

SECOND DIVISION

[G.R. No. 190724, March 12, 2014]

DIAMOND TAXI AND/OR BRYAN ONG, PETITIONERS, VS. FELIPE LLAMAS, JR., RESPONDENT.

DECISION

BRION, J.:

In this petition for review on *certiorari*,^[1] we resolve the challenge to the August 13, 2008 decision^[2] and the November 27, 2009 resolution^[3] of the Court of Appeals (CA) in CA-G.R. CEB-S.P. No. 02623. This CA decision reversed and set aside the May 30, 2006 resolution^[4] of the National Labor Relations Commission (NLRC) in NLRC Case No. V-000294-06 (RAB VII-07-1574-05) that dismissed respondent Felipe Llamas, Jr.'s appeal for non-perfection.

The Factual Antecedents

Llamas worked as a taxi driver for petitioner Diamond Taxi, owned and operated by petitioner Bryan Ong. On July 18, 2005, Llamas filed before the Labor Arbiter (LA) a complaint for illegal dismissal against the petitioners.

In their position paper, the petitioners denied dismissing Llamas. They claimed that Llamas had been absent without official leave for several days, beginning July 14, 2005 until August 1, 2005. The petitioners submitted a copy of the attendance logbook to prove that Llamas had been absent on these cited dates. They also pointed out that Llamas committed several traffic violations in the years 2000-2005 and that they had issued him several memoranda for acts of insubordination and refusal to heed management instructions. They argued that these acts – traffic violations, insubordination and refusal to heed management instructions – constitute grounds for the termination of Llamas' employment.

Llamas failed to seasonably file his position paper.

On November 29, 2005, the LA rendered a decision^[5] dismissing Llamas' complaint for lack of merit. The LA held that Llamas was not dismissed, legally or illegally. Rather, the LA declared that Llamas left his job and had been absent for several days without leave.

Llamas received a copy of this LA decision on January 5, 2006. Meanwhile, he filed his position paper^[6] on December 20, 2005.

In his position paper, Llamas claimed that he failed to seasonably file his position paper because his previous counsel, despite his repeated pleas, had continuously

deferred compliance with the LA's orders for its submission. Hence, he was forced to secure the services of another counsel on December 19, 2005 in order to comply with the LA's directive.

On the merits of his complaint, Llamas alleged that he had a misunderstanding with Aljuver Ong, Bryan's brother and operations manager of Diamond Taxi, on July 13, 2005 (*July 13, 2005 incident*). When he reported for work on July 14, 2005, Bryan refused to give him the key to his assigned taxi cab unless he would sign a prepared resignation letter. He did not sign the resignation letter. He reported for work again on July 15 and 16, 2005, but Bryan insisted that he sign the resignation letter prior to the release of the key to his assigned taxi cab. Thus, he filed the illegal dismissal complaint.

On January 16, 2006, Llamas filed before the LA a motion for reconsideration of its November 29, 2005 decision. The LA treated Llamas' motion as an appeal per Section 15, Rule V of the 2005 Revised Rules of Procedure of the NLRC (*2005 NLRC Rules*) (the governing NLRC Rules of Procedure at the time Llamas filed his complaint before the LA).

In its May 30, 2006 resolution,^[7] the NLRC dismissed for non-perfection Llamas' motion for reconsideration treated as an appeal. The NLRC pointed out that Llamas failed to attach the required certification of non-forum shopping per Section 4, Rule VI of the 2005 NLRC Rules.

Llamas moved to reconsider the May 30, 2006 NLRC resolution; he attached the required certification of non-forum shopping.

When the NLRC denied his motion for reconsideration^[8] in its August 31, 2006 resolution,^[9] Llamas filed before the CA a petition for *certiorari*.^[10]

The CA's ruling

In its August 13, 2008 decision,^[11] the CA reversed and set aside the assailed NLRC resolution. Citing jurisprudence, the CA pointed out that non-compliance with the requirement on the filing of a certificate of non-forum shopping, while mandatory, may nonetheless be excused upon showing of manifest equitable grounds proving substantial compliance. Additionally, in order to determine if cogent reasons exist to suspend the rules of procedure, the court must first examine the substantive aspect of the case.

The CA pointed out that the petitioners failed to prove overt acts showing Llamas' clear intention to abandon his job. On the contrary, the petitioners placed Llamas in a situation where he was forced to quit as his continued employment has been rendered impossible, unreasonable or unlikely, i.e., making him sign a resignation letter as a precondition for giving him the key to his assigned taxi cab. To the CA, the petitioners' act amounted to constructive dismissal. The CA additionally noted that Llamas immediately filed the illegal dismissal case that proved his desire to return to work and negates the charge of abandonment.

Further, the CA brushed aside the petitioners' claim that Llamas committed several infractions that warranted his dismissal. The CA declared that the petitioners should

have charged Llamas for these infractions to give the latter an opportunity to explain his side. As matters then stood, they did not charge him for these infractions; hence, the petitioners could not have successfully used these as supporting grounds to justify Llamas' dismissal on the ground of abandonment.

As the CA found equitable grounds to take exception from the rule on certificate of non-forum shopping, it declared that the NLRC had acted with grave abuse of discretion when it dismissed Llamas' appeal purely on a technicality. To the CA, the NLRC should have considered as substantially compliant with this rule Llamas' subsequent submission of the required certificate with his motion for reconsideration (of the NLRC's May 30, 2006 resolution).

Accordingly, the CA ordered the petitioners to pay Llamas separation pay, full backwages and other benefits due the latter from the time of the dismissal up to the finality of the decision. The CA awarded separation pay in lieu of reinstatement because of the resulting strained work relationship between Llamas and Bryan following the altercation between the former and the latter's brother.

The petitioners filed the present petition after the CA denied their motion for reconsideration^[12] in the CA's November 27, 2009 resolution.^[13]

The Petition

The petitioners argue that the CA erred when it encroached on the NLRC's exclusive jurisdiction to review the merits of the LA's decision. To the petitioners, the CA should have limited its action in determining whether grave abuse of discretion attended the NLRC's dismissal of Llamas' appeal; finding that it did, the CA should have remanded the case to the NLRC for further proceedings.

Moreover, the petitioners point out that the NLRC did not gravely abuse its discretion when it rejected Llamas' appeal. They argue that the NLRC's action conformed with its rules and with this Court's decisions that upheld the dismissal of an appeal for failure to file a certificate of non-forum shopping.

Directly addressing the CA's findings on the dismissal issue, the petitioners argue that they did not constructively dismiss Llamas. They maintain that Llamas no longer reported for work because of the several liabilities he incurred that would certainly have, in any case, warranted his dismissal.

The Case for the Respondent

Llamas argues in his comment^[14] that the CA correctly found that the NLRC acted with grave abuse of discretion when it maintained its dismissal of his appeal despite his subsequent filing of the certificate of non-forum shopping. Quoting the CA's ruling, Llamas argues that the NLRC should have given due course to his appeal to avoid miscarriage of substantial justice.

On the issue of dismissal, Llamas argues that the CA correctly reversed the LA's ruling that found him not dismissed, legally or illegally. Relying on the CA's ruling, Llamas points out that the petitioners bore the burden of proving the abandonment charge. In this case, the petitioners failed to discharge their burden; hence, his

dismissal was illegal.

The Court's Ruling

We do not find the petition meritorious.

Preliminary considerations: factual-issue-bar-rule

In this Rule 45 petition for review on *certiorari*, we review the legal errors that the CA may have committed in the assailed decision, in contrast with the review for jurisdictional error undertaken in an original *certiorari* action. In reviewing the legal correctness of the CA decision in a labor case made under Rule 65 of the Rules of Court, we examine the CA decision in the context that it determined the presence or the absence of grave abuse of discretion in the NLRC decision before it and not on the basis of whether the NLRC decision, on the merits of the case, was correct. In other words, we have to be keenly aware that the CA undertook a Rule 65 review, not a review on appeal, of the challenged NLRC decision. In question form, the question that we ask is: Did the CA correctly determine whether the NLRC committed grave abuse of discretion in ruling on the case?^[15]

In addition, the Court's jurisdiction in a Rule 45 petition for review on *certiorari* is limited to resolving only questions of law. A question of law arises when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts. In contrast, a question of fact exists when the doubt or controversy concerns the truth or falsehood of facts.^[16]

As presented by the petitioners, the petition before us involves mixed questions of fact and law, with the core issue being one of fact. Whether the CA, in ruling on the labor case before it under an original *certiorari* action, can make its own factual determination requires the consideration and application of law and jurisprudence; it is essentially a question of law that a Rule 45 petition properly addresses.

In the context of this case, however, this legal issue is inextricably linked with and cannot be resolved without the definitive resolution of the core factual issue – whether Llamas abandoned his work or had been constructively dismissed. As a proscribed question of fact, we generally cannot address this issue, except to the extent necessary to determine *whether the CA correctly found that the NLRC acted with grave abuse of discretion in dismissing Llamas' appeal on purely technical grounds*.

For raising mixed questions of fact and law, we deny the petition outright. Even if this error were to be disregarded, however, we would still deny the petition as we find the CA legally correct in reversing the NLRC's resolution on the ground of grave abuse of discretion.

The CA has ample authority to make its own factual determination

We agree that remanding the case to the NLRC for factual determination and decision of the case on the merits would have been, ordinarily, a prudent approach.

Nevertheless, the CA's action on this case was not procedurally wrong and was not without legal and jurisprudential basis.

In this jurisdiction, courts generally accord great respect and finality to factual findings of administrative agencies, *i.e.*, labor tribunals, in the exercise of their quasi-judicial function.^[17] These findings, however, are not infallible. This doctrine espousing comity to administrative findings of facts cannot preclude the courts from reviewing and, when proper, disregarding these findings of facts when shown that the administrative body committed grave abuse of discretion by capriciously, whimsically or arbitrarily disregarding evidence or circumstances of considerable importance that are crucial or decisive of the controversy.^[18]

Hence, in labor cases elevated to it via petition for *certiorari*, the CA can grant this prerogative writ when it finds that the NLRC acted with grave abuse of discretion in arriving at its factual conclusions. To make this finding, the CA necessarily has to view the evidence if only to determine if the NLRC ruling had basis in evidence. It is in the sense and manner that the CA, in a Rule 65 *certiorari* petition before it, had to determine whether grave abuse of discretion on factual issues attended the NLRC's dismissal of Llamas' appeal. Accordingly, we do not find erroneous the course that the CA took in resolving Llamas' certiorari petition. The CA may resolve factual issues by express legal mandate and pursuant to its equity jurisdiction.

The NLRC committed grave abuse of discretion in dismissing Llamas' appeal on mere technicality

Article 223 (now Article 229)^[19] of the Labor Code states that decisions (or awards or orders) of the LA shall become final and executory unless appealed to the NLRC within ten (10) calendar days from receipt of the decision. Consistent with Article 223, Section 1, Rule VI of the 2005 NLRC Rules also provides for a ten (10)-day period for appealing the LA's decision. Under Section 4(a), Rule VI^[20] of the 2005 NLRC Rules, the appeal shall be in the form of a verified memorandum of appeal and accompanied by proof of payment of the appeal fee, posting of cash or surety bond (when necessary), **certificate of non-forum shopping**, and proof of service upon the other parties. Failure of the appealing party to comply with any or all of these requisites within the reglementary period will render the LA's decision final and executory.

Indisputably, Llamas did not file a memorandum of appeal from the LA's decision. Instead, he filed, within the ten (10)-day appeal period, a motion for reconsideration. Under Section 15, Rule V of the 2005 NLRC Rules, motions for reconsideration from the LA's decision are not allowed; they may, however, be treated as an appeal provided they comply with the requirements for perfecting an appeal. The NLRC dismissed Llamas' motion for reconsideration treated as an appeal for failure to attach the required certificate of non-forum shopping per Section 4(a), Rule VI of the 2005 NLRC Rules.

The requirement for a sworn certification of non-forum shopping was prescribed by the Court under Revised Circular 28-91,^[21] as amended by Administrative Circular No. 04-94,^[22] to prohibit and penalize the evils of forum shopping. Revised Circular 28-91, as amended by Administrative Circular No. 04-94, requires a sworn