

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**GREENHILLS AIRCONDITIONING and
SERVICES, INC. and/or MRS. GLORIA
GO SANDICO,**

Petitioners,

-versus-

**G.R. No. 112850
June 27, 1995**

**NATIONAL LABOR RELATIONS
COMMISSION and LORENZO
ABELLANO,**

Respondents.

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DECISION

PADILLA, J.:

In this Petition for Certiorari under Rule 65 of the Rules of Court, petitioners Greenhills Airconditioning and Services, Inc. and/or Gloria Go Sandico in her capacity as manager of the company, assail the Decision^[*] of respondent National Labor Relations Commission (NLRC) dated 30 July 1993 which affirmed in toto the decision of the labor arbiter dated 30 March 1993 which held petitioners liable for illegally dismissing respondent Lorenzo Abellano and ordering the latter's reinstatement with full backwages and other unpaid benefits.

Petitioner Greenhills Airconditioning and Service Inc. is engaged in the business of contracting airconditioning and other allied services. Respondent Lorenzo Abellano was employed by petitioner firm as a foreman/supervisor in September 1990 to undertake airconditioning duct works under a contract with Robinson's Galleria. In December 1990, respondent Abellano and ten (10) other workers were dismissed from employment for allegedly using materials owned by petitioner company for the installation of airconditioning ducts of individual lessees of shops inside Robinson's Galleria not covered by the main contract between Greenhills and Robinson's Galleria.

As a consequence of the dismissals, three (3) separate complaints for illegal dismissal were filed with the arbitration Branch of respondent National Labor Relations Commission. These cases, docketed as NLRC-NCR Cases Nos. 00-12-06713-90, 00-12-06756-90 and 00-01-00421-91, were consolidated and assigned to Labor Arbiter Patricio P. Libo-on.

After the parties had submitted their respective position papers, ten (10) of the complainants filed on 5 September 1991 a motion to dismiss, stating that they had amicably settled their grievance with herein petitioners. Pursuant to NLRC rules, the labor arbiter directed the complainants to appear before him to execute their respective releases and quitclaims under oath. When complaints failed to appear despite several notices, the labor arbiter dismissed the complaints of the ten (10) complainants. The case before the labor arbiter thus proceeded with respondent Lorenzo Abellano as the lone complaint. On 18 September 1992, the labor arbiter issued an order which reads:

“After going over the records of this case, the Office finds no need to conduct a hearing on the merits as there are no material facts to be determined.

WHEREFORE, premises considered the instant case is deemed as submitted for Decision.

SO ORDERED.”^[1]

On 30 March 1993, the labor arbiter rendered a decision finding Abellano's dismissal illegal. Petitioners filed an appeal with

respondent NLRC, with motions for reduction of surety bond and leave to present evidence on appeal.^[2]

Petitioners submitted, on appeal, two (2) affidavits executed by the president of Greenhills Airconditioning and Services, Inc. and a certain Romeo Apedra, a duct installer assigned to petitioner company's Robinson's Galleria project.^[3] Also submitted was a letter signed by the president of Greenhills Airconditioning addressed to respondent Abellano dated 12 December 1990 requiring the latter to explain within forty eight (48) hours why he should not be separated from the service for using company materials and personnel for personal purposes and further putting respondent Abellano under preventive suspension.

Petitioner company contended in their appeal to the NLRC that no dismissals took place since complaints offered to resign when they learned that their illegal activities had been discovered; and that even assuming that complaints were dismissed, this was a mere consequence of the termination by Robinson's Galleria of the contract, resulting from the delays caused by complainants' "moonlighting" activities. Petitioner company contended that complaints were terminated when the contract with Robinson's Galleria was cancelled.

On 30 July 1993, the NLRC rendered a decision dismissing petitioner's appeal from the labor arbiter's decision in favor of respondent Abellano, for lack of merit. On 8 October 1993, a motion for reconsideration filed by petitioner was denied. Hence, this petition where petitioners assign the following errors allegedly committed by the NLRC:

- “1. The Honorable Public Respondent erred in affirming the Decision of the NLRC-NCR, Arbitration Branch ordering petitioners to reinstate private respondent and to pay him full backwages in the amount of P110,446.00, Service Incentive Leave Pay of P2,100.00 and 13th month pay in the amount of P10,920.00;

2. The Honorable Public Respondent erred in not ruling that the petitioners were denied due process in the proceedings before the NLRC-NCR, Arbitration Branch.”^[4]

On the first assignment of error, petitioners argue that respondent Abellano effectively waived his right to reinstatement and backwages when he submitted to the Labor Arbiter a computation of claims for purposes of amicably settling the case.^[5] In said computation, Abellano did not include backwages but instead included separation pay.

The above argument need not be discussed here at length since the real issue in this case is whether or not Abellano’s dismissal was valid. In other words, the Court has to determine whether petitioners had valid grounds for terminating the employment of respondent Abellano. Moreover, such waivers are not generally binding on the employee unless the waiver is couched in clear and unequivocal terms which leaves no doubt as to the intention of the person to give up a right or benefit which legally pertains to him.^[6]

On the second assignment of error, petitioners contend that the NLRC gravely abused its discretion in not allowing the presentation by petitioners of evidence on appeal. Petitioners state that on 20 September 1992, two (2) days after the labor arbiter issued the order submitting the case for decision without a hearing, the office of their counsel of record was gutted by fire.

On 23 October 1992, petitioners filed a manifestation and motion informing the labor arbiter of the destruction of all the records of the case and notifying him of the new address of their counsel. Petitioners’ counsel states that due to the confusion caused by his doubled effort in reconstituting a lot of lost records in a number of cases, petitioners and counsel lost track of the status of this particular case and were reminded thereof only when petitioners received the arbiter’s decision on 20 April 1993.^[7] Petitioners deny any knowledge or receipt of the order of the labor arbiter submitting the case for decision without hearing. It is argued that there was denial to petitioners of due process in not allowing the submission of their evidence on appeal (after the labor arbiter of their evidence on appeal

(after the labor arbiter had decided the case also without any hearing).

Alternatively, petitioners contend that respondent Abellano was a project employee whose employment was terminated when Robinson's Galleria cancelled its contract with petitioner company due to the delays caused by Abellano's "moonlighting" activities. Petitioners then pray that the case be remanded to the labor arbiter for further proceedings and reception of evidence.

The settled rule is that the negligence of counsel binds the client. In *B.R. Sebastian Enterprises, Inc. vs. Court of Appeals*,^[8] this Court ruled that "confusion" in the law office is not a valid justification for neglecting a case. In the present case, there was apparent negligence on the part of petitioners' counsel in not checking on the status of the case before the labor arbiter. In like manner, petitioners themselves are not entirely blameless for they should have taken the initiative of checking the status of the case after learning that the law office of their counsel was burned down or at least they could have requested their counsel to check on the case.

Litigants, represented by counsel, should not expect that all they need to do is sit back, relax and await the outcome of their case. They should give the necessary assistance to their counsel for what is at stake is their interest in the case. While lawyers are expected to exercise a reasonable degree of diligence and competence in handling cases for their clients, the realities of law practice as well as certain fortuitous events sometimes make it almost physically impossible for lawyers to be immediately updated on a particular client's case.

It should be clear that we are not condoning petitioners' counsel's negligence in handling this case for his clients, but the unique facts of this case compel us to take a second look at the relief prayed for by petitioners.

It is of notice that certain important issues are raised by the position papers filed before the labor arbiter^[9] among which are:

1. whether respondent Abellano was a project employee whose employment was deemed ended when the project was cancelled or whether he was a regular employee;
2. If he was a regular employee, whether he voluntarily resigned as alleged by petitioners or was dismissed;
3. If he was dismissed, whether there were valid grounds for his dismissal.

The nature of the above issues shows that there was indeed grave abuse of discretion on the part of the labor arbiter in issuing the order dated 18 September 1992 submitting the case for decision, without any hearing.

Article 221 of the Labor Code states in part:

“Art. 221. Technical rules not binding and prior resort to amicable settlement.^[**] — In any proceeding before the Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process.”

In rendering his now assailed decision, the labor arbiter relied solely on the bare allegations of the parties in their position papers. There is nothing in the labor arbiter’s decision to show how he arrived at the conclusion that it was respondent Abellano’s allegations that deserved belief. The prudent and logical action which the labor arbiter should have taken was to set the case for hearing particularly on the abovementioned three (3) issues to avoid any impression of denial of due process to either or both of the parties.

While it is true that the employer has the burden of proving the presence of valid grounds for dismissal of a worker, the abovestated issues in this case require a hearing and reception of evidence before the issue of the validity of Abellano’s dismissal can be resolved. The

respondent NLRC in sustaining and affirming the decision of the labor arbiter which was arrived at without hearing on the vital issues involved, itself committed grave abuse of discretion.

WHEREFORE, based on the foregoing, the decision of respondent National Labor Relations Commission in NLRC NCR CA No. 004814-93 is hereby **SET ASIDE**. The complaint of Lorenzo Abellano against herein petitioners is hereby **REMANDED** to the NLRC-Arbitration Branch for hearing, reception of evidence and decision. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., Bellosillo, Quiason and Kapunan, JJ., concur.

[*] Penned by Commissioner Rogelio I. Rayala with the concurrence of Commissioner Domingo B. Zapanta; Commissioner Edna Bonto-Perez (on leave).

[1] Rollo, p. 38.

[2] Rollo, pp. 50-56.

[3] Rollo, pp. 59-65.

[4] Rollo, p. 9.

[5] Rollo, p. 37.

[6] Gatchalian vs. Delim, G.R. No. 56487, 21 October 1991, 203 SCRA 126.

[7] Rollo, p. 13.

[8] G.R. No. 41862, 7 February 1992, 206 SCRA 28.

[9] Rollo, pp. 22-36.

[**] As amended by Sec. 11, Ra 6715.