo.)	533.33	800.00
24. Henry Estrella	2/07/90-11/13/90 (1 Yr. 9 Mo.)	1,837.50	1,050.00
25. Emie Gepitulan	4/01/89-11/13/90 (1 Yr. 7 Mo.)	1,266.66	1,600.00
26. Gemmer Teray	5/21/88-11/13/90 (2 Yrs. 6 Mo.)	2,374.99	2,850.00
27. Felicisimo Binones	07/87-11/13/90 (3 Yrs. 4 Mo.)	13,333.33	12,000.00
		P109,163.93	125,595.00
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SUMMARY

1) Separation	P125,595.00
2) 13th Month Pay	109,163.93
	P234,758.93
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"The above amount which totalled P234,758.93 represents separation pay and 13th month pay of the complainants herein. Respondents are further ordered to pay attorney's fees to Atty. Julio Falcone, counsel for the complainants, the amount of P30,000.00." (Rollo, pp. 24-25.)

The Werros appealed to the NLRC, Fourth Division, Cebu City. Presiding Commissioner Ernesto G. Ladrido III, on July 15, 1991, dismissed the petitioner's appeal on the ground that no cash or surety bond was posted as required under Sections 3(a) and 6, Rule VI of the New Rules of Procedure of the NLRC. The spouses filed a motion for reconsideration but it was denied on September 4, 1991.

The spouses have filed this petition for certiorari alleging that:

1. The non-filing of an appeal (bond) does not ipso facto render the appeal dismissible.

2. Respondents are not entitled to separation pay.

The petition for certiorari was dismissed on October 14, 1991.

> "for insufficiency in form and substance having failed to comply with the Rules of Court and Circular No. 1-88. Petitioners failed to: (a) pay P48.00 for docket fee; P352.00 for docket fee (Judiciary Fund); P20.00 for legal research fund fee; P200.00 deposit for sheriff's fee; P20.00 for clerk's commission or a total of P622.00; and (b) submit counsel's IBP O.R. No. and date of payment of membership dues." (p. 42, Rollo.)

Upon the petitioner's filing of a motion for reconsideration with a Postal Money Order for P624.00 and the needed IBP O.R. number and date of payment of membership dues, the Court, in a Resolution dated November 27, 1991, reinstated the petition and required the respondents to answer (p. 58, Rollo).

In the meantime, the petitioners received a notice of Entry of Judgment from the NLRC. The respondents thereupon filed a motion for execution in the NLRC.

The petitioners filed a motion for cancellation of the entry of judgment, but it was denied by the Commission. Instead, the NLRC granted the employees' Motion for Execution on December 23, 1991. The petitioners moved for the reconsideration of this order but their motion was denied by the NLRC on January 14, 1992.

Petitioners submitted to this Court copies of twenty-three (23) quitclaims and release documents signed by most of the private respondents.

NAMES	**AMOUNT OF CLAIM**	**AMOUNT**
1. J. Toray		P4,000.00
2. Illegible		4,000.00

3. Warlito Matulac	16,624.99	5,650.00
4. Zosimo Queque	13,666.00	4,000.00
5. Ernesto Novilla	2,566.33	Illegible
6. Felicisimo Binondo, Jr.		6,000.00
7. Marcelino Cagas	17,283.33	5,187.50
8. Illegible		Illegible
9. Chona Laugo	26,512.00	4,000.00
10. Rebecca Agtolo	7,900.00	4,000.00
11. Perla Gonzalez		4,000.00
12. Pauline Maglocot	5,100.00	4,000.00
13. Aida Laugo	1,333.33	4,000.00
14. Lourdes Morales	3,450.00	4,000.00
15. Ramon Basilla	4,400.00	4,000.00
16. Charlotte David	3,200.00	4,000.00
17. Heliodoro Judilla	120,150.00	4,000.00
18. Illegible		4,000.00
19. Raulito Dalos		4,000.00
20. Ma. Elena Palarpalar	14,726.16	4,000.00
21. Crispin Hernandez	1,700.00	4,000.00
22. Izra Matulac	1,725.00	Illegible
23. Ireneo Neri	10,200.00	4,000.00

(pp. 122-144, Rollo.)

The petitioners allege that they misunderstood the provisions of Section 12 of Rule XVI of the Rules to Implement the Labor Code which reads thus:

> "Sec. 12. Appeal fee and bond. — The interested party appealing any decision, order or award of the lower body or agency shall pay a filing fee of twenty-five pesos (P25.00) with the body or agency of origin except deadlock in negotiation cases wherein the minimum appeal fee shall be P50.00.
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> "To stay the execution of the decision, order or award, the appealing party shall post an appeal bond to be determined and approved by the Commission or Labor Arbiter, Med-Arbiter, Regional Director or Director of the Bureau of Origin, as the case may be." (Emphasis supplied.)

They allegedly thought that this provision means that the Labor Arbiter would notify them of the amount of their appeal bond. Since they did not receive any such notice, they did not post a bond.

That pretext is untenable for Article 223 of the Labor Code fixes the bond "in the amount equivalent to the monetary award in the judgment appealed from.

> "Art. 223. Appeal. — x x x
>
> "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." (As amended by R.A. 6715, effective March 2, 1989.)

Similarly, Rule VI of the New Rules of Procedure of the National Labor Relations Commission provides:

> "Sec. 6. Bond. — In case the decision of a Labor Arbiter involves a monetary award, an appeal by the employer shall be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Commission or the Supreme Court in an amount equivalent to the monetary award."

