SUPREME COURT
FIRST DIVISION

CEZAR ODANGO in his behalf and in behalf of 32 complainants,
***Petitioners*,**

-versus-

G.R. No. 147420
June 10, 2004

NATIONAL LABOR RELATIONS COMMISSION and ANTIQUE ELECTRIC COOPERATIVE, INC.,
***Respondents*.**
x----------x

D E C I S I O N

CARPIO, *J.*:

The Case

Before the Court is a Petition for Review[1] assailing the Court of Appeals' Resolutions of 27 September 2000[2] and 7 February 2001 in CA-G.R. SP No. 51519. The Court of Appeals upheld the Decision[3] dated 27 November 1997 and the Resolution dated 30 April 1998 of the National Labor Relations Commission ("NLRC") in NLRC Case No. V-0048-97. The NLRC reversed the Labor Arbiter's Decision of 29 November 1996, which found respondent Antique Electric

Cooperative ("ANTECO") liable for petitioners' wage differentials amounting to P1,017,507.73 plus attorney's fees of 10%.

Antecedent Facts

Petitioners are monthly-paid employees of ANTECO whose workdays are from Monday to Friday and half of Saturday. After a routine inspection, the Regional Branch of the Department of Labor and Employment ("DOLE") found ANTECO liable for underpayment of the monthly salaries of its employees. On 10 September 1989, the DOLE directed ANTECO to pay its employees wage differentials amounting to P1,427,412.75. ANTECO failed to pay.

Thus, on various dates in 1995, thirty-three (33) monthly-paid employees filed complaints with the NLRC Sub-Regional Branch VI, Iloilo City, praying for payment of wage differentials, damages and attorney's fees. Labor Arbiter Rodolfo G. Lagoc ("Labor Arbiter") heard the consolidated complaints.

On 29 November 1996, the Labor Arbiter rendered a Decision in favor of petitioners granting them wage differentials amounting to P1,017,507.73 and attorney's fees of 10%. Florentino Tongson, whose case the Labor Arbiter dismissed, was the sole exception.

ANTECO appealed the Decision to the NLRC on 24 December 1996. On 27 November 1997, the NLRC reversed the Labor Arbiter's Decision. The NLRC denied petitioners' motion for reconsideration in its Resolution dated 30 April 1998. Petitioners then elevated the case to this Court through a petition for certiorari, which the Court dismissed for petitioners' failure to comply with Section 11, Rule 13 of the Rules of Court. On petitioners' motion for reconsideration, the Court on 13 January 1999 set aside the dismissal. Following the doctrine in St. Martin Funeral Home vs. NLRC,[4] the Court referred the case to the Court of Appeals.

On 27 September 2000, the Court of Appeals issued a Resolution dismissing the petition for failure to comply with Section 3, Rule 46 of the Rules of Court. The Court of Appeals explained that petitioners failed to allege the specific instances where the NLRC abused its

discretion. The appellate court denied petitioners' motion for reconsideration on 7 February 2001.

Hence, this petition.

The Labor Arbiter's Ruling

The Labor Arbiter reasoned that ANTECO failed to refute petitioners' argument that monthly-paid employees are considered paid for all the days in a month under Section 2, Rule IV of Book 3 of the Implementing Rules of the Labor Code ("Section 2").[5] Petitioners claim that this includes not only the 10 legal holidays, but also their un-worked half of Saturdays and all of Sundays.

The Labor Arbiter gave credence to petitioners' arguments on the computation of their wages based on the 304 divisor used by ANTECO in converting the leave credits of its employees. The Labor Arbiter agreed with petitioners that ANTECO's use of 304 as divisor is an admission that it is paying its employees for only 304 days a year instead of the 365 days as specified in Section 2. The Labor Arbiter concluded that ANTECO owed its employees the wages for 61 days, the difference between 365 and 304, for every year.

The NLRC's Ruling

On appeal, the NLRC reversed the Labor Arbiter's ruling that ANTECO underpaid its employees. The NLRC pointed out that the Labor Arbiter's own computation showed that the daily wage rates of ANTECO's employees were above the minimum daily wage of P124. The lowest paid employee of ANTECO was then receiving a monthly wage of P3,788. The NLRC applied the formula in Section 2 [(Daily Wage Rate = (Wage x 12)/365)] to the monthly wage of P3,788 to arrive at a daily wage rate of P124.54, an amount clearly above the minimum wage.

The NLRC noted that while the reasoning in the body of the Labor Arbiter's decision supported the view that ANTECO did not underpay, the conclusion arrived at was the opposite. Finally, the NLRC ruled that the use of 304 as a divisor in converting leave credits is more

favorable to the employees since a lower divisor yields a higher rate of pay.

The Ruling of the Court of Appeals

The Court of Appeals held that the petition was insufficient in form and substance since it "does not allege the essential requirements of the extra-ordinary special action of certiorari." The Court of Appeals faulted petitioners for failing to recite "where and in what specific instance public respondent abused its discretion." The appellate court characterized the allegations in the petition as "sweeping" and clearly falling short of the requirement of Section 3, Rule 46 of the Rules of Court.

The Issues

Petitioners raise the following issues:

I

> WHETHER THE COURT OF APPEALS IS CORRECT IN DISMISSING THE CASE.

II

> WHETHER PETITIONERS ARE ENTITLED TO THEIR MONEY CLAIM.[6]

The Ruling of the Court

The petition has no merit.

On the sufficiency of the petition

Petitioners argue that the Court of Appeals erred in dismissing their petition because this Court had already ruled that their petition is sufficient in form and substance. They argue that this precludes any judgment to the contrary by the Court of Appeals. Petitioners cite this Court's Resolution dated 13 January 1999 as their basis. This

Resolution granted petitioners' motion for reconsideration and set aside the dismissal of their petition for review.

Petitioners' reliance on our 16 September 1998 Resolution is misplaced. In our Resolution, we dismissed petitioners' case for failure to comply with Section 11, Rule 13 of the Rules of Court.[7] The petition lacked a written explanation on why service was made through registered mail and not personally.

The error petitioners committed before the Court of Appeals is different. The appellate court dismissed their petition for failure to comply with the first paragraph of Section 3 of Rule 46[8] in relation to Rule 65 of the Rules of Court, outlining the necessary contents of a petition for certiorari. This is an entirely different ground. The previous dismissal was due to petitioners' failure to explain why they resorted to service by registered mail. This time the content of the petition itself is deficient. Petitioners failed to allege in their petition the specific instances where the actions of the NLRC amounted to grave abuse of discretion.

There is nothing in this Court's Resolution dated 13 January 1999 that remotely supports petitioners' argument. What we resolved then was to reconsider the dismissal of the petition due to a procedural defect and to refer the case to the Court of Appeals for its proper disposition. We did not in any way rule that the petition is sufficient in form and substance.

Petitioners also argue that their petition is clear and specific in its allegation of grave abuse of discretion. They maintain that they have sufficiently complied with the requirement in Section 3, Rule 46 of the Rules of Court.

Again, petitioners are mistaken.

We quote the relevant part of their petition:

> REASONS RELIED UPON FOR ALLOWANCE OF PETITION
>
> 12. This Honorable court can readily see from the facts and circumstances of this case, the petitioners were denied of their

> rights to be paid of 4 hours of each Saturday, 51 rest days and 10 legal holidays of every year since they started working with respondent ANTECO.
>
> 13. The respondent NLRC while with open eyes knew that the petitioners are entitled to salary differentials consisting of 4 hours pay on Saturdays, 51 rest days and 10 legal holidays plus 10% attorney's fees as awarded by the Labor Arbiter in the above-mentioned decision, still contrary to law, contrary to existing jurisprudence issued arbitrary, without jurisdiction and in excess of jurisdiction the decision vacating and setting aside the said decision of the Labor Arbiter, to the irreparable damage and prejudice of the petitioners.
>
> 14. That the respondent NLRC in grave abuse of discretion in the exercise of its function, by way of evasion of positive duty in accordance with existing labor laws, illegally refused to reconsider its decision dismissing the petitioners' complaints.
>
> 15. That there is no appeal, nor plain, speedy and adequate remedy in law from the above-mentioned decision and resolution of respondent NLRC except this petition for certiorari.[9]

These four paragraphs comprise the petitioners' entire argument. In these four paragraphs petitioners ask that a writ of certiorari be issued in their favor. We find that the Court of Appeals did not err in dismissing the petition outright. Section 3, Rule 46 of the Rules of Court requires that a petition for certiorari must state the grounds relied on for the relief sought. A simple perusal of the petition readily shows that petitioners failed to meet this requirement.

