

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
FIRST DIVISION**

**YBL (YOUR BUS LINE) AND  
PRUDENCIO JARING,**

*Petitioners,*

*-versus-*

**G.R. No. 93381  
September 28, 1990**

**NATIONAL LABOR RELATIONS  
COMMISSION, RUFINO C. LAMBINO,  
ALEJANDRO BASBAS, CRESENCIANO  
BELTRAN, NANCY MARCAIDA,  
YOLANDA MENDOZA, RODELIO  
TAPIA, REYNALDO RAMILO,  
FRANCISCO BALINGIT, PURITA  
GUPIT, M. DIONADA, and NOEL  
DEOCAREZA,**

*Respondents.*

X-----X

**DECISION**

**GANCAYCO, J.:**

The need to render substantial justice as against technicality is put to test in this case.

Private respondents were drivers and conductors of petitioner-corporation which was operating buses it leased from the Metro Manila Transit Corporation (MMTC). During the period 1983-1986, it appears that it incurred serious business losses and failed to pay rentals to the MMTC which in turn instituted a civil action against it. During the pendency of the case the MMTC was able to repossess all the buses operated by petitioner corporation. Since it had no more buses to operate and was severely financially distressed, it stopped its operations and the employment of private respondents was discontinued.

Private respondents thus filed a case for illegal dismissal in the National Labor Relations Commission (NLRC) which was subsequently amended to a complaint for payment of separation pay.

Impleaded in the complaint was petitioner Prudencio Jaring who is sought to be principally liable with the petitioner corporation as president thereof.

After the parties submitted their position papers, the labor arbiter rendered a decision declaring private respondents entitled to separation pay and ordering the petitioners to jointly and severally pay private respondents their separation pay computed from the date of hiring up to their termination at the rate of one-half (1/2) month for every year of service. Within the reglementary period for appeal, petitioners filed a notice of appeal and a memorandum of appeal with the respondent NLRC wherein they questioned the award of separation pay despite the acknowledgment by the labor arbiter that petitioner corporation suffered business losses. It was also advocated in the same appeal that petitioner Jaring was no longer an officer at the time of the termination of private respondents, and granting that he was the president of petitioner corporation then, the latter has a separate and distinct personality from petitioner Jaring who cannot be jointly and severally be held liable in this case with petitioner corporation.

However, on January 30, 1990 an order was issued by the NLRC stating that as the petitioners failed to post the required bond, their appeal was rendered imperfect making the decision appealed from final and executory.<sup>[1]</sup>

A motion for reconsideration filed by petitioners was denied by the NLRC in a resolution dated May 8, 1990.

Hence, this petition for review, which this Court will treat as a special civil action for certiorari, whereby petitioners raised the sole issue that the NLRC erred in not giving due course to the appeal for failure to satisfy a purely technical requirement when issues involving substantial rights were raised in the appeal.

The petition is impressed with merit.

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

“ART. 223. Appeal. — 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.)

The NLRC Interim Rules on Appeals under Republic Act No. 6715, which took effect on September 5, 1989, provide in Section 5 thereof as follows:

“Section 5. Requisites of Appeal; When Perfected shall be under oath with proof of payment of the required appeal fee and the posting of a cash or surety bond as provided in Section 7 of these rules.” (Emphasis supplied.)

The appeal interposed by petitioners to the NLRC was made on September 11, 1989, or just after six (6) days from the effectivity of the aforestated Interim Rules. In undertaking the appeal, the counsel of petitioners relied on the notice of the decision in the case which stated the requirements of an appeal without any mention that a bond must be filed.<sup>[2]</sup> Apparently said counsel did not know as yet of said new law and Interim Rules requiring the posting of a bond on appeal. It also appears that private respondents did not know about it as no opposition to the appeal was made on this account.

Moreover, in the appealed decision of the labor arbiter the exact total amount due to the private respondents as separation pay is not stated which would be the basis of the bond that is required to be filed by petitioners under the said law. Thus even if petitioners may be expected to know the law, then they allege that they would have to go to the socio-analyst of the NLRC to compute the approximate amount due the private respondents as the basis of the amount of the bond to be filed so that it is not probable that they may be able to secure such computation within the non-extendible period of ten (10) days to appeal provided for by law.

Petitioners also assert that at that time the petitioner corporation was in financial distress. At any rate they offered to post the bond in compliance with the requirement of the law so that they may be afforded the relief of an appeal.

The Court finds that while Article 223 of the Labor Code, as amended by Republic Act No. 6715, requiring a cash or surety bond in the amount equivalent to the monetary award in the judgment appealed from for the appeal to be perfected, may be considered a jurisdictional requirement, nevertheless, adhering to the principle that substantial justice is better served by allowing the appeal on the merits threshed out by the NLRC,<sup>[3]</sup> the Court finds and so holds that the foregoing requirement of the law should be given a liberal interpretation.

In *Sun Insurance Office, Ltd. vs. Maximiano C. Asuncion*,<sup>[4]</sup> this Court relaxed the rule in *Manchester Development Corporation vs. Court of Appeals*,<sup>[5]</sup> by allowing a liberal interpretation of the rule that the payment of the docket fees is jurisdictional. More so when the party involved demonstrated his willingness to abide by the rules to pay the docket fees required. This Court held that the payment of said fees may be authorized by the Court within a reasonable time but in no case beyond the applicable prescriptive or reglementary period. The greater interest of justice will be served by giving due course to the appeal despite the much delayed filing of the appeal bond.<sup>[6]</sup>

In this case, the circumstances of the non-filing of the bond are understandable and could be attributed to excusable oversight. The

Court holds that petitioners should be given the opportunity to file the required bond and avail of the remedy of appeal.

Further, considering that in the appeal valid issues are raised as to whether or not under Rule 1, Section 9 of the Implementing Rules of the Labor Code where the termination of employment is due to serious business losses or financial reverses, as in this case, the employee shall still be entitled to separation pay, and whether or not petitioner Jaring, assuming that he was president of petitioner corporation at the time of the separation from the service of private respondents, can be held jointly and severally liable with petitioner corporation for the separation pay due private respondents.

**WHEREFORE**, the petition is **GRANTED**. The questioned orders of the public respondent NLRC dated January 30, 1990 and May 3, 1990 are hereby **SET ASIDE**. The respondent NLRC is hereby directed to give due course to the appeal of the petitioners after the filing of the required appeal bond within such reasonable period of time it may set. No pronouncement as to costs.

**SO ORDERED.**

**Narvasa, Cruz, Griño-Aquino and Medialdea, JJ., concur.**

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[1] Annex A to Petition; pages 31 to 32, Rollo.

[2] Annex E-1 to Petition.

[3] Pantranco North Express, Inc. vs. Sison, 149 SCRA 238 (1987).

[4] 170 SCRA 274, 284 to 285 (1989).

[5] 149 SCRA 562 (1987).

[6] C.W. Tan Manufacturing vs. NLRC, 170 SCRA 240 (1989).