

FIRST DIVISION

[G.R. No. 138520, September 16, 1999]

BALAGTAS MULTI-PURPOSE COOPERATIVE, INC. AND AURELIO SANTIAGO, PETITIONERS, VS. COURT OF APPEALS, NATIONAL LABOR RELATIONS COMMISSION AND JOSEFINA HERRERO, RESPONDENTS.

D E C I S I O N

KAPUNAN, J.:

This case stems from a complaint for illegal dismissal and nonpayment of 13th month pay filed by respondent Josefina Herrero against petitioners Balagtas Multi-purpose Cooperative, Inc., and Aurelio Santiago, then the manager of said cooperative.

On March 23, 1998, the Labor Arbiter rendered a Decision in favor of respondent, thus:

WHEREFORE, premises considered, judgment is hereby entered in favor of complainant and against respondents, ordering the latter, jointly and severally as follows:

1. To pay the sum of P2,000.00 as 13th month pay of complainant for the years 1995 up to 1997;
2. To pay the additional sum of P188,000.00 as backwages of complainant from the date of her dismissal up to this writing; and
3. To pay the additional sum of P28,000.00 as separation pay of complainant from 1991 up to this writing.

All other issues or claims are hereby ordered dismissed for lack of merit.

SO ORDERED.^[1]

Petitioners appealed the decision of the Labor Arbiter to the National Labor Relations Commission (NLRC) but did not post either a cash or surety bond.^[2] Instead, they filed a MANIFESTATION and MOTION, stating, among others, that under Article 62(7) of the Cooperative Code of the Philippines,^[3] petitioners are exempt from putting up a bond in an appeal from the decision of an inferior court.

On July 20, 1998, the NLRC issued an Order requiring petitioners to post a cash or surety bond, thus:

WHEREFORE, premises considered, respondents are hereby given ten (10) unextendable days from receipt of this Order within which to post a cash or surety bond in the amount of TWO HUNDRED EIGHTEEN THOUSAND (P218,000.00) PESOS, failure of which shall constitute a waiver and non-perfection of the appeal.

In addition thereto, the employer as well as counsel shall submit a joint declaration under oath attesting that the surety bond posted is genuine and that it shall be in effect until final disposition of the case.

SO ORDERED.^[4]

The NLRC justified its order as follows:

The matter of posting a cash or surety bond is mandated by law of which respondents are presumed to be aware. Article 223 of the Labor Code, as amended by R.A. 6715 and pursuant to Sections 3 and 6, Rule VI of the 1990 New Rules of Procedure of the NLRC, provides that:

Section 3. Requisites for Perfection of Appeal. -- (a) the appeal shall be filed within the reglementary period as provided in Section 1 of this Rules; shall be under oath with proof of payment of the required appeal fee and the posting of a cash or surety bond as provided in Section 6 of this Rules. x x x (Underscoring supplied).

Section 6. Bond. – In case the decision of a Labor Arbiter, POEA Administrator x x x, involves a monetary award, an appeal by the employer shall be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company x x x.

Hence, We have no recourse but to order respondents-appellants to post the required cash or supersedeas bond.^[5]

Petitioners thus filed a petition for certiorari before the Court of Appeals assigning as the only ground, that:

THE NLRC HAS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO IN EXCESS OR LACK OF JURISDICTION BECAUSE IN RENDERING THE ASSAILED ORDERS (ANNEXES 'A' & 'B') DIRECTING THE PETITIONERS TO POST AN APPEAL BOND, THE NLRC HAS DISREGARDED AND IGNORED THE CLEAR MANDATE OF PARAGRAPH 7, Article 62 OF REPUBLIC ACT NO. 6939, (sic) OTHERWISE KNOWN AS THE COOPERATIVE CODE OF THE PHILIPPINES, WHICH EXPRESSLY EXEMPTS COOPERATIVES, LIKE THE PETITIONERS, FROM POSTING AN APPEAL BOND IN TAKING AN APPEAL FROM AN ADVERSE DECISION.^[6]

The Court of Appeals, however, dismissed the petition in a Resolution dated January 29, 1999 holding that:

Section 3, Rule 46, in relation to Section 1 of Rule 65 of the 1997 Rules of Civil Procedure, requires that petitioners for certiorari shall be