



CERTIFIED TRUE COPY
Wilfredo V. Luptan
WILFREDO V. LUPTAN
Division Clerk of Court
Third Division

JAN 19 2018

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ANGELITO L. CRISTOBAL,
Petitioner,

G.R. No. 201622

Present:

-versus-

BERSAMIN, J., *Acting Chairperson*,
LEONEN,
JARDELEZA,*
MARTIRES, and
GESMUNDO, JJ.

PHILIPPINE AIRLINES, INC., AND
LUCIO TAN,
Respondents.

Promulgated:
October 4, 2017

X-----*Wilfredo V. Luptan*-----X

DECISION

LEONEN, J.:

Where a tribunal renders a decision substantially reversing itself on a matter, a motion for reconsideration seeking reconsideration of this reversal, for the first time, is not a prohibited second motion for reconsideration.

This is a Petition for Review on Certiorari,¹ assailing the Court of Appeals Resolutions dated January 10, 2012² and April 18, 2012³ in CA-G.R. SP No. 122034 dismissing petitioner Angelito L. Cristobal's (Cristobal)

* Designated additional member per Raffle dated October 2, 2017.

¹ Rollo, pp. 8-42.

² Id. at 43-45. The Resolutions were penned by Associate Justice Edwin D. Sorongon and concurred in by Associate Justices Noel G. Tijam and Romeo F. Barza of the Ninth Division, Court of Appeals, Manila.

³ Id. at 46-47. The Resolutions were penned by Associate Justice Edwin D. Sorongon and concurred in by Associate Justices Noel G. Tijam and Romeo F. Barza of the Former Ninth Division, Court of Appeals, Manila.

Petition for Certiorari for having been filed out of time.

Cristobal became a pilot for respondent Philippine Airlines, Inc. (PAL) on October 16, 1971.⁴ In May 1998, in line with a downsizing program of PAL,⁵ Cristobal applied for leave without pay from PAL to enter into a four (4)-year contract with EVA Air.⁶ PAL approved the application and advised him that he would continue to accrue seniority during his leave and that he could opt to retire from PAL during this period.⁷ In a letter dated March 10, 1999, Cristobal advised PAL of his intent to retire.⁸ In response, PAL advised him that he was deemed to have lost his employment status on June 9, 1998.⁹ Thus, on May 12, 1999, Cristobal filed a complaint with the National Labor Relations Commission.¹⁰

In a Decision¹¹ dated December 1, 1999, the Labor Arbiter found Cristobal's dismissal illegal. On the matter of retirement benefits, the Labor Arbiter noted PAL's claim that Cristobal could only be entitled to a retirement pay of ₱5,000.00 per year, pursuant to the Philippine Airlines, Inc.-Airline Pilots Association of the Philippines (PAL-ALPAP) Retirement Plan of 1967. However, he found that Cristobal's retirement benefits should not be less than the amount provided under the law. Thus, the Labor Arbiter found him entitled to an amount computed pursuant to Article 287 of the Labor Code.¹² The dispositive portion of the Labor Arbiter Decision read:

WHEREFORE, judgment is hereby rendered finding the dismissal of the complainant illegal.

The respondent is further ordered to pay the complainant:

1. Retirement pay in the amount of P1,575,964.30;
2. Moral damages in the amount of P500,000.00;
3. Exemplary damages in the amount of P500,000.00;
4. Attorney's fees in an amount equivalent to ten percent (10%) of the total award in favor of the complainant.

Respondent is likewise ordered to give and grant to complainant all other benefits he is entitled to under the law and existing Collective Bargaining Agreement.

SO ORDERED.¹³

⁴ Id. at 154, NLRC Decision.

⁵ *Rollo*, p. 10.

⁶ Id. at 70.

⁷ Id. at 71.

⁸ Id. at 73.

⁹ Id. at 74.

¹⁰ Id. at 11.

¹¹ Id. at 154-166. The Decision was penned by Labor Arbiter Felipe P. Pati.

