SUPREME COURT
SECOND DIVISION

GREAT SOUTHERN MARITIME SERVICES CORPORATION, FERRY CASINOS LIMITED and PIONEER INSURANCE AND SURETY CORPORATION,
***Petitioners*,**

-versus-

G.R. No. 140189
February 28, 2005

JENNIFER ANNE B. ACUÑA, HAYDEE ANNE B. ACUÑA, MARITES T. CLARION, MARISSA C. ENRIQUEZ, GRACIELA M. TORRALBA and MARY PAMELA A. SANTIAGO,
***Respondents*.**
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D E C I S I O N

AUSTRIA-MARTINEZ, *J.*:

Before us is a Petition for Review on Certiorari under Rule 45 of the Rules of Court assailing the Decision[1] of the Court of Appeals dated June 30, 1999 in CA-G.R. SP No. 50504, which set aside the Decision of the National Labor Relations Commission (NLRC) dated January 15, 1997 in NLRC CA No. 010186-96.

The factual background of the case is as follows:

Petitioner Great Southern Maritime Services Corporation (GSMSC) is a manning agency organized and existing under Philippine laws. It is the local agent of petitioner Ferry Casinos Limited. Petitioner Pioneer Insurance and Surety Corporation is the surety company of petitioner GSMSC.

On October 7, 1993, respondents Jennifer Anne B. Acuña, Haydee Anne B. Acuña, Marites T. Clarion, Marissa C. Enriquez, Graciela M. Torralba, and Mary Pamela A. Santiago filed a complaint for illegal dismissal against petitioners before the Philippine Overseas Employment Administration (POEA), docketed as POEA Case No. (M) 93-10-1987.[2]

Respondents claim that: between the months of March and April 1993, they were deployed by petitioner GSMSC to work as croupiers (card dealers) for petitioner Ferry Casinos Limited under a six-month contract with monthly salaries of US$356.45 plus fixed overtime pay of US$107 a month and vacation leave pay equivalent to two months salary pro rata, except for respondent Jennifer Anne B. Acuña who had a monthly salary of US$250.56 plus fixed overtime pay of US$87.17 and vacation leave pay equivalent to two months salary pro rata; sometime in July 1993, Sue Smits, the Casino Manager, informed them that their services were no longer needed; considering that their plane tickets were already ready and they were subjected to harassment, they had no alternative but to sign documents on July 11 and 12, 1993 specifying that they were the ones who terminated their employment; they were repatriated on July 25, 1993.[13]

Petitioners denied the allegations of respondents and averred that respondents voluntarily resigned from employment. They contend that: respondents were hired by petitioner Ferry Casinos Limited through petitioner GSMSC to work as croupiers for a period of six months; sometime in July 1993, respondents intimated their desire to resign; petitioner Ferry Casinos Limited did not allow them to resign as the simultaneous loss of croupiers would paralyze casino operations; respondents thereafter exhibited lukewarm attitude towards work, became defiant and rude; consequently, petitioner

Ferry Casinos Limited was forced to accede to respondents' demands; and respondents executed resignation letters and disembarked on July 27, 1993.[4]

On October 5, 1995, the POEA decided the case against petitioners, thus:

> WHEREFORE, premises considered, respondent Great Southern Maritime Services [Corporation] and Pioneer Insurance and Surety Corporation, are hereby ordered jointly and severally liable to pay complainants the following amounts:
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> | | |
> |---|---|
> | 1. Jennifer B. Acuña | US $610.17 |
> | 2. Marissa C. Enriquez | 986.17 |
> | 3. Marites T. Clarion | 986.17 |
> | 4. Graciela M. Torralba | 986.17 |
> | 5. Pamela Santiago | 582.20 |
> | 6. Haydee Anne B. Acuña | 582.20 |
>
> representing their salaries for the unexpired portion of their contract. All other claims are dismissed for lack of merit.
>
> SO ORDERED.[5]

The POEA ruled that the respondents were illegally dismissed since petitioners failed to prove that respondents' voluntarily resigned from employment. It held that the alleged resignation letters are only declarations of release and quitclaim.

Petitioners appealed to the NLRC[6] which, on January 15, 1997, set aside the decision of the POEA and dismissed the complaint for illegal dismissal.[7] The NLRC held that the contested letters are not only declarations of release and quitclaim but resignations as well. It further held that there is no concrete evidence of undue pressure, force and duress in the execution of the resignation letters. The NLRC gave credence to petitioners' claim that respondents pre-terminated their contracts en masse because two of the respondents, Haydee Anne B. Acuña and Marites T. Clarion, are now working in Singapore.

Respondents filed a motion for reconsideration[8] but the NLRC denied the same in a Resolution dated April 30, 1997.[9]

On July 18, 1997, respondents filed a petition for certiorari before us, docketed as G.R. No. 129673.[10]

On October 3, 1997, petitioners, in their Comment, prayed for outright dismissal of the petition for: (a) failure of respondents to submit a verified statement of the material dates to show that the petition was filed on time, and (b) filing a certification on non-forum shopping signed only by their counsel. In addition, petitioners argued that the issues raised are factual and there is no showing that the NLRC committed grave abuse of discretion.[11]

On January 27, 1998, the Solicitor General, in lieu of Comment, manifested that he is unable to sustain the position of the NLRC because the allegation that respondents voluntarily resigned was not substantially established and respondents' non-compliance with the formal requirements of the petition should be waived since the petition is meritorious.[12]

The NLRC, in compliance with our Resolution dated March 16, 1998,[13] filed its own Comment praying for the dismissal of the petition and the affirmance of its decision with finality. It argued that in reversing the POEA, it focused its attention on the correct evaluation of the evidence on record which substantially showed that petitioners did not dismiss respondents but that the latter resigned en masse on July 12, 1993.[14]

In accordance with St. Martin Funeral Homes vs. NLRC,[15] we referred the petition to the Court of Appeals which, on June 30, 1999, set aside the decision of the NLRC and reinstated the decision of the POEA.[16] The Court of Appeals held that respondents were illegally dismissed since the petitioners failed to substantiate their claim that respondents voluntarily resigned from employment. It ruled that the quitclaims are not sufficient to show valid terminations. Anent non-compliance with the formal requirements of the petition, the Court of Appeals, adopting the observation of the Solicitor General, held that the case is an exception to the rule on strict adherence to technicality.

On July 21, 1999, petitioners filed a motion for reconsideration but the Court of Appeals denied it in a Resolution dated September 22, 1999.

Hence, the present petition for review on certiorari on the following grounds:

1. Under the law and applicable jurisprudence, the Petition for Certiorari filed by respondents should have been denied outright for non-compliance with the requirements for filing a Petition for Certiorari.[17]

2. Under the law and applicable jurisprudence, respondents cannot be considered to have been dismissed from employment, because it was respondents who resigned from their employment.[18]

Petitioners maintain that the petition for certiorari should have merited outright dismissal for non-compliance with the mandatory requirements of the rules. There is no statement indicating the material dates when the decision of the NLRC was received and when the motion for reconsideration was filed. Likewise, the certification on non-forum shopping was not signed by respondents but by their counsel. In any event, petitioners insist that respondents voluntarily resigned from their employment.

In their Comment, respondents allege that the instant petition highlights the same arguments already raised and squarely resolved by the Court of Appeals. Nevertheless, they reiterate that they did not resign from employment but were abruptly and unceremoniously terminated by petitioner Ferry Casinos Limited.[19]

Section 3[20] of Rule 46 of the Rules of Court provides that there are three material dates that must be stated in a petition for certiorari brought under Rule 65: (a) the date when notice of the judgment or final order or resolution was received, (b) the date when a motion for new trial or for reconsideration when one such was filed, and, (c) the date when notice of the denial thereof was received. This requirement is for the purpose of determining the timeliness of the petition, since the perfection of an appeal in the manner and within

the period prescribed by law is jurisdictional and failure to perfect an appeal as required by law renders the judgment final and executory.[21]

The same rule requires the pleader to submit a certificate of non-forum shopping to be executed by the plaintiff or principal party. Obviously, it is the plaintiff or principal party, and not the counsel whose professional services have been retained for a particular case, who is in the best position to know whether he or it actually filed or caused the filing of a petition in that case.[22]

As a general rule, these requirements are mandatory, meaning, non-compliance therewith is a sufficient ground for the dismissal of the petition.[23]

In the case before us, the failure to comply with the rule on a statement of material dates in the petition may be excused since the dates are evident from the records. A thorough scrutiny of the records reveals that the January 15, 1997 decision of the NLRC was received by respondents' counsel on January 24, 1997.[24] On February 19, 1997, respondents filed a motion for reconsideration[25] which was denied by the NLRC in a Resolution dated April 30, 1997.[26] Respondents' counsel received the resolution on May 30, 1997 and they filed the petition for certiorari on July 18, 1997.

In view of the retroactive application of procedural laws,[27] Section 4, Rule 65 of the 1997 Rules of Procedure,[28] as amended by A.M. No. 00-2-03 which took effect on September 1, 2000, is the governing provision. It provides that when a motion for reconsideration is timely filed, the 60-day period for filing a petition for certiorari shall be counted from notice of the denial of said motion. While respondents' motion for reconsideration was filed 16 days late,[29] the NLRC nonetheless acted thereon and denied it on the basis of lack of merit. In resolving the merits of the motion despite being filed out of time, the NLRC undoubtedly recognized that it is not strictly bound by the technicalities of law and procedure. Thus, the 60-day period for filing of a petition for certiorari should be reckoned from the date of the receipt of the resolution denying the motion for reconsideration, i.e., May 30, 1997, and thus, the filing made on July 18, 1997 was well within the 60-day reglementary period.

As regards the verification signed only by respondents' counsel, this procedural lapse could have warranted the outright dismissal of respondents' petition for certiorari before the Court of Appeals. However, it must be remembered that the rules on forum shopping, which were precisely designed to promote and facilitate the orderly administration of justice, should not be interpreted with such absolute literalness as to subvert its own ultimate and legitimate objective which is the goal of all rules of procedure - that is, to achieve substantial justice as expeditiously as possible.[30]

Needless to stress, rules of procedure are merely tools designed to facilitate the attainment of justice. They were conceived and promulgated to effectively aid the court in the dispensation of justice. Courts are not slaves to or robots of technical rules, shorn of judicial discretion. In rendering justice, courts have always been, as they ought to be, conscientiously guided by the norm that on the balance, technicalities take a backseat against substantive rights, and not the other way around. Thus, if the application of the Rules would tend to frustrate rather than promote justice, it is always within our power to suspend the rules or except a particular case from its operation.[31]

As the Court eloquently stated in the case of Aguam vs. Court of Appeals:[32]

> The court has the discretion to dismiss or not to dismiss an appellant's appeal. It is a power conferred on the court, not a duty. The "discretion must be a sound one, to be exercised in accordance with the tenets of justice and fair play, having in mind the circumstances obtaining in each case." Technicalities, however, must be avoided. The law abhors technicalities that impede the cause of justice. The court's primary duty is to render or dispense justice. "A litigation is not a game of technicalities." "Lawsuits unlike duels are not to be won by a rapier's thrust. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts." Litigations must be decided on their merits and not on technicality. Every party litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the

> unacceptable plea of technicalities. Thus, dismissal of appeals purely on technical grounds is frowned upon where the policy of the court is to encourage hearings of appeals on their merits and the rules of procedure ought not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure, not override substantial justice. It is a far better and more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal to attain the ends of justice rather than dispose of the case on technicality and cause a grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.[33] *(Emphasis supplied)*

Thus, in Sy Chin vs. Court of Appeals,[34] we held that the procedural lapse of a party's counsel in signing the certificate of non-forum shopping may be overlooked if the interests of substantial justice would thereby be served. Further, in Damasco vs. NLRC,[35] we noted that the certificate of non-forum shopping was executed by the petitioners' counsel, but nevertheless resolved the case on its merits for the reason that "technicality should not be allowed to stand in the way of equitably and completely resolving the equity and obligations of the parties to a labor case."

Indeed, where a decision may be made to rest on informed judgment rather than rigid rules, the equities of the case must be accorded their due weight because labor determinations should not only be secundum rationem but also secundum caritatem.[36]

In this case, the Court of Appeals aptly found compelling reasons to disregard respondents' procedural lapses in order to obviate a patent injustice.

Time and again we have ruled that in illegal dismissal cases like the present one, the onus of proving that the employee was not dismissed or if dismissed, that the dismissal was not illegal, rests on the employer and failure to discharge the same would mean that the dismissal is not justified and therefore illegal.[37] Thus, petitioners must not only rely on the weakness of respondents' evidence but must stand on the merits of their own defense. A party alleging a critical

fact must support his allegation with substantial evidence for any decision based on unsubstantiated allegation cannot stand as it will offend due process.[38] Petitioners failed to discharge this burden.

Petitioners' complete reliance on the alleged "resignation letters cum release and quitclaim" to support their claim that respondents voluntarily resigned is unavailing as the filing of the complaint for illegal dismissal is inconsistent with resignation.[39] Resignation is the voluntary act of employees who are compelled by personal reasons to dissociate themselves from their employment. It must be done with the intention of relinquishing an office, accompanied by the act of abandonment.[40] Thus, it is illogical for respondents to resign and then file a complaint for illegal dismissal. We find it highly unlikely that respondents would just quit even before the expiration of their contracts, after all the expenses and the trouble they went through in seeking greener pastures and financial upliftment, and the concomitant tribulations of being separated from their families, having invested so much time, effort and money to secure their employment abroad. Considering the hard economic times, it is incongruous for respondents to simply give up their work, return home and be jobless once again.

Likewise, petitioners' submission that respondents voluntarily resigned because of their desire to seek employment elsewhere, as accentuated by the concurrent fact that two of the respondents, Haydee Anne B. Acuña and Marites T. Clarion, already have jobs in Singapore is an unreasonable inference. The fact that these two have already found employment elsewhere should not be weighed against their favor. It should be expected that they would seek other means of income to tide them over during the time that the legality of their termination is under litigation. They should not be faulted for seeking employment elsewhere for their economic survival.

We further note that the alleged resignation letters, one of which reads:

> In signing this document, I am declaring my decision to return to the Philippines with the other eight employees of Ferry Casinos Limited and Great Southern Maritime Corporation, on the 25th July 1993. I understand that my contract is

> uncompleted and I fully understand the consequences of that. I do however promise to work to full for both companies before my departure.
>
> I realize (sic) that I may be dismissed by the captain or Purser of my assigned vessel, if I am suspected of misconduct in the remaining weeks of my employment, until my departure, and I understand that I will compensate (sic) both companies for the results from (sic) my actions.
>
> I sign to say that I will follow the instructions of Captain A. Sanchez upon my arrival in the Philippines and that any previous arrangements to this date are null (sic) and void.
>
> I recognize (sic) that I have been fairly treated by both companies and for this I will not jeopardize (sic) them upon my arrival in the Philippines.
>
> I acknowledge and accept this as evidence for (sic) my departure to be shown to the P.O.E.A. in the Philippines.[41]

Were all prepared by petitioner Ferry Casinos Limited, are substantially similarly worded and of the same tenor. A thorough scrutiny of the purported resignation letters reveals the true nature of these documents. In reality, they are waivers or quitclaims which are not sufficient to show valid separation from work or bar respondents from assailing their termination. The burden of proving that quitclaims were voluntarily entered into falls upon the employer.[42] Deeds of release or quitclaim cannot bar employees from demanding benefits to which they are legally entitled or from contesting the legality of their dismissal.[43] The reason for this rule was laid down in the landmark case of Cariño vs. ACCFA:[44]

> Acceptance of those benefits would not amount to estoppel. The reason is plain. Employer and employee, obviously, do not stand on the same footing. The employer drove the employee to the wall. The latter must have to get hold of money. Because, out of job, he had to face the harsh necessities of life. He thus found himself in no position to resist money proffered. His, then, is a case of adherence, not of choice. One thing sure,

however, is that petitioners did not relent their claim. They pressed it. They are deemed not to have waived any of their rights. Renuntiatio non praesumitur.

Thus, we are more than convinced that respondents did not voluntarily quit their jobs. Rather, they were forced to resign or were summarily dismissed without just cause. The Court of Appeals acted in the exercise of its sound discretion when it denied petitioners' insistence to dismiss the petition for certiorari, in light of the factual and antecedent milieu. By so doing, the appellate court correctly gave more importance to the resolution of the case on the merits.

WHEREFORE, the instant petition is **DENIED** and the assailed Decision of the Court of Appeals dated June 30, 1999 in CA-G.R. SP No. 50504 is **AFFIRMED**. Costs against petitioners.

SO ORDERED.

PUNO, *J.*, *(Chairman)*, CALLEJO, SR., TINGA, and CHICO-NAZARIO, *JJ.*, concur.

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[1] Penned by Justice Candido V. Rivera (now retired) and concurred in by Justices Cancio C. Garcia (now Associate Justice of this Court) and Bernardo Ll. Salas (now retired).
[2] NLRC Records, pp. 12-22.
[3] Id., pp. 38-40.
[4] Id., pp. 105-116.
[5] SC Rollo, p. 63.
[6] Id., p. 64.
[7] Id., p. 75.
[8] Id., p. 88.
[9] Id., p. 91.
[10] CA Rollo, p. 3.
[11] Id., p. 52.
[12] Id., p. 71.
[13] Id., p. 80.
[14] Id., p. 102.
[15] G.R. No. 130866, September 16, 1998, 295 SCRA 494.
[16] SC Rollo, p. 132.
[17] SC Rollo, p. 8.
[18] Id., p. 11.

[19] Id., p. 156.

[20] SEC. 3. Contents and filing of petition; effect of non-compliance with requirements. -

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or (final) order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.

The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition. (As amended by SC Circular No. 39-98, which took effect on September 1, 1998)

[21] Lapid vs. Laurea, G.R. No. 139607, October 28, 2002, 391 SCRA 277, 284.

[22] Mendigorin vs. Cabantog, G.R. No. 136449, August 22, 2002, 387 SCRA 655, 661; Digital Microwave Corporation vs. Court of Appeals, G.R. No. 128550, March 16, 2000, 328 SCRA 286, 290.

[23] Last paragraph, Section 3 of Rule 46 of the Rules of Court.

[24] NLRC Records, p. 197.

[25] Id., p. 200.

[26] SC Rollo, p. 91.

[27] Republic vs. Court of Appeals, G.R. No. 141530, March 18, 2003, 399 SCRA 277, 284; Universal Robina Corporation vs. Court of Appeals, G.R. No. 144978, January 15, 2002, 373 SCRA 311, 315; Pfizer, Inc. vs. Galan, G.R. No. 143389, May 25, 2001, 358 SCRA 240, 246; Unity Fishing Development Corp. vs. Court of Appeals, G.R. No. 145415, February 2, 2001, 351 SCRA 140, 143.

[28] SEC. 4. When and where petition filed. – The petition may be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.

[29] Article 223 of the Labor Code provides:

Art. 223. Appeals. - The decision of the Commission shall be final and executory after ten (10) calendar days from receipt thereof by the parties.

Section 14, Rule VII of the New Rules of Procedure of the NLRC provides:

Section 14. Motions for Reconsideration. – Motions for reconsideration of any order, resolution or decision of the Commission shall not be entertained except when based on palpable or patent errors, provided that the motion is

under oath and filed within ten (10) calendar days from receipt of the order, resolution or decision, with proof of service that a copy of the same has been furnished, within the reglementary period, the adverse party and provided further, that only one such motion from the same party shall be entertained.

[30] Barcelona vs. Court of Appeals, G.R. No. 130087, September 24, 2003, 412 SCRA 41, 53.

[31] Fulgencio vs. NLRC, G.R. No. 141600, September 12, 2003, 411 SCRA 69, 78; Coronel vs. Desierto, G.R. No. 149022, April 8, 2003, 401 SCRA 27, 33-34.

[32] G.R. No. 127672, May 31, 2000, 332 SCRA 784.

[33] Id., at 789-790.

[34] G.R. No. 136233, November 23, 2000, 345 SCRA 673, 684.

[35] G.R. Nos. 115755 & 116101, December 4, 2000, 346 SCRA 714, 721.

[36] Rosewood Processing, Inc. vs. NLRC, G.R. Nos. 116476-84, May 21, 1998, 290 SCRA 408, 423; Del Mar Domestic Enterprises vs. NLRC, G.R. No. 108731, December 10, 1997, 282 SCRA 602, 611.

[37] Asia Pacific Chartering (Phils.), Inc. vs. Farolan, G.R. No. 151370, December 4, 2002, 393 SCRA 454, 464; National Bookstore, Inc. vs. Court of Appeals, G.R. No. 146741, February 27, 2002, 378 SCRA 194, 199-200; Sevillana vs. I.T. (International) Corp., G.R. No. 99047, April 16, 2001, 356 SCRA 451, 467.

[38] De Paul/King Philip Customs Tailor vs. NLRC, G.R. No. 129824, 10 March 1999, 304 SCRA 448, 459.

[39] Cheniver Deco Print Technics Corporation vs. NLRC, G.R. No. 122876, February 17, 2000, 325 SCRA 758, 766-767; Valdez vs. NLRC, G.R. No. 125028, February 9, 1998, 286 SCRA 87, 94.

[40] Cheniver Deco Print Technics Corporation vs. NLRC, supra; Pascua vs. NLRC, G.R. No. 123518, March 13, 1998, 287 SCRA 554, 567.

[41] SC Rollo, p. 27.

[42] Salonga vs. NLRC, G.R. No. 118120, February 23, 1996, 254 SCRA 111, 114.

[43] Villar vs. NLRC, G.R. No. 130935, May 11, 2000, 331 SCRA 686, 696.

[44] No. L-19808, September 29, 1966, 18 SCRA 183, 190.