Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

TOYOTA ALABANG, INC.,
Petitioner,

- versus -

EDWIN GAMES,
Respondent.

G.R. No. 206612

Present:

SERENO, *CJ*, Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, *JJ.*

Promulgated:
AUG 1 7 2015

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RESOLUTION

SERENO, *CJ:*

Remaining at bench is the Motion for Reconsideration[1] of petitioner Toyota Alabang, Inc. We had unanimously denied[2] its Petition for Review on Certiorari with Urgent Prayer for Injunctive Relief,[3] which sought the nullity of the Court of Appeals (CA) Decision and Resolution.[4] The CA affirmed the Resolutions[5] of the National Labor Relations Commission (NLRC) dismissing petitioner's appeal for non-perfection and for lack of merit. In effect, the NLRC sustained the ruling[6] of the labor arbiter (LA) finding that petitioner had illegally dismissed respondent Edwin Games (Games).

In gist, the antecedent facts are as follows:

Games, who worked as a foreman for petitioner, allegedly stole its vehicle lubricants. Subsequently, it charged him with qualified theft before the trial court. Two years thereafter, or on 24 August 2007, Games filed a

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[1] *Rollo*, pp. 159-169; filed on 8 January 2014.
[2] Id. at 157. In a Resolution dated 30 September 2013, the Court resolved to deny the Petition for Review on Certiorari filed by petitioner on 27 May 2013
[3] Id. at 3-38; filed on 25 April 2013.
[4] The CA Decision dated 9 October 2012 and Resolution dated 25 March 2013 in CA-G.R. SP No. 114885 were penned by Associate Justice Normandie B. Pizarro, with Associate Justices Amelita G. Tolentino and Sesinando E. Villon concurring.
[5] The NLRC Resolutions dated 20 January 2010 and 11 May 2010 in NLRC NCR Case No. 00-08-09201-07 were penned by Commissioner Perlita B. Velasco, with Commissioner Romeo L. Go concurring.
[6] The Decision dated 5 February 2008 was penned by Labor Arbiter Marita V. Padolina.

Complaint for illegal dismissal, nonpayment of benefits, and damages against petitioner. The latter, through counsel, failed to file its Position Paper on the date set on 15 November 2007.

Several resettings of the hearings ensued. During the 21 December 2007 hearing, petitioner manifested that it had failed to file its Position Paper because its handling lawyer was no longer connected with the company. Then, in the hearing of 11 January 2008, petitioner failed to appear and even reneged on submitting its pleading. Accordingly, on 25 January 2008, the case was declared submitted for decision.

On 5 February 2008, the LA ruled against petitioner and ordered the latter to pay Games □535,553.07 for his separation pay, back wages, service incentive leave pay and attorney's fees resulting from his illegal dismissal. Petitioner no longer filed a motion for reconsideration. As a result, the LA's ruling became final and executory.

The LA issued a Writ of Execution, which petitioner sought to quash. It prayed that the proceedings be reopened, explaining that it had failed to present evidence because of its counsel's negligence in filing the appropriate pleadings. The LA denied the claims of petitioner. Aggrieved, the latter appealed before the NLRC.

The appeal of petitioner was denied due course because it had failed to show proof of its security deposit for the appeal bond under Section 6, Rule VI of the 2005 NLRC Rules of Procedure. According to the NLRC, the bonding company's mere declaration in the Certification of Security Deposit that the bond was fully secured[7] was not tantamount to a faithful compliance with the rule, because there must first be an accompanying assignment of the employer's bank deposit.

On the merits, the NLRC dismissed the case on the basis of the rule that no appeal may be taken from an order of execution of a final judgment.[8] For the NLRC, petitioner's failure to appeal the LA Decision already made the ruling final and executory.

Petitioner elevated the case to the CA via a Petition for Certiorari, but the action was dismissed. Firstly, the CA ruled that the NLRC did not gravely abuse its discretion in denying the appeal, given that petitioner had failed to comply faithfully with the bond requirement. Secondly, it echoed the ruling of the NLRC that a final judgment is no longer appealable. Thirdly, the CA found that petitioner's own negligence had caused it to lose its right to appeal.

Aggrieved, petitioner filed a Petition for Review on Certiorari with Urgent Prayer for Injunctive Relief before this Court. It disputed the finding that it did not show proof of its security deposit for the appeal bond. It also

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[7] *Rollo*, p. 155.
[8] 2011 NLRC Rules of Procedure, Rule V, Sec. 5.

insisted that its counsel's gross negligence justified the reopening of the proceedings below.