The appellate court's jurisdiction to review a decision of the NLRC in a petition for certiorari is confined to issues of jurisdiction or grave abuse of discretion.[10] An extraordinary remedy, a petition for certiorari is available only and restrictively in truly exceptional cases. The sole office of the writ of certiorari is the correction of errors of jurisdiction including the commission of grave abuse of discretion amounting to lack or excess of jurisdiction.[11] It does not include correction of the NLRC's evaluation of the evidence or of its factual

findings. Such findings are generally accorded not only respect but also finality.[12] A party assailing such findings bears the burden of showing that the tribunal acted capriciously and whimsically or in total disregard of evidence material to the controversy, in order that the extraordinary writ of certiorari will lie.[13]

We agree with the Court of Appeals that nowhere in the petition is there any acceptable demonstration that the NLRC acted either with grave abuse of discretion or without or in excess of its jurisdiction. Petitioners merely stated generalizations and conclusions of law. Rather than discussing how the NLRC acted capriciously, petitioners resorted to a litany of generalizations.

Petitions that fail to comply with procedural requisites, or are unintelligible or clearly without legal basis, deserve scant consideration. Section 6, Rule 65 of the Rules of Court requires that every petition be sufficient in form and substance before a court may take further action. Lacking such sufficiency, the court may dismiss the petition outright.

The insufficiency in substance of this petition provides enough reason to end our discussion here. However, we shall discuss the issues raised not so much to address the merit of the petition, for there is none, but to illustrate the extent by which petitioners have haphazardly pursued their claim.

On the right of the petitioners to wage differentials

Petitioners claim that the Court of Appeals gravely erred in denying their claim for wage differentials. Petitioners base their claim on Section 2, Rule IV of Book III of the Omnibus Rules Implementing the Labor Code. Petitioners argue that under this provision monthly-paid employees are considered paid for all days of the month including un-worked days. Petitioners assert that they should be paid for all the 365 days in a year. They argue that since in the computation of leave credits, ANTECO uses a divisor of 304, ANTECO is not paying them 61 days every year.

Petitioners' claim is without basis

We have long ago declared void Section 2, Rule IV of Book III of the Omnibus Rules Implementing the Labor Code. In Insular Bank of Asia vs. Inciong,[14] we ruled as follows:

> Section 2, Rule IV, Book III of the Implementing Rules and Policy Instructions No. 9 issued by the Secretary (then Minister) of Labor are null and void since in the guise of clarifying the Labor Code's provisions on holiday pay, they in effect amended them by enlarging the scope of their exclusion.

The Labor Code is clear that monthly-paid employees are not excluded from the benefits of holiday pay. However, the implementing rules on holiday pay promulgated by the then Secretary of Labor excludes monthly-paid employees from the said benefits by inserting, under Rule IV, Book III of the implementing rules, Section 2 which provides that monthly-paid employees are presumed to be paid for all days in the month whether worked or not.

Thus, Section 2 cannot serve as basis of any right or claim. Absent any other legal basis, petitioners' claim for wage differentials must fail.

Even assuming that Section 2, Rule IV of Book III is valid, petitioners' claim will still fail. The basic rule in this jurisdiction is "no work, no pay." The right to be paid for un-worked days is generally limited to the ten legal holidays in a year.[15] Petitioners' claim is based on a mistaken notion that Section 2, Rule IV of Book III gave rise to a right to be paid for un-worked days beyond the ten legal holidays. In effect, petitioners demand that ANTECO should pay them on Sundays, the un-worked half of Saturdays and other days that they do not work at all. Petitioners' line of reasoning is not only a violation of the "no work, no pay" principle, it also gives rise to an invidious classification, a violation of the equal protection clause. Sustaining petitioners' argument will make monthly-paid employees a privileged class who are paid even if they do not work.

The use of a divisor less than 365 days cannot make ANTECO automatically liable for underpayment. The facts show that petitioners are required to work only from Monday to Friday and half

of Saturday. Thus, the minimum allowable divisor is 287, which is the result of 365 days, less 52 Sundays and less 26 Saturdays (or 52 half Saturdays). Any divisor below 287 days means that ANTECO's workers are deprived of their holiday pay for some or all of the ten legal holidays. The 304 days divisor used by ANTECO is clearly above the minimum of 287 days.

Finally, petitioners cite Chartered Bank Employees Association vs. Ople[16] as an analogous situation. Petitioners have misread this case.

In Chartered Bank, the workers sought payment for un-worked legal holidays as a right guaranteed by a valid law. In this case, petitioners seek payment of wages for un-worked non-legal holidays citing as basis a void implementing rule. The circumstances are also markedly different. In Chartered Bank, there was a collective bargaining agreement that prescribed the divisor. No CBA exists in this case. In Chartered Bank, the employer was liable for underpayment because the divisor it used was 251 days, a figure that clearly fails to account for the ten legal holidays the law requires to be paid. Here, the divisor ANTECO uses is 304 days. This figure does not deprive petitioners of their right to be paid on legal holidays.

A final note. ANTECO's defense is likewise based on Section 2, Rule IV of Book III of the Omnibus Rules Implementing the Labor Code although ANTECO's interpretation of this provision is opposite that of petitioners. It is deplorable that both parties premised their arguments on an implementing rule that the Court had declared void twenty years ago in Insular Bank. This case is cited prominently in basic commentaries.[17] And yet, counsel for both parties failed to consider this. This does not speak well of the quality of representation they rendered to their clients. This controversy should have ended long ago had either counsel first checked the validity of the implementing rule on which they based their contentions.

WHEREFORE, the petition is **DENIED**. The Resoution of the Court of Appeals DISMISSING CA-G.R. SP No. 51519 is **AFFIRMED**.

SO ORDERED.

Davide, Jr., *C.J.*, *(Chairman)*, Panganiban, Ynares-Santiago, and Azcuna, *JJ.*, concur.

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[1] Under Rule 45 of the Rules of Court.
[2] Penned by Associate Justice Mariano M. Umali with Associate Justices Ruben T. Reyes and Rebecca De-Guia Salvador, concurring.
[3] Penned by Commissioner Bernabe S. Batuhan with Commissioners Irenea R. Cerniza and Amorito V. Cañete, concurring.
[4] 356 Phil. 811 (1998).
[5] SEC. 2. Status of employees paid by the month. – Employees who are uniformly paid by the month, irrespective of the number of working days therein, with a salary of not less than the statutory or established minimum wage shall be presumed to be paid for all days in the month whether worked or not.
For this purpose, the monthly minimum wage shall not be less than the statutory minimum wage multiplied by 365 days divided by twelve.
[6] Rollo, p. 9.
[7] Sec. 11. Priorities in modes of service and filing. – Whenever practicable, the service and filing of pleadings and other papers shall be done personally. Except with respect to papers emanating from the court, a resort to other modes must be accompanied by a written explanation why the service or filing was not done personally. A violation of this Rule may be cause to consider the paper as not filed.
[8] Sec. 3 Content and filing of petition; effect of non-compliance with requirements. – The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.
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[9] CA Rollo, p. 6.
[10] Sea Power Shipping Enterprises, Inc. vs. Court of Appeals, 412 Phil. 603 (2001).
[11] Oro vs. Judge Diaz, 413 Phil. 416 (2001).
[12] Flores vs. NLRC, 323 Phil. 589 (1996).
[13] Sajonas vs. NLRC, G.R. No. 49286, March 15, 1990, 183 SCRA 182.
[14] Insular Bank of Asia and America Employees' Union (IBAAEU) vs. Inciong, 217 Phil. 629 (1984).
[15] See Article 94 of the Labor Code and Executive Order No. 223.
[16] G.R. No. L-44717, 28 August 1985, 138 SCRA 273.
[17] See Azucena, "The Labor Code with Comments and Cases," Vol. 1, pp.174 to 175.
