



Republic of the Philippines  
Supreme Court  
Manila

**THIRD DIVISION**

**BUILDING CARE  
CORPORATION / LEOPARD  
SECURITY &  
INVESTIGATION AGENCY  
and/or RUPERTO PROTACIO,**  
Petitioners,

**G.R. No. 198357**

**Present:**

BRION, \* J.,  
PERALTA, J., *Acting Chairperson*,\*\*  
ABAD,  
MENDOZA, and  
LEONEN, JJ.

- versus -

**MYRNA MACARAEG,**  
Respondent.

**Promulgated:**

10 December 2012

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**DECISION**

**PERALTA, J.:**

This resolves the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, praying that the Decision<sup>1</sup> of the Court of Appeals (CA) promulgated on March 24, 2011, and its Resolution<sup>2</sup> dated August 19, 2011, denying petitioner's Motion for Reconsideration be reversed and set aside.

Petitioners are in the business of providing security services to their clients. They hired respondent as a security guard beginning August 25, 1996, assigning her at Genato Building in Caloocan City. However, on

\* Designated Acting Member, in lieu of Associate Justice Presbitero J. Velasco, Jr., per Special Order No. 1395 dated December 6, 2012.

\*\* Per Special Order No. 1394 dated December 6, 2012.

<sup>1</sup> Penned by Associate Justice Hakim S. Abdulwahid, with Associate Justices Ricardo R. Rosario and Danton Q. Bueser, concurring; *rollo*, pp. 11-20.

<sup>2</sup> Penned by CA Associate Justice Hakim S. Abdulwahid, with CA Associate Justices Ricardo R. Rosario and Ramon A. Cruz, concurring; *rollo*, pp. 21-22

March 9, 2008, respondent was relieved of her post. She was re-assigned to Bayview Park Hotel from March 9-13, 2008, but after said period, she was allegedly no longer given any assignment. Thus, on September 9, 2008, respondent filed a complaint against petitioners for illegal dismissal, underpayment of salaries, non-payment of separation pay and refund of cash bond. Conciliation and mediation proceedings failed, so the parties were ordered to submit their respective position papers.<sup>3</sup>

Respondent claimed that petitioners failed to give her an assignment for more than nine months, amounting to constructive dismissal, and this compelled her to file the complaint for illegal dismissal.<sup>4</sup>

On the other hand, petitioners alleged in their position paper that respondent was relieved from her post as requested by the client because of her habitual tardiness, persistent borrowing of money from employees and tenants of the client, and sleeping on the job. Petitioners allegedly directed respondent to explain why she committed such infractions, but respondent failed to heed such order. Respondent was nevertheless temporarily assigned to Bayview Park Hotel from March 9-13, 2008, but she also failed to meet said client's standards and her posting thereat was not extended.<sup>5</sup>

Respondent then filed an administrative complaint for illegal dismissal with the PNP-Security Agencies and Guard Supervision Division on June 18, 2008, but she did not attend the conference hearings for said case. Petitioners brought to the conference hearings a new assignment order detailing respondent at the Ateneo de Manila University but, due to her absence, petitioners failed to personally serve respondent said assignment order. Petitioners then sent respondent a letter ordering her to report to headquarters for work assignment, but respondent did not comply with said order. Instead, respondent filed a complaint for illegal dismissal with the Labor Arbiter.<sup>6</sup>

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<sup>3</sup> *Rollo*, pp. 11-12.

<sup>4</sup> *Id.* at 12.

<sup>5</sup> *Id.* at 12-13 (Respondent's [herein petitioner] Position Paper filed with the NLRC).

<sup>6</sup> *Id.* at 79 (Respondent's Petition for *Certiorari* filed with the CA).

On May 13, 2009, the Labor Arbiter rendered a Decision, the dispositive portion of which reads as follows:

**WHEREFORE**, judgment is hereby made dismissing the charge of illegal dismissal as wanting in merit but, as explained above, ordering the Respondents Leopard Security and Investigation Agency and Rupert Protacio to pay complainant a financial assistance in the amount of ₱5,000.00.

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

**SO ORDERED.**<sup>7</sup>

Respondent then filed a Notice of Appeal with the National Labor Relations Commission (NLRC), but in a Decision dated October 23, 2009, the NLRC dismissed the appeal for having been filed out of time, thereby declaring that the Labor Arbiter's Decision had become final and executory on June 16, 2009.<sup>8</sup>

Respondent elevated the case to the CA *via* a petition for *certiorari*, and on March 24, 2011, the CA promulgated its Decision, the dispositive portion of which reads as follows:

**WHEREFORE**, the petition for certiorari is **GRANTED**. The Decision dated October 23, 2009 and Resolution dated March 2, 2010 rendered by public respondent in NLRC LAC No. 07-001892-09 (NLRC Case No. NCR-09-12628-08) are **REVERSED** and **SET ASIDE**, and in lieu thereof, a new judgment is ENTERED declaring petitioner to have been illegally dismissed and DIRECTING private respondents to reinstate petitioner without loss of seniority rights, benefits and privileges; and to pay her backwages and other monetary benefits during the period of her illegal dismissal up to actual reinstatement.

Public respondent NLRC is DIRECTED to conduct further proceedings, for the sole purpose of determining the amount of private respondent's monetary liabilities in accordance with this decision.

**SO ORDERED.**<sup>9</sup>

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<sup>7</sup> *Id.* at 116. (Emphasis in the original.)

<sup>8</sup> *Id.* at 128-130.

<sup>9</sup> *Id.* at 62. (Emphasis in the original)

Petitioners' motion for reconsideration of the aforequoted Decision was denied *per* Resolution dated August 19, 2011. Hence, the present petition, where the main issue for resolution is whether the CA erred in liberally applying the rules of procedure and ruling that respondent's appeal should be allowed and resolved on the merits despite having been filed out of time.

The Court cannot sustain the CA's Decision.

It should be emphasized that the resort to a liberal application, or suspension of the application of procedural rules, must remain as the exception to the well-settled principle that rules must be complied with for the orderly administration of justice. In *Marohomsalic v. Cole*,<sup>10</sup> the Court stated:

While procedural rules may be relaxed in the interest of justice, it is well-settled that these are tools designed to facilitate the adjudication of cases. **The relaxation of procedural rules in the interest of justice was never intended to be a license for erring litigants to violate the rules with impunity.** Liberality in the interpretation and application of the rules can be invoked only in proper cases and under justifiable causes and circumstances. While litigation is not a game of technicalities, **every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice.**<sup>11</sup>

The later case of *Daikoku Electronics Phils., Inc. v. Raza*,<sup>12</sup> further explained that:

**To be sure, the relaxation of procedural rules cannot be made without any valid reasons proffered for or underpinning it. To merit liberality, petitioner must show reasonable cause justifying its non-compliance with the rules and must convince the Court that the outright dismissal of the petition would defeat the administration of substantial justice.** x x x The desired leniency cannot be accorded absent valid and compelling reasons for such a procedural lapse. x x x

We must stress that the bare invocation of “the interest of substantial justice” line is not some magic wand that will automatically

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<sup>10</sup> G.R. No. 169918, February 27, 2008, 547 SCRA 98.

<sup>11</sup> *Id.* at 109. (Emphasis supplied.)

<sup>12</sup> G.R. No. 181688, June 5, 2009, 588 SCRA 788.

compel this Court to suspend procedural rules. **Procedural rules are not to be belittled, let alone dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights. Utter disregard of the rules cannot be justly rationalized by harping on the policy of liberal construction.**<sup>13</sup>

In this case, the justifications given by the CA for its liberality by choosing to overlook the belated filing of the appeal are, the importance of the issue raised, *i.e.*, whether respondent was illegally dismissed; and the belief that respondent should be “afforded the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities,”<sup>14</sup> considering that the belated filing of respondent's appeal before the NLRC was the fault of respondent's former counsel. Note, however, that neither respondent nor her former counsel gave any explanation or reason citing extraordinary circumstances for her lawyer's failure to abide by the rules for filing an appeal. Respondent merely insisted that she had not been remiss in following up her case with said lawyer.

It is, however, an oft-repeated ruling that the negligence and mistakes of counsel bind the client. A departure from this rule would bring about never-ending suits, so long as lawyers could allege their own fault or negligence to support the client's case and obtain remedies and reliefs already lost by the operation of law.<sup>15</sup> The only exception would be, where the lawyer's gross negligence would result in the grave injustice of depriving his client of the due process of law.<sup>16</sup> In this case, there was no such deprivation of due process. Respondent was able to fully present and argue her case before the Labor Arbiter. She was accorded the opportunity to be heard. Her failure to appeal the Labor Arbiter's Decision cannot, therefore, be deemed as a deprivation of her right to due process. In *Heirs of Teofilo Gaudiano v. Benemerito*,<sup>17</sup> the Court ruled, thus:

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<sup>13</sup> *Id.* at 795. (Emphasis supplied.)

<sup>14</sup> CA Decision, *rollo*, p. 58.

<sup>15</sup> *Melchor L. Laguna v. Court of Appeals, et al.*, G.R. No. 173390, June 27, 2012; *Panay Railways, Inc. v. Heva Management and Development Corp., et al.*, G.R. No. 154061, January 25, 2012; 664 SCRA 1, 9.

<sup>16</sup> *Pasiona, Jr. v. Court of Appeals*, G.R. No. 165471, July 21, 2008, 559 SCRA 137, 147.

<sup>17</sup> G.R. No. 174247, February 21, 2007, 516 SCRA 416.

The perfection of an appeal within the period and in the manner prescribed by law is jurisdictional and non-compliance with such legal requirements is fatal and has the effect of rendering the judgment final and executory. The limitation on the period of appeal is not without reason. They must be strictly followed as they are considered indispensable to forestall or avoid unreasonable delays in the administration of justice, to ensure an orderly discharge of judicial business, and to put an end to controversies. x x x

x x x x

**The right to appeal is not a natural right or part of due process; it is merely a statutory privilege and may be exercised only in the manner and in accordance with the provisions of law. Thus, one who seeks to avail of the right to appeal must strictly comply with the requirements of the rules, and failure to do so leads to the loss of the right to appeal.”<sup>18</sup>**

In *Ocampo v. Court of Appeals (Former Second Division)*,<sup>19</sup> the Court declared that:

**x x x we cannot condone the practice of parties who, either by their own or their counsel's inadvertence, have allowed a judgment to become final and executory and, after the same has become immutable, seek iniquitous ways to assail it.** The finality of a decision is a jurisdictional event which cannot be made to depend on the convenience of the parties.<sup>20</sup>

Clearly, allowing an appeal, even if belatedly filed, should never be taken lightly. The judgment attains finality by the lapse of the period for taking an appeal without such appeal or motion for reconsideration being filed.<sup>21</sup> In *Ocampo v. Court of Appeals (Former Second Division)*,<sup>22</sup> the Court reiterated the basic rule that “when a party to an original action fails to question an adverse judgment or decision by not filing the proper remedy within the period prescribed by law, he loses the right to do so, and the judgment or decision, as to him, becomes final and binding.”<sup>23</sup> The Decision of the Labor Arbiter, therefore, became final and executory as to respondent when she failed to file a timely appeal therefrom. The

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<sup>18</sup> *Id.* at 420, 424. (Emphasis supplied.)

<sup>19</sup> G.R. No. 150334, March 20, 2009, 582 SCRA 43.

<sup>20</sup> *Id.* at 52. (Emphasis supplied.)

<sup>21</sup> Rules of Court, Rule 36, Sec. 2.

<sup>22</sup> *Supra* note 17.