By way of a minute Resolution, this Court denied the petition considering that the allegations, issues and arguments raised by petitioner failed to sufficiently show that the CA had committed any reversible error in the challenged decision and resolution as to warrant the exercise of this Court's *discretionary* appellate jurisdiction. Hence, the instant Motion for Reconsideration.

The determinative issues in this case remain the same. This Court is tasked to review, on reconsideration, whether or not the CA committed a reversible error in refusing to reopen the proceedings below.

RULING OF THE COURT

To recall, the LA's decision finding that petitioner illegally dismissed respondent was already final and executory because of petitioner's failure to file a timely appeal. Therefore, the labor dispute between the parties should have been considered a closed case by then, and no longer subject to appeal. At that point, Games should have already reaped the benefits of a favorable judgment. Still, petitioner sought the reopening of the case, which the tribunals *a quo* denied.

This Court maintains that the CA correctly refused to reopen the proceedings below. The reopening of a case is an extraordinary remedy, [9] which, if abused, can make a complete farce of a duly promulgated decision that has long become final and executory. Hence, there must be good cause on the movant's part before it can be granted.

In this case, petitioner itself was negligent in advancing its case. As found by the appellate court, petitioner was present during the mandatory conference hearing in which the latter was informed by the LA of the need to file a Position Paper on 15 November 2007. However, petitioner not only reneged on the submission of its Position Paper, but even failed to move for the filing of the pleading at any point before the LA resolved the case on 5 February 2008.

Moreover, petitioner had failed to exhibit diligence when it did not attend the hearing on 11 January 2008, or any of the proceedings thereafter, despite its manifestation that it no longer had any legal representative. Given the instances of negligence by petitioner itself, the Court finds that the CA justly refused to reopen the case in the former's favor. Definitely, petitioner cannot now be allowed to claim denial of due process when it was petitioner who was less than vigilant of its rights.[10]

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[9] *Pascual v. Court of Appeals*, 360 Phil. 403 (1998).
[10] *(Catubay v. NLRC, G.R. No. 119289, [April 12, 2000], 386 PHIL 648-661)*

At this stage of appellate review, Justice Lucas P. Bersamin dissents and votes to remand the case to the LA for the reception of petitioner's evidence. He posits three reasons as follows:

First, he states that the NLRC gravely abused its discretion in requiring petitioner to post an appeal bond, because this requirement does not cover an appeal from a decision of the LA denying a motion to quash a writ of execution.

Second, he writes that in any event, the NLRC erred in requiring petitioner to accompany the appeal bond with proof of a security deposit or collateral securing the bond. He bases this point on the fact that the bonding company has already issued a Certificate of Security Deposit declaring that the appeal bond was fully secured by a security deposit equivalent to the judgment award.

Third, he advances the opinion that there may be merit in the Rule 45 petition filed by petitioner. He cites that it had a just cause to dismiss respondent after he had allegedly stolen its vehicle lubricants.

Before discussing these points, it is *apropos* to elucidate that this Court must be faithful to the framework of resolving labor cases on appellate review before this Court. *Universal Robina Sugar Milling Corporation v. Acibo* aptly explains:[11]

> This Court's power of review in a Rule 45 petition is limited to resolving matters pertaining to any perceived legal errors, which the CA may have committed in issuing the assailed decision. In reviewing the legal correctness of the CA's Rule 65 decision in a labor case, **we examine the CA decision in the context that it determined, i.e., the presence or absence of grave abuse of discretion in the NLRC decision before it and not on the basis of whether the NLRC decision on the merits of the case was correct.** In other words, we have to be keenly aware that the CA undertook a Rule 65 review, not a review on appeal, of the NLRC decision challenged before it. (Emphasis supplied)

Based on the foregoing, the task at hand involves a determination of whether or not the CA gravely erred in finding that the NLRC did not exceed its jurisdiction in refusing to grant petitioner's entreaty to reopen the case. In other words, as long as the exercise of discretion below is based on well-founded factual and legal bases,[12] no abuse of discretion amounting to lack or excess of jurisdiction can be imputed, and we are then justified to deny due course both to the Rule 45 petition and the concomitant Motion for Reconsideration.