¹² Id. at 162.

¹³ Id. at 166.

In a Decision¹⁴ dated September 30, 2010, the National Labor Relations Commission affirmed the Labor Arbiter Decision but reduced the award of moral and exemplary damages to ₱100,000.00 each.¹⁵ On Cristobal's retirement pay, it noted PAL's argument that any retirement benefits should be pursuant to the terms of the Collective Bargaining Agreement and affirmed the Labor Arbiter's computation. The dispositive portion of the National Labor Relations Commission Decision read:

WHEREFORE, the assailed Decision is, hereby, AFFIRMED with MODIFICATION to the effect that the award for moral and exemplary damages is hereby reduced to P100,000.00 each.

SO ORDERED.¹⁶

Cristobal filed a Motion for Partial Reconsideration¹⁷ on November 12, 2010, raising the following assignment of errors:

1. Since the Honorable Commission found that Respondents-Appellants acted in bad faith, the award of Php 500,000.00 each for Moral and Exemplary Damages should be reinstated, instead of the reduced amount of Php 100,000.00
2. The monetary award should include a legal interest considering the long delay.
3. Respondents-Appellants should be jointly and severally be (sic) liable in view of the bad faith, as per findings of this Honorable Commission.¹⁸

PAL also filed a motion for reconsideration, claiming that it was error to find that Cristobal was illegally dismissed and to base his retirement benefits on Article 287 of the Labor Code.¹⁹

The National Labor Relations Commission resolved both motions in its Decision²⁰ dated May 31, 2011, deleting the award of moral and exemplary damages and reducing the amount of Cristobal's retirement benefits. It agreed that Cristobal's retirement benefits should not be computed in accordance with Article 287 of the Labor Code as Cristobal was not yet 60 years old when he retired on March 10, 1999.²¹ The National Labor Relations Commission cited *Philippine Airlines, Inc. vs. Airline Pilots*

¹⁴ Id. at 320-335. The Decision was penned by Presiding Commissioner Alex A. Lopez and was concurred in by Commissioners Gregorio O. Bilog, III and Pablo C. Espiritu, Jr. of the Third Division, National Labor Relations Commission.

¹⁵ Id. at 334.

¹⁶ Id.

¹⁷ Id. at 353-359.

¹⁸ Id. at 354.

¹⁹ Id. at 339.

²⁰ Id. at 337-348.

²¹ Id. at 344.

*Association of the Philippines*²² to support this position and held that Cristobal was entitled to receive only ₱5,000.00 per year of service, under the 1967 PAL-ALPAP Retirement Plan:

Nevertheless, the contention of respondents that complainant's retirement benefits should not be computed in accordance with Article 287 of the Labor Code, as amended by Republic Act No. 7641, the New Retirement Law, is meritorious. In their motion, the respondents cite the Supreme Court's decision in *Philippine Airlines, Inc. vs. Airline Pilots Association of the Philippines* (G.R. No. 143686, 15 January 2002). In said case, the Supreme Court categorically sustained respondent PAL's position and ruled that Article 287 of the Labor Code does not apply to PAL pilots who, without reaching the age of sixty (60), retire pursuant to the provisions of the 1967 PAL-ALPAP Retirement Plan. We have noted that complainant never refuted respondents' allegation that he has not reached the age of sixty (60) years when he opted to retire on 10 March 1999.

....

Hence, PAL pilots who retire without reaching the age of 60 are entitled to claim retirement benefits from two (2) retirement plans: a) 1967 PAL-ALPAP Retirement Plan of 1967, and b) PAL Pilot[s'] Retirement Benefit Plan. The amount of P5,000.00 for every year of service provided under the 1967 PAL-ALPAP Retirement Plan would be in addition to the retirement benefits provided by the PAL Pilot[s'] Retirement Benefit Plan.

