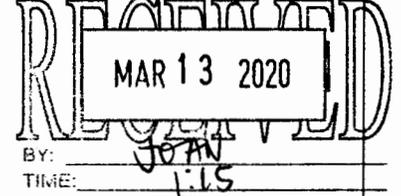




Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **January 22, 2020**, which reads as follows:*

“G.R. No. 196022 (*Blazing Star Security and Investigation Agency, Inc. and/or Mr. Carlos Constantino v. Valentin Norbert Miraflor, Montano Mampo, Jr., Alberto Salvador Agudes, and Danie Coyme*). – Assailed in this Petition for Review on *Certiorari*¹ is the Decision² dated November 3, 2010 and the Resolution³ dated March 11, 2011 of the Court of Appeals (CA) in CA-G.R. SP No. 113822, which affirmed the Order⁴ dated January 21, 2009 and the Resolution⁵ dated March 19, 2010 of the Department of Labor and Employment (DOLE).

Antecedents

This case stemmed from a complaint for underpayment of wages and non-payment of holiday pay, 13th month pay, and overtime pay filed by Valentin Norbert Miraflor, Montano Mampo, Jr., Alberto Salvador Agudes, and Danie Coyme (collectively, respondents) against their employer, Blazing Star Security and Investigation Agency, Inc. and its President/General Manger, Mr. Carlos Constantino (collectively, petitioners).⁶

On March 29, 2007, in view of the complaint of respondents, a labor standards inspection was conducted by the regional office of the DOLE in the National Capital Region (DOLE-NCR). Several violations were noted, namely: non-presentation of payrolls, non-registration of establishment, non-submission of annual medical report and annual accident report, and absence of safety committee.⁷

¹ *Rollo*, pp. 8-24.

² Penned by Associate Justice Josefina Guevara-Salonga, with Associate Justices Mariflor P. Punzalan Castillo and Franchito N. Diamante, concurring; *Id.* at 113-121.

³ *Id.* at 126-127.

⁴ Penned by Undersecretary Lourdes M. Trasmonte; *id.* at 89-91.

⁵ *Id.* at 99-101.

⁶ *Id.* at 31-33.

⁷ *Id.* at 53.

DOLE-NCR Ruling

On August 31, 2007, the DOLE-NCR issued an Order⁸ directing petitioners to pay respondents the aggregate sum of ₱521,861.60 representing respondents' unpaid benefits.⁹

Petitioners filed a Motion for Reconsideration,¹⁰ but it was denied in an Order¹¹ dated February 6, 2008. This prompted petitioners to file an Appeal¹² with a Motion for Reduction of Appeal Bond,¹³ and to post a cash bond in the amount of ₱50,000.00 before the DOLE. Petitioners claimed that their agency is suffering from financial difficulty, as evinced by its audited financial statements and income tax returns.¹⁴

On January 21, 2009, DOLE issued an Order¹⁵ requiring petitioners to post an additional bond equivalent to the balance of the monetary award in order to perfect their Appeal. Instead of complying with the Order, petitioners filed a Motion for Reconsideration.¹⁶

In its Resolution¹⁷ dated March 19, 2010, DOLE denied the motion for lack of merit.¹⁸ Accordingly, DOLE found that petitioners failed to perfect their Appeal, since they did not post a cash or surety bond equivalent to the monetary award.¹⁹ Thus, the Appeal was dismissed and the Order dated August 31, 2007 of the DOLE-NCR was deemed final and executory.²⁰

Undeterred, petitioners filed a Petition for *Certiorari*²¹ with prayer for the issuance of a preliminary injunction and/or temporary restraining order before the CA.

CA Ruling

On November 3, 2010, the CA rendered its Decision²² denying the Petition and affirming the DOLE's Judgment.²³

The CA held that Article 128 of the Labor Code clearly provides that in order to perfect an appeal of the Regional Director's order involving a

⁸ Id. at 53-56.
⁹ Id. at 54-55.
¹⁰ Id. at 57-64.
¹¹ Id. at 67-69.
¹² Id. at 45-52.
¹³ Id. at 80-81.
¹⁴ Id. at 81.
¹⁵ Id. at 89-91.
¹⁶ Id. at 92-98.
¹⁷ Id. at 99-101.
¹⁸ Id. at 101.
¹⁹ Id. at 99.
²⁰ Id. at 101.
²¹ Id. at 28-41.
²² Supra note 2.
²³ *Rollo*, p. 120.

monetary award in cases which concern the visitorial and enforcement powers of the Secretary of Labor and Employment, the appeal must be filed and the cash or surety bond equivalent to the monetary award must be posted within 10 calendar days from receipt of the order. Failure either to file the appeal or post the bond within the prescribed period renders the order final and executory.²⁴

The CA cited²⁵ the case of *Hon. Sec. of Labor and Employment v. Panay Veteran's Security and Investigation Agency, Inc.*,²⁶ where the Court clarified the distinction between the appeal proceedings before the National Labor Relations Commission (NLRC) and the DOLE, and pronounced that a motion to reduce appeal bond is not allowed in appeals before the DOLE.²⁷

Lastly, the CA said that petitioners' sweeping reliance on the case of *Star Angel Handicraft v. NLRC*²⁸ is misplaced. The CA clarified that while the Court in the case allowed the filing of a motion to reduce appeal bond and afforded liberal interpretation of said requirement,²⁹ the case cannot be applied in labor standards cases appealed to the Secretary of Labor and Employment.³⁰

Petitioners filed a Motion for Reconsideration³¹ but it was denied in a Resolution³² dated March 11, 2011, hence, this Petition.

The Court's Ruling

The petition lacks merit.

The only issue to be resolved in this case is whether the DOLE erred when it dismissed petitioners' Appeal on the ground that petitioner failed to perfect their Appeal, since they did not post a cash or surety bond equivalent to the monetary award.

At the outset, the appeal, which petitioner filed with the DOLE, questioned the August 31, 2007 Order issued by the DOLE-NCR in the exercise of its visitorial and enforcement power. For its perfection, the appeal was, therefore subject to the requirements prescribed under Article 128 of the Labor Code, as amended by Republic Act No. 7730,³³ to wit:

²⁴ Id. at 116-118.

²⁵ Id. at 118-119.

²⁶ 585 Phil. 106 (2008).

²⁷ Id. at 111-112.

²⁸ 306 Phil. 601 (1994).

²⁹ Id. at 608.

³⁰ *Rollo*, p. 119.

³¹ Id. at 122-125.

³² *Supra* note 3.

³³ An Act Further Strengthening the Visitorial and Enforcement Powers of The Secretary of Labor and Employment, amending for the purpose Article 128 (B) of Presidential Decree Numbered Four Hundred Forty-Two as amended, otherwise known as "The Labor Code Of The Philippines."

Art. 128. Visitorial and Enforcement Power.

x x x x

An order issued by the duly authorized representative of the Secretary of Labor and Employment under this article may be appealed to the latter. In case said order involves 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 Secretary of Labor and Employment in the amount equivalent to the monetary award in the order appealed from.

In this case, when petitioners filed their Appeal, they only posted an appeal bond of ₱50,000.00 and attached a Motion for Reduction of Appeal Bond. Instead of outrightly rejecting the Appeal, DOLE merely directed petitioners to post an additional bond equivalent to the balance of the monetary award to perfect their Appeal.

Moreso, the resolution of this issue was already threshed out by the Court in the case correctly cited by the CA. The case of *Hon. Sec. of Labor and Employment v. Panay Veteran's Security and Investigation Agency, Inc.*,³⁴ expressly declared that a motion to reduce appeal bond is not allowed in appeals to the Secretary of Labor. The Court explained that:

The jurisdiction of the NLRC is separate and distinct from that of the Secretary of Labor and Employment. In the exercise of their respective jurisdictions, each agency is governed by its own rules of procedure. In other words, the rules of procedure of the NLRC are different from (and do not apply in) cases cognizable by the Secretary of Labor and Employment.

Unlike the New Rules of Procedure of the NLRC, no provision in the Rules on the Disposition of Labor Standards Cases governs the filing of a motion for the reduction of the amount of the bond. However, on matters that are not covered by the Rules on the Disposition of Labor Standards Cases, the suppletory application of the Rules of Court is authorized. In other words, the Rules on the Disposition of Labor Standards Cases does not sanction the suppletory resort to the rules of procedure of the NLRC.

x x x x

Moreover, *Star Angel Handicraft* permitted the filing of a motion for reduction of the appeal bond because the Court recognized the NLRC's existing practice at that time to allow the reduction of the appeal bond "upon motion of appellant and on meritorious grounds." In fact,

³⁴ Supra note 26.

the practice was subsequently institutionalized in the rules of procedure of the NLRC which now allow the reduction of the amount of the bond "in justifiable cases and upon motion of the appellant." On the contrary, no such practice ever existed in cases taken cognizance of by the Secretary of Labor and Employment in the exercise of his visitorial and enforcement powers. Hence, *Star Angel Handicraft* cannot be applied in labor standards cases appealed to the Secretary of Labor and Employment.³⁵

Evidently, the reduction of bond in the NLRC is expressly authorized under the 2011 NLRC Rules of Procedure. On the other hand, there is no similar authority given to the DOLE Secretary. In other words, the DOLE has no authority to accept an appeal under a reduced bond. Hence, for insufficiency of their appeal bond, petitioners' Appeal was never duly perfected and must therefore be dismissed.

Considering the fact that the obligation involved herein relates to the unpaid labor salaries and benefits of respondents, the monetary judgment shall be subjected to legal interest at the rate of 12% *per annum* from the finality of the Order dated August 31, 2007 of the DOLE-NCR Regional Director until June 30, 2013, and thereafter at the new legal rate of 6% *per annum* until the full satisfaction of their respective claims.³⁶

WHEREFORE, the petition is **DENIED**. The Decision dated November 3, 2010 and the Resolution dated March 11, 2011 of the Court of Appeals in CA-G.R. SP No. 113822 is hereby **AFFIRMED with MODIFICATION** as follows:

1. Petitioners Blazing Star Security and Investigation Agency, Inc. and/or Mr. Carlos Constantino are **ORDERED** to pay respondents Valentin Norbert Miraflor, Montano Mampo, Jr., Alberto Salvador Agudes, and Danie Coyne the aggregate sum of ₱521,861.60;
2. The monetary award shall earn twelve percent (12%) legal interest *per annum* reckoned from the finality of the Order dated August 31, 2007 of the Department of Labor and Employment – National Capital Region Regional Director until June 30, 2013, and thereafter at the new legal rate of six percent (6%) *per annum* from July 1, 2013 until full satisfaction thereof.

SO ORDERED."

Very truly yours,

Misael D C Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
gmc 2/27/20

³⁵ Supra note 26 at 114-116.

³⁶ *Nacar v. Gallery Frames*, 716 Phil. 267, 282-283 (2013), citing *Eastern Shipping Lines, Inc. v. Court of Appeals*, 304 Phil. 236 (1994).