

THIRD DIVISION

[G.R. No. 223854, March 15, 2021]

**ROBUSTAN, INC., AS REPRESENTED BY HENRY HYOUNG KI KIM,
PETITIONER, VS. COURT OF APPEALS AND WILFREDO WAGAN,
RESPONDENTS.**

D E C I S I O N

LEONEN, J.:

This Court resolves a Petition for Review on Certiorari^[1] filed by Robustan, Inc. (Robustan), questioning the Decision^[2] and Resolution^[3] of the Court of Appeals, which affirmed with modification the National Labor Relations Commission's Decision^[4] and Resolution^[5] finding Wilfredo Wagan (Wagan) to have been illegally dismissed.

Robustan is a domestic corporation engaged in importing refurbished medical equipment.^[6] In 2008, it employed Wagan as a service engineer and tasked him with resolving customer "needs, concerns and problems for a particular medical/hospital equipment."^[7] Aside from this, Wagan was also tasked to carry out various maintenance and construction works for Robustan and its clients.^[8]

Wagan first worked at the Manila office, but in October 2009, he was assigned to Robustan's newly opened Cebu branch, and was tasked with painting the new office. Since he could not find a place to stay in Cebu, he was allowed to sleep in the new office.^[9] Until the hiring of a new branch manager, Wagan was the only employee on site.^[10]

On December 21, 2009, Wagan allegedly received an inter-office memorandum notifying him that two fire extinguishers had gone missing from the Cebu branch office and that he was noted for using office equipment for his personal use. Thus, Robustan asked Wagan to explain why his employment should not be terminated. Wagan explained that the fire extinguishers must have been stolen while he was busy painting the office and offered to pay for their value in installments. However, on January 4, 2010, Wagan received another memorandum terminating his employment for "violation of trust and confidence."^[11]

Thus, Wagan filed a Complaint for illegal dismissal, claiming backwages, separation pay, monetized service incentive leave pay, and damages.^[12]

Robustan countered that Wagan was dismissed for loss of trust and confidence. It claimed to have sent Wagan at least three inter-office memoranda asking him to explain client complaints about his poor work performance. It alleged that on November 30 and December 9, 2009, a client complained of Wagan's inefficient repair of an x-ray machine.^[13] On December 11, 2009,^[14] Robustan sent Wagan another memorandum regarding a machine that Wagan purportedly fixed, but which

eventually required Robustan to send another engineer from Manila to fix. When asked to explain his work performance, Wagan allegedly sent an e-mail on December 18, 2009^[15] admitting his lapses and requesting "that he be given more time to sharpen his skills."^[16]

Finally, on December 21, 2009, Robustan received a notice from its Cebu branch manager for the loss of the two fire extinguishers and Wagan's personal use of an office electric fan. Thus, Robustan sent Wagan yet another inter-office memorandum requiring him to explain the losses. When Wagan admitted to losing the fire extinguishers, Robustan sent him the memorandum on January 4, 2010, terminating his employment.^[17]

In a July 11, 2011 Decision, the Labor Arbiter dismissed Wagan's Complaint, finding just cause for his dismissal. To the Labor Arbiter, Wagan's written admissions "showed his incompetence and his tendency to lie" when he said that the problem was fixed, when in truth it was not. Additionally, the loss of the fire extinguishers convinced the Labor Arbiter of Wagan's lack of honesty.^[18]

On appeal, the National Labor Relations Commission reversed the Labor Arbiter's Decision. It found that Wagan's authorization from his employer to stay within the enclosed premises of the offices he was tasked with painting reasonably included his use of office equipment to ward the smell of paint.^[19] As to the loss of the fire extinguishers, the Commission ruled that Wagan's negligence was not so "gross to be lawful ground for termination" of his employment.^[20] Robustan's suspicion that "Wagan benefited from such loss" was also deemed unsubstantiated.^[21]

The National Labor Relations Commission noted that while Wagan's poor work performance was not listed as one of the causes for his dismissal, the circumstances indicated strained relations between the parties which made reinstatement unreasonable. Thus, it awarded Wagan separation pay but denied his prayers for back wages and damages.^[22]

Both parties moved for reconsideration, but were both denied. Thus, Wagan filed a Petition for Certiorari with the Court of Appeals.^[23]

In its May 29, 2015 Decision,^[24] the Court of Appeals found merit in Wagan's Petition, ruling that the conflicting findings of the labor tribunals merited a re-examination of which among the parties' claims were supported by substantial evidence.^[25] It went on to affirm the National Labor Relations Commission's ruling that Wagan had been illegally dismissed.

The Court of Appeals found that, as a service engineer, Wagan was not routinely entrusted with fiduciary matters such that the loss of Robustan's trust and confidence would be just cause for his dismissal. In any event, Robustan failed to establish that Wagan committed a "willful breach of trust" because its evidence only showed carelessness.^[26] Neither did Robustan present any evidence that Wagan consented to or benefited from the loss of the fire extinguishers.^[27] Thus, the Court of Appeals found that Robustan failed to overcome its burden of showing that Wagan's employment was legally terminated.^[28]

As such, the Court of Appeals partially granted Wagan's Petition. It awarded Wagan backwages in addition to separation pay, but rejected Wagan's prayer for damages for his failure to show that his dismissal was "attended by explicit oppressive, humiliating or demeaning acts."^[29]

Robustan moved for reconsideration, arguing that the Petition for Certiorari was filed out of time and failed to comply with necessary procedural requirements. On the substantive issues, Robustan argued that Wagan was not illegally dismissed because there was just cause for his dismissal and sufficient compliance with procedural due process.^[30]

In its March 17, 2016 Resolution,^[31] the Court of Appeals denied Robustan's Motion for Reconsideration, finding its arguments to be rehashed from its prior pleadings. Hence, Robustan filed this Petition.^[32]

Petitioner argues that respondent Wagan's Petition with the Court of Appeals should have been outright dismissed for its procedural deficiencies. It notes that the Petition was filed beyond the 60-day period based on the registry return receipts indicating when respondent's two counsels received their respective copies of the National Labor Relations Commission's Resolution denying his Motion for Reconsideration.^[33]

Since respondent's first counsel failed to formally withdraw from the proceedings, petitioner says that notice received by her on July 25, 2012 should determine the filing period. Even if the period were to be counted from the second counsel's receipt of notice on August 7, 2012, petitioner says that respondent's Petition for Certiorari, filed only on October 9, 2012, would have still been filed out of time.^[34]

Petitioner also points out that respondent's Certificate of Non-Forum Shopping was notarized on September 26, 2012, earlier than the Petition for Certiorari's filing on October 9, 2012.^[35]

On the substantive issues, petitioner argues that respondent was validly dismissed for his gross negligence and inefficiency. It notes the National Labor Relations Commission's recognition that respondent had been negligent in allowing the loss of the fire extinguishers, as well as its due notice of the memoranda reprimanding respondent's poor work performance. Together with respondent's disappearance and refusal to undergo the proper work turnover procedure upon receiving the notice of his dismissal, petitioner argues that there was a valid termination of the employer-employee relationship.^[36] Finally, petitioner argues that respondent's failure to secure the office premises, resulting in the loss of the fire extinguishers, was tantamount to gross negligence—a just cause for terminating his employment.^[37]

In his Comment,^[38] respondent argues that while the National Labor Relations Commission's Resolution was received at his counsel's old residence, the person who received the document was not authorized to do so. In any event, he argues that receipt of the notice by registered mail could only be deemed complete upon receipt by the specific addressee.^[39]

On the merits, respondent argues that the Court of Appeals properly granted his Petition for Certiorari. He argues that his dismissal was "hastily concluded . . . despite lack of sufficient evidence that [he] was involved in the loss of company

assets."^[40] Respondent insists that petitioner's decision to terminate his employment was based solely on conjecture, and without sufficient basis to amount to just cause.^[41]

Petitioner, in its Reply,^[42] reiterates the arguments on the indispensability of the procedural requirements for appeals. It repeats that respondent's first counsel never withdrew her appearance; thus, proof of notice upon the latter should have already started the period for filing the petition. As to respondent's second counsel, petitioner says she never indicated any change in address in any of her pleadings and the person who received the notice had apparent authority to do so. Thus, the service duly made on her address of record should have been sufficient to determine the filing period.^[43] According to petitioner, these procedural infirmities, together with the errors in dating respondent's Certification of Non-Forum Shopping, are all evident acts of bad faith meant to mislead the courts. Thus, it prays that the Court of Appeals' rulings be reversed and respondent's counsel be held administratively liable.^[44]

The issue before this Court is whether or not the Court of Appeals committed reversible error in partially granting respondent Wilfredo Wagan's Petition for Certiorari.

The Petition is denied. The Court of Appeals validly affirmed the National Labor Relations Commission's finding that respondent was illegally dismissed.

I

Petitioner raises factual questions beyond the scope of a petition for review on certiorari.^[45] By arguing for a strict application of procedural rules, petitioner negates its own prayer for a review of the ruling on respondent's illegal dismissal. However, even if this Court were to pass upon the petition's merits under Rule 45, Section 6 of the Rules of Court, the Petition would still fail to convince.

While petitioner is correct that a party's recourse to the extraordinary writ of certiorari is generally governed by mandatory procedural rules,^[46] giving due course to a petition ultimately depends on the reviewing court's discretion. In *Serrano v. Galant Maritime Services*:^[47]

Needless to state, the acceptance of a petition for certiorari as well as the grant of due course thereto is, in general, addressed to the sound discretion of the court. Although the court has absolute discretion to reject and dismiss a petition for certiorari, in general, it does so only (1) when the petition fails to demonstrate grave abuse of discretion by any court, agency, or branch of the government; or (2) when there are procedural errors, like violations of the Rules of Court or Supreme Court Circulars.^[48] (Emphasis supplied, citations omitted)

Tan v. Bausch & Lomb, Inc.,^[49] citing *Serrano*, then qualified the rules for the court's exercise of its discretion in giving due course to a petition for certiorari:

Needless to state, the acceptance of a petition for certiorari as well as the grant of due course thereto is, in general, addressed to the sound discretion of the court.

Besides, the provisions of the Rules of Court, which are technical rules, may be relaxed in certain exceptional situations. Where a rigid application of the rule that certiorari cannot be a substitute for appeal will result in a manifest failure or miscarriage of justice, it is within our power to suspend the rules or exempt a particular case from its operation.

. . . .

Likewise, the one-day delay in the filing of the petition may be excused on the basis of equity to afford respondent the chance to prove the merits of the complaint.^[50] (Emphasis supplied, citations omitted)

Petitioner insists that the Court of Appeals should have immediately dismissed the Petition for Certiorari for being filed out of time. However, the Court of Appeals acted well within its discretion in appreciating the merits of the Petition despite its procedural discrepancies. It explained that it gave due course to the Petition and reviewed factual questions, despite these questions being beyond the scope of the Petition, because the labor tribunals made conflicting findings of fact:

However, in its expanded jurisdiction over labor cases elevated through a petition for certiorari, the Court is empowered to evaluate the materiality and significance of evidence which is alleged to have been capriciously, whimsically, or arbitrarily disregarded by the NLRC in relation to all other evidence on record. This Court can grant or deny a petition when the factual findings complained of are not supported by the evidence on record; when it is necessary to prevent a substantial wrong or to do substantial justice; when the findings of the NLRC contradict those of the Labor Arbiter; and when necessary to arrive at a just decision of the case.^[51] (Emphasis supplied, citations omitted)

The Court of Appeals did not mention the Petition for Certiorari being filed out of time. However, its reasoning for giving the pleading due course allowed the liberal application of the rule on filing periods. Rules of procedure "facilitate the orderly administration of justice";^[52] however, their application should not result in a denial of substantial justice. *Serrano* is again instructive:

In Cusi-Hernandez vs. Diaz, this Court, speaking through Mr. Justice Artemio V. Panganiban, held that "cases should be determined on the merits, after full opportunity to all parties for ventilation of their causes and defenses, rather than on technicality or some procedural imperfections. In that way, the ends of justice would be served better."

Indeed, "procedural rules are created not to hinder or delay but to facilitate and promote the administration of justice. It is far better to dispose of the case on the merits which is a primordial end rather than on a technicality, if it be the case, that may result in injustice. "

In Paras vs. Baldado and Alberto vs. Court of Appeals, this Court held that "(w)hat should guide judicial action is the principle that a party-litigant is to be given the fullest opportunity to establish the merits of his complaint or defense rather than for him to lose life, liberty, honor or property on technicalities. . . . (T)he rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict