

## SECOND DIVISION

[ G.R. No. 150286, October 17, 2003 ]

**ELCEE FARMS, INC., AND CORAZON SAGUEMULLER, PETITIONER,  
VS. PAMPILO SEMILLANO AND ONE HUNDRED THIRTY OTHERS  
AND THE NLRC, RESPONDENTS.**

### R E S O L U T I O N

**AUSTRIA-MARTINEZ, J.:**

Before this Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision,<sup>[1]</sup> dated February 23, 2001, rendered by the Court of Appeals in C.A. G.R. SP No. 56492 which dismissed for lack of jurisdiction the petition for annulment of a decision of the National Labor Relations Commission (NLRC), filed by Elcee Farms, Inc. (Elcee Farms for brevity) and Corazon Saguemuller.

The following are the antecedent facts:

On December 26, 1990, a complaint for illegal dismissal was filed by 144 employees before the NLRC (Regional Arbitration Branch No. VII, Bacolod City) against (a) petitioners Elcee Farms and Saguemuller; and (b) Hilla Corporation, Rey Hilado and Roberto Montaña. Of the 144 named complainants, only 28<sup>[2]</sup> submitted their affidavits and evidence of employment.

In a Decision<sup>[3]</sup> dated October 20, 1993, the Labor Arbiter ordered Hilla Corporation to pay each of the 28 complainants the sum of P2,235.62 as separation pay but dismissed all claims against Elcee Farms, Saguemuller, Hilado and Montaña, for lack of merit.<sup>[4]</sup>

Not satisfied with the decision, private respondents and Hilla Corporation appealed to the NLRC.

In a Decision<sup>[5]</sup> dated March 29, 1995, the NLRC modified the decision of the Labor Arbiter by holding all defendants liable for the payment of separation pay and adding the payment of P5,000.00 as moral damages to each complainant for all the troubles and sufferings from the disturbance of their rights to labor.<sup>[6]</sup> All the parties moved for reconsideration.

On May 29, 1996, the NLRC issued a Resolution<sup>[7]</sup> modifying its decision by: (a) absolving Hilla Corporation from liability and held only petitioners Elcee Farms and Saguemuller liable for the separation pay, moral and exemplary damages; and (b) increasing the number of awardees from 28 to 131<sup>[8]</sup> based on the list of remitted SSS contributions as of 1990.<sup>[9]</sup>

Aggrieved, petitioners filed two separate petitions for *certiorari* with this Court under Rule 65 of the Rules of Court through different counsels.

The first petition, docketed as G.R. No. 125714, was initiated on August 9, 1996 via a motion for a 60-day extension of time to file a petition for *certiorari*.<sup>[10]</sup> Petitioners filed a second motion for extension of time,<sup>[11]</sup> unaware that they were only granted by the Court a 30-day extension and they failed to submit their petition within that period. Petitioners' counsel thereafter filed a motion for leave to withdraw the two motions for extension on the ground that said motions were not authorized by petitioners.<sup>[12]</sup> In a Resolution dated October 16, 1996, the Court through the Second Division denied: (a) the second motion for extension of time for being filed beyond the extension period granted by the Court, and (b) the motion to withdraw since the two motions for extension were filed before the authority of counsel was withdrawn by petitioners.<sup>[13]</sup> Subsequently, in a Resolution dated February 17, 1997, the Court considered the judgment sought to be reviewed as final and executory for failure of petitioners to file the petition for *certiorari* within the granted extension period.<sup>[14]</sup> On February 21, 1997, petitioners filed a Motion for Leave to Admit Manifestation and/or Motion for Clarification of the October 16, 1996 Resolution.<sup>[15]</sup> On April 10, 1997, petitioners filed a Motion for Reconsideration of the February 17, 1997 Resolution.<sup>[16]</sup> Both motions were denied with finality by the Second Division in its Resolution dated June 23, 1997.<sup>[17]</sup>

The second petition for *certiorari*, docketed as G.R. No. 126428, was filed on September 11, 1996, or a month after G.R. No. 125714 was filed with the Court.<sup>[18]</sup> In a Resolution dated November 12, 1997, the First Division of this Court gave due course to the petition and required: (a) the petitioners to pay the deposit for costs; and, (b) both parties to submit their respective memoranda.<sup>[19]</sup> However, the said Resolution was sent at 2<sup>nd</sup> floor, Jocson Building, B.S. Aquino Drive, 6100, Bacolod City, Negros Occidental instead of Mario Building, P. Hernaez Street, 6100 Bacolod City, Negros Occidental, the address provided for in the petition for *certiorari*. Thus, petitioners failed to comply. In a Resolution dated March 25, 1998, the Court dismissed the petition for *certiorari* for non-compliance with the Resolution of November 12, 1997 requiring said deposit for costs and memorandum.<sup>[20]</sup> Said Resolution was also sent to the wrong address.<sup>[21]</sup>

With the dismissal of the petition for *certiorari*, the NLRC Resolution dated May 29, 1996 became final and executory as of July 1, 1996.<sup>[22]</sup>

On December 20, 1999, petitioner Saguemuller filed before the NLRC a Motion to Stay Execution on the ground of absolute nullity of decision. But, without awaiting the resolution of its pending motion with the NLRC, petitioner Saguemuller together with Elcee Farms filed on January 4, 2000, a petition for annulment of judgment<sup>[23]</sup> with the Court of Appeals on the following grounds:

- a) The resolution awards damages in favor of persons or alleged claimants who never pursued their complaints.
- b) The Resolution considered evidence for the first time on appeal.
- c) The Resolution considered alleged factual circumstances

- that were never presented during the hearing of the case.
- d) The Resolution rendered judgment against a person who clearly was not an employer nor even an employee of the employer corporation.
  - e) The Resolution awarded damages without basis in law or in fact.
  - f) The Resolution modified the Decision that was already final.
  - g) The Resolution ennobled a prescribed claim. [24]

The petitioners reiterated the foregoing grounds for annulment in their Memorandum [25] dated July 31, 2000 filed with the Court of Appeals and for the first time, interjected that there was extrinsic fraud in the proceedings before the Supreme Court claiming that the Resolution dated November 12, 1997 of the First Division of this Court which required them to pay the cost and to submit their Memorandum was sent at 2<sup>nd</sup> floor, Jocson Building, B.S. Aquino Drive, 6100, Bacolod City, Negros Occidental instead of Mario Building, P. Hernaez Street, 6100 Bacolod City, Negros Occidental, the address provided for in the petition for *certiorari*; as a result of which, they failed to receive the Resolution and for non-compliance, the First Division dismissed the petition. [26]

In its Decision [27] dated February 23, 2001, the Court of Appeals dismissed the petition for annulment of judgment on ground of lack of jurisdiction. It held that petitioners cannot invoke the jurisdiction of the said court pursuant to Rule 47 of the Rules of Court because said rule refers to decisions of regional trial courts and not to quasi-judicial bodies. The appellate court also noted that petitioners had availed of the relief of *certiorari* under Rule 65 before the Supreme Court but they were not diligent in pursuing the same, to their prejudice.

Petitioners filed a Motion for Reconsideration, [28] but the Court of Appeals denied the same in a Resolution dated September 19, 2001. [29]

Hence, this petition for review on *certiorari* anchored on the ground that the Court of Appeals committed a reversible error when it refused to assume jurisdiction and annul a patently unjust decision of the NLRC.

Per the Court's Resolution dated January 21, 2002, respondents filed their Comment dated March 6, 2002. [30] On June 14, 2002, petitioners filed a Reply to private respondents' Comment.

On February 3, 2003, private respondents filed with the Court a motion praying for the remand of the records and for the issuance of an order directing the Labor Arbiter to issue a writ of execution. [31] In compliance with the Court's Resolution dated March 17, 2003, petitioners filed their Comment on June 4, 2003, arguing that to grant the motion would render moot the present petition for review.

Hence, the Court deems it proper to resolve the issues raised in the main petition.

The instant petition for review is devoid of merit. The Court finds no error in the assailed decision of the Court of Appeals. As correctly held by the appellate court, it has no jurisdiction to entertain a petition for annulment of a final and executory

judgment of the NLRC. Section 9 of BP 129,<sup>[32]</sup> as amended, only vests in the Court of Appeals "exclusive jurisdiction over actions for annulment of judgments of **Regional Trial Courts**."<sup>[33]</sup>

Moreover, annulment of judgment is allowed only where the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of petitioners.<sup>[34]</sup> In this case, petitioners were well-aware that they had the available remedy of a petition for *certiorari* to this Court under Rule 65 of the Rules of Court. In fact, they twice sought recourse with this Court via petitions for *certiorari* but both petitions were dismissed.

The Court notes that petitioners have an incorrect view of the effect of the dismissal of their second petition for *certiorari* (G.R. No. 126428) for non-payment of costs and failure to file memorandum. They posit that "*considering, however, that the dismissal of the petition was not on the merits, petitioners elected not to further pursue the matter.*"<sup>[35]</sup> It is a settled rule that minute resolutions of this Court denying due course to petitions or dismissing cases summarily for failure to comply with the formal or substantial requirements laid down by law are actually dispositions on the merits.<sup>[36]</sup>

The two petitions earlier filed by the petitioners before this Court and the petition for annulment of judgment filed before the Court of Appeals undoubtedly run smack of forum shopping. A party is guilty of forum shopping when he repetitively avails of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in, or already resolved adversely, by some other court.<sup>[37]</sup> Forum shopping has been characterized as an act of malpractice that is prohibited and condemned as trifling with the courts and abusing their processes. It constitutes improper conduct which tends to degrade the administration of justice. It has also been aptly described as deplorable because it adds to the congestion of the heavily burdened dockets of the courts.<sup>[38]</sup>

As a general rule, the client is bound by the negligence or mistake of his counsel. But this rule is not without exception. The Court in *Government Service Insurance System vs. Bengson Commerical Buildings, Inc.*,<sup>[39]</sup> elucidated, thus:

As a general rule, the negligence or mistake of counsel binds the client, for otherwise there would never be an end to a suit so long as a new counsel could be employed who could allege and show that the former counsel had not been sufficiently diligent, experienced, or learned.

If under the circumstances of the case, the rule deserts its proper office as an aid to justice and becomes a great hindrance and chief enemy, its rigors must be relaxed to admit exceptions thereto and to prevent a miscarriage of justice. In other words, the Court has the power to except a particular case from the operation of the rule whenever the purposes of justice require it. What should guide judicial action is that a party is given the fullest opportunity to establish the merits of his action or defense