SUPREME COURT
THIRD DIVISION

DIONISIO B. AZUCENA,
Petitioner,

-versus-

G. R. No. 147955
October 25, 2004

FOREIGN MANPOWER SERVICES, K.S. KASMITO and FORTUNE LIFE & GENERAL ASSURANCE CO., INC.
Respondents.
x----------x

D E C I S I O N

CARPIO MORALES, *J.*:

From the Court of Appeals' November 17, 2000 Decision[1] in CA-G.R. SP No. 51225 affirming that of the National Labor Relations Commission (NLRC) which dismissed the complaint of petitioner, Dionisio B. Azucena, seeking to recover moral and exemplary damages, as well as its April 26, 2001 Resolution[2] denying petitioner's petition for relief from judgment, petitioner comes to this Court on a petition for review on certiorari.

The antecedent facts are as follows:

> On May 7, 1992, petitioner was hired by respondent, K.S. Kasmito (Kasmito), through its agent co-respondent Foreign Manpower Services (FMS), as Chief Engineer of the Santa Christina, a Norwegian vessel owned by Kasmito, at a monthly salary of $1,615.00 for a ten-month period.[3] To facilitate the remittance of his allotments to his wife, petitioner opened a joint account with her at Pilipinas Bank at its T.M. Kalaw Branch in Manila.
>
> On May 8, 1992, petitioner boarded the Santa Christina[4] and began to discharge his duties as Chief Engineer. On August 3, 1992, petitioner's contract of employment was terminated.[5]
>
> Petitioner thus filed on September 21, 1992, a complaint for non-payment of his allotment with the Philippine Overseas and Employment Administration (POEA) against herein respondents FMS, Kasmito and the vessel's insurer Fortune Life & General Insurance Co., Inc., docketed as POEA Case No. (L) 92-09-1320.

By Decision of July 13, 1994, the POEA ruled in favor of petitioner. Thus it disposed:

> WHEREFORE, premises considered, respondents are hereby ordered jointly and severally to refund to herein complainant the amount of ₱8,050.51 representing the balance of his family's allotment after deducting his repatriation cost.
>
> SO ORDERED.

Not satisfied, petitioner appealed the POEA decision to the NLRC which entered a new judgment in his favor as follows:

> WHEREFORE, premises considered the appealed Decision dated 13 July 1994 is hereby annulled and set aside and a new judgment is hereby entered ordering respondents to jointly and severally pay complainant his cash allotment equivalent to two (2) months salary, plus 10% thereof as attorney's fees.
>
> SO ORDERED.[6] *(Underscoring supplied)*

Respondents filed a motion for reconsideration of the NLRC decision which was, by resolution of July 3, 1995,[7] denied. The NLRC decision became final and executory.

On August 28, 1995, petitioner filed with the NLRC a complaint[8] for moral and exemplary damages as well as attorney's fees against respondents, docketed as NLRC NCR Case No. 00-08-00178-95, alleging that the POEA has no jurisdiction to award moral and exemplary damages. Petitioner justified his claim for damages by alleging that "[he] was out of employment for 3 years because of [his] case with the respondent which was entered in the POEA computer and kept [him] blacklisted in the shipping agencies."[9]

Petitioner subsequently expanded his claim for damages, he alleging that:

x x x

5. Upon arrival in Manila , my wife and I went to the Pilipinas Bank to withdraw the aforesaid cash allotment for June and July 1992. Unfortunately, my wife and I were maliciously ignored and refused by the said bank to our great embarrassment in the presence of many people.

6. I was informed by the bank manager that FMS notified/ instructed the bank to withhold or otherwise disallow the withdrawal of the aforesaid cash allotment. I was informed that FMS claimed that I was liable for reimbursement of my repatriation expenses.

7. As a result of the aforesaid incident, I suffered sleepless nights, mental anguish, wounded feelings, moral shock and besmirched reputation. I was humiliated in front of so many people in the bank. I cannot sleep for several days thinking over how I could recover the hard earned money deposited in the bank but the enjoyment and possession of which was being unlawfully being withheld from me.

8. Worse, my career as a chief marine engineer was ruined. I applied with other shipping agencies, however, respondent FMS blacklisted me as a result of the case I filed against them. Thus, I was deprived of work as a result of respondents wanton, malevolent and illegal acts.[10] *(Underscoring supplied)*

Petitioner thus prayed:

x x x

13. On account of the wanton, arrogance, oppressive and malevolent attitude of Foreign Manpower Services. I was deprived of my salary cash allotment worth ₱61,000.00 and suffered moral damages which though not susceptible of pecuniary estimation, I pray of this Honorable Office to grant me ₱1,000,000.00 by way of moral damages and to alleviate the moral suffering I have undergone by reason of Foreign Manpower Services culpable action.

14. Foreign Manpower Services unlawful, malevolent and oppressive acts necessitate the award of exemplary damages, by way of example for the public good and to deter those similarly minded not to commit the same act. It is but just to impose exemplary damages against Foreign Manpower Services in the amount of ₱500,000.00.[11]

On motion of FMS, on grounds of prescription and lack of jurisdiction,[12] Labor Arbiter Ricardo Nora dismissed petitioner's complaint by Order of October 23, 1995.[13]

On appeal by petitioner, the NLRC, by decision of March 29, 1996,[14] reversed the labor arbiter's dismissal order and remanded the case for appropriate proceedings on the issue of damages.

Finding in favor of petitioner, Labor Arbiter Vladimir Sampang, by decision of January 30, 1998,[15] ordered respondents Kasmito and FMS to indemnify petitioner the amount of

₱100,000.00 as moral and exemplary damages, and ₱10,000.00 as attorney's fees.[16]

On appeal by both parties, the NLRC, by resolution of May 29, 1998,[17] reversed and set aside the labor arbiter's decision and dismissed the complaint.[18]

Petitioner's motion for reconsideration having been denied by the NLRC, he filed a petition for certiorari[19] with this Court which was, pursuant to the ruling in *St. Martin Funeral Homes vs. NLRC*,[20] subsequently referred to the Court of Appeals where it was docketed as CA-G.R. SP No. 51225.[21]

Noting that the petition for certiorari did not even allege as to how the NLRC committed grave abuse of discretion amounting to lack of jurisdiction, the Court of Appeals, by Decision of November 17, 2000,[22] dismissed the same.[23]

Petitioner's counsel, Atty. Ramon B. Corteza, Jr., received a copy of the Court of Appeals' Decision on November 27, 2000.[24] Petitioner thus had until December 12, 2000 to file either a motion for reconsideration[25] or a petition for review on certiorari under Rule 45,[26] but petitioner did not avail of either remedy.

Petitioner's counsel Atty. Corteza subsequently filed with the Court of Appeals on January 18, 2001 a petition for relief from judgment,[27] alleging that while his office received a copy of the November 17, 2000 Court of Appeals' Decision on November 27, 2000, he was in the process of relocating his office, hence, he was prevented from filing an appeal as he only came to know of the decision on December 13, 2000.[28] The Court of Appeals, by Resolution of April 26, 2001,[29] denied the petition for relief from judgment.

Petitioner, through his new counsel, Attys. Teresita S. de Guzman and Froilan L. Valdez of the Public Attorney's Office, thereupon lodged the present petition for review on certiorari,[30] anchored on the following assignments of error:

I.

THE COURT OF APPEALS, WITH DUE RESPECT, HAS COMMITTED REVERSIBLE ERROR IN NOT OBSERVING SECTIONS 9 AND 18 OF ARTICLE II AS WELL AS SECTION 3, ARTICLE XIII OF THE 1987 CONSTITUTION DISREGARDING SOCIAL JUSTICE AND LABOR JUSTICE.

II.

WITH DUE RESPECT, THE COURT OF APPEALS HAS MISERABLY ERRED IN NOT ABIDING BY THE SPECIFIC PROVISIONS OF THE LABOR CODE SUCH AS ARTICLES 3 AND 217 THEREOF TO THE DAMAGE AND PREJUDICE OF PETITIONER HEREIN.

III.

THE COURT OF APPEALS, WITH DUE RESPECT, HAS MISERABLY ERRED IN NOT AWARDING THE PETITIONER DAMAGES AND OTHER RELIEFS IN VIOLATION OF THE CIVIL CODE MORE PARTICULARLY ARTICLES 2197, 2217, 2219 AND 2229 THEREIN.[31]

The petition must fail.

At the outset, it must be stressed that the present petition seeking the reversal and setting aside of the Court of Appeals' November 17, 2000 Decision denying petitioner's petition for certiorari and its Resolution of April 26, 2001 denying petitioner's petition for relief from judgment[32] is a petition for review on certiorari under Rule 45 of the Rules of Court. As priorly stated, petitioner had until December 12, 2000 to file either a motion for reconsideration of the Court of Appeals' November 17, 2000 Decision or a petition for review on certiorari. Instead, he filed on January 18, 2001 before the Court of Appeals a petition for relief from judgment.

The period for filing a petition for review on certiorari having lapsed, petitioner may no longer assail the Court of Appeals' November 17, 2000 Decision through the said mode of review.

Neither may petitioner seek to set aside the Court of Appeals' April 26, 2001 Resolution denying his petition for relief from judgment through the same mode of review (petition for review on certiorari), for under Section 1(b) of Rule 41 of the Rules of Court, the denial of a petition for relief from judgment is subject only to a special civil action for certiorari under Rule 65:

> SECTION 1. *Subject of appeal.* – An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.
>
> No appeal may be taken from:
>
> x x x
>
> (b) An order denying a petition for relief or any similar motion seeking relief from judgment;
>
> x x x
>
> In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65. *(Emphasis and underscoring supplied).*

In seeking to reverse the Court of Appeals' Resolution denying his petition for relief from judgment by a petition for review on certiorari under Rule 45, petitioner has thus clearly availed of the wrong remedy.

This Court may not treat the present petition as a special action for certiorari under Rule 65 since the petition, instead of alleging grave abuse of discretion on the part of the Court of Appeals in denying the petition for relief from judgment, assigns reversible errors in the November 17, 2000 Decision.

Even assuming that the present petition alleged grave abuse of discretion on the part of the Court of Appeals, the same would still

have to be dismissed. In *Tuason vs. Court of Appeals*,[33] the Court explained the nature of a petition for relief from judgment:

> A petition for relief from judgment is an equitable remedy; it is allowed only in exceptional cases where there is no other available or adequate remedy. When a party has another remedy available to him, which may be either a motion for new trial or appeal from an adverse decision of the trial court, and he was not prevented by fraud, accident, mistake or excusable negligence from filing such motion or taking such appeal, he cannot avail himself of this petition. Indeed, relief will not be granted to a party who seeks avoidance from the effects of the judgment when the loss of the remedy at law was due to his own negligence; otherwise the petition for relief can be used to revive the right to appeal which had been lost thru inexcusable negligence.[34] *(Emphasis and underscoring supplied; citations omitted)*

In the case at bar, there was no fraud, accident, mistake, or excusable negligence that prevented petitioner from filing either a motion for reconsideration or a petition for review on certiorari of the November 17, 2000 Decision of the Court of Appeals. Negligence to be excusable must be one which ordinary diligence and prudence could not have guarded against.[35]

While the failure of petitioner's former counsel to notify him of the adverse decision to enable him to appeal therefrom constitutes inexcusable negligence, it is not a ground for relief from judgment. This is in accord with jurisprudence that notice sent to counsel of record is binding upon the client, and the neglect or failure of counsel to inform his client of an adverse judgment resulting in the loss of his right to appeal will not justify setting aside a judgment that is valid and regular on its face.[36]

That petitioner's former counsel was in the process of relocating his office does not constitute excusable negligence. This Court has admonished law offices to adopt a system of distributing and receiving pleadings and notices, so that the lawyers would be promptly informed of the status of their cases.[37]

In *Gold Line Transit, Inc. vs. Ramos*,[38] this Court upheld the lower court's denial of a petition for relief from judgment as petitioner's counsel was inexcusably negligent when he failed to inform the court of his new office address.

Undoubtedly, this unfortunate turn of events was counsel for petitioner's own doing. There was inexcusable negligence on his part in failing to inform the lower court of his new office address. He failed to receive the notices sent by the lower court because he transferred his law office without giving the proper notice therefor, or making the necessary arrangements to ensure that notices sent to his old address would be forwarded to his new address. There was also an apparent failure to check periodically, as an act of prudence and diligence, the status of the pending case before the trial court.

