

## **SPECIAL TWENTY-THIRD DIVISION**

**[ CA-G.R. SP NO. 04899-MIN, February 20, 2015 ]**

**CARLING B. CHAVEZ, EDDIE C. SAYSON, JR., SAMUEL S. DILANGGALEN, PAUL T. POLINAR, FELIPE ABORDO, ALANDO TANHAY, DIOSDADO B. UBA SR., LEONARDO L. LAMBUNGAN, JOEMEL V. MAGALLANES, VINCENT M. BALILING, EDGARDO C. LAGUNA, FERMIN C. INIGO, ALEJANDRO G. REDOBLADO, JR., RONALD B. TANUDRA, CIRILO G. BARRIENTOS, EDGAR L. BUALAT, RICKY T. GILBUENA, EDITHA P. BERNAL, NORMAN ROY NASOL, VILMA ALBERTO, ERLINDA AMOR, RUBYLEEN L. OPTANA, JULIE TOMARONG, ALEJANDRO REDOBLADO, SR., ALEJANDRO CAPIN, CARLITO RIOS, CLIFFORD JOY SECRETARIA, RUBI BREN, OLIVER A. SESBINO, SR., LUCIELIER T. ENCISO, BERNARDO M. AMANDORON, JR., DIOSDADO V. UBA, JR., RODELIO PATAGNAN, JULIUS PALOMAR, HENRY C. BACHINELA, JR., ARNOLD C. SANCHEZ, LOLITA P. ALBETE, RANIL T. SOLON, EDWIN M. TANTUAN, ROGELIO CADENAS, JR., BRAYAN G. ROBERTO, SALVADOR ANCLA, JR., ARIEL D. DAYOLA, NAPOLEON R. ZACARIAS, ARVIN ESPANOLA, DARWIN LLAMERA, LUCERA TEBON, JACQUELINE C. MAMBURAM, MIELCHIZIDEC M. DEJON, ROMEO M. CAITOR, SR., JONALD C. DANTES, WARLITO P. DIMANA, EDUARDO S. GOMEZ, JR., ROGELIO RAMOS, JONATHAN SALDE, LEONCIO B. CORTEZ, JR., MARLON L. LONQUIANAS, NOLI B. SEBIDOR, JUVELYN R. COLONG, MARK PAUL MACANAS, SIM G. ASPIRIN, CRISOSTOMO R. DUMAPIAS, JR., DIO JOHN V. UBA, GELBERT R. ALBETE, RAMIL G. RABANES, EDWIN D. PADLON, JOHNNY A. DE LA PENA, ALEJANDRO GUYO, JR., CHRISTOPHER DEJENO, JELMAR YAPOC, LEONILO B. HERMOSURA, JR., ARCHIE D. BELOY, NAZARIA B. TORMIS, JAPETH P. TUGAR, JUNALD M. YBANES, ELEODORO B. BITANGCOR, JR., RUEL NARISMA, ERWIN L. NACUA, JOELA M. DIGNOS, DANILO T. TAYABAS, REMAN M. ASTORGA, JR., RICHARD M. CEDINO, MARILOU CORDOVA, MENCHIE C. MILANO, RAMEL GOBAL, FORTUNATO O. GUIMALAN, REY F. LAQUINTA, MARIEL SUBRIO, RONALD A. DEL CASTILLO, IRENEO B. SUAZO, BENJAMIN O. LASQUITE, PAUL B. MABAYAG AND HELEN LABAJO, PETITIONERS, VS. FILIPINAS PORT SERVICES, INC., JOSE H. PUENTESPINA, GENERAL MANAGER AND THE NATIONAL LABOR RELATIONS COMMISSION, 8<sup>TH</sup> DIVISION, RESPONDENTS.**

### **D E C I S I O N**

**CONTRERAS, J.:**

Before this Court is a Petition for *Certiorari* under Rule 65 of the 1997 Revised Rules of Civil Procedure assailing the Resolution<sup>[2]</sup> dated November 15, 2011 and

Resolution<sup>[3]</sup> dated February 29, 2012 of the Eighth (8<sup>th</sup>) Division of the National Labor Relations Commission (NLRC) which dismissed the appeal filed by petitioners for having been filed beyond the reglementary period to file an appeal.

### **The Facts**

The facts of the present controversy borne by the records are:

On April 15, 2011, Carling B. Chavez, Eddie C. Sayson, Jr., Samuel S. Dilanggalen, Paul T. Polinar, Felipe Abordo, Alando Tanhay, Diosdado B. Uba Sr., Leonardo L. Lambungan, Joemel V. Magallanes, Vincent M. Baliling, Edgardo C. Laguna, Fermin C. Inigo, Alejandro G. Redoblado, Jr., Ronald B. Tanudra, Cirilo G. Barrientos, Edgar L. Bualat, Ricky T. Gilbuena, Editha P. Bernal, Norman Roy Nasol, Vilma Alberto, Erlinda Amor, Rubyleen L. Optana, Julie Tomarong, Alejandro Redoblado, Sr., Alejandro Capin, Carlito Rios, Clifford Joy Secretaria, Rubi Bren, Oliver A. Sesbino, Sr., Lucielier T. Enciso, Bernardo M. Amandoron, Jr., Diosdado V. Uba, Jr., Rodelio Patagnan, Julius Palomar, Henry C. Bachinela, Jr., Arnold C. Sanchez, Lolita P. Albete, Ranil T. Solon, Edwin M. Tantuan, Rogelio Cadenas, Jr., Brayan G. Roberto, Salvador Ancla, Jr., Ariel D. Dayola, Napoleon R. Zacarias, Arvin Espanola, Darwin Llamera, Lucera Tebon, Jacqueline C. Mamburam, Mielchizidec M. Dejon, Romeo M. Caitor, Sr., Jonald C. Dantes, Warlito P. Dimana, Eduardo S. Gomez, Jr., Rogelio Ramos, Jonathan Salde, Leoncio B. Cortez, Jr., Marlon L. Lonquianas, Noli B. Sebidor, Juvelyn R. Colong, Mark Paul Macanas, Sim G. Aspirin, Crisostomo R. Dumapias, Jr., Dio John V. Uba, Gelbert R. Albete, Ramil G. Rabanes, Edwin D. Padlon, Johnny A. De La Pena, Alejandro Guyo, Jr., Christopher Dejeno, Jelmar Yapoc, Leonilo B. Hermosura, Jr., Archie D. Beloy, Nazaria B. Tormis, Japeth P. Tugar, Junald M. Ybanes, Eleodoro B. Bitangcor, Jr., Ruel Narisma, Erwin L. Nacua, Joela M. Dignos, Danilo T. Tayabas, Reman M. Astorga, Jr., Richard M. Cedino, Marilou Cordova, Menchie C. Milano, Ramel Gobal, Fortunato O. Guimalan, Rey F. Laquinta, Mariel Subrio, Ronald A. Del Castillo, Ireneo B. Suazo, Benjamin O. Lasquite, Paul B. Mabayag and Helen Labajo (petitioners, for brevity) filed a Complaint<sup>[4]</sup> before the NLRC Regional Arbitration Branch (RAB) No. XI, Davao City for Regularization with Money Claims against Filipinas Port Services, Inc. (private respondent, for brevity), a domestic corporation engaged in the business of *arrastre* and stevedoring services, with principal office at Km. 10, Sasa, Davao City and represented by its Manager, Jose H. Puentespina.

In their complaint, petitioners averred that they have been working at private respondent company for more than one (1) year and are actually doing tasks that are necessary and desirable in the usual business of private respondent (i.e. checkers, winchmen, stevedores; forklift operators). They added that from the time private respondent engaged their services, they have not received sick leave benefits, maternity leave benefits, paternity leave benefits, holiday pay and overtime pay. They prayed, among others, that the RAB will declare them as regular employees of private respondent.

Preliminary mandatory conferences were scheduled and conducted on May 12, 2011, May 19, 2011, June 3, 2011 and June 24, 2011. Unfortunately, the parties failed to amicably settle the case. They were then directed to submit their respective position papers.

On September 23, 2011, the Labor Arbiter rendered a Decision in favor of respondents, dismissing petitioners' complaint for regularization and money claims for lack of legal basis. Petitioners were, instead, declared project employees.

On October 18, 2011, petitioners filed an Appeal before the NLRC.

On November 15, 2011, the NLRC issued a Resolution<sup>[5]</sup> dismissing the appeal filed by petitioners for having been filed out of time, the decretal portion of which reads:

A cursory look at the memorandum on appeal, however, shows that the appeal was filed only on October 18, 2011 or a lapse of one (1) day from the ten (10) day reglementary period within which to file an appeal.

WHEREFORE, the appeal is hereby DISMISSED for having been filed out of time.

SO ORDERED.

On November 22, 2011, the RAB issued an Order<sup>[6]</sup> forwarding private respondent's "motion that this office shall issue the finality of the Decision" to the NLRC with a note that the Decision is final and executory for it was filed outside the ten (10) day period as provided by the Rules.

On January 4, 2012, petitioners filed a Motion for Reconsideration<sup>[7]</sup> before the NLRC praying that the Resolution dated November 15, 2011 be reconsidered and the case be decided based on the merits.

On February 29, 2012, the NLRC issued a Resolution<sup>[8]</sup> denying with finality the Motion for Reconsideration for lack of merit, the relevant portion of which reads:

It is doctrinally entrenched that appeal is NOT a constitutional right, but a mere STATUTORY PRIVILEGE. In *Santos v. Velarde, et al.*, the Supreme Court held that the NLRC must NOT be the first to disregard or violate specific provisions of the NLRC Rules. For rules exist for a purpose, i.e., to assist parties to obtain a just, speedy and inexpensive settlement of labor disputes. To disregard them in the guise of liberal construction would be to DEFEAT ITS PURPOSE; more so, that an utter disregard of the Rules cannot justly be rationalized by harking on the policy of liberal construction.

However, even if we disregard the procedural infirmity of the appeal, a judicious examination of the records still failed to provide us with sufficient ground to reverse or set aside the findings of the Labor Arbiter which were amply supported by substantial evidence on record. Well entrenched is the rule that when the conclusions of the labor arbiter is sufficiently corroborated by the evidence on record, appellate tribunals should respect the same since he is in a better position to assess and evaluate the credibility of the contending parties. We find no reason to depart from the rule.

WHEREFORE, the motion for reconsideration is DENIED with finality for lack of merit.