SUPREME COURT
FIRST DIVISION

VOLKSCHEL LABOR UNION, MARIANO SUAREZ, PEDRO TORRES, JAIME RAMOS, and ANTONIO GALAN,
***Petitioners*,**

-versus-

G.R. No. L-39686
June 25, 1980

NATIONAL LABOR RELATIONS COMMISSION and PEOPLE'S CAR, INCORPORATED,
***Respondents*.**
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D E C I S I O N

DE CASTRO, *J.*:

Petition for Review on *Certiorari* of the Decision of the National Labor Relations Commission which modified the award dated February 1, 1974 of the Arbitrator.

The case arose from the complaint for unfair labor practice filed on March 15, 1973 by petitioner against respondent company on the following grounds:

1. Unjust transfers and suspension of unionists.

2. Gross violation of the collective bargaining agreement, particularly re: agency clause.

3. Refusal to negotiate union grievances in good faith.

Sometime in January, 1973, respondent company in an inter-office Memorandum,[1] ordered the transfer of several employees from the Malabon District Office to the Cebu District and Magna Service, Inc., sister-company of said respondent. The union, thru its president, Casiano C. Garcia wrote a Letter[2] to Mr. Rene Oboza, President and General Manager of the Company, seeking a reconsideration of the projected transfer. On January 9, 1973, the company issued an inter-office Memorandum[3] informing the employees concerned that management is standing firm on its decision to transfer or assign them to the Cebu District and Magna Services and that they are suspended indefinitely for their refusal to comply with the management's order, which suspension will eventually lead to termination from the service for cause after the company secures the clearance from the Secretary of Labor. With this situation, Casiano Garcia, the union president, again wrote a letter to the management, requesting for the lifting of the employees' suspension without loss of personal rights and privileges and stating that by effecting the transfer of these employees, it would seem that the company is bent on "busting" the union chapter in Malabon District which tends to demoralize the members. In reply to said letter, the company, thru Mr. Rene Oboza, averred that the suspension was the result of the employees' violation of the Code of Discipline; that the act of suspension was merely an exercise of management's prerogative to discipline its employees, calling the attention of Mr. Garcia to Art. II, Section 1 of the CBA which provides:

> "Management rights — The COMPANY retains the sole right to manage its business including the number and location of factories or plants as well as to suspend, discharge, lay-off or take any disciplinary action against any employee for just causes."

and that management was well within its rights in enforcing a provision of the CBA.

The respondent company adduced the reason that the questioned transfer was due to the fact that the Malabon District Office of the Company had been in a business slump on account of the construction and subsequent opening of the North Diversion Road at Balintawak, Rizal and other business factors which forced the company to decide on a retrenchment program involving the reduction of its personnel. It was also stressed by the company that a careful screening of all the employees' records was done to avoid injustice and that the selection of those involved in the retrenchment was made regardless of whether they were union members or not; that it could have well decided to dismiss its employees at its Malabon Branch but instead of pursuing such course of action, it gave its employees several options to choose from:

(1) temporary lay offs with priority of employment at the opening of respondent's Marikina Branch;

(2) transfer or relocation to any of respondents' branches or sister corporations; and

(3) permanent termination from employment with separation pay; that some employees accepted and received respondent's offer of separation pay; and when herein petitioner-employees opted to remain with the company, they submitted themselves to its discretion when and where they should be transferred and/or relocated.

On the other hand, petitioners maintain that the company violated the provision of Art. I, Section 1 of the Collective Bargaining Agreement, to wit:

> "UNION RECOGNITION AND CHECK-OFF — Section 1. The COMPANY recognizes the union as the sole and exclusive bargaining representative for all regular rank and file workers of the COMPANY in the Greater Manila Area."

Petitioners contend that such transfer involved movement that would take the employees outside the bargaining unit defined in the agreement. Moreover, in refusing to be transferred to the Magna

Services, Inc. and Cebu District, herein petitioners-employees claim that it would be very difficult to leave their families behind even if they wanted to, considering the prevailing economic conditions.

Furthermore, petitioner union alleged that the company refused to honor its commitment embodied in Art. III, Section 3 of the Agreement, "that respondent company bound itself to assist the Union to collect and hereby guarantees collection of, an agency fee equivalent to the Union membership dues but not exceeding P4.00 per month from each regular employee, and who is not a member of the Union;" and since all the employees in the Company, whether they be union or non-union members are entitled to all the benefits that their bargaining agent was able to secure for them, it is in this light that the Union seeks the imposition of the Agency fee.

The respondent company considers the issue of agency fee as sub judice since it was raised for resolution before the Court of First Instance of Rizal in a petition for declaratory relief praying for the proper construction and interpretation of the provision on agency fee. In answer to this claim, petitioner union argues that the NLRC has exclusive jurisdiction to resolve the present dispute regarding agency fees in accordance with PD No. 21.

Pending resolution of the complaint, the company reinstated Godofredo League and Edilberto Vicmudo while petitioners Suarez, Ramos, Torres and Galan were dismissed for insubordination. After a series of hearings and submission of the parties' respective memoranda, the arbitrator rendered an award[4] on February 1, 1974, the dispositive portion of which reads:

> "WHEREFORE, and in recapitulation, the respondent company is hereby directed to reinstate Mariano Suarez, Jaime Ramos, Pedro Torres and Antonio Galan to their usual employment with full backwages from January 9, 1973 and to pay backwages to Godofredo League and Edilberto Vicmudo corresponding to the period of their unjust suspension and/or lay-off from January to February, 1973.
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> "Likewise, the respondent company is ordered to comply with its obligation under Art. III, Section 3 of the CBA and in this

respect, to transmit all agency fees due the union in the amount of P4.00 per capita monthly from January 1, 1972 up to the present time and to continue to comply with such obligation henceforth till the expiration of the CBA.

"So Ordered."

From this award, respondent company appealed to the National Labor Commission. Petitioners objected to the appeal on the grounds that (1) the award had already become final and executory since the appeal was filed beyond the reglementary period; (2) the award is final and unappealable because of the provision of the collective bargaining agreement and (3) the award is supported by substantial evidence. On October 17, 1974, the Commission rendered a Decision[5] modifying the arbitrator's award, thus:

"WHEREFORE, complainants Suarez, Jaime Ramos, Pedro Torres and Antonio Galan are hereby ordered to comply with respondents directive to reassign or transfer them within fifteen (15) days from receipt of this decision.

x x x

"The award appealed from is therefore, set aside insofar as it is inconsistent with this decision.

"So Ordered."

Petitioners appealed to the Secretary of Labor on November 14, 1974 and during the pendency thereof, filed the instant petition for review alleging that they cannot exclusively rely on their appeal to the Secretary of Labor when they received the disputed decision on November 8, 1974 (after the New Labor Code had already taken effect on November 1, 1974, repealing PD No. 21); that up to now there are no implementing rules promulgated yet by the New NLRC created by PD 442 and in order to prevent a grave irreparable damage to the interest of the petitioners, they must file this appeal by certiorari pursuant to the provision of the New Labor Code "that the decision of the NLRC involving question of law could he appealed by certiorari to the Supreme Court."

The following issues are presented to this Court for resolution:

1. As to whether or not the NLRC has the power to alter or modify the award rendered by a voluntary arbitrator whose decision is final and executory pursuant to the CBA; and

2. As to whether or not the NLRC could still reverse or modify the voluntary arbitrator's award despite the appeal of the private respondent company was filed beyond the reglementary period or in other words the right to appeal has prescribed.

The petition was given due course on February 24, 1975 and pending receipt of respondent' s answer, the Secretary of Labor on March 24, 1975 issued an Order[6] denying petitioners' appeal from the decision of respondent commission and accordingly enjoined the parties to comply with the disposition set forth in the said appealed decision.

In support of the first issue raised, petitioners argued that the voluntary arbitrator expressly stated in his award "that the parties agreed to refer the dispute to the undersigned for voluntary arbitration in accordance with the CBA;" that said finding was not questioned by respondent company; that the decision revising the award of the voluntary arbitrator is violative of the CBA which provides:

> "There shall be no appeal from an arbitrator's decision. It shall be final and binding on the UNION, on all bargaining unit employees and on the COMPANY. The decision shall be such as to be dispositive of the matter or matters submitted to arbitration."[7]

and that the provision in the CBA regarding the grievance machinery as well as the definition of the bargaining unit specifically delineating a definite place of work would be useless if respondent company could transfer employees at will even to places not covered by the CBA.

As to the second issue raised, it is the contention of petitioners that the appeal of respondent company from the arbitrator's award was filed on March 5, 1974, which is beyond the reglementary period, alleging that said respondent received the award on February 22, 1974;[8] and for the NLRC now to revise or disturb the award of the voluntary arbitrator would in effect be going against the very implementing rules it has promulgated requiring any aggrieved party to file an appeal within 5 days upon receipt of the award, which rule was adopted on October 18, 1972.

In refutation of petitioners' contentions, respondent company alleged that the award rendered by the arbitrator is not the decision contemplated in and provided for in the CBA; that the fact that petitioners' appeal to the Secretary of Labor was still pending when they filed the instant petition clearly divests this Court from taking cognizance of the present case; that the NLRC's rule dated October 18, 1972 was expressly repealed by its subsequent supplementary rule issued on January 26, 1973 which reads in part, thus:

> "Section 2. Appeal may be brought to the Commission within ten (10) days upon receipt of the Award by the aggrieved party."[9]

It was stressed by said respondent that the provision in the collective bargaining agreement is subordinate to the will of the state or the law; that is to say, if appeal is provided for or available under the law, said remedy cannot be foreclosed by mere stipulation of the parties.

Arbitrator Alexander Guray stated in his award that the parties had earlier sought to settle their differences internally pursuant to the grievance machinery provided in their agreement; and when their efforts to resolve the problem failed, the parties agreed to refer the dispute to a voluntary arbitrator. A perusal of the records however show that on May 11, 1973, the Mediation-fact finding report submitted by Mediator Jose Collado, Jr. contained the following data:[10]

> "II. Issue remained non-conciliatory.
>
> III. No Mutual Agreement for voluntary arbitration.

IV. Referred to NLRC for Compulsory Arbitration."

The designation of Guray was thus as "Compulsory Arbitrator,"[11] and the proceedings accordingly were actually that of compulsory arbitration with the right of appeal. However, because of respondent company's failure to perfect its appeal on time, the National Labor Relations Commission was divested of its jurisdiction to entertain the appeal.

The records show that the respondent company's appeal to the Commission was filed on March 5, 1974 and was received by the Bureau of Labor Relations Division on March 6, 1974.[12] It was admitted by said respondent that its counsel received a copy of the arbitrator's award on February 22, 1974 and applying Section 2 of the NLRC Rules and Regulations providing for a ten-day period to appeal from receipt of the award, it is very clear by mathematical computation that the appeal was filed out of time; hence, the award attained finality.

It is a well-settled rule that an award or judgment becomes final and executory upon the expiration of the period to appeal and no appeal was made within the reglementary period. The basic rule of finality of judgment is applicable indiscriminately to one and all since the rule is grounded on fundamental consideration of public policy and sound practice that at the risk of occasional error, the judgment of courts and award of quasi-judicial agencies must become final at some definite date fixed by law.[13]

The lapse of the appeal period deprives courts of jurisdiction to alter a final judgment. In the instant case, the decision of the Commission[14] modifying the award of the arbitrator is null and void for having been issued without jurisdiction and authority, the appeal taken thereto not having been filed on time. The perfection of an appeal within the reglementary period is not only mandatory but jurisdictional.[15]

Respondent Company's contention that it filed its appeal within the reglementary period should not be given weight. Such allegation is not fully substantiated. There is here an apparent miscomputation by counsel of the appeal period which will not arrest the course of the

same nor prevent the finality of the judgment, in simply stating that he filed the appeal on time, otherwise, the definite and executory character of the judgment would be left to the whim of the losing party, when it is in the interest of everyone that the date when judgments become final should remain fixed and ascertainable.[16]

In view of the above conclusion reached, there is no further need to discuss the merits of the dismissal of the employees for insubordination. The award having attained finality, becomes the law of the case, and must be complied with, no matter how erroneous it may be.

It may also be pertinent to state that even if the proceedings herein be considered as in the nature of a voluntary arbitration as so held by the Arbitrator in his award, for reasons not quite clear from the records, the award appealed from shall be final and binding between the parties. The award of voluntary Arbitrators acting within the scope of their authority determines the rights of the parties, and their decisions have the same legal effects as a judgment of the Court. Such decisions on matters of fact and law are conclusive, and all matters in the award are thenceforth res judicata, on the theory that the matter has been adjudged by the tribunal which the parties have agreed to make final as tribunal of last resort.[17]

WHEREFORE, the decision dated October 17, 1974 of the National Labor Relations Commission and the Order dated March 24, 1975 of the Secretary of Labor are hereby set aside and the award of the arbitrator is reinstated in toto. This decision is immediately executory. No pronouncement as to costs.

SO ORDERED.

Teehankee, *J.*, in the result.
Makasiar, Fernandez and Guerrero, *JJ.*, concur.
Melencio-Herrera, *J.*, took no part.

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[1] Annexes A to A-3 of the petition, pp. 21-22, Rollo.
[2] Annex B of the petition, p. 23, Rollo.

[3] NLRC Original Records, pp. 213-220.
[4] p. 36, Rollo.
[5] Decision, p. 42 Rollo.
[6] Order, p. 4, NLRC Original Records.
[7] Article XV, Section 8, Collective Bargaining Agreement, p. 242, NLRC Original Records.
[8] p. 39, Rollo.
[9] Answer, p. 119, Rollo.
[10] Original NLRC Records, p. 194.
[11] Ibid., p. 85.
[12] Original NLRC Records, p. 49.
[13] Cruz vs. WCC, 81 SCRA 447.
[14] Decision. p. 42, Rollo.
[15] Galima vs. CA, 16 SCRA 140; Antique Sawmills, Inc. vs. Tayco, 17 SCRA 316; Roque vs. Vda. del Rosario, 18 SCRA 101.
[16] Galima vs. CA, Supra.
[17] Am. Jur. pp. 951, 953, Sec. 13.