In their supplement to motion for reconsideration, respondents submit copies of the acknowledgment receipt for P5,530,214.67 signed by Ma. Pilar M. Cristobal on 29 June 1999 as well as Cashier's Checks issued by Metrobank all dated 28 June 1999 to complainant Angelito L. Cristobal in the amount of P5,346,085.23, P93,579.68 and P90,549.76. These amounts were acknowledged to have been paid by and received from the PAL PILOT[S'] RETIREMENT BOARD.

Accordingly, complainant is only entitled to receive retirement benefits from the 1967 PAL-ALPAP Retirement Plan in an amount equal to P5,000.00 for every year of service. In this connection, the moral and exemplary damages awarded to complainant has (sic) no legal and factual basis and must be deleted.²³

The dispositive portion of this May 31, 2011 Decision read:

CONSIDERING THE FOREGOING, the motion for partial reconsideration filed by complainant is DENIED. The motion for reconsideration filed by respondents is partially GRANTED.

The award of moral and exemplary damages is DELETED.

The respondents are directed to pay complainant the retirement benefits pursuant only to the 1967 PAL-ALPAP Retirement Plan in the amount of one hundred forty thousand pesos (P140,000.00).

²² 424 Phil. 356 (2002) [Per J. Ynares-Santiago, First Division].

²³ Id. at 344-347.

The other findings are reiterated.

SO ORDERED.²⁴

On June 24, 2011, Cristobal filed his Motion for Reconsideration,²⁵ seeking reconsideration of the reduction of retirement benefits. He pointed out that the PAL Pilots Retirement Benefit Plan is different from the PAL-ALPAP Retirement Plan, and that it is an investment plan:

It would appear that in reaching its Decision, the Honorable Commission took into consideration the fact that the complainant already received P5,530,214.67 paid for and received from the PAL PILOTS RETIREMENT BENEFIT PLAN. Complainant begs [to] submit that this Honorable Commission committed serious error in taking into consideration in reducing the retirement benefits from the PAL-ALPAP Retirement Plan. The PAL PILOTS RETIREMENT BENEFIT PLAN is totally different from the PAL-ALPAP Retirement Plan.

Moreover, the PAL PILOTS RETIREMENT BENEFIT PLAN is a misnomer. It is not really a retirement plan but rather it[']s an investment plan where the funds come from the contributions of each pilot deducted from their monthly gross pay and upon retirement the pilot receives the full amount of his contribution. Thus, it is a mistake [to] reduce the retirement benefits of the complainant from the PAL-ALPAP Retirement Plan because the complainant already received his supposed retirement benefits (which should be investment) from the PAL PILOTS RETIREMENT BENEFIT PLAN.²⁶

In its Resolution²⁷ dated August 24, 2011, the National Labor Relations Commission denied Cristobal's Motion for Reconsideration, deeming it a second motion for reconsideration of its May 31, 2011 Decision.²⁸ The dispositive portion of this Resolution read:

PREMISES CONSIDERED, complainant's motion for reconsideration which we treat as a second motion for reconsideration is hereby DISMISSED. Let this case be dropped from the calendar of the Commission.

SO ORDERED.²⁹

On November 14, 2011, Cristobal filed his Petition for Certiorari before the Court of Appeals, which was dismissed in the Court of Appeals

²⁴ Id. at 347.

²⁵ Id. at 291-298.

²⁶ Id. at 294-295.

²⁷ Id. at 350-352.

²⁸ Id. at 350.

²⁹ Id. at 351.

January 10, 2012 Resolution.³⁰ The Court of Appeals accepted the National Labor Relations Commission's premise that petitioner's June 24, 2011 Motion for Reconsideration was a second motion for reconsideration. Thus, it did not toll petitioner's period to file a petition for certiorari assailing the May 31, 2011 Decision. Consequently, the petition for certiorari was filed out of time. The Court of Appeals also held that the petition did not contain copies of the pertinent supporting documents. The dispositive portion of this Resolution read:

IN VIEW of all the foregoing patent infirmities, the petition is
DISMISSED.

