

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**STAR ANGEL HANDICRAFT,
*Petitioner,***

-versus-

**G.R. No. 108914
September 20, 1994**

**NATIONAL LABOR RELATIONS
COMMISSION (THIRD DIVISION) and
Spouses HELEN AND JOLITO
FRIBALDOS,**

Respondents.

X-----X

DECISION

QUIASON, J.:

This is a Petition for *Certiorari* under Rule 65 of the Revised Rules of Court to set aside: (1) the Resolution of the Third Division of the National Labor Relations Commission (NLRC), dated October 23, 1992, in NLRC Case No. RAB-IV-2-4223-92-RI and (2) its Resolution

dated January 21, 1993, which denied petitioner's motion for reconsideration.

We grant the petition.

I

On February 12, 1992, private respondents filed a complaint against the Star Angel Handicraft owned by Ildefonso and Estella Nuique, with the Regional Arbitration Branch, Region IV, of the NLRC, for illegal dismissal, underpayment of wages, overtime pay, premium pay for holidays, premium pay for rest day, service incentive leave pay and thirteenth-month pay (RAB-IV-2-4223-92-RI).

By agreement of the parties, private respondents were allowed to report back for work, leaving only the money claims for the determination of the Labor Arbiter (Rollo, p. 2).

Private respondents filed their position paper on April 20, but petitioner failed to submit one despite several directives issued to it to do so (Rollo, pp. 25-28). On June 24, the case was set for hearing, but petitioner's counsel failed to appear. Thus, the case was submitted for resolution (Rollo, p. 2).

On August 7, petitioner filed a motion to admit its position paper with the supporting documents (Rollo, pp. 11-21).

On August 19, petitioner received a copy of the decision rendered by the Labor Arbiter dated July 22, 1992. In the decision, the money claims were resolved in favor of private respondents with Helen Fribaldos receiving an award of P45,347.00 and Jolito Fribaldos an award of P48,125.00, or a total sum of P93,472.00 (Rollo, p. 32).

Petitioner moved for the reconsideration of the decision of the Labor Arbiter (Rollo, p. 42). After the denial of the motion for reconsideration, petitioner appealed to the NLRC with an Urgent Motion to Reduce Bond, alleging as grounds grave abuse of discretion committed by the Labor Arbiter in computing the award of the claims based on an erroneous applicable, daily-minimum wage for the handicraft establishment (Rollo, p. 33).

On October 23, without resolving the Urgent Motion to Reduce Bond, the NLRC (Third Division) dismissed the appeal of petitioner for appellant's failure to put up a bond. Thus, the NLRC stated:

“On July 22, 1992, Labor Arbiter Ambrosio B. Sison rendered a Decision in the instant case awarding complainants Helen and Jolito Fribaldos wage differentials in the total amount of P93,472.00.”

Respondents duly filed their Memorandum of Appeal and paid appeal fee. However, respondents filed an Urgent Motion to Reduce Bond on the grounds that the Labor Arbiter committed errors of judgment and that it cannot afford to post bond equivalent to the amount awarded.

We dismiss the appeal.

The posting of cash or supersedeas bond equivalent to the award is mandated by law (Art. 223, Labor Code). Without such bond, the appeal is not perfected. And while the commission in meritorious cases allows reduction bond (sic), it must be for compelling reasons and shown by evidence. The posting of bond is likewise first required before the reduction thereof is allowed.

PREMISES CONSIDERED, respondents' appeal from the Decision of July 22, 1992 is hereby DISMISSED for failure to perfect appeal” (Rollo, pp. 40-41).

In its Resolution dated January 21, 1993, the NLRC (Third Division) denied the motion for reconsideration (Rollo, pp. 57-58).

Hence, this petition.

II

The pivotal issue raised by petitioner is whether the NLRC acted with grave abuse of discretion when it refused to act on the motion to reduce the appeal bond and when it dismissed the appeal for failure of petitioner to post the appeal bond.

There is no question about the timeliness of the filing of the motion for reduction of the appeal bond, which was annexed to the Memorandum on Appeal. The motion averred that a big portion of the awards had already prescribed, thus justifying the reduction of the bond from P93,472.00 to only P19,890.00.

The appeal bond is required under Paragraph 2 of Article 223 of the Labor Code, which provides:

“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.”