The tribunals below gave overwhelming justifications for their rulings. In contrast, the first point espoused in the dissenting opinion has no basis. The paraphrased proposition that "an appeal bond is not required in appeals from decisions of the LA denying a motion to quash a writ of

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[11] G.R. No. 186439, 15 January 2014.
[12] *Garcia v. House of Representatives Electoral Tribunal*, 371 Phil. 280 (1999).

execution" lacks any citation sourced from a statute or case law. Article 223 of the Labor Code and Section 6, Rule VI of the 2011 NLRC Rules of Procedure, uniformly state thus:

> **In case** the decision of the Labor Arbiter or the Regional Director **involves a monetary award**, an appeal by the employer may be perfected only upon the posting of a bond, which shall either be in the form of cash deposit or surety bond equivalent in amount to the monetary award, exclusive of damages and attorney's fees. (Emphasis supplied)

Evidently, the above rules do not limit the appeal bond requirement only to certain kinds of rulings of the LA. Rather, these rules generally state that in case the ruling of the LA **involves a monetary award**, an employer's appeal may be perfected only upon the posting of a bond. Therefore, absent any qualifying terms,[13] so long as the decision of the LA involves a monetary award, as in this case,[14] that ruling can only be appealed after the employer posts a bond.

Clearly, this construction is but proper considering the avowed purpose of appeal bonds demanded by the law from employers in labor cases. This matter was discussed by the Court in *Computer Innovations Center v. NLRC*,[15] to wit:

> As earlier stated, the underlying purpose of the appeal bond is **to ensure that the employee has properties on which he or she can execute upon in the event of a final, providential award.** The non payment or woefully insufficient payment of the appeal bond by the employer frustrates these ends. Respondent Cariño alleges in his *Comment* before this Court that petitioner Quilos and his wife have since gone abroad, and wonders aloud whether he still would be able to collect his monetary award considering the circumstances. Petitioners, in their *Reply* and *Memorandum*, do not aver otherwise. Indeed, such eventuality appears plausible considering that Quilos himself did not personally verify the petition, and had in fact executed a Special Power of Attorney in favor of his counsel, Atty. Bernabe B. Alabastro, authorizing the filing of cases in his name. It does not necessarily follow that the absence of Quilos from this country precludes the execution of the award due Cariño. However, if the absence of Quilos from this country proves to render impossible the execution of judgment in favor of Cariño, then the latter's victory may sadly be rendered pyrrhic. The appeal bond requirement precisely aims to prevent empty or inconsequential victories by the laborer, and it is hoped that herein petitioners' refusal to post the appropriate legal appeal bond does not frustrate the ends of justice in this case. (Emphasis supplied)

If we are to construe otherwise, then an aggrieved party may simply seek the quashal of a writ of execution, instead of going through the normal modes of appeal, to altogether avoid paying for an appeal bond. This ruse will then circumvent the requirement of both labor rules and jurisprudence[16]

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[13] *Vera v. Cuevas*, 179 Phil. 307 (1979).
[14] *Rollo*, p. 147. The LA ordered petitioner to pay the following amounts: (1) ₱135,454 separation pay; (2) ₱348,320.09 backwages; and (3) ₱3,092.34 service incentive leave pay.
[15] 500 Phil. 573, 584-585 (2005).
[16] *AFP General Insurance Corporation v. Molina*, 579 Phil. 114 (2008); *Stolt-Nielsen Marine Services, Inc. v. NLRC*, 513 Phil. 642 (2005); *Navarro v. NLRC*, 383 Phil. 765 (2000); *Fernandez v. NLRC*, 349 Phil. 65 (1998); *Globe General Services and Security Agency v. NLRC*, 319 Phil. 531 (1995).

to post an appeal bond before contesting the LA's grant of monetary award. Hence, the first point is not only incorrect, but also dangerous.

The second point likewise fails to justify the grant of petitioner's Motion for Reconsideration. This point refers to the proper construction of Section 6, Rule VI of the 2011 NLRC Rules of Procedure, which demands that an appeal bond must be accompanied by a "proof of security deposit or collateral securing the bond."

According to the NLRC and the CA, the bonding company's mere declaration in the Certification of Security Deposit that the bond is fully secured[17] is not tantamount to a faithful compliance with the rule, because there must first be an accompanying assignment of the employer's bank deposit. On the other hand, the dissent sees this declaration as an act that satisfies Section 6, Rule VI of the 2011 NLRC Rules of Procedure. For this reason, he opines that the NLRC should have entertained the appeal of petitioner.

Notwithstanding this issue, the NLRC has given a well-founded reason for refusing to entertain petitioner's appeal, namely, **no appeal may be taken from an order of execution of a final and executory judgment.**

An appeal is not a matter of right, but is a mere statutory privilege. It may be availed of only in the manner provided by law and the rules.[18] Thus, a party who seeks to elevate an action must comply with the requirements of the 2011 NLRC Rules of Procedure as regards the period, grounds, venue, fees, bonds, and other requisites for a proper appeal before the NLRC; and in Section 6, Rule VI, the aforesaid rules prohibit appeals from final and executory decisions of the Labor Arbiter.

In this case, petitioner elevated to the NLRC an already final and executory decision of the LA. To recall, after petitioner learned of its former counsel's negligence in filing a Position Paper before the LA, it nonetheless failed to file a motion reconsideration to question the ruling of the LA that it illegally dismissed Games. At that point, the Decision was already final and executory, so the LA dutifully issued a Writ of Execution. Petitioner sought the quashal of the writ of execution and the reopening of its case only at that stage; and only after it was rebuffed by the LA did petitioner appeal before the NLRC. Based on the timeline, therefore, the LA's adverse Decision had become final and executory even prior to petitioner's appeal before the NLRC contesting the denial of the Motion to Quash the Writ of Execution. Consequently, the NLRC dismissed the appeal based on its clear prohibition under Section 5, Rule V of the 2011 NLRC Rules of Procedure.[19]

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[17] *Rollo*, p. 155.

[18] *Lepanto Consolidated Mining Corp. v. Icao,* G.R. No. 196047, 15 January 2014, 714 SCRA 1.

[19] Section 5. Prohibited Pleadings and Motions. - The following pleadings and motions shall not be allowed and acted upon nor elevated to the Commission: x x x h) Appeal from the issuance of a certificate of finality of decision by the Labor Arbiter; i) Appeal from orders issued by the Labor Arbiter in the course of execution proceedings. x x x.

The NLRC's reasoning that no appeal may be taken from an order of execution of a final and executory judgment is also rooted in case law. Jurisprudence dictates that a final and executory decision of the LA can no longer be reversed or modified.[20] After all, just as a losing party has the right to file an appeal within the prescribed period, so does the winning party have the correlative right to enjoy the finality of the resolution of the case.[21] On this basis, the CA did not grievously err when it concluded that the ruling of the NLRC denying petitioner's appeal was not baseless, arbitrary, whimsical, or despotic.[22]

Finally, as regards the third point pertaining to the advancement of the merits[23] of the case, it may no longer be properly considered by this Court. To adjudicate on the merits of the instant appeal would require the reopening of the whole case, a step that all the tribunals below – the LA, the NLRC, and the CA – have already refused to take.

As correctly ruled by the CA, the reopening of a case is, by default, not allowed merely on the ground that the counsel has been negligent in taking the required steps to protect the interest of the client, such as timely filing a pleading, appearing during hearings, and perfecting appeals.[24] An exception arises only when there is good cause and excusable negligence on the client's part.[25]

Both the explanation of the CA and the records undeniably show no good cause or excusable negligence on the part of the client – petitioner Toyota Alabang, Inc. – given the totality of the instances of the latter's own negligence in these proceedings, *viz*: (1) despite being informed, during the mandatory conference hearing, of the necessity to file a Position Paper, petitioner reneged on its duty to timely submit its Position Paper to the LA on 15 November 2007; (2) after manifesting that it no longer had a counsel, petitioner was still absent on 11 January 2008, the date when it could still have submitted its belated Position Paper; (3) thereafter, it altogether absented itself from all the proceedings before the LA; (4) at no point before the LA's resolution of the case on 5 February 2008 did petitioner file a Position Paper; and (5) after allowing the LA Decision to attain finality as a result of its non-submission of an appeal or a motion for reconsideration, petitioner belatedly sought the quashal of the execution of the LA Decision granting compensation to respondent.

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[20] *Building Care Corporation v. Macaraeg*, G.R. No. 198357, 10 December 2012, 687 SCRA 643; *Marmosy Trading, Inc. v. CA*, G.R. No. 170515, 6 May 2010, 620 SCRA 315; *Siy v. NLRC*, 505 Phil. 265 (2005); *Tan v. Timbal, Jr.*, 487 Phil. 497 (2004); *J.D. Legaspi Construction v. NLRC*, 439 Phil. 13 (2002).