The Court has repeatedly admonished lawyers to adopt a system whereby they can always receive promptly judicial notices and pleadings intended for them, and they should always notify the court whenever they change their address. The fact that counsel allegedly had a dispute with his landlord over the payment of rents, thereby forcing him to move his law office, did not relieve him of his responsibilities to his clients. It is a problem personal to him which should not in any manner interfere with his professional commitments.[39]

While in the following circumstances, this Court departed from the rule that negligence of counsel generally binds the clients, to wit: (1) where reckless or gross negligence of counsel deprives the client of due process of law; (2) when its application will result in outright deprivation of the client's liberty or property; or (3) where the interests of justice so require,[40] such exceptions are unavailing in the instant case. Atty. Corteza's inexcusable negligence did not amount to his client's deprivation of due process of law. The right to due process safeguards the opportunity to be heard and to submit any evidence one may have in support of his claim or defense.[41] It cannot be gainsaid that the requirements of due process were observed in the instant case as petitioner was never deprived of his day in court as in fact he was afforded every opportunity to be heard.

Public interest demands an end to every litigation and a belated effort to reopen a case that has already attained finality will serve no purpose than to delay the administration of justice. To reverse the Court of Appeals' Resolution denying petitioner's petition for relief from judgment would put a premium on the negligence of petitioner's former counsel and encourage endless litigation. If the negligence of counsel would generally be admitted as a justification for opening cases, there would never be an end to a suit so long as a new counsel could be employed who could allege and show that prior counsel had not been sufficiently diligent, experienced or learned.[42]

WHEREFORE, the petition is **DISMISSED**.

SO ORDERED.

PANGANIBAN, *J.*, *(Chairman)*, SANDOVAL-GUTIERREZ, CORONA, and GARCIA, *JJ.*, concur.

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[1] Court of Appeals (CA) Rollo at 336-341.
[2] Id. at 362-363.
[3] Id. at 75.
[4] Id. at 80.
[5] Ibid.
[6] Id. at 38-39.
[7] Id. at 41.
[8] Id. at 44.
[9] Ibid.
[10] Id. at 76.
[11] Id. at 77.
[12] Id. at 44.
[13] Id. at 48-50.
[14] Id. at 69-74.
[15] Id. at 106-110.
[16] Id. at 110.
[17] Id. at 15-27.
[18] Id. at 27.
[19] Id. at 3-12.
[20] 295 SCRA 494 (1998).
[21] CA Rollo at 252.
[22] Id. at 336-341.
[23] Id. at 340.
[24] Id. at 345.

[25] Section 1 of Rule 52 provides:
SEC. 1. Period for filing. – A party may file a motion for reconsideration of a judgment or final resolution within fifteen (15) days from notice thereof, with proof of service on the adverse party.
[26] Section 2 of Rule 45 provides:
SEC. 2. Time for filing; extension. – The petition shall be filed within fifteen (15) days from notice of the judgment or final order or resolution appealed from, or of the denial of the petitioner's motion for new trial or reconsideration filed in due time after notice of the judgment. On motion duly filed and served, with full payment of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Supreme Court may for justifiable reasons grant an extension of thirty (30) days only within which to file the petition.
[27] CA Rollo at 348-353.
[28] Id. at 348-349.
[29] Id. at 362-363.
[30] Rollo at 9-26.
[31] Id. at 15-16.
[32] Id. at 9.
[33] 256 SCRA 158 (1996).
[34] Id. at 167.
[35] Gold Line Transit, Inc. vs. Ramos, 363 SCRA 262, 271 (2001).
[36] Mayuga vs. Court of Appeals, 261 SCRA 309, 317 (1996).
[37] 363 SCRA 262, 272 (2001).
[38] 363 SCRA 262 (2001).
[39] Id. at 272.
[40] Sarraga, Sr. vs. Banco Filipino Savings and Mortgage Bank, 393 SCRA 566, 574 (2002).
[41] Del Mar vs. Court of Appeals, 379 SCRA 295, 304 (2002).
[42] Fernandez vs. Tan Tiong Tick, 1 SCRA 1138, 1143 (1961).