Moreover, the Notice of Order/Decision Entered attached to the judgment and sent to the parties contained the following caveat below:

> "5. In case of 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." (Art. 223, R.A. 6715, Revised Rules of the Labor Code.)

Finally, in the NLRC's Resolution dated July 15, 1991, NLRC had also pointed out that:

> "The posting of a cash or surety bond equivalent to the monetary award in the judgment appealed from is a mandatory requirement for perfection of the appeal under Article 223 of the Labor Code and the aforecited provisions of the New Rules of Procedure of the NLRC.
>
> "We cannot help it if respondents [petitioners] do not believe in complying with this requirement. The law is the law." (p. 28, Rollo.)

The perfection of an appeal within the reglementary period from receipt of the decision is jurisdictional. (Veterans Philippine Scout Security Agency vs. NLRC, 174 SCRA 347, cited in Italian Village Restaurant vs. NLRC, 207 SCRA 208). To extend the appeal period is to delay the case, a circumstance which would give the employer a chance to wear out the efforts and meager resources of the worker to the point that the latter would be constrained to give up his suit for less than what is due him. (Arceo vs. NLRC, Third Division, Minute Resolution cited in Italian Village Restaurant vs. NLRC, 207 SCRA 204, 208.)

> "The intention of the lawmakers to make the bond an indispensable requisite for the perfection of an appeal by the employer is clearly limned in the provision that an appeal by the employer may be perfected `only upon the posting of a cash or surety bond.' The word `only' makes it perfectly clear that the lawmakers intended the posting of a cash or surety bond by the employer to be the exclusive means by which an employer's appeal may be perfected.
>
> x x x
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> "The requirement that the employer post a cash or surety bond to perfect its/his appeal is apparently intended to assure the workers that if they prevail in the case, they will receive the money judgment in their favor upon the dismissal of the employer's appeal. It was intended to discourage employers from using an appeal to delay, or even evade, their obligation to satisfy their employees' just and lawful claims." (Viron

> Garments Manufacturing Co., Inc. vs. NLRC, 207 SCRA 339, 342.)

The petitioners' alleged business losses had not been sufficiently established. While business reverses can be a just cause for terminating employees, they must be sufficiently proved by the employer. (Indino vs. NLRC, 178 SCRA 168; Union of Filipino Workers [UFW] vs. NLRC, 207 SCRA 435, 442.)

Article 283 of the Labor Code points the way to close down a business:

> ART. 283. Closure of establishment and reduction of personnel. — The employer may also terminate the employment of any employee to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the Ministry of Labor and Employment [now the Department of Labor and Employment] at least one (1) month before the intended date thereof. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year."

The twenty-three (23) quitclaims allegedly signed by twenty-three (23) employees/private respondents, do not warrant the setting aside of the awards in their favor.

> "In labor jurisprudence, it is well established that quitclaims and/or complete releases executed by the employees do not estop them from pursuing their claims arising from unfair labor practice of the employer. The basic reason for this is that such quitclaims and/or complete releases are against public policy and, therefore, null and void. The acceptance of termination pay does not divest a laborer of the right to prosecute his employer for unfair labor practice acts. (AFP Mutual Benefit Association,

> Inc. vs. AFP-MBAI-EU, 97 SCRA 715, 729; Lopez Sugar Corp. vs. Federation of Free Workers, 189 SCRA 179, 192-193.)

The reason has been stated as follows:

> "Acceptance of those benefits would not amount to estoppel. The reason is plain. Employer and employee, obviously, do not stand on the same footing. The employer drove the employee to the wall. The latter must have to get hold of money. Because, out of job, he had to face the harsh necessities of life. He thus found himself in no position to resist money offerred. His, then, is a case of adherence (sic) not of choice. One thing sure, however, is that petitioners did not relent on their claim. They pressed it. They are deemed not to have waived any of their rights. Renuntiatio non praesumitur." (Cariño vs. Agricultural Credit and Cooperative Financing Administration, 18 SCRA 183, 190.)

While the Labor Code encourages "all efforts toward the amicable settlement of a labor dispute" (Art. 221, Labor Code, as amended by R.A. 6715), and a quitclaim partakes the nature of a compromise, the implementing rules require that such a settlement "shall be approved by the Labor Arbiter (before whom the case is pending) after being satisfied that it was voluntarily entered into by the parties and after having explained to them the terms and consequences thereof" (Sec. 2, Rule V, The New Rules of the NLRC).

The reason for this rule is not hard to find. It is for the employees' protection for the Labor Arbiter before whom the case is pending would be in a better position than just any labor arbiter to personally determine the voluntariness of the agreement and certify its validity.

The quitclaims presented by the petitioners were executed in the NLRC, Regional Arbitration Branch No. II, in Cebu City, and signed by Labor Arbiters Dominador A. Almirante, Nicasio C. Aniñon and Executive Labor Arbiter Gelacio L. Rivera, Jr. who had no participation in any aspect of this case. Hence, those quitclaims are not valid compromises. Nevertheless, since no party may unjustly enrich himself at the expense of another, the amounts received by the

private respondents under those quitclaims should be deducted from the amounts respectively due them under the decision of the NLRC.

WHEREFORE, the petition for certiorari if **DISMISSED** without prejudice to the recomputation of the awards to the private respondents in view of the payments already received by them under the quitclaims which they had signed and which the petitioners submitted to this Court.

SO ORDERED.

Cruz, Padilla and Bellosillo, *JJ.*, concur.