[21] *Philux, Inc. v. NLRC*, 586 Phil. 19, 33-34 (2008), citing *Borja Estate v. Spouses Ballad*, 498 Phil. 694, 708 (2005).

[22] *Philippine Advertising Counselors, Inc. v. NLRC*, 331 Phil. 694 (1996).

[23] *Rollo*, pp. 145-146. On the merits, the LA held that respondent was terminated by petitioner without just cause and due process of law. The LA found that even if petitioner found the box containing the alleged stolen properties inside the Toyota Altis driven by respondent, the latter "was not guilty of anything as it was Janus Demetrio who placed the same inside the car" of which respondent has no knowledge."

[24] *Eco v. Rodriguez*, 107 Phil. 612 (1960).

[25] Ruben E. Agpalo, Comments on the Code of Professional Responsibility and the Code of Judicial Conduct, 263 (2001); *Producers Bank of the Philippines v. Court of Appeals*, 430 Phil. 812 (2002); *Macapagal v. Court of Appeals*, 338 Phil. 206 (1997); *Ramones v. NLRC*, G.R. No. 94012, 17 February 1993, 219 SCRA 62; *Republic v. Tajanlañgit*, 117 Phil. 670 (1963); *Fernandez v. Tan Tiong Tick*, 111 Phil. 773 (1961).

Despite the overwhelming lapses mentioned above, the dissent maintains that petitioner cannot be considered negligent by any measure. According to the dissent, petitioner could not be faulted for failing to file a position paper because the filing of pleadings has been entrusted to its counsel. For the dissent, "given the nature and extent of its business and operations, the petitioner could not be expected to supervise and monitor all the cases it had entrusted to its lawyer." But, this stance is baseless as can be seen by the lack of legal citation in the dissent.

More importantly, this Court cannot give special treatment to petitioner. In our past cases, this Court already held that the failure of the counsel to file the required position papers before the LA is not a ground to declare that petitioner had been deprived of due process; and is not a cause to conclude that the proceedings *a quo* had been null and void.[26] In *Building Care Corporation v. Macaraeg*,[27] this Court thoroughly explained that:

> It is, however, an oft-repeated ruling that the negligence and mistakes of counsel bind the client. A departure from this rule would bring about never-ending suits, so long as lawyers could allege their own fault or negligence to support the client's case and obtain remedies and reliefs already lost by the operation of law. The only exception would be, where the lawyer's gross negligence would result in the grave injustice of depriving his client of the due process of law. In this case, there was no such deprivation of due process. Respondent was able to fully present and argue her case before the Labor Arbiter. She was accorded the opportunity to be heard.

We have consistently held that the requirements of due process are satisfied when the parties are given the opportunity to submit position papers wherein they are supposed to attach all the documents that would prove their claim in case it be decided that no hearing should be conducted or was necessary.[28] Here, petitioner, despite being given several chances to pass its position paper, did not at all comply. Worse, petitioner also had other instances of negligence. Consequently, this Court cannot redo the whole proceedings of the Labor Arbiter who had already afforded due process to the former.

Given the foregoing reasons, juxtaposed with the high threshold for resolving appellate reviews in labor cases before this Court, we rule for the denial of petitioner's Motion for Reconsideration.

WHEREFORE, the Petition for Review with Urgent Prayer for Injunctive Relief filed by Toyota Alabang, Inc. is **DENIED** with **FINALITY**. No further pleadings shall be entertained in this case. Let an Entry of Judgment be issued in due course.

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[26] *STI Drivers Assn. v. Court of Appeals*, 441 Phil. 166 (2002); *Catubay v. NLRC,* 386 Phil. 648 (2000); *Gandara Mill Supply v. NLRC,* 360 Phil. 871 (1998); *Villa Rhecar Bus v. De La Cruz*, 241 Phil. 14 (1988).
[27] *Building Care Corp. v. Macaraeg*, G.R. No. 198357, 10 December 2012, 687 SCRA 643, 648-649.
[28] *Consolidated Rural Bank, Inc. v. NLRC*, 361 Phil. 172 (1999).

SO ORDERED.

MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

WE CONCUR:

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

I dissent :

LUCAS P. BERSAMIN
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice