

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**ASSOCIATED ANGLO-AMERICAN
TOBACCO CORPORATION,**
Petitioner,

-versus-

**G.R. No. 125602
April 29, 1999**

**NATIONAL LABOR RELATIONS
COMMISSION, THIRD DIVISION,
LABOR ARBITER RICARDO N.
OLAIREZ, RUBEN DE LA CRUZ
ROMANO and LUCIO L. MAGGAY,**
Respondents.

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DECISION

BELLOSILLO, J.:

The crux of the present controversy is whether the appeal from the decision of the Labor Arbiter to the National Labor Relations Commission was perfected within the reglementary period.

On 6 October 1995 private respondent Ruben de la Cruz Romano filed before the Regional Arbitration Branch No. II of Tuguegarao, Cagayan, a complaint against petitioner Associated Anglo-American Tobacco Corporation, a corporation duly organized under the laws of

the Philippines manufacturing and selling cigarette products, claiming that he was employed as truck driver by petitioner from 1 October 1973 to 14 December 1994; after twenty-one (21) years of employment he retired due to failing eyesight; in those twenty-one (21) years, he was underpaid and deprived of his 13th month pay, service incentive leave pay and overtime pay. Upon his retirement, he requested financial assistance from petitioner but was denied.

On 6 November 1995 another complaint was filed against petitioner this time by private respondent Lucio L. Maggay before the same Regional Arbitration Branch No. II claiming that he was also hired in April 1972 as delivery truck helper and since then was underpaid and deprived of his 13th month pay and service incentive leave pay.

Summons was served on Elpidio Ching, named in the complaint of private respondent Romano as petitioner's owner/Manager/President. On 19 October 1995 Atty. Jesus John B. Garma appeared for Ching and manifested that his client was a mere salesman, not an owner nor President of petitioner corporation, and asked that Ching be dropped as party respondent. Before acting on the request, the Labor Arbiter ordered another summons to be served on petitioner.^[1]

On 23 November 1995 Atty. Garma filed a motion reiterating his prayer for Ching to be dropped from the complaint. It was granted.^[2]

For the three (3) scheduled mandatory conferences petitioner failed to appear. No reason was given thus leaving the Labor Arbiter with no other option but to consider petitioner to have waived its right to be heard and to present evidence.

On 21 February 1996 the Labor Arbiter granted the money claims of private respondents, except those covered by the period before September 1992 in the case of Romano, and before November 1992 in the case of Maggay, on account of prescription. In addition, the Labor Arbiter granted attorney's fees of ten per cent (10%) of the total monetary awards plus interest of one per cent (1%) per month until full payment.^[3]

Petitioner appealed on the grounds inter alia that it did not receive a copy of the complaint nor of the notice of hearing and that Ching was its exclusive distributor/dealer of cigarette products in Cagayan Valley and who directly hired both private respondents. However, on 27 May 1996 public respondent National Labor Relations Commission dismissed the appeal for having been filed beyond the 10-day prescriptive period from receipt of the questioned decision.^[4] According to the NLRC, inasmuch as the decision was received by petitioner on 23 February 1996, it had up to 4 March 1996^[5] to file its appeal, but did so only on 14 March 1996.^[6]

Petitioner sought reconsideration alleging that the letter of transmittal of the records by Labor Arbitration Associate Ofelia Q. Urangan addressed to the Executive Clerk of Court of the NLRC bowed that it received the Labor Arbiter's decision on 28 February 1996.^[7] On 25 June 1996 the NLRC denied consideration^[8] holding that on the basis of the Bailiff's Return which is the best proof of service — the Labor Arbiter's decision was duly served on petitioner on 23 February 1996 through one Ernesto Garma of the law office of Atty. Jesus John B. Garma.^[9]

Petitioner insists on the timeliness of its appeal since the letter of transmittal of the records and the registry return receipt disclose that it received the decision of the Labor Arbiter on 28 February 1996 so the last day to file its appeal fell on 9 March 1996; on the other hand, the date it sent through registered mail its notice of appeal with memorandum together with the requisite bond is indicated on the mailing envelope as 8 March 1996. Petitioner disputes the authority of Ernesto Garma or Atty. Jesus John B. Garma to receive the Labor Arbiter's decision on its behalf since Atty. Garma is the lawyer for Elpidio Ching who was responsible for the latter's exclusion as respondent before the Labor Arbiter.

The Solicitor General supports the stand of petitioner, for which reason, the NLRC filed its own comment stating that Ching was an agent/representative of petitioner whose lawyer was Atty. Garma based on petitioner's admission in the present petition that it "learned about the instant case through Ching, who assured (it) of taking whatever actions necessary to protect the interest of the company."^[10] The NLRC thus maintains that the notice of the

decision of the Labor Arbiter to Atty. Garma received through Ernesto Garma is notice to petitioner through Ching represented by Atty. Garma.

No abuse of discretion was committed by the NLRC. Section 4, Rule III, of its New Rules of Procedure states —

SECTION 4. Service of Notices and Resolutions. — (a) Notices or summons and copies of orders, resolutions or decisions shall be served on the parties to the case personally by the bailiff or duly authorized public officer within three (3) days from receipt thereof by registered mail; Provided that where a party is represented by counsel or authorized representative, service shall be made on such counsel or authorized representative.

We agree with the comment of respondent NLRC that petitioner's allegation in the present petition that it "learned about the instant case through Ching who assured (it) of taking whatever actions necessary to protect the interest of the company" is a virtual admission that Elpidio Ching was its authorized representative in the proceedings before the Labor Arbiter. Precisely, that assurance by Ching coupled with the apparent acceptance thereof by petitioner was enough consideration to clothe him with authority to act as such. Petitioner even reiterated this allegation in its memorandum herein^[11] and did not bother to refute the deduction therefrom by respondent NLRC. Rather, what petitioner impugns is the authority of Ernesto Garma or of Atty. Jesus John B. Garma to receive the Labor Arbiter's decision on its behalf since Atty. Garma is the lawyer for Ching who was responsible for the latter's exclusion as respondent before the Labor Arbiter. But petitioner sorely misses the point. It authorized Ching to act as its representative in the proceedings before the Labor Arbiter. This circumstance is settled on account of petitioner's admission in its petition as well as its memorandum before us. We consider the appearance of Atty. Garma for Ching, as an authorized representative of petitioner, to be an appearance also on petitioner's behalf. Moreover, petitioner failed to show that Ching availed of the services of Atty. Garma Solely for his personal benefit. We gather from the records instead that Atty. Garma was hired by Ching pursuant to his role as authorized representative of petitioner. The rejection by petitioner in the instant petition of Atty. Garma's

authority to act on its behalf, including that of Ernesto Garma, appears to be an expedient scheme and a mere subterfuge in order to pave the way for its appeal before respondent NLRC to be given due course, with the ultimate objective of avoiding payment of its financial liabilities to respondents. This Court simply will not allow itself to be an instrument in what is perceived to be a vain effort to deprive workingmen of the benefits of labor legislations.

The preceding discussion leads to the conclusion that service of the Labor Arbiter's decision on 23 February 1996 on Ernesto Garma of the law office of Atty. Garma effectively bound petitioner. Counting ten (10) days from 23 February 1996, petitioner's appeal should have been filed not later than 4 March 1996. Considering however that its Notice with Memorandum on Appeal was sent by registered mail only on 8 March 1996, the reglementary period within which to appeal had clearly lapsed.

Incidentally, the finding of the NLRC that petitioner's appeal was filed only on 14 March 1996 appears erroneous; it is not supported by the evidence. Rule VI of the New Rules of Procedure of the NLRC sets forth the rules concerning appeals from the decisions, awards or orders of the Labor Arbiter, POEA Administrator and Regional Director. Section 4 thereof says —

SECTION 4. Where Filed. — The appeal shall be filed with the respective Regional Arbitration Branch where the case was heard and decided.

However, the Sec. 4 fails to define the term "filing." In this regard, Sec. 3, Rule I, of the Rules provides —

SECTION 3. Suppletory application of Rules of Court and jurisprudence. — In the absence of any applicable provision in these Rules, and in order to effectuate the objectives of the Labor Code, the pertinent provisions of the Revised Rules of Court of the Philippines and prevailing jurisprudence may in the interest of expeditious labor justice and whenever practicable and convenient, be applied by analogy or in a suppletory character and effect.

The pertinent provision of the Rules of Court is Sec. 1, Rule 13, which reads —

SECTION 1. Filing with the court defined. — The filing of pleadings, appearances, motions, notices, orders and other papers with the court as required by these rules shall be made by filing them personally with the clerk of the court or by sending them by registered mail In the second case, the date of mailing of motions, pleadings, or any other papers or payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of the filing, payments or deposit in court. The envelope shall be attached to the record of the case (Emphasis supplied).

Petitioner's Notice with Memorandum on Appeal was sent by registered mail to the Regional Arbitration Branch No. II on 8 March 1996. The front and back portions of the enveloped^[12] thereof and the corresponding registry receipt^[13] show the post office stamp that it was mailed on said date. The Regional Arbitration Branch No. II received it on 14 March 1996. It was the latter date which the NLRC seemed to have regarded as the date of filing. This is error. Under Sec. 1, Rule 13 of the Rules of Court, the date of mailing, as shown by the post office stamp on the envelope or the registry receipt, is considered the date of filing in court, which in the present case was 8 March 1996.

WHEREFORE, the petition is **DISMISSED**. The resolution of public respondent National Labor Relations Commission of 27 May 1996 dismissing the appeal of petitioner Associated Anglo-American Tobacco Corporation for having been filed beyond the prescriptive period, as well as its resolution of 25 June 1995 denying reconsideration, is **AFFIRMED**.

SO ORDERED.

Puno, Mendoza, Quisumbing and Buena, JJ., concur.

[1] NLRC Records, Vol. I. p. 12.

[2] Id., p. 53.

- [3] Decision penned by Labor Arbiter Ricardo N. Olarez; Rollo, pp. 27-28.
- [4] Art. 223 of the Labor Code.
- [5] 1996 was a leap year.
- [6] Resolution penned by Presiding Commissioner Lourdes C. Javier with the concurrence of Commissioners Ireneo B. Bernardo and Joaquin A. Tanodra; Rollo, pp. 20-21.
- [7] NLRC Records. Vol. I. p. 200
- [8] Rollo, p. 23.
- [9] NLRC Records, Vol. I, back portion of p. 70-A.
- [10] Rollo, p. 7.
- [11] Rollo, p. 224.
- [12] NLRC Records, Vol. I. p. 176
- [13] Id., p. 95.