

FIRST DIVISION

[G.R. No. 212111, January 15, 2020]

**CASILDA D. TAN AND/OR C & L LENDING INVESTOR,
PETITIONERS, VS. LUZVILLA B. DAGPIN, RESPONDENT.**

D E C I S I O N

LAZARO-JAVIER, J.:

Antecedents

By Decision^[1] dated September 12, 2003, the Labor Arbiter declared petitioners Casilda D. Tan and/or C & L Lending Investor liable for illegal dismissal of respondent Luzvilla B. Dagpin, with separation pay, backwages, service incentive leave pay, 13th month pay, moral and exemplary damages, and attorney's fees.

By Resolution dated July 29, 2004, the National Labor Relations Commission (NLRC) dismissed petitioners' appeal for non-perfection for failure to attach the required certification of non-forum shopping. It also denied petitioners' subsequent motion for reconsideration.^[2]

Petitioners then filed before the Court of Appeals a petition for certiorari docketed as CA-G.R. SP No. 00038.^[3] On January 11, 2005, the Court of Appeals issued a temporary restraining order (TRO) against the enforcement of the labor arbiter's Decision dated September 12, 2003.^[4]

Meantime, Entry of Judgment^[5] dated January 17, 2005 was issued on the NLRC Resolution dated July 29, 2004. On March 29, 2005, respondent filed with the Executive Labor Arbiter (ELA) a Motion to Admit Computation and Issuance of Writ of Execution^[6] where she computed her separation pay, backwages, and other claims up to the finality of judgment on January 10, 2005 in the total sum of P1,080,566.66. Petitioners opposed.^[7]

On May 17, 2005, after the TRO issued by the Court of Appeals expired, the ELA ordered the release of petitioners' cash bond of P449,665.90 in partial satisfaction of the judgment.^[8]

In yet another Order^[9] dated May 19, 2005, the ELA also granted respondent's Motion to Admit Computation and Issuance of Writ of Execution. The ELA awarded respondent a total of P1,005,146.83. After deducting the amount of P449,665.90 representing the cash bond earlier released and paid to respondent, the ELA ordered the issuance of a writ of execution on the remaining amount of P555,480.93. The writ was fully enforced and satisfied as of October 12, 2005.^[10]

Back to CA-G.R. SP No. 00038, the Court of Appeals, by Decision^[11] dated October 18, 2007, dismissed the petition for certiorari, for lack of merit.

Petitioners further sought relief from the Court through a Petition for Review on Certiorari docketed as G.R. 182268. The Court denied the same under Resolution dated June 23, 2008, which became final and executory on August 21, 2008.^[12]

Respondent, thereafter, on November 3, 2008, filed another Motion for Approval of Computation and Issuance of Writ of Execution;^[13] and later, on November 12, 2008, a Manifestation^[14] seeking additional increments to her monetary award. She claimed that her backwages and separation pay should be computed up to August 21, 2008 when the Court's resolution on the issue of illegal dismissal became final and executory. Petitioners again opposed.

When the aforesaid motion was heard on December 16, 2008, respondent appeared, sans her counsel Atty. Lawrence Carin who advised her to engage the services of Atty. Kenneth P. Rosal only for the incident at hand. Atty. Carin was allegedly attending to some personal matters in Dumaguete City aside from the fact that he had "suspended" himself from the practice of law because of his failure to comply with the Mandatory Continuing Legal Education (MCLE) requirements. Complying with Atty. Carin's instruction, respondent engaged Atty. Kenneth P. Rosal to represent her in the subsequent hearing on the motion. Atty. Rosal, in turn, entered his appearance as counsel for respondent.^[15]

Ruling of the ELA

By Order^[16] dated February 19, 2009, the ELA denied respondent's Motion for Approval of Computation and Issuance of Writ of Execution. The ELA emphasized that since respondent had already enforced and received full payment of the monetary award she was entitled to up until January 10, 2005, she was already estopped from claiming, thereafter, the so-called increments to such monetary award.

Proceedings before the NLRC

On April 13, 2009, Atty. Rosal filed respondent's appeal memorandum but the NLRC dismissed it under Resolution^[17] dated August 27, 2009 for having been filed out of time. The NLRC ruled that the ten (10)-day appeal period must be reckoned from the time respondent received the ELA's February 19, 2009 Order on March 19, 2009 and not from Atty. Rosal's purported receipt on March 30, 2009 of copy of the Order handed him by respondent. For Atty. Rosal was not respondent's counsel of record while Atty. Carin was no longer respondent's counsel when the aforesaid Order was served. Consequently, respondent, who received it on March 19, 2009, had until March 29, 2009 to perfect her appeal. Since respondent filed her appeal memorandum only on April 13, 2009 or fifteen (15) days late, the Order dated February 19, 2009 had already become final and executory.

In her motion for reconsideration, respondent explained that the ELA Order dated February 19, 2009, albeit addressed to "L. Dagpin c/o Atty. Kenneth P. Rosal" was directly delivered to her on March 19, 2009, not to her counsel. Since Atty. Carin

could not prepare her appeal as he had "suspended" himself from the practice of law and was attending an IBP Convention in Bacolod City from March 26 to 29, 2009, he instructed her to refer the case to Atty. Rosal who, unfortunately, was also attending the convention. Thus, she was able to give the Order to Atty. Rosal only on March 30, 2009 and the latter was able to file the appeal only on April 13, 2009.^[18]

By Resolution^[19] dated October 30, 2009, the NLRC denied reconsideration. Respondent, thus, filed a petition for certiorari before the Court of Appeals, asserting that the ten (10)-day appeal period should be reckoned not from her receipt of the ELA Order, but from the date of her counsel's receipt.^[20]

Ruling of the Court of Appeals

In its Decision^[21] dated September 24, 2013, the Court of Appeals reversed. It ruled that the service of the February 19, 2009 Order on respondent herself, instead of her counsel, was not the legal service contemplated by law. The NLRC, therefore, gravely abused its discretion when it dismissed the appeal for non-perfection, albeit there was no proper service of said notice/order. For this reason and on consideration of compassionate justice, respondent's Appeal Memorandum filed on April 13, 2009 may still be considered filed within the reglementary period.

On the merits, the Court of Appeals decreed that a recomputation of the monetary consequences of illegal dismissal does not violate the principle of immutability of final judgments for it does not affect the illegal dismissal ruling itself. Since petitioners pursued the review of the case up to the Supreme Court, the backwages and separation pay should be computed until August 21, 2008 when the Supreme Court's resolution in respondent's favor became final. This is regardless of the fact that respondent had already secured a writ of execution from the executive labor arbiter who computed her monetary awards only up until the dismissal of petitioners' appeal to the NLRC became final on January 10, 2005. The Court of Appeals, thus, ordered the labor arbiter to recompute the monetary awards due respondent and to deduct therefrom the amount of P1,005,146.83 which respondent had already received sometime in 2004. It further imposed a twelve percent (12%) legal interest on the remaining monetary awards from finality of judgment on August 21, 2008 until fully paid.

Petitioners' motion for reconsideration^[22] was denied through Resolution^[23] dated March 26, 2014.

The Present Petition

Petitioners now seek affirmative relief from the Court and pray for reversal of the Court of Appeals' dispositions. They essentially argue: The Court of Appeals erred in applying compassionate justice in allowing respondent's appeal to the NLRC despite the fact that it was filed beyond the ten (10)-day reglementary period. Too, a recomputation and payment of respondent's accrued benefits violates the principle of immutability of final judgment. Since respondent had already executed in full the NLRC Resolution dated July 29, 2004 which became final and executory on January 10, 2005, she is no longer entitled to additional benefits up until the finality of this Court's Resolution (in G.R. No. 182268) on August 21, 2008.

In her Comment^[24] respondent posits that the Court of Appeals correctly applied compassionate justice in considering her appeal to have been timely filed before the NLRC. Also, a recomputation of her accrued benefits does not violate the principle of immutability of judgment. Thus, the Court of Appeals properly awarded her additional benefits up until the finality of the Court's Resolution on August 21, 2008.

The Core Issues

(1) Did the Court of Appeals err when it ruled that respondent's appeal to the NLRC was timely filed?

(2) Did the Court of Appeals err when it ruled that respondent is entitled to a recomputation of and consequently an increase in the monetary awards already given and paid her during the execution of the labor arbiter's decision?

The Ruling

Respondent's appeal to the NLRC was timely filed.

Where a party appears by attorney in an action or proceeding in a court of record, all notices must be served on the attorney of record.^[25] Service of the court's order on any person other than the counsel of record is not legally effective, nay, binding on the party; nor may it start the corresponding reglementary period for the subsequent procedural steps which may be taken by the attorney.^[26] This rule is founded on considerations of fair play. A party engages a counsel precisely because he or she does not feel competent to deal with the intricacies of law and procedure. When the notice/order is directly served on the party, he or she would have to communicate with his or her attorney and turn over the notice/order to the latter, thereby shortening the remaining period for taking the proper steps to protect the party's interest.^[27]

In the absence of a notice of withdrawal or substitution of counsel, the court will rightly assume that the counsel of record continues to represent his client and receipt of notice by the former is the reckoning point of the reglementary period.^[28]

Here, respondent's counsel of record, Atty. Carin merely instructed respondent to refer the case to Atty. Rosal at the tail end of the proceedings before the labor arbiter since he could not then continue practicing law because he failed to comply with the MCLE requirements and he was then attending an IBP Convention in Bacolod City. There is no showing though that he filed a notice of withdrawal or that respondent herself declared that she was terminating Atty. Carin's services. Notices, decisions, and resolutions should have, therefore, been sent to Atty. Carin as respondent's counsel of record. But even assuming that Atty. Carin had indeed withdrawn his representation, notices, decisions, and resolutions should have at least been served on Atty. Rosal for the latter had also entered his appearance as respondent's counsel. The fact that copy of the ELA Order dated February 19, 2009 was addressed to "L/ Dagpin c/o Atty. Kenneth P. Rosal" clearly indicates that the NLRC acknowledged Atty. Rosal as respondent's new counsel.

As it was, however, copy of the ELA Order dated February 19, 2009 was served not on Atty. Rosal but directly on respondent herself who received it on March 19, 2009.