<sup>23</sup> *Id.* at 49.

importance of the concept of finality of judgment cannot be gainsaid. As elucidated in *Pasiona, Jr. v. Court of Appeals*,<sup>24</sup> to wit:

The Court re-emphasizes the doctrine of finality of judgment. In *Alcantara v. Ponce*, the Court, citing its much earlier ruling in *Arnedo v. Llorente*, stressed the importance of said doctrine, to wit:

x x x controlling and irresistible reasons of public policy and of sound practice in the courts demand that **at the risk of occasional error**, judgments of courts determining controversies submitted to them should become final at some definite time fixed by law, or by a rule of practice recognized by law, so as to be **thereafter beyond the control even of the court which rendered them** for the purpose of correcting errors of fact or of law, into which, in the opinion of the court it may have fallen. The very purpose for which the courts are organized is to put an end to controversy, to decide the questions submitted to the litigants, and to determine the respective rights of the parties. With the full knowledge that courts are not infallible, **the litigants submit their respective claims for judgment, and they have a right at some time or other to have final judgment on which they can rely as a final disposition of the issue submitted, and to know that there is an end to the litigation.**

x x x x

**It should also be borne in mind that the right of the winning party to enjoy the finality of the resolution of the case is also an essential part of public policy and the orderly administration of justice. Hence, such right is just as weighty or equally important as the right of the losing party to appeal or seek reconsideration within the prescribed period.**<sup>25</sup>

When the Labor Arbiter's Decision became final, petitioners attained a vested right to said judgment. They had the right to fully rely on the immutability of said Decision. In *Sofio v. Valenzuela*,<sup>26</sup> it was amply stressed that:

The Court will not override the finality and immutability of a judgment based only on the negligence of a party's counsel in timely taking all the proper recourses from the judgment. To justify an override, the counsel's negligence must not only be gross but must also be shown to have deprived the party the right to due process.

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<sup>24</sup> *Supra* note 14.

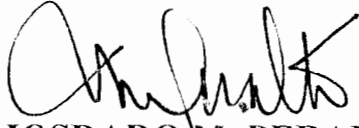
<sup>25</sup> *Id.* at 145-147. (Emphasis in the original)

<sup>26</sup> G.R. No. 157810, February 15, 2012; 666 SCRA 55, 58.

In sum, the Court cannot countenance relaxation of the rules absent the showing of extraordinary circumstances to justify the same. In this case, no compelling reasons can be found to convince this Court that the CA acted correctly by according respondent such liberality.

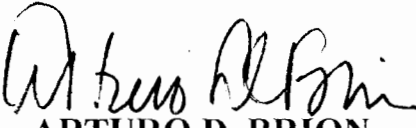
**IN VIEW OF THE FOREGOING**, the Petition is **GRANTED**. The Decision of the Court of Appeals dated March 24, 2011, and its Resolution dated August 19, 2011 in CA-G.R. SP No. 114822 are hereby **SET ASIDE**, and the Decision of the National Labor Relations Commission in NLRC-LAC No. 07-001892-09 (NLRC Case No. NCR-09-12628-08), ruling that the Decision of the Labor Arbiter has become final and executory, is **REINSTATED**.

**SO ORDERED.**



**DIOSDADO M. PERALTA**  
Associate Justice

**WE CONCUR:**



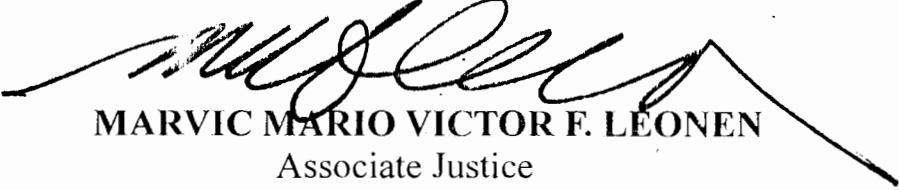
**ARTURO D. BRION**  
Associate Justice



**ROBERTO A. ABAD**  
Associate Justice



**JOSE CATRAL MENDOZA**  
Associate Justice

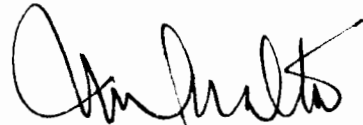


**MARVIC MARIO VICTOR F. LEONEN**  
Associate Justice



**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**DIOSDADO M. PERALTA**

Associate Justice  
Acting Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice