

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**CRISANTO DAYONOT,
*Petitioner,***

-versus-

**G.R. No. 119116
September 3, 1998**

**NATIONAL LABOR RELATIONS
COMMISSION, AUTOGRAPHICS INC.,
PAUL Y. RODRIGUEZ and EUGENE L.
TOPACIO,**

Respondents.

X-----X

D E C I S I O N

MARTINEZ, J.:

In an illegal dismissal case filed by petitioner Dayonot against his employer, herein private respondents, the Labor Arbiter rendered a Decision^[1] in favor of petitioner which was affirmed by the National Labor Relations Commission (NLRC) and subsequently by this Court. After the decision became final and executory sometime in 1991, writs of execution were issued by the Labor Arbiter to Sheriff Leahmon Tolo to enforce the judgment. As the same were not fully satisfied, a third alias writ of execution was issued by the Labor Arbiter against private respondents. Sheriff Tolo levied a parcel of land located in Cebu City by sending a notice of levy to the Registry of Deeds of Cebu

City. On November 18, 1992, he issued a notice of sheriff's sale setting the sale of the levied real property on December 10, 1992.^[2] On the said date, Sheriff Tolo issued to petitioner a Certificate of Auction Sale which the former acknowledged before a Notary Public on March 18, 1993,^[3] or more than 3 months after issuance. Petitioner thereafter caused the corresponding annotations on private respondents' certificate of title over the levied property.

Sometime in March, 1994, petitioner filed a Motion for issuance of a Certificate of a Definite Deed of Sale contending that the one-year period for redemption of the disputed real property had lapsed without any redemption being made. Private respondents, on the other hand, filed on May 17, 1994 an Omnibus Motion to Cancel petitioner's annotations in their certificate of title, and also to declare that the judgment in favor of petitioner had been fully satisfied.^[4] They alleged that Sheriff Tolo was no longer a sheriff as early as January of 1992, and thus, all his acts, including the issuance of the certificate of auction sale subsequent to that day, are void and without effect. On July 7, 1994, the Labor Arbiter denied private respondents' omnibus motion and ordered the issuance of the Certificate of Sale to petitioner and to place him in possession of said property, thus:

“WHEREFORE, premises considered, the motion of the respondents is denied for lack of merit. Deputy Sheriff Mona Lisa A. Rendoque is hereby ordered to issue a Certificate of Sale to the auctioned property in favor of the complainant and also to place him in the possession of the said property.”^[5]

Private respondents appealed again to the NLRC which set aside the Labor Arbiter's ruling and annulled the Certificate of Sale after finding that Sheriff Tolo was already dismissed as sheriff at the time of the auction sale, the issuance of the certificate of sale and the notarization of said certificate. The dispositive portion of the NLRC decision reads:

“WHEREFORE, this Commission hereby resolves:

1. To SET ASIDE the Order dated 7 July 1997 issued by Labor Arbiter Ernesto F. Carreon;

2. To annul the Certificate of Sale dated March 18, 1993;
3. To order the Sheriff of the Regional Arbitration Branch No. VII of this Commission to take appropriate action in relation with the property of herein respondent-appellant, in accordance with the provision of the NLRC Manual on Execution of Judgment.

SO ORDERED.”^[6]

When his motion for reconsideration was denied by the NLRC,^[7] petitioner elevated the case via petition for certiorari to this Court. Initially, the petition was denied for failure of petitioner to submit proof of service as required by SC Circular No. 1-88. However, petitioner’s motion for reconsideration was granted by the Court.^[8]

The petition must fail.

We note at the outset that petitioner failed to state in his petition one of the material dates required under Circular No 1-88, particularly the date when he filed a motion for reconsideration of the December 20, 1994 NLRC decision. Such failure contravenes requirement No. 4 of said SC Circular which provides:

“(4) Verified statement of material dates. — A petition shall in all cases contain a verified statement of the date when notice of the judgment, order or resolution subject thereof was received, when a motion for reconsideration, if any, was filed, and when notice of the denial thereof was received; otherwise, the petition may be dismissed.” (Emphasis supplied)

and is sufficient ground for the outright dismissal of the petition. Moreover, upon a thorough examination of the Reply, the Memorandum and the annexes subsequently filed and submitted by petitioner, there was no mention nor any reference made on such material date.

Furthermore, the records reveal that the December 20, 1994 decision of the NLRC had become final and executory on March 6, 1995 per entry of judgment dated March 24, 1995.^[9] Petitioner obviously

evades the issue of finality of judgment mentioned by private respondents in their Comment. It should be noted that the purpose of a Reply filed in the Supreme Court is to respond to matters mentioned in the Comment.

Even if we disregard technicalities, the resolution of the case on the merits, still, will not favor petitioner. It is not disputed that at the time of the notice of levy, up to the alleged auction sale and the issuance of the certificate of sale and the notarization thereof, Sheriff Tolo was no longer holding the office of Sheriff.^[10] This is so because, as observed by the NLRC:

“x x x

Complainant [petitioner] has not refuted the allegations of herein respondent-appellant that Leahmon Tolo has not been reporting to office for the year 1992 and, in fact he has not been paid his salary as of May 1992.

x x x.”

In Manila Bay Club Corporation vs. Court of Appeals, et. al.,^[11] we reiterated the rule that the omission by a party “to rebut that which would have naturally invited an immediate, pervasive and stiff opposition from petitioner created an adverse inference that either the controverting evidences to be presented by petitioner will only prejudice its case, or that the uncontroverted evidence of private respondents indeed speaks of the truth.” The un rebutted allegation of Ex-Sheriff Tolo’s absence for the year 1992, can thus be considered as proof of the absence of a valid auction sale conducted by him. This, indeed, therefore, gives verity to the conclusion of respondent NLRC that:

“x x x

Under such circumstances, there is every good reason to suspect that there was no actual sale or public auction conducted on December 10, 1942 by Leahmon Tolo. Without the public auction sale actually conducted, there can be no basis for the issuance of the Certificate of Sale; and the registration of

such false Certificate of Sale will have no valid and legal effect and will not toll the prescriptive period for redemption of property.”^[12]

WHEREFORE, finding no reversible error in the herein assailed Resolutions dated December 20, 1994 and February 13, 1995, the petition is hereby **DISMISSED**.

SO ORDERED.

Melo, Puno and Mendoza, JJ., concur.
Regalado, J., is on leave.

[1] The dispositive portion of the Labor Arbiter’s decision reads:

“WHEREFORE, judgment is hereby rendered to wit:

- “1. declaring the dismissal of complainant as illegal and ordering the respondent jointly and severally to pay to the complainant his backwages from the date of his dismissal until the date of this decision in the sum of Fifteen Thousand Eight Hundred Twenty Nine Pesos and Sixty Three Centavos (P15,829.63), in lieu of reinstatement considering the strained relations between the parties;
2. ordering the respondents to pay to the complainant his separation pay in the sum of Three Thousand Three Hundred Eighty Pesos (P3,380.00);
3. ordering the respondents to pay the complainant moral damages and exemplary damages in the sum of Twenty Thousand Pesos (P20,000.00); and
4. plus 10% of the foregoing amount as attorney’s fees or a total aggregate amount of Forty Three Thousand One Hundred Thirty Pesos and Fifty Nine Centavos (P43,130.59) with this branch of the Commission within ten (10) days from receipt of this decision for appropriate disposition.

“All other claims are hereby denied for lack of sufficient legal and factual basis.

SO ORDERED.” (Rollo, pp. 20-21).

[2] Rollo, pp. 22-23.

[3] Rollo, p. 35.

[4] Rollo, p. 23.

[5] Order of the Labor Arbiter dated July 7, 1994; Rollo, pp. 36-38.

[6] NLRC Decision promulgated December 20, 1994 penned by Commissioner Amorito V. Cañete with Presiding Commissioners Ereneia E. Ceniza and Bernabe S. Batuhan, concurring; Rollo, p. 29.

- [7] Per Resolution dated February 13, 1995; Rollo, p. 32.
- [8] Dayonot vs. NLRC, G.R. No. 119116, March 22, 1995 & June 14, 1995 Minute Resolution; Rollo, pp. 4, 52.
- [9] Rollo, pp. 56, 166.
- [10] Rollo, pp. 26, 28, 37, 102.
- [11] G.R. No. 110015, October 13, 1995, Resolution denying the motion for reconsideration, penned by Justice Ricardo J. Francisco.
- [12] Rollo, pp. 28-29; 102-103; 126.

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