Section 3(a), Article 223, Rule VI of the New Rules of Procedure of the NLRC provides:

“Requisites for Perfection of Appeals. — (a) The appeal shall be filed within the reglementary period as provided in Section 1 of the 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.”

Under Section 5 of Rule VI, the appellant is required to pay an appeal fee of P100.00 to the Regional Arbitration Branch, Regional Office, and to attach to the records of the case the official receipt of such payment.

In Section 6 of Rule VI, it is provided that:

“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.

The Commission may, in meritorious cases and upon Motion of the Appellant, reduce the amount of the bond. (However, an

appeal is deemed perfected upon the posting of the bond equivalent to the monetary award exclusive of moral and exemplary damages as well as attorney's fees [Deleted, effective on January 14, 1992]).

Nothing herein however, shall be construed as extending the period of appeal.”

In dismissing the appeal, the NLRC said: “The posting of bond is likewise first required before the reduction thereof is allowed.” In other words, the NLRC would not act on a motion for the reduction of the bond unless petitioner first files the bond, the amount of which he is precisely contesting. This posture of the NLRC needs rethinking.

What obviously misled the NLRC in imposing the posting of a bond as a precondition before it can act on the motion to reduce the bond is the provision of Article 223 (par. 2) of the Labor Code which requires the posting of the bond before the appeal “may be perfected.”

There is a clear distinction between the filing of an appeal within the reglementary period and its perfection. The latter may transpire after the end of the reglementary period for filing the appeal.

Under Article 223 of the Labor Code, an appeal to the NLRC from the decision, awards or orders of the Labor Arbiter must be made “within ten (10) calendar days from receipt of such decisions, awards or orders.” Under Section 3(a) of Rule VI of the New Rules of Procedure of the NLRC, the appeal fees must be paid and the memorandum of appeal must be filed within the ten-day reglementary period.

Neither the Labor Code nor its implementing rules specifically provide for a situation where the appellant moves for a reduction of the appeal bond.

Inasmuch as in practice the NLRC allows the reduction of the appeal bond upon motion of appellant and on meritorious grounds, it follows that a motion to that effect may be filed within the reglementary period for appealing. Such motion may be filed in lieu of a bond which amount is being contested. In the meantime, the appeal is not deemed perfected and the Labor Arbiter retains jurisdiction over the

case until the NLRC has acted on the motion and appellant has filed the bond as fixed by the NLRC.

An analogous procedure is the extension of time to file a record on appeal, provided the motion for such extension is filed before the expiration of the reglementary period for filing said record on appeal (Vda. de Capulong vs. Workmen's Insurance Co., Inc., 178 SCRA 314 [1989]; Tuason vs. Court of Appeals, 43 SCRA 664 [1972]). If the order of the trial court granting the motion is issued only after the expiration of the original period, the appeal may still be perfected within the period extended (Singbengco vs. Arellano, 99 Phil. 952 [1956]). Likewise, the appeal is deemed perfected only after the approval of the record on appeal and not upon the filing of said record on appeal.

We have, heretofore, relaxed the requirement of the posting of an appeal bond as a condition for perfecting an appeal under Article 223 of the Labor Code. In Erectors, Incorporated vs. National Labor Relations Commission, 202 SCRA 597 (1991), we nullified an order of the NLRC which required the appellant to post a bond of P575,222.00 within ten days from receipt of the order or suffer the dismissal of the appeal. The bond therein required was based on the award which was erroneously computed based on the salary which the employee was no longer receiving at the time of his separation and "which even included in the computation the award of P400,000.00 for moral and exemplary damages."

In Blancaflor vs. National Labor Relations Commission, 218 SCRA 366 (1993), Rada vs. National Labor Relations Commission, 205 SCRA 67 (1992), and Your Bus Line vs. National Labor Relations Commission, 190 SCRA 160 (1990), we cautioned the NLRC to give Article 223 of the Labor Code, particularly the provisions on requiring a bond on appeals involving monetary awards, a liberal interpretation in line with the desired objective of resolving controversies on the merits.

WHEREFORE, the Resolutions of the NLRC (Third Division) dated October 23, 1992 and January 21, 1993 are **SET ASIDE**. The NLRC (Third Division) is **DIRECTED** to **ACT** on the motion for the

reduction of the appeal bond and to **ACCEPT** the appeal of petitioner after the filing of the appropriate appeal bond.

SO ORDERED.

Cruz, Davide, Jr., Bellosillo and Kapunan, JJ., concur.

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