



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **04 March 2020** which reads as follows:*

“**G.R. No. 232566 (Ricolite, Inc. vs. Rammel O. Bagapuro)**. — This Petition for Review on *Certiorari*,¹ filed under Rule 45 of the 1997 Rules of Civil Procedure, by Ricolite, Inc. (petitioner) against Rammel O. Bagapuro (respondent) seeks the review and nullification of the Decision² dated February 28, 2017 and the Resolution³ dated June 30, 2017, both rendered by the Court of Appeals (CA) in CA-G.R. SP No. 147129.

The petitioner is a corporation engaged in the business of offering its services as an electrical contractor while the respondent was hired as one of its electricians.⁴

On March 8, 2012, an Amended Complaint for illegal dismissal, payment of labor standard benefits, regularization, and damages was filed against the petitioner by the respondent and five other complainants, namely: Larry Pascua (Pascua), Jose Celedio (Celedio), Diosdado Silvestre (Silvestre), Joefel Malinao (Malinao) and George F. Recto (Recto). It was alleged that on February 6, 2012, the complainants were illegally terminated when they were not allowed to enter their assigned project site as indicated in a Notice issued by the petitioner’s security officer, Gary Icaro.⁵

Initially, the complaint was resolved *ex-parte* in favor of the complainants for failure of the petitioner to appear and file their position paper. As a result of the decision becoming final and executory, a Writ of Execution dated December 27, 2012 and notices of garnishment were issued. However, the implementation of the writ of execution and the motion for the

¹ *Rollo*, pp. 9-20.

² Penned by Associate Justice Apolinario D. Bruselas, Jr. with Associate Justices Danton Q. Bueser and Renato C. Francisco, concurring; *id.* at 27-37.

³ *Id.* at 38-39.

⁴ *Id.* at 28.

⁵ *Id.*

issuance of an order for the release of the garnished amount was deferred, because it was held that the petitioner did not receive any summons in relation to the case. The complainants then appealed the matter but the same was dismissed for being a prohibited pleading.⁶

The case was eventually dismissed with respect to Pascua, Celedio, Silvestre, and Malinao after they agreed to a settlement while the case with respect to Recto was dismissed without prejudice for lack of interest to prosecute.⁷

In their Position Paper, the petitioner claimed that the respondent was not dismissed and that it was the latter who opted to resign from work.⁸

Labor Arbiter (LA) Imelda C. Alforte-Ganancial found the respondent to have been illegally dismissed after the petitioner failed to prove its claim of resignation. The LA Decision⁹ dated December 15, 2015 reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring [respondent's] Rommel O. Bagapuro's dismissal illegal. [Petitioner] Ricolite Inc. is held liable to pay complainant the total amount of **₱740,877.64**.

The complaint against Romeo Bolongaita is dismissed for lack of basis.

Other claims are **DISMISSED** for lack of merit.

SO ORDERED.¹⁰ (Emphasis in the original)

The petitioner elevated the matter before the National Labor Relations Commission (NLRC). Concurrent with the filing of its appeal, the petitioner filed a motion to reduce the appeal bond where it alleged that the LA disregarded pieces of evidence showing that the respondent was not dismissed and the previously garnished amount of ₱536,793.06 justify the posting of an amount of only ₱13,206.94 to address the monetary award of ₱673,525.13¹¹ or the amount due the respondent, exclusive of attorney's fees.¹²

The NLRC explained that the petitioner's appeal was not perfected because it failed to post the required cash or surety bond. As regards the petitioner's motion to reduce the appeal bond, the NLRC explained that the previously garnished amount of ₱536,793.06 could not be used to secure the judgment award in the LA Decision dated December 15, 2015, as the latter

⁶ Id.
⁷ Id. at 28-29.
⁸ Id. at 29.
⁹ Id. at 40-46.
¹⁰ Id. at 46.
¹¹ Id. at 45.
¹² Id. at 50.

award was not the subject matter of the Writ of Execution dated December 27, 2012. The NLRC likewise noted that when the LA issued its order declaring that summons was not served upon the petitioner, it in effect voided the LA Decision dated June 25, 2012 for being rendered without jurisdiction over the petitioner. Consequently, all proceedings therein, including the writ of execution and notices of garnishment, ceased to produce any binding effect. Considering the petitioner only filed a cash bond of ₱13,206,94, the same was not considered a reasonable amount in relation to the monetary award of ₱673,525.13.¹³ The NLRC further sustained the finding of the LA that the respondent was illegally dismissed.¹⁴ In its Decision¹⁵ dated April 4, 2016, the NLRC disposed of the case in this wise:

WHEREFORE, the appeal is hereby DISMISSED on grounds of non-perfection and lack of merit.

SO ORDERED.¹⁶ (Emphasis in the original)

The petitioner moved for reconsideration, but the same was likewise dismissed.¹⁷

Undaunted, the petitioner filed a petition for *certiorari* before the CA, insisting that since the garnished amount of ₱536,793.06 remains in *custodia legis* because it did not attempt to lift the order of garnishment, it is still subject to the control and lawful orders of the NLRC and could therefore be used to secure the monetary award in the LA Decision dated December 15, 2015. It likewise asserted that the NLRC committed grave abuse of discretion in disregarding the pieces of evidence such as copies of vouchers and payrolls signed by the respondent after the latter's supposed termination on February 6, 2012, which were presented for the first time on appeal. No comment had been filed by the respondent despite notice.¹⁸

In the assailed Decision¹⁹ dated February 28, 2017, the CA found no grave abuse of discretion on the part of the NLRC. The CA ruled that the petitioner failed to perfect its appeal before the NLRC and consequently, the LA Decision dated December 15, 2015 became final and executory. Pertaining to the petitioner's motion to reduce the appeal bond, the CA held that the same was not anchored on meritorious grounds and no reasonable amount in relation to the monetary award was posted by the former. *First*, the LA could not have disregarded pieces of evidence in its finding of illegal dismissal, considering that the petitioner never asserted such evidence before the LA and only submitted the supposed documents on appeal. *Second*, the cash bond of ₱13,206.94 presented by the petitioner was unreasonably

¹³ Id. at 50-51.

¹⁴ Id. at 55-59.

¹⁵ Id. at 49-60.

¹⁶ Id. at 59.

¹⁷ Id. at 30.

¹⁸ Id. at 30-31.

¹⁹ Id. at 27-37.

disproportionate to the monetary award of ₱673,525.13. The CA explained that the garnished amount cannot be considered as part of the appeal bond because the notices of garnishment ceased to produce any binding effect when the LA Decision dated June 25, 2012 was deemed vacated, that the amount was not intended to secure the LA Decision dated December 15, 2015, and that the garnished amount cannot be considered as a cash bond, not being in the form of sum of money.

The decretal portion of the assailed CA Decision states:

WHEREFORE, the instant petition for *certiorari* is DENIED DUE COURSE. Consequently, it is DISMISSED.

IT IS SO ORDERED.²⁰

A motion for reconsideration was subsequently filed by the petitioner, but the same was denied by the CA in its Resolution²¹ dated June 30, 2017.

Hence, the instant petition for review where the petitioner raises the ground that in dismissing the petition for *certiorari*, the CA has decided a question of substance, not theretofore determined by the Court, or has decided it in a way not in accord with law or with the applicable decisions of the Court.

Arguing that it should have been deemed to have posted the required appeal bond, the petitioner maintains that the garnished amount of ₱536,793.06 should have been considered as part thereof. The petitioner reiterates that the said amount belongs to it and the same remains ungarnished. It claims that the garnishment subsists and is subject to further orders from the NLRC as it made no move to lift the order of garnishment. Thus, the NLRC should have considered the garnished amount of ₱536,793.06 and the cash bond of ₱13,206.94 in the total amount of ₱550,000.00 sufficient as an appeal bond to secure the monetary award of ₱673,525.13.

Meanwhile, in his Comment, the respondent contends that the petitioner failed to timely file its motion for extension of time within which to file the instant petition and subsequently, the present petition itself. He also points out that the arguments of the petitioner are primarily questions of fact and maintains that the CA correctly ruled that the latter failed to comply with the jurisdictional requirement in perfecting an appeal before the NLRC.

In its Reply, the petitioner claims that its motion for extension and the instant petition was filed in due time on July 21, 2017 as shown in this Court's docket section on the motion. It likewise submits that the instant

²⁰ Id. at 37.

²¹ Id. at 38-39.

petition was filed on time on August 22, 2017 by registered mail as shown on the postal stamp on the envelope bearing the same. The petitioner further reiterated its arguments in the instant petition.

We first discuss the procedural issues raised by the respondent.

An appeal by *certiorari* to this Court under Rule 45 of the Rules of Court must be filed within 15 days from notice of the judgment or final order or resolution appealed from, or the denial of the petitioner's motion for reconsideration. The Court may, however, grant an extension of 30 days within which to file the petition for justifiable reasons.²²

Here, the petitioner received the notice of the denial of its motion for reconsideration on July 6, 2017. It therefore had 15 days or, until July 21, 2017 to file its petition for review on *certiorari*. Records disclose that on the last day of the said period or on July 21, 2017, it filed its Motion for Additional Time to File Petition for Review on *Certiorari*.²³ The Court granted the petitioner's motion in our Resolution dated August 9, 2017, allowing the latter an extension of 30 days from July 21, 2017 or until August 20, 2017 within which to file its petition. Considering August 20, 2017 falls on a Sunday and August 21, 2017 is Ninoy Aquino Day, a legal holiday, the time within which to file the petition shall not run until the next working day,²⁴ which is August 22, 2017. On such date, the petitioner filed the instant petition as shown in the registry receipts attached thereto.²⁵ Verily, the petitioner's motion for extension and the instant petition were filed on time.

Notwithstanding the foregoing, the petition fails.

Time and again, the Court has held that an appeal is not a matter of right, but a mere statutory privilege. As such, parties seeking to invoke the said privilege must faithfully comply with the applicable rules, failing which, the privilege is forfeited.²⁶

As regards appeals from the decisions of the LA, the second paragraph of Article 229 (formerly 223) of the Labor Code of the Philippines (Labor Code) provides that 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 NLRC in the amount equivalent to the monetary award in the judgment appealed from. The same is mirrored in Section 6, Rule VI of 2011 NLRC Rules of Procedure (NLRC Rules), as amended, which pertinently reads:

²² RULES OF COURT, Rule 45, Section 2.

²³ *Rollo*, pp. 3-5.

²⁴ RULES OF COURT, Rule 22, Section 1.

²⁵ *Rollo*, p. 22.

²⁶ *Heirs of Arturo Garcia I v. Municipality of Iba, Zambales*, 764 Phil. 408 (2015).

SECTION 6. BOND. – In case the decision of the Labor Arbiter or the Regional Director involves a monetary award, **an appeal by the employer may be perfected only upon the posting of a bond, which shall either be in the form of cash deposit or surety bond in an amount equivalent to the monetary award**, exclusive of damages and attorney's fees.

x x x x

No motion to reduce bond shall be entertained **except on meritorious grounds, and only upon the posting of a bond** in a reasonable amount in relation to the monetary award.

The **mere filing of a motion to reduce bond without complying** with the requisites in the preceding paragraphs **shall not stop the running of the period to perfect an appeal.** (Emphasis and underscoring ours)

The above-cited provisions of the Labor Code and the NLRC Rules clearly outline a clear legislative and administrative intent to strictly apply the requirement of the appeal bond which the Court must adhere to with due regard.²⁷ The posting of the appeal bond within the prescribed period is both mandatory and jurisdictional.²⁸ The rule intends to afford assurance to workers and employees, should they prevail in their case, that they will receive the money judgment due them upon the dismissal of the employer's appeal. The same rule aims to dissuade erring employers from using the appeal process to delay or evade their obligation to satisfy their employees' lawful claims.²⁹

The rule, however, is not absolute. The 2011 NLRC Rules allow for the reduction of the appeal bond, but only on the following conditions: (1) that the motion to reduce the bond shall be based on meritorious grounds; and (2) a reasonable amount in relation to the monetary award is posted by the appellant. The attendance of these two requirements shall toll the running of the period to perfect an appeal.

It is likewise noteworthy that the reduction of the appeal bond provided under the abovementioned rules is not a matter of right on the part of the movant and the grant thereof still lies within the sound discretion of the NLRC upon showing of meritorious grounds and the reasonableness of the bond tendered.³⁰ Hence, unless the NLRC grants the reduction of the appeal bond within the 10-day reglementary period, the employer is still expected to post the cash or surety bond to secure the monetary award within the same 10-day period.³¹

²⁷ *Turks Shawarma Company/Gem Zeñarosa v. Pajaron, et al.*, 803 Phil. 315, 324-325 (2017).

²⁸ *Sara Lee Philippines, Inc. v. Macatlang, et al.*, 735 Phil. 71, 96 (2014).

²⁹ *Viron Garments Mfg. Co., Inc. v. NLRC*, G.R. No. 97357, March 18, 1992, 207 SCRA 339, 342.

³⁰ *Philippine Touristers, Inc., et al. v. Mas Transit Workers Union-Anglo-KMU, et al.*, 742 Phil. 361, 373 (2014), citing *Garcia, et al. v. KJ Commercial, et al.*, 683 Phil. 376, 381 (2012).

³¹ *McBurnie v. Ganzon, et al.*, 616 Phil. 629, 639 (2009).

On this score, the Court sustains the ruling of the CA that the motion to reduce the bond filed by the petitioner did not stop the running of the period to perfect the latter's appeal.

As to the first condition, the petitioner claimed in its motion that the LA disregarded pieces of documentary evidence showing that respondent was not illegally dismissed. These include cash vouchers and payslips supposedly signed by the respondent after the February 6, 2012 notice of termination. As the NLRC and the CA have observed, however, the claim regarding cash vouchers and payslips were not asserted during the proceedings before the LA. The petitioner itself admitted that such documents were only presented for the first time on appeal. Clearly, the LA did not decide the case in disregard of the evidence as no such evidence was presented to her in the first place.

Even assuming *arguendo* that the petitioner has meritorious grounds to reduce the appeal bond, the denial of its motion remains warranted in view of its failure to post a bond at a reasonable amount in relation to the monetary award in the LA Decision dated December 15, 2015.

As to this second condition, the Court has previously held that the posting of a provisional cash or surety bond equivalent to 10% of the monetary award subject of the appeal, exclusive of damages and attorney's fees, shall be deemed sufficient.³² Here, the petitioner posted a cash bond in the meager amount of ₱13,206.94. Considering the monetary award due the respondent, exclusive of attorney's fees, is ₱673,525.13, the petitioner's cash bond is indeed unreasonably disproportionate.

In this regard, the petitioner submits that the amount of ₱536,793.06, previously garnished should have been considered as part of the appeal bond, maintaining that the garnishment subsists and the amount remains under the control of the NLRC.

The Court is not persuaded.

Records disclose that prior to the issuance of the LA Decision dated December 15, 2015, a Decision dated June 25, 2012 was issued by LA Gaudencio P. Demaisip, Jr. (LA Demaisip) in favor of the original complainants in the illegal dismissal case. When that earlier decision became final and executory, a Writ of Execution dated December 27, 2012 was issued and notices of garnishment were served to the petitioner's debtor, Filinvest Land, Inc., and its depository bank. Both confirmed the existence of the petitioner's receivables and deposit funds, respectively. However, the implementation of the writ of execution and motion for the issuance of an order for release of the garnished funds were deferred because the petitioner

³² *Manila Mining Corporation v. Amor, et al.*, 758 Phil. 268, 282 (2015).

failed to receive summons in relation to the case.³³ On November 26, 2013, LA Demaisip issued an Order which declared that summons was not served upon the petitioner.³⁴

With the issuance of the Order dated November 26, 2013, the LA effectively treated the Decision dated June 25, 2012 as a void judgment for having been rendered without jurisdiction over the person of the petitioner. The LA did in fact set aside the decision and instead allowed the petitioner to file its responsive pleading upon its voluntary submission to its jurisdiction.³⁵

Indeed, a void judgment has no legal and binding effect, force or efficacy for any purpose. In contemplation of law, it is non-existent.³⁶ Consequently, the writ of execution and notices of garnishment proceeding from such invalid judgment is equally null and void. Thus, with the continuation of the proceeding before the LA, the LA Decision dated June 25, 2012 and the consequent writ of execution and notices of garnishment are no longer binding against the petitioner.

Even on the assumption that the garnishment subsists, the same cannot be considered as part of the appeal bond. The 2011 NLRC Rules requires the posting of a bond, either in the form of a cash deposit or surety bond. A garnished amount is neither a cash deposit nor a surety bond. The mere garnishment of funds belonging to one party does not have the effect of delivering the money garnished to the sheriff or to the party in whose favor the attachment is issued. In such a case the fund is retained by the garnishee or the person holding the money for the defendant.³⁷

All told, it is clear that the motion of the petitioner to reduce the appeal bond before the NLRC did not meet the required conditions set by the 2011 NLRC Rules. Accordingly, the period to perfect the petitioner's appeal was not tolled and the LA Decision dated December 15, 2015 lapsed into finality.

Accordingly, the CA did not err in dismissing the petition.

WHEREFORE, premises considered, the instant Petition is hereby **DENIED** for lack of merit.

SO ORDERED.”

³³ *Rollo*, p. 50.

³⁴ *Id.* at 51.

³⁵ *Id.*

³⁶ *National Power Corporation v. Tarcelo, et al.*, 742 Phil. 463, 485 (2014).

³⁷ *Phil. Commercial & Industrial Bank v. CA*, 271 Phil. 478, 484 (1991).

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *Wh: 7/2*

03 JUL 2020

ATTY. RICO B. BOLONGAITA (reg)
Counsel for Petitioner
Unit 2A, Acacia Tower Suntrust Parkview
181 Natividad Lopez Street
Ermita, Manila

ATTY. RODOLFO R. RANION (reg)
Counsel for Respondent
Unit 7, 3rd Floor, España Place
1139 Adelina Street, Sampaloc, Manila

NATIONAL LABOR RELATIONS COMMISSION (reg)
PPSTA Building, Banawe Street
corner Quezon Boulevard
1100 Quezon City
(NLRC NCR Case No. 02-02131-12;
NLRC LAC No. 01-000061-14 [AE 01-16])

JUDGMENT DIVISION (x)
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
LIBRARY SERVICES (x)
[For uploading pursuant to A.M. No. 12-7-1-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. SP No. 147129

Please notify the Court of any change in your address.
GR232566. 03/04/2020(112)URES