

SECOND DIVISION

[G.R. No. 173189, February 13, 2013]

**JONATHAN I. SANG-AN, PETITIONER, VS. EQUATOR KNIGHTS
DETECTIVE AND SECURITY AGENCY, INC., RESPONDENT.**

D E C I S I O N

BRION, J.:

Before the Court is the petition for review on *certiorari*^[1] filed by petitioner Jonathan I. Sang-an assailing the decision^[2] dated September 29, 2005 and the resolution^[3] dated May 29, 2006 of the Court of Appeals (CA) in CA-G.R. SP. No. 86677. The CA set aside the decision^[4] dated December 15, 2003 of the National Labor Relations Commission (NLRC) and reinstated the decision^[5] dated July 30, 2001 of Labor Arbiter Geoffrey P. Villahermosa (LA).

The Facts

Jonathan was the Assistant Operation Manager of respondent Equator Knights Detective and Security Agency, Inc. (*Equator*). He was tasked, among others, with the duty of assisting in the operations of the security services; he was also **in charge of safekeeping Equator's firearms**.

On April 21, 2001, Equator discovered that **two firearms were missing from its inventory**. The investigation revealed that it was Jonathan who might have been responsible for the loss.^[6] On April 24, 2001, Jonathan was **temporarily suspended from work pending further investigation**.

On May 8, 2001, while Jonathan was under suspension, a security guard from Equator was apprehended by policemen for violating the Commission on Elections' gun ban rule. The security guard stated in his affidavit^[7] that **the unlicensed firearm had been issued to him by Jonathan**.

On May 24, 2001, Jonathan filed with the NLRC a **complaint for illegal suspension with prayer for reinstatement**.^[8] In his position paper, however, he treated his case as one for illegal dismissal and alleged that he had been denied due process when he was dismissed.^[9] Equator, on the other hand, argued that Jonathan's dismissal was not illegal but was instead for a just cause under Article 282 of the Labor Code.^[10]

On July 30, 2001, the **LA rendered a decision**^[11] **dismissing the complaint**. It declared that no illegal dismissal took place as Jonathan's services were terminated pursuant to a just cause. The LA found that Jonathan was dismissed due to the two

infractions he committed:

The basis for the termination of the complainant was first, when he was suspended when he issued a firearm [to] a security guard and then replaced it with another one, then took the respondent[’s] firearm with him and since then both firearms were lost. x x x.

x x x x

His second offense which resulted in his being terminated was when he issued an unlicensed firearm to a Security Guard stationed in one of the business establishment[s] in Bais City which is a client of the respondents.

x x x x

WHEREFORE, in the light of the foregoing, judgment is hereby rendered DISMISSING this case for lack of legal and factual basis.^[12]

Jonathan appealed the LA’s decision to the NLRC, contending that no charge had been laid against him; there was no hearing or investigation of any kind; and he was not given any chance or opportunity to defend himself.

The NLRC sustained the findings of the LA that there had been just cause for his dismissal. However, it found that Jonathan had been denied his right to due process when he was dismissed. It held that Equator’s letter informing him of his temporary suspension until further notice did not satisfy the requirements of due process for a valid dismissal. Thus, the NLRC modified the LA’s decision and ordered Equator to pay Jonathan backwages from April 24, 2001 until the date of the NLRC’s decision. Equator moved for reconsideration but the NLRC denied the motion, prompting the filing of a petition for *certiorari* under Rule 65 of the Rules of Court with the CA. Equator argued that the NLRC committed grave abuse of discretion when it found that Jonathan had been denied procedural due process.

The CA reversed the decision of the NLRC, finding that Equator substantially complied with the procedural requirements of due process. It found that the letter given to Jonathan did not mean that he had been dismissed; rather, he was only suspended – the very reason for the case for illegal suspension Jonathan filed before the LA.

The CA found that Jonathan filed his complaint for illegal suspension on May 2, 2001. During the pendency of the illegal suspension case before the LA, Jonathan committed another offense on May 8, 2001 when he issued the unlicensed firearm to Equator’s security guard. The CA found that Equator’s June 7, 2001 position paper brought Jonathan’s second offense before the LA for resolution; thus, Jonathan was not denied due process. **The CA reinstated the LA’s decision dismissing Jonathan’s complaint.** Jonathan filed a motion for reconsideration which the CA denied. He thereafter filed the present petition.

The Parties’ Arguments

Jonathan contends that when Equator filed a petition for *certiorari* under Rule 65 of the Rules of Court alleging grave abuse of discretion by the NLRC, it failed to post a cash or surety bond as required by Article 223 of the Labor Code. Without complying with this condition, the petition for *certiorari* should have been dismissed outright. Also, Jonathan contends that the CA's findings of fact are contrary to the findings of fact by the NLRC. Since the findings of fact of quasi-judicial agencies are accorded respect and finality, he argues that the NLRC's decision must be sustained.

Equator, on the other hand, submits that the rule on posting of cash or surety bond as required by Article 223 of the Labor Code is not applicable in a petition for *certiorari* under Rule 65 of the Rules of Court. It also submits that both the LA and the NLRC concur in finding just cause for the dismissal of Jonathan; hence, Jonathan's subsequent dismissal is valid.

The Issues

Given the parties' arguments, the case poses the following issues for the Court's resolution:

1. whether the posting of a cash or surety bond is required for the filing of a petition for *certiorari* under Rule 65 of the Rules of Court with the CA; and
2. whether Jonathan was validly dismissed.

The Court's Ruling

We find the petition partially meritorious.

A cash/surety bond is not needed in a Petition for Certiorari under Rule 65

The requirement of a cash or surety bond as provided under Article 223 of the Labor Code only applies to appeals from the orders of the LA to the NLRC. It does not apply to special civil actions such as a petition for *certiorari* under Rule 65 of the Rules of Court. In fact, nowhere under Rule 65 does it state that a bond is required for the filing of the petition.

A petition for *certiorari* is an original and independent action and is not part of the proceedings that resulted in the judgment or order assailed before the CA. It deals with the issue of jurisdiction, and may be directed against an interlocutory order of the lower court or tribunal prior to an appeal from the judgment, or to a final judgment where there is no appeal or any plain, speedy or adequate remedy provided by law or by the rules.

Jonathan filed a complaint for illegal dismissal

Contrary to the findings of the CA, Jonathan was not merely suspended but was dismissed from the service. While Jonathan initially filed an action for illegal