SO ORDERED.³¹

Thus, on June 13, 2012, petitioner filed his Petition for Review on Certiorari³² before this Court. Thereafter, there was an exchange of pleadings.³³

Petitioner points out that his November 12, 2010 Partial Motion for Reconsideration only assailed the National Labor Relations Commission May 31, 2011 Decision, which reduced the award of moral and exemplary damages. On the other hand, his June 24, 2011 Motion for Reconsideration assailed the reduction of his retirement benefits.³⁴ Moreover, the filing of a motion for reconsideration to afford the National Labor Relations Commission an opportunity to correct itself on the matter of retirement benefits was a condition *sine qua non* in instituting a petition for certiorari before the Court of Appeals.³⁵ As for the attachment of relevant records, petitioner argues that the main issue in his petition was whether or not the National Labor Relations Commission committed grave abuse of discretion in treating his motion for reconsideration as a prohibited second motion for reconsideration. Likewise, he adds that the Court of Appeals should have been more liberal and should have ordered him to submit documents, instead of dismissing his motion out right. Petitioner further discussed how the National Labor Relations Commission committed grave abuse of discretion in reducing his retirement benefits.³⁶

Respondents insist that petitioner's June 24, 2011 Motion for Reconsideration is a prohibited second motion for reconsideration, which did not toll his period to question the May 31, 2011 Decision. Thus, petitioner's petition for certiorari with the Court of Appeals was filed out of time. Respondents call attention to the fact that the National Labor

³⁰ Id. at 43-45.

³¹ Id. at 44.

³² Id. at 8-42.

³³ Id. at 378-403, respondents' Comment and *rollo*, pp. 435-447, petitioner's Reply.

³⁴ Id. at 436-437.

³⁵ Id. at 438.

³⁶ Id. at 439.

Relations Commission already rejected petitioner's arguments against the reduction of retirement benefits and claim that petitioner's June 24, 2011 Motion for Reconsideration repeated his arguments in his Opposition.³⁷

The sole issue for this Court's resolution is whether or not the June 24, 2011 Motion for Reconsideration filed by petitioner Angelito L. Cristobal assailing the National Labor Relations Commission May 31, 2011 Decision was a prohibited second motion for reconsideration.

This Court grants the petition.

Rule VII, Section 15 of the National Labor Relations Commission Rules of Procedure provides:

Section 15. Motions for Reconsideration. – Motion for reconsideration of any decision, resolution or order of the Commission shall not be entertained except when based on palpable or patent errors; provided that the motion is under oath and filed within ten (10) calendar days from receipt of decision, resolution or order, with proof of service that a copy of the same has been furnished, within the reglementary period, the adverse party; and provided further, that only one such motion from the same party shall be entertained.

The National Labor Relations Commission Rules of Procedure prohibits a party from questioning a decision, resolution, or order, twice. In other words, this rule prohibits the same party from assailing the same judgment. However, a decision substantially reversing a determination in a prior decision is a discrete decision from the earlier one. Thus, in *Poliand Industrial Ltd. v. National Development Co.*,³⁸ this Court held:

Ordinarily, no second motion for reconsideration of a judgment or final resolution by the same party shall be entertained. Essentially, however, the instant motion is not a second motion for reconsideration since the viable relief it seeks calls for the review, not of the Decision dated August 22, 2005, but the November 23, 2005 Resolution which delved for the first time on the issue of the reckoning date of the computation of interest . . . (Citation omitted)

This Court ruled similarly in *Solidbank Corp. v. Court of Appeals*,³⁹ where the Labor Arbiter dismissed a labor complaint but awarded the employee separation pay, compensatory benefit, Christmas bonus, and moral and exemplary damages. This was appealed to the National Labor Relations

³⁷ Id. at 382–384.

³⁸ 523 Phil. 368 (2006) [Per J. Tinga, Special Second Division].

³⁹ G.R. No. 166581 & 167187, December 7, 2015, <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/december2015/166581.pdf>> [Per C.J. Sereno, First Division].

Commission by both parties. The National Labor Relations Commission rendered a Decision affirming the Labor Arbiter Decision but modifying it by deleting the award of moral and exemplary damages. On appeal, the Court of Appeals ruled that the employee had been illegally dismissed and, considering the cessation of the employer's operations, awarded the employee separation pay, backwages, compensatory benefit, Christmas bonus, unpaid salary, moral and exemplary damages, and attorneys fees. Then, the employer bank filed a Motion for Reconsideration and a Supplemental Motion for Reconsideration, while the employee filed a Motion for Clarification and/or Partial Motion for Reconsideration. The Court of Appeals then issued an Amended Decision, modifying the amount awarded as separation pay, backwages, and unpaid salary. Afterwards, the employee filed another Motion for Reconsideration/Clarification, and the Court of Appeals again corrected the amounts awarded as separation pay, backwages, and unpaid salary. In its petition assailing the Court of Appeals Resolution, the employer bank claimed that the Court of Appeals erred in granting the employee's second motion for reconsideration, a prohibited pleading. This Court held:

The Amended Decision is an entirely new decision which supersedes the original decision, for which a new motion for reconsideration may be filed again.

Anent the issue of Lazaro's "second" motion for reconsideration, we disagree with the bank's contention that it is disallowed by the Rules of Court. Upon thorough examination of the procedural history of this case, the "second" motion does not partake the nature of a prohibited pleading because the Amended Decision is an entirely new decision which supersedes the original, for which a new motion for reconsideration may be filed again.⁴⁰

In *Barba v. Liceo De Cagayan University*,⁴¹ where the Court of Appeals denied a motion for reconsideration from an amended decision on the ground that it was a prohibited second motion for reconsideration, this Court held that the prohibition against a second motion for reconsideration contemplates the same party assailing the same judgment:

Prefatorily, we first discuss the procedural matter raised by respondent that the present petition is filed out of time. Respondent claims that petitioner's motion for reconsideration from the Amended Decision is a second motion for reconsideration which is a prohibited pleading. Respondent's assertion, however, is misplaced for it should be noted that the CA's Amended Decision totally reversed and set aside its previous ruling. Section 2, Rule 52 of the 1997 Rules of Civil Procedure,

⁴⁰ Id. at 11.

⁴¹ 699 Phil. 622 (2012) [Per J. Villarama, First Division].

as amended, provides that no second motion for reconsideration of a judgment or final resolution by the same party shall be entertained. This contemplates a situation where a second motion for reconsideration is filed by the same party assailing the same judgment or final resolution. Here, the motion for reconsideration of petitioner was filed after the appellate court rendered an Amended Decision totally reversing and setting aside its previous ruling. Hence, petitioner is not precluded from filing another motion for reconsideration from the Amended Decision which held that the labor tribunals lacked jurisdiction over petitioner's complaint for constructive dismissal. The period to file an appeal should be reckoned not from the denial of her motion for reconsideration of the original decision, but from the date of petitioner's receipt of the notice of denial of her motion for reconsideration from the Amended Decision. And as petitioner received notice of the denial of her motion for reconsideration from the Amended Decision on September 23, 2010 and filed her petition on November 8, 2010, or within the extension period granted by the Court to file the petition, her petition was filed on time.⁴²

Here, the National Labor Relations Commission May 31, 2011 Decision substantially modified its September 30, 2010 Decision. Thus, petitioner was not precluded from seeking reconsideration of the new decision of the National Labor Relations Commission, and it was clearly an error for the Court of Appeals to find that petitioner's petition for certiorari was filed out of time on that ground.

As for the purported failure to attach the records necessary to resolve the petition, in *Wack Wack Golf & Country Club v. National Labor Relations Commission*,⁴³ this Court held:

In *Novelty Philippines, Inc. v. Court of Appeals*, the Court recognized the authority of the general manager to sue on behalf of the corporation and to sign the requisite verification and certification of non-forum shopping. The general manager is also one person who is in the best position to know the state of affairs of the corporation. It was also error for the CA not to admit the requisite proof of authority when in the *Novelty* case, the Court ruled that the subsequent submission of the requisite documents constituted substantial compliance with procedural rules. There is ample jurisprudence holding that the subsequent and substantial compliance of an appellant may call for the relaxation of the rules of procedure in the interest of justice. While it is true that rules of procedure are intended to promote rather than frustrate the ends of justice, and while the swift unclogging of court dockets is a laudable objective, it nevertheless must not be met at the expense of substantial justice. It was, therefore, reversible error for the CA to have dismissed the petition for *certiorari* before it. The ordinary recourse for us to take is to remand the case to the CA for proper disposition on the merits; however, considering that the records are now before us, we deem it necessary to resolve the instant case in order to ensure harmony in the rulings and expediency.⁴⁴

⁴² Id. at 639.

⁴³ 496 Phil. 180 (2005) [Per J. Callejo, Second Division].

⁴⁴ Id. at 192.

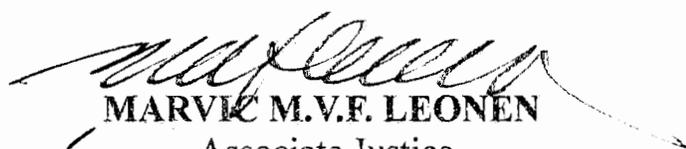
Thus, this Court finds that the Court of Appeals committed reversible error in dismissing the petition outright, considering the circumstances of this case.

Petitioner raises in issue whether or not the PAL Pilots Retirement Benefit Plan is part of the retirement benefits that should be computed in comparing the retirement benefits accorded to him under the Labor Code as against what he is entitled to under PAL policy. However, the matter of retirement benefits is not addressed in respondent's memorandum. It would better serve the interest of substantial justice to remand this case to the Court of Appeals to allow the parties to fully discuss this issue.

WHEREFORE, the assailed January 10, 2012 and April 18, 2012 Resolutions of the Court of Appeals are **REVERSED** and **SET ASIDE**. The Court of Appeals is directed to **REINSTATE** the petition for certiorari, docketed as CA-G.R. SP. No. 122034, for further proceedings.

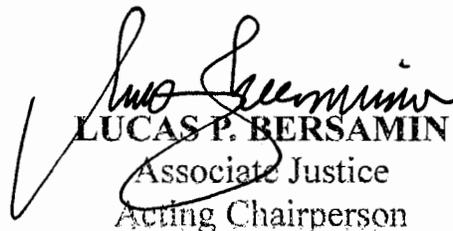
No costs.

SO ORDERED.



MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:



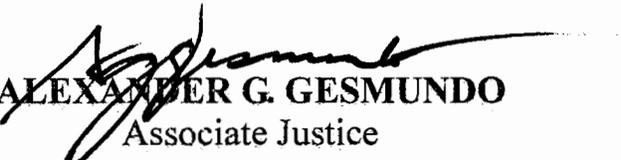
LUCAS P. BERSAMIN
Associate Justice
Acting Chairperson



FRANCIS H. JARDELEZA
Associate Justice

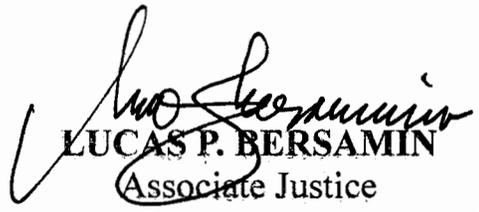


SAMUEL R. MARTIRES
Associate Justice


ALEXANDER G. GESMUNDO
 Associate Justice

ATTESTATION

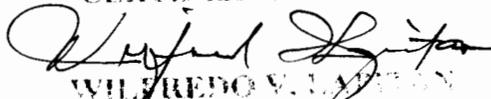
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


LUCAS P. BERSAMIN
 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

CERTIFIED TRUE COPY

WILFREDO V. LAPID
 Division Clerk of Court
 Third Division

JAN 19 2018