

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
FIRST DIVISION**

**BALAGTAS                      MULTI-PURPOSE  
COOPERATIVE, INC. and AURELIO  
SANTIAGO,**

*Petitioners,*

*-versus-*

**G.R. No. 138520  
September 16, 1999**

**COURT OF APPEALS, NATIONAL  
LABOR RELATIONS COMMISSION and  
JOSEFINA HERRERO,**

*Respondents.*

X-----X

**DECISION**

**KAPUNAN, J.:**

This case stems from a complaint for illegal dismissal and nonpayment of 13<sup>th</sup> month pay filed by respondent Josefina Herrero against petitioners Balagtas Multi-Purpose Cooperative, Inc., and Aurelio Santiago, then the manager of said cooperative.

On March 23, 1998, the Labor Arbiter rendered a Decision in favor of respondent, thus:

WHEREFORE, premises considered, judgment is hereby entered in favor of complainant and against respondents, ordering the latter, jointly and severally as follows:

1. To pay the sum of P2,000.00 as 13th month pay of complainant for the years 1995 up to 1997;
2. To pay the additional sum of P188,000.00 as backwages of complainant from the date of her dismissal up to this writing; and
3. To pay the additional sum of P28,000.00 as separation pay of complainant from 1991 up to this writing.

All other issues or claims are hereby ordered dismissed for lack of merit.

SO ORDERED.<sup>[1]</sup>

Petitioners appealed the decision of the Labor Arbiter to the National Labor Relations Commission (NLRC) but did not post either a cash or surety bond.<sup>[2]</sup> Instead, they filed a MANIFESTATION and MOTION, stating, among others, that under Article 62(7) of the Cooperative Code of the Philippines,<sup>[3]</sup> petitioners are exempt from putting up a bond in an appeal from the decision of an inferior court.

On July 20, 1998, the NLRC issued an Order requiring petitioners to post a cash or surety bond, thus:

WHEREFORE, premises considered, respondents are hereby given ten (10) unextendible days from receipt of this Order within which to post a cash or surety bond in the amount of TWO HUNDRED EIGHTEEN THOUSAND (P218,000.00) PESOS, failure of which shall constitute a waiver and non-perfection of the appeal.

In addition thereto, the employer as well as counsel shall submit a joint declaration under oath attesting that the surety bond posted is genuine and that it shall be in effect until final disposition of the case.

SO ORDERED.<sup>[4]</sup>

The NLRC justified its order as follows:

The matter of posting a cash or surety bond is mandated by law of which respondents are presumed to be aware. Article 223 of the Labor Code, as amended by R.A. 6715 and pursuant to Sections 3 and 6, Rule VI of the 1990 New Rules of Procedure of the NLRC, provides that:

SECTION 3. Requisites for Perfection of Appeal. — (a) the appeal shall be filed within the reglementary period as provided in Section 1 of this Rules; 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 6 of this Rules. (Emphasis supplied).

SECTION 6. Bond. — In case the decision of a Labor Arbiter, POEA Administrator, 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.

Hence, We have no recourse but to order respondents-appellants to post the required cash or supersedeas bond.<sup>[5]</sup>

Petitioners thus filed a petition for certiorari before the Court of Appeals assigning as the only ground, that:

THE NLRC HAS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO IN EXCESS OR LACK OF JURISDICTION BECAUSE IN RENDERING THE ASSAILED ORDERS (ANNEXES 'A' & 'B') DIRECTING THE PETITIONERS TO POST AN APPEAL BOND, THE NLRC HAS DISREGARDED AND IGNORED THE CLEAR MANDATE OF PARAGRAPH 7, Article 69 OF REPUBLIC ACT NO. 6939, (sic) OTHERWISE KNOWN AS THE COOPERATIVE CODE OF THE PHILIPPINES, WHICH EXPRESSLY EXEMPTS COOPERATIVES, LIKE THE PETITIONERS, FROM POSTING

AN APPEAL BOND IN TAKING AN APPEAL FROM AN ADVERSE DECISION.<sup>[6]</sup>

The Court of Appeals, however, dismissed the petition in a Resolution dated January 29, 1999 holding that:

Section 3, Rule 46, in relation to Section 1 of Rule 65 of the 1997 Rules of Civil Procedure, requires that petitioners for certiorari shall be accompanied by a clearly legible duplicate original of the judgment, order, resolution, or ruling subject thereof, such material portions of the records as are referred therein and documents therein and documents relevant or pertinent thereto. And failure of compliance shall be sufficient ground for the dismissal of the petition. Regrettably, the petition at bench mentions of a Motion For Reconsideration to the order of July 20, 1998, yet no such motion is appended thereto. Likewise, the Certification (Annex D, Petition) is telling Us of a Financial Statement of the petitioner, a very important and relevant pleading in this case. Again, such Certification is nowhere to be found in the petition.

Consequently, this petition is ordered DISMISSED.

SO ORDERED.<sup>[7]</sup>

Petitioners moved for a reconsideration of the above resolution alleging that the failure to attach the motion for reconsideration and the financial statement were due to “plain oversight.” Petitioners attached to their motion copies of said motion for reconsideration of the July 20, 1998 Resolution of the NLRC and the financial statement, praying that the submission thereof be considered as substantial compliance with the rules.<sup>[8]</sup>

The Court of Appeals, in a Resolution dated April 26, 1999, denied the motion for reconsideration since:

In petitioner’s Motion For Reconsideration dated February 22, 1999, only the Motion For Reconsideration before the NLRC and Financial Statement of the Cooperative petitioner are attached but still without the other material documents

mentioned in the petition, such as, (a) complaint (sumbong), (b) position papers, and (c) resignation letter of private respondent.<sup>[9]</sup>

Thus, petitioners filed the present petition claiming that:

THE COURT OF APPEALS GRAVELY ERRED AND COMMITTED SERIOUS IRREGULARITY IN NOT FINDING PETITIONERS' SUFFICIENT COMPLIANCE WITH THE REQUIREMENTS OF SECTION 3, RULE 46 IN RELATION TO SECTION 1 RULE 65 OF THE 1997 RULES OF CIVIL PROCEDURE, AND THEREBY DISMISSING THE PETITION ON SHEER TECHNICALITY.<sup>[10]</sup>

We grant the petition.

The third paragraph of Section 3, Rule 46 of the Rules of Court requires that the petitioner attach to the petition “material portions of the record as are referred to therein, and other documents relevant or pertinent thereto,” thus:

It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner and shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the record as are referred to therein and other documents relevant or pertinent thereto. The certification shall be accomplished by the proper clerk of court or by his duly authorized representative, or by the proper officer of the court, tribunal, agency or office involved or by his duly authorized representative. The other requisite number of copies of the petition shall be accompanied by clearly legible plain copies of all documents attached to the original. [Emphasis supplied.]

It bears stressing that the petition before the Court of Appeals did not involve the validity of respondent's dismissal from employment. The only issue raised before the Court of Appeals is whether petitioners are exempt from posting a cash or surety bond. The motion for

reconsideration, the financial statement, the complaint (sumbong), the position papers and the resignation letter of respondent though mentioned in the petition, are therefore hardly material, relevant or pertinent thereto or to the resolution of the issue therein. Clearly, the Court of Appeals erred in dismissing the petition for certiorari and denying the motion for reconsideration filed by petitioners for their failure to attach these documents.

We, however, agree with the Court of Appeals that the financial statement is material to the question of petitioners' exemption from the posting of bond as a requisite for the perfection of its appeal. Article 62(7) of the Cooperative Code provides that:

All cooperatives shall be exempt from putting up a bond for bringing an appeal from the decision of an inferior court or for seeking to set aside any third party claim: Provided, That a certification of the Authority showing that the net assets of the cooperative are in excess of the amount of the bond required by the court in similar cases shall be accepted by the court as a sufficient bond. [Emphasis supplied.]

Thus the Certification issued by the Cooperative Development Authority states:

This is to certify that the BALAGTAS MULTI-PURPOSE COOPERATIVE of Sulok Panginay, Balagtas, Bulacan is a duly registered cooperative with the Cooperative Development Authority (CDA) under Registration Certificate No. PGA-456 dated September 24, 1992.

In this connection therefore, the aforesaid cooperative is entitled for exemption as provided for under Article 62 (7) of R.A. 6938 otherwise known as the Cooperative Code of the Philippines. Attached herewith is the financial statement of the cooperative as Annex 'A'.<sup>[11]</sup>

Nevertheless, the submission of said financial statement together with the motion for reconsideration constitutes substantial compliance with the requirements of Section 3, Rule 46. The rules of procedure are not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure substantial justice. If a

technical and rigid enforcement of the rules is made, their aim would be defeated.<sup>[12]</sup>

**WHEREFORE**, the petition is **GRANTED**. The Court of Appeals is hereby ordered to **ADMIT** the petition filed before it.

**SO ORDERED.**

**Davide, Jr., C.J., Puno, Pardo and Ynares-Santiago, JJ., concur.**

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[1] Rollo, p. 52.

[2] The second paragraph of Article 223 of the Labor Code 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.

[3] Republic Act No. 6938. An Act to Ordain a Cooperative Code of the Philippines.

[4] *Id.*, at 41.

[5] *Id.*, at 40-41.

[6] *Id.*, at 32.

[7] *Id.*, at 23. Emphasis in the original.

[8] *Id.*, at 57-58.

[9] *Id.*, at 25.

[10] *Id.*, at 14.

[11] *Id.*, at 53.

[12] *Director of Lands vs. The Hon. Court of Appeals, et al.*, G.R. No. L-47380, February 23, 1999.