

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**ELCEE FARMS, INC., and CORAZON  
SAGUEMULLER,**

***Petitioners,***

***-versus-***

**G.R. No. 150286  
October 17, 2003**

**PAMPILO SEMILLANO and ONE  
HUNDRED THIRTY OTHERS and THE  
NLRC,**

***Respondents.***

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**RESOLUTION**

**AUSTRIA-MARTINEZ, J.:**

Before this Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court assailing the Decision,<sup>[1]</sup> dated February 23, 2001, rendered by the Court of Appeals in C.A. G.R. SP No. 56492 which dismissed for lack of jurisdiction the petition for annulment of a decision of the National Labor Relations Commission (NLRC), filed by Elcee Farms, Inc. (Elcee Farms for brevity) and Corazon Saguemuller.

The following are the antecedent facts:

On December 26, 1990, a complaint for illegal dismissal was filed by 144 employees before the NLRC (Regional Arbitration Branch No. VII, Bacolod City) against (a) petitioners Elcee Farms and Saguemuller; and (b) Hilla Corporation, Rey Hilado and Roberto Montaña. Of the 144 named complainants, only 28<sup>[2]</sup> submitted their affidavits and evidence of employment.

In a Decision<sup>[3]</sup> dated October 20, 1993, the Labor Arbiter ordered Hilla Corporation to pay each of the 28 complainants the sum of P2,235.62 as separation pay but dismissed all claims against Elcee Farms, Saguemuller, Hilado and Montaña, for lack of merit.<sup>[4]</sup>

Not satisfied with the decision, private respondents and Hilla Corporation appealed to the NLRC.

In a Decision<sup>[5]</sup> dated March 29, 1995, the NLRC modified the decision of the Labor Arbiter by holding all defendants liable for the payment of separation pay and adding the payment of P5,000.00 as moral damages to each complainant for all the troubles and sufferings from the disturbance of their rights to labor.<sup>[6]</sup> All the parties moved for reconsideration.

On May 29, 1996, the NLRC issued a Resolution<sup>[7]</sup> modifying its decision by: (a) absolving Hilla Corporation from liability and held only petitioners Elcee Farms and Saguemuller liable for the separation pay, moral and exemplary damages; and (b) increasing the number of awardees from 28 to 131<sup>[8]</sup> based on the list of remitted SSS contributions as of 1990.<sup>[9]</sup>

Aggrieved, petitioners filed two separate petitions for certiorari with this Court under Rule 65 of the Rules of Court through different counsels.

The first petition, docketed as G.R. No. 125714, was initiated on August 9, 1996 via a motion for a 60-day extension of time to file a petition for certiorari.<sup>[10]</sup> Petitioners filed a second motion for extension of time,<sup>[11]</sup> unaware that they were only granted by the Court a 30-day extension and they failed to submit their petition

within that period. Petitioners' counsel thereafter filed a motion for leave to withdraw the two motions for extension on the ground that said motions were not authorized by petitioners.<sup>[12]</sup> In a Resolution dated October 16, 1996, the Court through the Second Division denied: (a) the second motion for extension of time for being filed beyond the extension period granted by the Court, and (b) the motion to withdraw since the two motions for extension were filed before the authority of counsel was withdrawn by petitioners.<sup>[13]</sup> Subsequently, in a Resolution dated February 17, 1997, the Court considered the judgment sought to be reviewed as final and executory for failure of petitioners to file the petition for certiorari within the granted extension period.<sup>[14]</sup> On February 21, 1997, petitioners filed a Motion for Leave to Admit Manifestation and/or Motion for Clarification of the October 16, 1996 Resolution.<sup>[15]</sup> On April 10, 1997, petitioners filed a Motion for Reconsideration of the February 17, 1997 Resolution.<sup>[16]</sup> Both motions were denied with finality by the Second Division in its Resolution dated June 23, 1997.<sup>[17]</sup>

The second petition for certiorari, docketed as G.R. No. 126428, was filed on September 11, 1996, or a month after G.R. No. 125714 was filed with the Court.<sup>[18]</sup> In a Resolution dated November 12, 1997, the First Division of this Court gave due course to the petition and required: (a) the petitioners to pay the deposit for costs; and, (b) both parties to submit their respective memoranda.<sup>[19]</sup> However, the said Resolution was sent at 2<sup>nd</sup> floor, Jocson Building, B.S. Aquino Drive, 6100, Bacolod City, Negros Occidental instead of Mario Building, P. Hernaez Street, 6100 Bacolod City, Negros Occidental, the address provided for in the petition for certiorari. Thus, petitioners failed to comply. In a Resolution dated March 25, 1998, the Court dismissed the petition for certiorari for non-compliance with the Resolution of November 12, 1997 requiring said deposit for costs and memorandum.<sup>[20]</sup> Said Resolution was also sent to the wrong address.<sup>[21]</sup>

