

SECOND DIVISION

[G.R. No. 146267, February 17, 2003]

**NYK INTERNATIONAL KNITWEAR CORPORATION PHILIPPINES
AND/OR CATHY NG, PETITIONERS, VS. NATIONAL LABOR
RELATIONS COMMISSION AND VIRGINIA M. PUBLICO,
RESPONDENTS.**

D E C I S I O N

QUISUMBING, J.:

In this petition for review, petitioners NYK International Knitwear Corporation Philippines (henceforth NYK, for brevity) and its manager, Cathy Ng, assail the resolution^[1] dated September 15, 2000 of the Court of Appeals in CA-G.R. SP No. 60542, which dismissed their petition for certiorari for non-compliance with Section 1, Rule 65 of the 1997 Rules of Civil Procedure. Also assailed is the appellate court's resolution^[2] of December 5, 2000, which denied the motion for reconsideration.

The facts, as gleaned from the findings of the Labor Arbiter as affirmed by the National Labor Relations Commission (NLRC), show that:

On February 8, 1995, herein petitioner NYK hired respondent Virginia Publico as a sewer. Under the terms and conditions of her employment, Publico was paid on a piece-rate basis, but required to work from 8:00 A.M. to 12:00 midnight. On the average, she earned P185.00 daily.

At about 10:00 P.M. of May 7, 1997, Publico requested that she be allowed to leave the work place early, as she was not feeling well due to a bout of influenza. Permission was refused but nonetheless, Publico went home.

The following day, Publico called up her employer and notified management that she was still recovering from her ailment.

On May 9, 1997, Publico reported for work. To her mortification and surprise, however, the security guard prevented her from entering the NYK premises, allegedly on management's order. She begged to be allowed inside, but the guard remained adamant. It was only when Publico declared that she would just complete the unfinished work she had left on May 7 that the guard let her in.

Once inside the factory, Publico requested to see the owner, one Stephen Ng. Her request was declined. She was instead asked to come back the following day.

On May 10, 1997, Publico returned to NYK as instructed. After waiting for three and half (3½) hours, she was finally able to see Stephen Ng. When she inquired why she was barred from reporting for work, Mr. Ng told her she was dismissed due to her refusal to render overtime service.

Aggrieved, private respondent filed a complaint for illegal dismissal against petitioner corporation and its manager, petitioner Cathy Ng, docketed as NLRC NCR Case No. 00-06-03925-97.

Before the Labor Arbiter, petitioners predictably had a different version of the story. Allegedly, they took the pains to verify why Publico did not report for work on May 7, 1997 and found out that her husband did not allow her to work at night. As night work is a must in their line of business, particularly when there are rush orders, petitioners claimed that given Publico's failure to render overtime work, they were left with no other recourse but to fire her.

On March 19, 1998, the Labor Arbiter held Publico's dismissal to be illegal, disposing as follows:

WHEREFORE, the respondents are hereby ordered to reinstate the complainant to her former position with full backwages from the date her salary was withheld until she is actually reinstated, which amounted to P50,168.30 x x x. The respondents are, likewise, assessed the sum of P5,016.83 representing 10% of the amount awarded as attorney's fees. The rest of the claims are dismissed for lack of merit.

SO ORDERED.^[3]

On appeal, the NLRC, in a resolution^[4] dated May 17, 2000, affirmed the decision of the Labor Arbiter *in toto*.

In due time, petitioners impugned the NLRC decision by way of a special civil action of certiorari filed before the Court of Appeals, docketed as CA-G.R. SP No. 60542. Petitioners ascribed grave abuse of discretion amounting to lack or excess of jurisdiction to public respondent NLRC for affirming the ruling of the Labor Arbiter.

In its resolution of September 15, 2000, the appellate court dismissed the petition outright. The Court of Appeals pointed out that there was non-compliance with Section 1 of Rule 65 of the 1997 Rules of Civil Procedure as the petition was merely accompanied by a certified xerox copy of the assailed NLRC decision, instead of a certified true copy thereof as required by the Rules of Court.^[5] Furthermore, petitioners failed to attach the other pleadings and documents pertinent and material to their petition, such as the parties' position papers, their evidence and the motion for reconsideration in contravention of the said rule.^[6]

Petitioners duly moved for reconsideration, explaining that they had requested for a certified true copy of the NLRC's decision but since the original NLRC decision was printed on onionskin was not legible, the NLRC itself photocopied the resolution and certified it afterwards. As proof of payment of petitioners' request for a certified true copy of the NLRC decision, petitioners attached a copy of the official receipts issued by the NLRC, which described the nature of the entry as "CERT. TRUE COPY."^[7] Petitioners, likewise, appended in their motion copies of pertinent pleadings and documents not previously attached in their petition.

On December 5, 2000, the appellate court denied petitioners' motion for

reconsideration.^[8]

Hence this petition for review.

Before us, petitioners submit the following issues for our resolution:

I

WHETHER OR NOT THE COURT OF APPEALS SHOULD HAVE GIVEN DUE COURSE TO THE PETITION FOR CERTIORARI.

II

WHETHER OR NOT THERE EXISTS EVIDENCE ON RECORD TO WARRANT THE RULING THAT COMPLAINANT WAS ILLEGALLY DISMISSED, AND COROLLARY THERETO, WHETHER OR NOT THERE IS LEGAL JUSTIFICATION TO AWARD BACKWAGES AND ORDER REINSTATEMENT.

III

WHETHER OR NOT THERE WAS GRAVE ABUSE OF DISCRETION ON THE PART OF THE PUBLIC RESPONDENT NLRC SO AS TO JUSTIFY A REVERSAL OF ITS RESOLUTIONS DATED MAY 17, 2000 AND JUNE 30, 2000.^[9]

Only two issues need resolution, one having to do with adjective law and the other with substantial law, namely:

(1) Did the Court of Appeals commit a reversible error in dismissing CA-G.R. SP No. 60542 on purely technical grounds, *i.e.*, that the attached copy of the NLRC decision is a mere photocopy of the original decision; and

(2) Did the Court of Appeals err in refusing to rule on the correctness of the NLRC's findings that private respondent was illegally dismissed?

On the *first issue*, petitioners contend that they have substantially complied with the requirements of Section 1, Rule 65, hence, in the interests of justice and equity, the Court of Appeals should have given due course to their special civil action for certiorari.

Private respondent, on the other hand, maintains that petitioners' wanton disregard of the Rule warrant the outright dismissal of their petition. She adds that the present petition raises factual issues that the Court cannot pass upon at the first instance.

Section 1 of Rule 65,^[10] 1997 Rules of Civil Procedure, requires that the petition shall be accompanied by a certified true copy of the judgment or order subject thereof, together with copies of all pleadings and documents relevant and pertinent thereto. The precursor of the Revised Rules of Civil Procedure, Administrative Circular No. 3-96, which took effect on June 1, 1996, instructs us what a "certified true copy" is: