



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

LILIOSA C. LISONDRA,
 Petitioner,

G.R. No. 204275

Present:

- versus -

CARPIO, *J.*, Chairperson,
 DEL CASTILLO,
 PEREZ,*
 MENDOZA, and
 LEONEN, *JJ.*

**MEGACRAFT INTERNATIONAL
 CORPORATION and SPOUSES
 MELECIO AND ROSEMARIE
 OAMIL,**

Promulgated:

Respondents.

09 DEC 2015

X ----- *Alvin Cabalag for file* X

DECISION

CARPIO, *J.*:

The Case

Before this Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court, assailing the Court of Appeals' Resolutions in CA-G.R. SP No. 06178 dated 15 September 2011¹ and 10 October 2012,² dismissing petitioner Liliosa C. Lisondra's petition for *certiorari* under Rule 65, and denying her motion for reconsideration, respectively.

The Facts

The petition stems from a case for illegal dismissal filed by petitioner against Megacraft International Corporation (Megacraft) and Spouses Melecio and Rosemarie Oamil (Spouses Oamil) before the National Labor Relations Commission (NLRC), 7th Division, Cebu City.

* Designated acting member per Special Order No. 2301 dated 1 December 2015.

¹ *Rollo*, pp. 23-26.

² *Id.* at 28-29.

On 2 June 2010, Labor Arbiter Emiliano C. Tiongco, Jr. rendered a Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring the constructive dismissal of complainant.

Respondents Megacraft and [S]pouses Melecio and Rosemarie Oamil are hereby ordered to jointly and severally pay complainant Lisondra the following:

1. Backwages -----	₱ 146,000.00
2. Separation Pay -----	₱ 30,000.00
3. Pro. 13 th month pay 2009 -----	₱ 7,291.62
4. Moral Damages -----	<u>₱ 30,000.00</u>
	₱213,291.62
5. Attorney's Fees -----	<u>₱ 21,329.16</u>
Total -----	<u>₱234,620.78</u>

SO ORDERED.³

Respondents appealed to the NLRC.

On 31 January 2011, the NLRC, 7th Division promulgated a Resolution dismissing the appeal:

WHEREFORE, the appeal of respondents is DISMISSED for failure to state the material date when they received the appealed Decision and for failure to comply with the requisites for the posting of a surety bond.

SO ORDERED.⁴

Respondents then filed a Motion for Reconsideration. On 31 March 2011, the NLRC, 7th Division reversed its earlier resolution:

WHEREFORE, premises considered, the decision appealed from is hereby REVERSED AND SET ASIDE and a NEW ONE ENTERED declaring that complainant was not constructively dismissed herself [sic] from employment. Consequently, there is no basis for the grant of separation pay, backwages, moral damages and attorney's fees.

SO ORDERED.⁵

Petitioner moved for reconsideration of the 31 March 2011 Decision, which the NLRC, 7th Division denied in its 25 May 2011 Resolution.⁶

Petitioner then filed a petition for *certiorari* under Rule 65⁷ before the Court of Appeals.

³ Id. at 11-12.

⁴ Id. at 12.

⁵ Id. at 13.

⁶ Id.

⁷ Id. at 36-61.

The Ruling of the Court of Appeals

In the assailed 15 September 2011 Resolution, the Court of Appeals dismissed the petition because it suffered from the following “congenital infirmities”:⁸

1. [T]here was no proper proof of *service* of the Petition to the agency *a quo* and to the adverse parties. While petitioner filed her Affidavit of Service, and incorporated the registry receipts, petitioner still failed to comply with the requirement on proper proof of service. Post office receipt is not the required proof of service by registered mail. *Section 10, Rule 13* of the 1997 Rules of Civil Procedure specifically stated that service by registered mail is complete upon actual receipt by the addressee, or after five (5) days from the date he received the first notice of the postmaster, whichever is earlier. Verily, registry receipts cannot be considered as sufficient proof of service; they are merely evidence of the mail matter with the post office of the sender, not the *delivery* of said mail matter by the post office of the addressee;
2. [W]hile the Petition indicated service of a copy thereof to the respondent’s counsel, the Petition failed to incorporate therein a written explanation why the preferred personal mode of service to the *agency a quo* under *Section 11, Rule 13* of the 1997 Rules of Civil Procedure was not availed of;
3. [P]etitioner’s counsel failed to indicate on the Petition his Roll of Attorney’s Number, in violation of Bar Matter No. 1132 dated November 12, 2002;
4. [T]he Notarial Certificate in the Verification and Certification of Non-Forum Shopping did not contain the province or city where the notary public was commissioned, in violation of *Section 2 (c), Rule VIII* of the 2004 Rules on Notarial Practice; and
5. [W]hile petitioner resorted to judicial review of the March 31, 2011 Decision and the May 25, 2011 Resolution of the NLRC, a *quasi-judicial* body, under Rule 65 of the 1997 Rules of Civil Procedure, she failed to implead the NLRC as public respondent in the instant Petition, in transgression of *Section 5, Rule 65* of the 1997 Rules of Civil Procedure.⁹

Petitioner moved for reconsideration.¹⁰ On 10 October 2012, the Court of Appeals promulgated the assailed resolution denying the motion for reconsideration for lack of merit.¹¹

⁸ Id. at 23.

⁹ Id. at 24-25.

¹⁰ Id. at 30-34.

¹¹ Id. at 29.

The Issue

The issue in this case is whether the Court of Appeals erred in dismissing the petition for *certiorari* filed by petitioner.

The Court's Ruling

The petition is granted.

Initially, the Court notes that the present petition itself barely complied with paragraph 2 of Section 1, Rule 65, that the “petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto x x x.”

The records of this case show that copies of the decision of the Labor Arbiter and the resolutions of the NLRC, 7th Division being assailed before the Court of Appeals were not attached to the petition. That alone would have been enough cause for this case to be dismissed outright.

However, the Court finds that there is sufficient ground in this case for leniency in applying the rules of procedure, considering the opposing decisions of the Labor Arbiter and the NLRC, 7th Division.

Since “technical rules of procedure are not to be strictly interpreted and applied in a manner that would defeat substantial justice or be unduly detrimental to the work force,”¹² the Court may opt to relax these rules “in order to give full meaning to the constitutional mandate of affording full protection to labor.”¹³

What is at stake in this case is petitioner’s livelihood itself. The Court cannot allow the same to be taken away from her without even a chance at a full and judicious review of the case by the Court of Appeals. Thus, there is a need to apply such leniency in this case in order to serve the ends of justice.

Proof of Service

The Court of Appeals erred in ruling that “while petitioner filed her Affidavit of Service, and incorporated the registry receipts, petitioner still failed to comply with the requirement on proper proof of service.”¹⁴

¹² *PNOC Dockyard and Engineering Corporation v. National Labor Relations Commission*, 353 Phil. 431, 445 (1998).

¹³ *Id.*

¹⁴ *Rollo*, p. 24.

The requirement on *proof of service* of pleadings, judgments and other papers is provided under Section 13, Rule 13 of the Rules of Court, which states:

SEC. 13. *Proof of service.*—Proof of personal service shall consist of a written admission of the party served, or the official return of the server, or the affidavit of the party serving, containing a full statement of the date, place and manner of service. If the service is by ordinary mail, proof thereof shall consist of an affidavit of the person mailing of facts showing compliance with Section 7 of this Rule. *If service is made by registered mail, proof shall be made by such affidavit and the registry receipt issued by the mailing office.* The registry return card shall be filed immediately upon its receipt by the sender, or in lieu thereof of the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee. (Emphasis supplied)

Under this provision, if the service is done by registered mail, proof of service shall consist of the affidavit of the person effecting the mailing *and* the registry receipt, both of which must be appended to the paper being served.¹⁵

In this case, the Court of Appeals itself acknowledged that the petition was accompanied by the affidavit of service **and** registry receipts.¹⁶

The Court notes that mails sent thru the post office are very rarely, if indeed they even happen, received by the intended recipient on the same day they were posted. The Rule itself acknowledges this, hence, the need to specify that “[t]he registry return card shall be filed immediately upon its receipt by the sender.” The more logical reading of the provision would be to require that the affidavit of service and registry receipt be attached to the pleading and such would comply with the rule on proper proof of service. However, a party is further required to submit the registry return card to the court “immediately upon its receipt by the sender.”¹⁷

In *Province of Leyte v. Energy Development Corporation*,¹⁸ the Court explained the purpose for the rule:

Essentially, the purpose of this rule is to apprise such party of the pendency of an action in the CA. Thus, if such party had already been notified of the same and had even participated in the proceedings, such purpose would have already been served.¹⁹

In this case, respondents were informed and even filed their Comment to the petition.²⁰ Thus, the purpose of the rule had been achieved. It would

¹⁵ *Cruz v. Court of Appeals*, 436 Phil. 641, 652 (2002). See also *Fortune Life Insurance Company, Inc. v. Commission on Audit*, G.R. No. 213525, 27 January 2015.

¹⁶ *Rollo*, p. 24.

¹⁷ Section 13, Rule 13, Rules of Court.

¹⁸ G.R. No. 203124, 22 June 2015.

¹⁹ *Id.*

²⁰ *Rollo*, p. 16.

have been “more prudent for the Court [of Appeals] to excuse a technical lapse and afford the parties a substantive review of the case in order to attain the ends of justice than to dismiss the same on mere technicalities.”²¹

Written Explanation

Next, the Court of Appeals dismissed the petition on account of petitioner’s failure to incorporate a written explanation on why the NLRC’s copy was not personally served to the agency.

Petitioner explained in her Motion for Reconsideration that her former counsel had died, which gave her little time to find and engage the services of her present counsel before the lapse of the period for filing the petition.²² That day that the pleadings were sent via registered mail was already the last day of filing, and with heavy rains at that time, her counsel had anticipated that they would not be able to beat the deadline in filing the petition before the Court of Appeals, prompting her counsel to resort to registered mail.

Other grounds for dismissal

As to the supposed failure to implead the NLRC, the Court finds that the NLRC was, in fact, impleaded in the case, based on the body of the petition.²³ Under the section on *Parties*, the NLRC was named as one of the parties to the case.²⁴ Clearly, the failure to include public respondent’s name in the title was mere inadvertence.

The other ground cited by the Court of Appeals, *i.e.*, counsel’s failure to indicate his roll number and the place of the notary public’s commission, does not affect the merits of the petition. The appellate court could have simply asked petitioner’s counsel to submit the information instead of dismissing the case outright. Likewise, we deem that petitioner should not be penalized for the omissions of her counsel and deserves to have her case properly ventilated at the appellate court.

A last word

Counsel’s actions are binding on his client. Petitioner in this case would have had her entire case thrown out, with all hope for proper review and determination lost, through no fault of her own but merely because of her counsel’s carelessness in preparing and filing the pleadings. It is only the

²¹ *Province of Leyte v. Energy Development Corporation*, supra note 18, citing *Barra v. Civil Service Commission*, G.R. No. 205250, 18 March 2013, 693 SCRA 563.

²² *Rollo*, p. 31.

²³ *Id.* at 32.

²⁴ *Id.* at 38.

Court's discretion that petitioner's cause needs a chance to be properly reviewed and reevaluated that has kept this case alive.

Counsel is therefore reminded of his duty to "serve his client with competence and diligence"²⁵ and ensure that the pleadings he files comply with all the requirements under the pertinent rules.

WHEREFORE, the petition is **GRANTED**. The Resolutions of the Court of Appeals dated 15 September 2011 and 10 October 2012 in CA-G.R. SP No. 06178 are **REVERSED** and **SET ASIDE**. The case is **REMANDED** to the Court of Appeals-Cebu City for disposition on the merits.

SO ORDERED.



ANTONIO T. CARPIO
Associate Justice

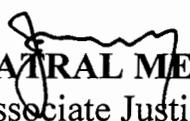
WE CONCUR:



MARIANO C. DEL CASTILLO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

²⁵ Canon 18, *Code of Professional Responsibility*.

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.



ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division 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