

FIRST DIVISION

[G.R. NO. 164871, August 22, 2006]

**TRUST INTERNATIONAL PAPER CORPORATION, PETITIONER, VS.
MARILOU R. PELAEZ, RESPONDENT.**

D E C I S I O N

CHICO-NAZARIO, J.:

This Petition for Review under Rule 45 of the Rules of Court with an Urgent Application for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction, seeks to set aside the Resolutions of the Court of Appeals in CA-G.R. SP No. 73356 entitled, "*Marilou R. Pelaez v. National Labor Relations Commission, et al.*" dated 13 February 2004^[1] and 29 July 2004, respectively. The first Resolution denied petitioner Trust International Paper Corporation's (TIPCO) Petition for Relief from Judgment, while the second denied its motion seeking reconsideration thereof.

Respondent Marilou R. Pelaez started her employment with petitioner as Secretary. She earned various promotions, the last of which was her appointment as Corporate Cashier in 1993.

After undergoing substantial business losses for the fiscal year 1996-1997, petitioner implemented cost-cutting and streamlining programs to alleviate its financial predicament. In the course of carrying out the said programs, several positions were abolished and declared redundant, one of which was the position of Corporate Cashier. Thus, on 24 December 1997, respondent received a memorandum from Jose Reyes, petitioner's Chief Financial Officer, informing her that her services were terminated. She accepted her severance from the employ of petitioner and turned over her accountabilities to the different departments which absorbed her responsibilities. Thereafter, she was no longer required to report for work.

Sometime in January 1998, respondent found out the creation of the position of Treasury Clerk in petitioner's plantilla which has the same job description and responsibilities as that of Corporate Cashier. Feeling deceived, respondent immediately filed on 6 January 1998 a Complaint for illegal dismissal, non-payment/underpayment of salaries, separation pay, retirement benefits, service incentive leave and sick leave benefits, and damages against petitioner, Elon Ting, the president of TIPCO, Efren TanLapco, the Chief Operating Officer of TIPCO and Jose E. Reyes, the Chief Financial Officer of TIPCO before the Arbitration Branch of the DOLE-NCR.

On 12 January 1998, respondent received her separation benefits from petitioner in the amount of P539,974.20 and correspondingly signed a Deed of Release and Quitclaim.

In a Decision dated 21 September 1999, the Labor Arbiter found petitioner guilty of illegal dismissal and awarded to respondent backwages, separation pay and damages. The decretal portion of the Decision reads:

CONFORMABLY WITH THE FOREGOING, judgment is hereby rendered finding complainant to have been illegally retrenched by respondents. Consequently, they are ordered to pay in solidum complainant as follows:

- a) Backwages as of August 29 August, 1999 – Php 484,000.00
- b) Separation Pay – Php 459,800.00
- c) Moral Damages – Php 300,000.00
- d) Exemplary Damages – Php 100,000.00
- e) Vacation and sick leaves – Php 55,974.20
- f) 5% of the awarded money claims as attorney's fees.

The sum of Php 539,974.20 should be deducted from the awards granted to complainant.^[2]

On 22 October 1999, petitioner appealed to the National Labor Relations Commission (NLRC).

In a Decision dated 31 May 2002, the NLRC reversed the findings and rulings of the Labor Arbiter. It affirmed the validity of petitioner's redundancy program, which was the ground for the termination of respondent's employment. The dispositive portion of the Decision provides:

WHEREFORE, the decision appealed from is hereby VACATED and SET ASIDE and a new one entered DISMISSING the complaint for lack of merit.^[3]

On 5 July 2002, respondent filed a Motion for Reconsideration which the NLRC denied in a Resolution dated 31 July 2002.

Unfazed with the setback, respondent filed a special civil action for *certiorari* under Rule 65 of the Rules of Court with the Court of Appeals arguing that grave abuse of discretion was committed by the NLRC in setting aside the Labor Arbiter's Decision despite having been duly supported by the facts and the law.

In due time, the Court of Appeals rendered a Decision in favor of respondent on the ground that respondent's dismissal due to redundancy did not meet the requirements of law; hence, the same was illegal. The Court of Appeals decreed:

WHEREFORE, premises considered, the instant petition is GRANTED. The decision of public respondent NLRC in NLRC NCR CA No. 021691-99, as well as its subsequent resolution denying petitioner's motion for reconsideration, are hereby ANNULLED AND SET ASIDE and the decision of the labor arbiter *a quo* REINSTATED.^[4]

The Decision of the Court of Appeals became final and executory as no appeal or motion for reconsideration was filed by either party.

Hence, on 25 July 2003, an Entry of Judgment was issued by the Court of Appeals.

On 29 December 2003, petitioner filed a Petition for Relief from Judgment with the Court of Appeals. Petitioner anchored its petition on the "excusable negligence" of its counsel Siguion Reyna, Montecillo & Ongsiako's (Siguion Reyna) law firm and the gross negligence of Atty. Elena C. Cardinez (Atty. Cardinez), a newly hired junior associate of the Siguion Reyna law firm, who allegedly handled the case for petitioner. Petitioner revealed that the instant case was assigned to Atty. Cardinez in June 2003 and that all notices, orders and legal processes in connection with the instant case were immediately forwarded to her for appropriate action.

Petitioner contended that the Siguion Reyna law firm was never remiss in its duty to follow up the status of the case with Atty. Cardinez. In fact, it was the law firm itself, through Atty. Cardinez's supervising lawyers and co-counsels, Attys. Carla E. Santamaria-Seña, Cheryl Ann L. Peña and Rean Mayo D. Javier, who had to elicit reports from her. When asked about the developments of the case, Atty. Cardinez supposedly informed the law firm that everything was in order regarding petitioner's defense, when in fact, it was not. Eventually, Atty. Cardinez never reported to work and that she was nowhere to be found despite the law firm's diligent efforts to search for her. She did not turn over the case files in her possession, including the Court of Appeals file folders of the instant case.

Petitioner maintained that the acts of Atty. Cardinez in misrepresenting to the law firm that everything was in order regarding its defense, when in fact, it was not, and the fact that she took the files with her constitute gross negligence and should not bind petitioner. Corollarily, petitioner argues that the Siguion Reyna law firm's fault can only be categorized as an excusable neglect for it was not remiss in making follow-ups about the status of the case with Atty. Cardinez. It acknowledged that the law firm's mistake was that it put faith in the assurances of Atty. Cardinez, who repeatedly gave her word that nothing was amiss in the defense of petitioner's position in the instant case.

Unconvinced, the Court of Appeals, in a Resolution dated 13 February 2004, denied petitioner's Petition for Relief from Judgment, ratiocinating as follows:

There is no use arguing that the instant case was unloaded by Attys. Peña and Javier, to a certain Atty. Elena C. Cardinez, as it is the responsibility of the law firm of Siguion Reyna Montecillo and Ongsiako Law Office itself, to prepare and submit the appropriate relief or remedy of its client. The negligence or failure of its partners or associates to perform its duties and tasks is not excusable negligence that could merit relief under Rule 38 of the Rules of Court.

The doctrinal rule is that the negligence of the counsel binds the client because, otherwise, there would never be an end to a suit so long as counsel could allege its own fault or negligence to support the client's case and obtain remedies and relief already lost by the operation of law.

Subsequently, petitioner filed a Motion for Reconsideration which was denied by the Court of Appeals in a Resolution dated 29 July 2004.

Hence, the instant Petition.

In its Memorandum, petitioner submitted the following issues:

A.

WHETHER THE COURT OF APPEALS COMMITTED GRAVE ERROR WHEN IT FAILED TO RECOGNIZE THE GROSS AND PALPABLE NEGLIGENCE, BORDERING ON FRAUD, COMMITTED BY PETITIONER'S FORMER HANDLING COUNSEL, ATTY. CARDINEZ, WHOSE NEGLIGENCE AND ACTIVE MISREPRESENTATION PREVENTED PETITIONER FROM EXHAUSTING ALL THE LEGAL REMEDIES AVAILABLE TO IT, PARTICULARLY, THE REMEDY OF APPEAL TO THE SUPREME COURT.

B.

WHETHER THE COURT OF APPEALS COMMITTED SERIOUS ERROR WHEN IT STRICTLY APPLIED THE TECHNICAL RULES OF PROCEDURE TO THE DETRIMENT OF SUBSTANTIAL JUSTICE.

C.

WHETHER THE COURT OF APPEALS COMMITTED GRAVE ERROR WHEN IT FAILED TO TAKE INTO CONSIDERATION PETITIONER'S GOOD AND SUBSTANTIAL DEFENSE, WHICH MUST BE FULLY VENTILATED, CONSIDERING THAT IT STANDS TO LOSE THE STAGGERING SUM OF MORE THAN TWO MILLION PESOS (P2,000,000.00)^[6]

At the onset, it must be pointed out that the present petition seeking the setting aside of the Court of Appeals' Resolutions dated 13 February 2004 and 29 July 2004, denying petitioner's petition for relief from judgment, is a petition for review on certiorari under Rule 45 of the Rules of Court.

Section 1(b) of Rule 41 of the Rules of Court, however, provides:

SECTION 1. *Subject of appeal.* – An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

x x x x

(b) An order denying a petition for relief or any similar motion seeking relief from judgment.

x x x x

In all the above instances where the judgment or final order is not