

SECOND DIVISION

[G.R. No. 194031, August 08, 2011]

**JOBEL ENTERPRISES AND/OR MR. BENEDICT LIM, PETITIONERS,
VS. NATIONAL LABOR RELATIONS COMMISSION (SEVENTH
DIVISION, QUEZON CITY) AND ERIC MARTINEZ, SR.,
RESPONDENTS.**

DECISION

We resolve the petition for review on *certiorari*^[1] before us, seeking the reversal of the resolutions dated June 9, 2010^[2] and October 5, 2010^[3] of the Court of Appeals (CA) in CA-G.R. SP No. 113980.

The Antecedents

The petitioner Jobel Enterprises (*the company*) hired respondent Eric Martinez, Sr. as driver in 2004. Martinez allegedly performed well during the first few months of his employment, but later became stubborn, sluggish and often came late to work.

On January 27, 2005, Martinez had a fight with one of his co-employees and nephew, Roderick Briones. The company's proprietor, Benedict Lim, pacified the two and instructed Martinez to come early the next day for an important delivery. Martinez allegedly did not report for work the following day. The company's efforts to contact Martinez, through Briones, failed.

On March 6, 2006, the company received a notice of hearing from the Department of Labor and Employment in Region IV-A (*DOLE-RO-IV-A*) in relation to an illegal dismissal complaint filed by Martinez. The DOLE-RO-IV-A failed to effect an amicable settlement between the parties; Martinez allegedly asked for P300,000.00 as settlement and manifested that he did not want to work anymore. Thereafter, Martinez formally filed an illegal dismissal complaint, with money claims, against the company and Lim.

The Compulsory Arbitration Rulings and Related Incidents

On compulsory arbitration, Labor Arbiter Danna M. Castillon ruled that Martinez had been illegally dismissed.^[4] She awarded him backwages and separation pay amounting to P479,529.49, and wage differentials and 13th month pay in the combined amount of P53,363.44.

On May 16, 2008, the petitioners appealed to the National Labor Relations Commission (*NLRC*), filing a notice of appeal, a memorandum of appeal and a motion to reduce bond. They likewise deposited a Rizal Commercial Banking Corporation manager's check for P100,000.00.^[5] In its order of September 15, 2008,^[6] the NLRC denied the company's motion to reduce bond and directed the

posting of an additional cash or surety bond for P432,892.93 within ten (10) days.

The company complied by posting a surety bond in the required amount,^[7] but Martinez moved for the immediate dismissal of the appeal; he questioned the effectivity of the surety bond and the legal standing of the surety company.^[8] In answer, the company asked for a denial of the motion and submitted a copy of the joint declaration by the company's authorized representative and the Executive Vice-President of the surety company^[9] that the posted surety bond is genuine and shall be effective until final disposition of the case. It also submitted a copy of a certificate of authority issued by the Insurance Commission,^[10] and a certificate of accreditation and authority issued by this Court.^[11]

The NLRC dismissed the appeal^[12] and denied the company's subsequent motion for reconsideration.^[13] The company, thereafter, elevated the case to the CA through a petition for *certiorari* under Rule 65 of the Rules of Court.

The CA Decision

The CA issued a resolution dismissing the petition on June 9, 2010 for the petitioners' failure to attach to the petition a duplicate original or certified true copy of the assailed NLRC decision;^[14] the submitted copy was a mere photocopy, in violation of Section 3, Rule 46, in relation to Section 1, Rule 65 of the Rules of Court. The CA also denied the petitioners' plea for a liberal interpretation of the rules in their motion for reconsideration,^[15] to which the petitioners attached a certified true copy of the assailed NLRC decision.

The Petition

The company now asks the Court to set aside the CA rulings on the ground that the dismissal of the petition was for purely technical reason, which it rectified when it attached a certified true copy of the assailed NLRC decision to its motion for reconsideration. The company pleads for understanding, claiming that its failure to initially comply with the rules was unintentional and was due purely to the oversight of its counsel who was then rushing the preparation of the final print of the petition and its attachments, while also working on other cases.

The Case for Martinez

In his comment dated April 1, 2011,^[16] Martinez prays for a dismissal of the petition. He submits that the filing of an appeal is a privilege and not a right; the appealing party must comply with the requirements of the law, specifically the submission of a cash or surety bond to answer for the monetary award. He points out that the award in the present case is more than P500,000.00, but the company posted a cash bond of only P100,000.00. He adds that although the company filed a motion to reduce bond, it must be approved by the NLRC within the same period to perfect an appeal or ten (10) days from receipt of a copy of the labor arbiter's decision. He argues that the company already lost the right to appeal, *since the NLRC's denial of the motion came after the 10-day appeal period*. He stresses that the filing of a motion to reduce bond does not suspend the running of the period to appeal.