

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**VIRON GARMENTS MANUFACTURING
CO., INC. and DOLLY LIM,**
Petitioners,

-versus-

**G.R. No. 97357
March 18, 1992**

**THE NATIONAL LABOR RELATIONS
COMMISSION (Third Division),
NATIONAL FEDERATION OF LABOR
UNIONS (NAFLU) and RODOLFO
ROMERO, MILA BUDA, MILAGROS
COLCOL, IMELDA PATROPIS,
ESTELLITA DUMO, SHIRLEY
MONFORTE, ERLINDA POSTALERO,
ERLINDA PEÑALOSA and EMETERIA
ESPERONZATE,**

Respondents.

X-----X

DECISION

GRÍÑO-AQUINO, J.:

This is a Petition for *Certiorari* under Rule 65 of the Rules of Court with Prayer for Issuance of Temporary Restraining Order and Writ of Preliminary Injunction, of the Decision dated November 21, 1990

issued by the National Labor Relations Commission in NLRC Case No. RAB-III-06-022-85-B, dismissing petitioners' appeal for failure to file the required cash or surety bond under Art. 223 of the Labor Code, as well as the resolution dated January 31, 1991, denying petitioners' motion for reconsideration.

On June 4, 1985, the National Federation of Labor Unions (NAFLU), Rodolfo Romero and others filed a complaint charging petitioners Viron Garments and Dolly Lim with unfair labor practice thru illegal shutdown, non-payment of wages and allowances for the periods of February 1-15, and May 16-31, 1985, non-payment of five (5) days service incentive leave pay from 1983-85 and illegal deduction of P50 to P100 from the private respondents' wages during the months of September and October, 1984.

On December 20, 1988, Labor Arbiter Dominador B. Saldares rendered a decision (pp. 57-63) finding the petitioners guilty of unfair labor practice; ordering them, jointly and severally, to reconstitute the deductions made from the wages of the private respondents Mila Buda, Milagros Colcol, Imelda Patropis, Rodolfo Romero, Estellita Dumo, Shirley Monforte, Erlinda Postalero, Erlinda Peñaloza and Emeteria Esperonzate; to immediately reinstate them to their former positions without loss of seniority rights, with full backwages and other benefits from June 1, 1985 up to June 1, 1988, without deduction and qualifications.

The total award amounted to Five Million Four Hundred Sixty Nine Thousand Sixty-One Pesos and 60/100 (P5,469,061.60). The employees in due time filed a Motion for Execution.

A Motion to Quash the Writ of Execution was filed by the Company on the ground, among others, that it had been closed for the last three years and was no longer in operation.

On July 25, 1989, Labor Arbiter Saldares issued a Writ of Execution.

The petitioners appealed to the NLRC.

On April 10, 1990, the NLRC directed the petitioners to post a cash or surety bond equal to the monetary awards from a reputable and duly accredited bonding company.

The petitioners asked to be excused from filing a bond until the recomputation of the backwages was finally resolved.

Petitioners were given a non-extendible period of ten (10) days (from notice) within which to post a cash or surety bond, otherwise, their appeal would be dismissed.

On July 6, 1990, petitioners filed a Manifestation and Motion with an attached pleading entitled “Appeal Bond/Undertaking” which they asked the Commission to consider as substantial compliance with its resolution dated June 20, 1990.

On November 21, 1990, the NLRC dismissed their appeal for failure to file the required cash or surety bond. The Commission denied the petitioners’ Motion for Reconsideration and on February 25, 1991, issued a Writ of Execution which was served forthwith on the petitioners together with the Sheriff’s Notice of Levy and Sale on Execution of Personal Property.

The auction sale proceeded as scheduled on March 6, 1990. A lone bidder bid the amount of P512,000. A certificate of sale was duly issued.

The petitioners came to this Court on a petition for certiorari, assailing as a grave abuse of discretion, the NLRC’s rejection of their appeal bond/undertaking.

Article 223 of the Labor Code, as amended by Republic Act No. 6715, provides:

“Art. 223. Appeal. — Decisions, awards, or orders of the Labor Arbiter are final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards, or orders. Such appeal may be entertained only on any of the following grounds:

“x x x

“In case of a judgment involving a monetary award, an appeal by the employer may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Commission in the amount equivalent to the monetary award in the judgment appealed from. (Emphasis supplied)

Petitioners posit that the above provision was applied by the NLRC very rigidly and literally; and that a cash or surety bond for the perfection of an appeal is not mandatory as may be inferred from the phrase “may be,” instead of “shall” used in the law.

There is no merit in that argument.

The intention of the lawmakers to make the bond an indispensable requisite for the perfection of an appeal by the employer, is clearly limned in the provision that an appeal by the employer may be perfected “only upon the posting of a cash or surety bond.” The word “only”; makes it perfectly clear, that the lawmakers intended the posting of a cash or surety bond by the employer to be the exclusive means by which an employer’s appeal may be perfected.

The word “may” refers to the perfection of an appeal as optional on the part of the defeated party, but not to the posting of an appeal bond, if he desires to appeal.

The meaning and the intention of the legislature in enacting a statute must be determined from the language employed, and where there is no ambiguity in the words, there is no room for construction (Provincial Board of Cebu vs. Presiding Judge of Cebu Court of First Instance, Branch IV, 171 SCRA 1).

The requirement that the employer post a cash or surety bond to perfect its/his appeal is apparently intended to assure the workers that if they prevail in the case, they will receive the money judgment in their favor upon the dismissal of the employer’s appeal. It was intended to discourage employers from using an appeal to delay, or

even evade, their obligation to satisfy their employees' just and lawful claims.

The "undertaking" which the petitioners signed, binding themselves to answer and pay the judgment or award would not assure satisfaction of the monetary awards if they (the judgment debtors) became insolvent during the pendency of the appeal.

WHEREFORE, the petition for certiorari is **DISMISSED**. The temporary restraining order which this Court issued is hereby lifted.

SO ORDERED.

Narvasa, C.J., Cruz and Medialdea, JJ., concur.