With the dismissal of the petition for certiorari, the NLRC Resolution dated May 29, 1996 became final and executory as of July 1, 1996.<sup>[22]</sup>

On December 20, 1999, petitioner Saguemuller filed before the NLRC a Motion to Stay Execution on the ground of absolute nullity of decision. But, without awaiting the resolution of its pending motion

with the NLRC, petitioner Saguemuller together with Elcee Farms filed on January 4, 2000, a petition for annulment of judgment<sup>[23]</sup> with the Court of Appeals on the following grounds:

- a) The resolution awards damages in favor of persons or alleged claimants who never pursued their complaints.
- b) The Resolution considered evidence for the first time on appeal.
- c) The Resolution considered alleged factual circumstances that were never presented during the hearing of the case.
- d) The Resolution rendered judgment against a person who clearly was not an employer nor even an employee of the employer corporation.
- e) The Resolution awarded damages without basis in law or in fact.
- f) The Resolution modified the Decision that was already final.
- g) The Resolution ennobled a prescribed claim.<sup>[24]</sup>

The petitioners reiterated the foregoing grounds for annulment in their Memorandum<sup>[25]</sup> dated July 31, 2000 filed with the Court of Appeals and for the first time, interjected that there was extrinsic fraud in the proceedings before the Supreme Court claiming that the Resolution dated November 12, 1997 of the First Division of this Court which required them to pay the cost and to submit their Memorandum was sent at 2nd floor, Jocson Building, B.S. Aquino Drive, 6100, Bacolod City, Negros Occidental instead of Mario Building, P. Hernaez Street, 6100 Bacolod City, Negros Occidental, the address provided for in the petition for certiorari; as a result of which, they failed to receive the Resolution and for non-compliance, the First Division dismissed the petition.<sup>[26]</sup>

In its Decision<sup>[27]</sup> dated February 23, 2001, the Court of Appeals dismissed the petition for annulment of judgment on ground of lack of jurisdiction. It held that petitioners cannot invoke the jurisdiction

of the said court pursuant to Rule 47 of the Rules of Court because said rule refers to decisions of regional trial courts and not to quasi-judicial bodies. The appellate court also noted that petitioners had availed of the relief of certiorari under Rule 65 before the Supreme Court but they were not diligent in pursuing the same, to their prejudice.

Petitioners filed a Motion for Reconsideration,<sup>[28]</sup> but the Court of Appeals denied the same in a Resolution dated September 19, 2001.<sup>[29]</sup>

Hence, this petition for review on certiorari anchored on the ground that the Court of Appeals committed a reversible error when it refused to assume jurisdiction and annul a patently unjust decision of the NLRC.

Per the Court's Resolution dated January 21, 2002, respondents filed their Comment dated March 6, 2002.<sup>[30]</sup> On June 14, 2002, petitioners filed a Reply to private respondents' Comment.

On February 3, 2003, private respondents filed with the Court a motion praying for the remand of the records and for the issuance of an order directing the Labor Arbiter to issue a writ of execution.<sup>[31]</sup> In compliance with the Court's Resolution dated March 17, 2003, petitioners filed their Comment on June 4, 2003, arguing that to grant the motion would render moot the present petition for review.

Hence, the Court deems it proper to resolve the issues raised in the main petition.

The instant petition for review is devoid of merit. The Court finds no error in the assailed decision of the Court of Appeals. As correctly held by the appellate court, it has no jurisdiction to entertain a petition for annulment of a final and executory judgment of the NLRC. Section 9 of BP 129,<sup>[32]</sup> as amended, only vests in the Court of Appeals "exclusive jurisdiction over actions for annulment of judgments of Regional Trial Courts."<sup>[33]</sup>

Moreover, annulment of judgment is allowed only where the ordinary remedies of new trial, appeal, petition for relief or other appropriate

remedies are no longer available through no fault of petitioners.<sup>[34]</sup> In this case, petitioners were well-aware that they had the available remedy of a petition for certiorari to this Court under Rule 65 of the Rules of Court. In fact, they twice sought recourse with this Court via petitions for certiorari but both petitions were dismissed.

The Court notes that petitioners have an incorrect view of the effect of the dismissal of their second petition for certiorari (G.R. No. 126428) for non-payment of costs and failure to file memorandum. They posit that “considering, however, that the dismissal of the petition was not on the merits, petitioners elected not to further pursue the matter.”<sup>[35]</sup> It is a settled rule that minute resolutions of this Court denying due course to petitions or dismissing cases summarily for failure to comply with the formal or substantial requirements laid down by law are actually dispositions on the merits.<sup>[36]</sup>

The two petitions earlier filed by the petitioners before this Court and the petition for annulment of judgment filed before the Court of Appeals undoubtedly run smack of forum shopping. A party is guilty of forum shopping when he repetitively avails of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in, or already resolved adversely, by some other court.<sup>[37]</sup> Forum shopping has been characterized as an act of malpractice that is prohibited and condemned as trifling with the courts and abusing their processes. It constitutes improper conduct which tends to degrade the administration of justice. It has also been aptly described as deplorable because it adds to the congestion of the heavily burdened dockets of the courts.<sup>[38]</sup>

As a general rule, the client is bound by the negligence or mistake of his counsel. But this rule is not without exception. The Court in *Government Service Insurance System vs. Bengson Commercial Buildings, Inc.*,<sup>[39]</sup> elucidated, thus:

As a general rule, the negligence or, mistake of counsel binds the client, for otherwise there would never be an end to a suit so long as a new counsel could be employed who could allege and

show that the former counsel had not been sufficiently diligent, experienced, or learned.

If under the circumstances of the case, the rule deserts its proper office as an aid to justice and becomes a great hindrance and chief enemy, its rigors must be relaxed to admit exceptions thereto and to prevent a miscarriage of justice. In other words, the Court has the power to except a particular case from the operation of the rule whenever the purposes of justice require it. What should guide judicial action is that a party is given the fullest opportunity to establish the merits of his action or defense rather than for him to lose life, honor or property on mere technicalities.<sup>[40]</sup>

In *De Guzman vs. Sandiganbayan*,<sup>[41]</sup> this Court, ever mindful of the supremacy, of substantive rights over technicalities and invoking its power to suspend the rules, relieved petitioner De Guzman from the “costly importunings” of his previous lawyers who filed a demurrer to evidence despite the trial court’s denial of his motion for leave. The Court emphasized:

Under the circumstances, higher interests of justice and equity demand that petitioner be not penalized for the costly importunings of his previous lawyers based on the same principles why this Court had, on many occasions where it granted new trial, excused parties from the negligence or mistakes of counsel. To cling to the general rule in this case is only to condone rather than rectify a serious injustice to petitioners whose only fault was to repose his faith and entrust his innocence to his previous lawyers.

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Let us not forget that the rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be avoided. Even the Rules of Court envision this liberality. This power to suspend or even disregard the rules can

be so pervasive and encompassing so as to alter even that which this Court has already declared to be final.

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The Rules of Court was conceived and promulgated to set forth guidelines in the dispensation of justice but not to bind and chain the hand that dispenses it, for otherwise, courts will be mere slaves to or robots of technical rules, shorn of judicial discretion. That is precisely why courts in rendering real justice have always been, as they in fact ought to be, conscientiously guided by the norm that when on the balance, technicalities take a backseat against substantive rights, and not the other way around. Truly then, technicalities, in the appropriate language of Justice Makalintal, ‘should give way to the realities of the situation.’<sup>[42]</sup> (*Emphasis supplied*)

It is worthwhile to add that our courts are not only courts of justice but also of equity. Equity as the complement of legal jurisdiction seeks to reach and do complete justice where courts of law, through the inflexibility of their rules and want of power to adapt their judgments to the special circumstances of cases, are incompetent so to do. 43 “Equity regards the spirit and not the letter, the intent and not the form, the substance rather than the circumstance, as it is variously expressed by different courts.”<sup>[44]</sup>

In this case, the erroneous move taken by petitioners’ counsel in instituting the petition for annulment of judgment before the Court of Appeals instead of zealously pursuing the petition in G.R. No. 126428 before the First Division of this Court should not bind petitioners because they appear to have legitimate grievances.

The Court entertains serious apprehensions on the validity of the service of the Resolution dated November 12, 1997 of the First Division of this Court in G.R. No. 136428 which required petitioners to deposit for costs and to submit their memorandum, non-compliance of which inevitably caused the dismissal of their petition for certiorari. Petitioners claim that the Resolution dated November 12, 1997 was not sent to the address of his counsel as expressly stated

in the petition itself but to counsel's former address when the case was still with the NLRC. The possibility that such a procedural error might have been caused by a mistake committed by this Court's personnel is not far-fetched and it should not militate against petitioners' right to due process. Practical considerations and the realities of the situation dictate that the service at the old address of petitioners' counsel and not at the address of petitioners' counsel as specified in the petition cannot be considered a valid service. To consider the service of the resolution at counsel's old address, when he did not give it to the court as his address for the particular case in which he entered his appearance, would be to sanction the service of court processes and orders on counsel wherever he may have an office.<sup>[45]</sup>

The Court is even more concerned with the Resolution of the NLRC dated May 29, 1996 increasing the number of awardees from 28 to 131 which was apparently based only on the list of remitted SSS contributions as of 1990 when it is an undisputed fact that only 28 employees submitted their affidavits and evidence of employment before the Labor Arbiter.

Be that as it may, such concerns cannot be raised and resolved in a petition for annulment of judgment before the Court of Appeals or in the instant petition for review. They are proper questions for resolution in the petition for certiorari before the First Division of this Court (G.R. No. 126428) should it decide to reinstate the petition, upon proper showing that the subject Resolution was indeed sent to an incorrect address without the fault of petitioners but which unduly deprived petitioners of opportunity to present their case.

Consequently, it is likewise not within the jurisdiction of this Court in the present petition to act on private respondents' motion for remand of the records and for the issuance of an order directing the Labor Arbiter to issue a writ of execution.

**WHEREFORE**, the petition for review on certiorari is **DENIED** for lack of merit but without prejudice to a more appropriate remedy, if any.

**SO ORDERED.**

## **Bellosillo, Quisumbing, Callejo, Sr. and Tinga, JJ., concur.**

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- [1] Penned by Justice Eriberto U. Rosario, Jr., and concurred in by Justice Buenaventura J. Guerrero and (now retired) Justice Alicia L. Santos; Annex “A” of the Petition, Rollo, pp. 61-75.
- [2] Namely: Pampilo Semillano, Eduardo Fernandez, Julieta Lingco, Cirilo Lingco, Sr., Bienvenido Garcia, Anita Arroyo, Dominador Nicor, Jr., Cirilo Lingco, Jr., Zosimo Biangco, Bienvenido Gaupo, Rogelio Anecito, Gregorio Tumolin, Apolonio Semillano, Gregorio Mationg, Roel Benignos, Alfredo Nicor, Jr., Edgar Jungco, Roy Tumolin, Enrique Manalo, Abner Manalo, Armando Fernandez, Socorro Mationg, Pablo Lingco, Estelita Fernandez, Edwin Nicor, Juan Manalo, Anicita Crosjada and Rome Lingco.
- [3] Annex “E” of the Petition, Id., pp. 118-128.
- [4] Id., pp. 127-128.
- [5] Annex “H” of the Petition, Id., pp. 169-174.
- [6] Id., pp. 173-174.
- [7] Annex “G” of the Petition, Id., pp. 153-165.
- [8] Namely: Armando Fernandez, Bienvenido Gaupo, Consejo Nicor, Rodolfo Nicor, Edwin Nicor, Dominador Nicor, Sr., Felizardo Nicor, Arline Nicor, Ronilo Nicor, Maria Luz Nicor, Dennis Nicor, Lourdes Nicor, Pablo Lingco, Gilda Lingco, Joven Lingco, Vicente Granada, Lolita Granada, Jonathan Granada, Eduardo Fernandez, Joey Fernandez, Jessie Fernandez, Estelita Fernandez, Gregorio Tomalin, Martin Tomalin, Socorro Mationg, Gregorio Mationg, Jorie Manalo, Enrique Manalo, Mario Manalo, Crisanto Manalo, George Biangco, Sigfredo Villacanas, Sonia Villacanas, Eduardo Pabilario, Noel Salano, Merlita Puno, Crisanto Lumanag, Gorgina Gaupo, Dan Gaupo, Romeo Semillano, Barbara Cabales, Ernie Jungco, Edgar Jungco, Roel Benignos, Bellie Benignos, Juan Semillano, Romeo Pojas, Joelita Noble, Gloria Noble, Ronnie Lingco, Imelda Lingco, Ramon Bantang, Barbara Bantang, Faustino Semillano, Raquel Plasido, Bernie Plasido, Pampilo Semillano, Martin Nicor, Dominador Nicor, Jr., Roland Nicor, Proancio Nicor, Radnie Nicor, Diosdado Nicor, Joey Nicor, Amparo Nicor, Regalado Nicor, Reynaldo Nicor, Jocelyn Garcia, Marlon Nicor, Josefina Lingco, Josie Lingco, Elenita Lingco, Cirilo Lingco, Sr., Rogelio Lingco, Maura Lingco, Gary Lingco, Victoria Granada, Sotero Granada, Rosendo Fernandez, Roy Tomolin, Genebelle Mationg, Celso Alipio, Afolonio Semillano, Ramonita Semillano, Abner Manalo, Zosimo Biangco, Rogelio Anecito, Pepito Noble, Paterno Lumanang, Anita Pabilario, Renato Cabales, Jomarie Jungco, Merlinda Canja, Anacita Orcajada, Bienvenido Garcia, Rogelio Gabiandan, Ninfa Umali, Domingo Salcedo, Fernando Salcedo, Renato Suerte, Lorna Pabalinas, Solidad Noble, Anita Arroyo, Alfredo Nicor, Sr., Consortia Mationg, Erlinda Nicor, Camelia Nicor, Alfredo Nicor, Jr., Juliana Nicor, Criselda Nicor, Rosita Nicor, Julieta Lingco, Niya Lingco, Rozenie Granada, Elsa Semillano, Rosalinda

Fernandez, Remezildo Fernandez, Rosalia Mationg, Diana Alipio, Eva Manalo, Arturo Manalo, Rita Anecito, Sarah Gaupo, Alan Bantang, Marissa Bantang, Simplicio Bantang, Marianita Pojas, Merlita Gabiandan, Juana Vicentino and Precy Placido. (The names of the original awardees are in bold print. Two of the 28 original awardees, namely: Cirilo Lingco, Jr. and Juan Manalo, do not appear to be included in the 131 awardees).

[9] *Id.*, pp. 159-164.

[10] Entitled “Elcee Farms, Inc. and Corazon Saguemuller vs. National Labor Relations Commission (NLRC), Fourth Division and SAILO/Pampelo Gemilliano, et al.”, Rollo in G.R. No. 125714, pp. 3-6.

[11] *Id.*, pp. 8-10.

[12] *Id.*, pp. 12-14.

[13] *Id.*, p. 15.

[14] *Id.*, p. 21.

[15] *Id.*, pp. 23-24.

[16] *Id.*, pp. 25-28.

[17] *Id.*, p. 30.

[18] Entitled “Elcee Farms, Inc. and Corazon Saguemuller vs. National Labor Relations Commission (NLRC), Fourth Division and Sugar Agricultural Industry Labor Organization (SAILO), Pampilo Semillano, Armando Fernandez, et al.”, Rollo in G.R. No. 126428, pp. 5-48.

[19] *Id.*, p. 143.

[20] *Id.*, p. 183.

[21] *Ibid.*

[22] Rollo, pp. 166-168.

[23] Docketed as CA-G.R. SP No. 56492, Annex “F” of the Petition, *Id.*, pp. 129-152.

[24] *Id.*, pp. 141-142.

[25] *Id.*, pp. 188-202.

[26] *Id.*, pp. 192-193.

[27] See Note No. 1, *supra*.

[28] Annex “C” of the Petition, Rollo, pp. 82-88.

[29] *Id.*, pp. 77-81.

[30] *Id.*, pp. 389-391.

[31] *Id.*, pp. 421-422.

[32] The Judiciary Reorganization Act of 1980.

[33] Rule 47, 1997 Rules of Civil Procedure.

[34] See Section 1, Rule 47, 1997 Rules of Civil Procedure.

[35] Rollo, p. 141.

[36] Republic vs. Court of Appeals, 324 SCRA 560, 566 (2000); Bernarte vs. Court of Appeals, 263 SCRA 323, 338 (1996).

[37] Tantoy, Sr. vs. Court of Appeals, 357 SCRA 329, 333 (2001), citing Gatmaytan vs. Court of Appeals, 267 SCRA 487 (1997).

[38] *Id.*, p. 335, citing Solid Homes, Inc. vs. Court of Appeals, 271 SCRA 157 (1997).

[39] 375 SCRA 431 (2002).

- [40] Id., p. 444-445; Apex Mining, Inc. vs. Court of Appeals, 319 SCRA 456, 468 (1999); and, Aguilar vs. Court of Appeals, 250 SCRA 371, 374-375 (1995).
- [41] 256 SCRA 171 (1996).
- [42] Id., pp. 178-180.
- [43] Air Manila Inc. vs. Commissioner of Internal Revenue, 83 SCRA 579, 589 (1978), citing 27 Am Jur 2d, Equity § 3, p. 520.
- [44] Ibid., citing Bouvier's Law Dictionary, 3rd Revision, p. 1063.
- [45] National Power Corporation vs. Tac-an, G.R. No. 155172, February 14, 2003.

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