

THIRD DIVISION

[G.R. No. 113051, April 22, 1998]

**TEOFILO GENSOLI & CO., GLORIA GENSOLI, ET AL.,
PETITIONERS VS. NATIONAL LABOR RELATIONS COMMISSION
AND NFSW-FGT/RODRIGO MONARCA, ET AL, RESPONDENTS.**

D E C I S I O N

PURISIMA, J.:

This special civil action for *certiorari* seeks to set aside and annul the Order dated August 11, 1993 of the National Labor Relations Commission (NLRC) dismissing petitioners' appeal, and its subsequent Order of September 23, 1993 denying their motion for reconsideration for failure to post the required surety bond.

Private respondents are farm workers of Hacienda Vista Alegre and Gloria, two (2) sugar farms formerly owned by Teofilo Gensoli and Company, a registered partnership. In 1988, after the death of original partner Mercedes Gensoli Siasat, the remaining partners agreed to dissolve the partnership. After the partnership was liquidated, petitioner Gloria F. Gensoli informed private respondents of the dissolution of the partnership and cessation of its operations, and offered to pay them separation pay equivalent to fifteen (15) days for every year of service rendered, and to give them a relocation site at Calumangan, Bago City, and a relocation allowance of One Thousand (P1,000.00) Pesos for each family.

Some of the workers accepted such offer but the others, including the herein private respondents, demanded a higher separation pay.

Dissatisfied with what was offered to them, the private respondents filed with NLRC a Complaint for illegal dismissal against the herein petitioners, praying for reinstatement with backwages and damages.

During a preliminary conference, petitioners reiterated the same offer to private respondents but again, the latter rejected it. So, on December 1, 1992, at the subsequent preliminary mandatory conference between the parties, the Labor Arbiter ruled, thus:

"During the mandatory conference, the parties agreed to submit as an issue the validity of the complainants' separation from work.

Respondents are ordered to show valid cause for the complainants' separation from work.

SO ORDERED." (p. 9, Rollo)

In compliance therewith, the parties submitted their respective position papers, pleadings, and arguments. Petitioners' pleadings focused on the validity of private respondents' separation from work.

On May 26, 1993, the Labor Arbiter rendered a decision, holding that the dismissal of private respondents was legal and valid, and ordered petitioners to pay separation pay equivalent to fifteen (15) days salary for every year of service or a total amount of Four Hundred Thirty Four Thousand Seven Hundred Fifty Two and 50/100 (P434,752.50) Pesos, plus ten percent (10%) of the award, as attorney's fees. (p. 10, Rollo)

Petitioners appealed the aforesaid decision to the NLRC; assailing the computation of private respondents' separation pay and award of attorney's fees, for having no factual and legal basis, and for having been made by the Labor Arbiter without due process. More specifically, petitioners complain that they were never afforded an opportunity to be heard and to present evidence on the actual length of service of private respondents, which is material to the determination of the amount of separation pay.

In perfecting their appeal, petitioners filed with NLRC a supersedeas bond to cover only the amount of One Hundred Eighty One Thousand Nine Hundred Sixty Nine and 10/100 (P181,969.10) Pesos, the excess amount disputed on appeal.

To the appeal of petitioners, private respondents interposed their opposition on the ground that the supersedeas bond posted by petitioners did not equal the monetary award of Four Hundred Thirty Four Thousand Seven Hundred Fifty Two and 50/100 (P434,752.50) Pesos and attorney's fees.

As the appeal from subject Decision was not perfected within the 10-day reglementary period; on August 11, 1993, the NLRC dismissed the appeal, holding, thus -

"XXX The Commission (Fourth Division) after due deliberation, RESOLVED to DISMISS the instant appeal for failure of respondent-appellants to comply with the requirement for the perfection of an appeal specifically the posting of the required cash or surety bond equivalent to the monetary award. The monetary award in the judgment appealed from is P434,752.50, whereas the supersedeas bond posted is only P181,969.10, and therefore, deficient by P252,783.40. The law and the present Rules of Procedure of the NLRC are very explicit in the matter of posting a cash or surety bond equivalent to the monetary award in order to perfect an appeal by an employer (Article 223 of the Labor Code of the Philippines, as amended, and Sections 3 (a) and 6, Rule VI of the New Rules of Procedure of the NLRC, as amended). As held by the Supreme Court, "x x x perfection of an appeal in the manner x x x prescribed by law is not only mandatory but jurisdictional and failure to perfect an appeal as required by the Rules has the effect of rendering the judgment final and executory." (Filcon Manufacturing Corp. vs. NLRC, 199 SCRA 814). This appeal was not perfected in accordance with law and the Rules.

SO ORDERED." (pp. 186-187, Rollo)

Petitioners moved for reconsideration of the aforesaid Order, and submitted an Ex-Parte Manifestation, to inform NLRC of their willingness to put up an additional cash bond of Two Hundred Fifty Two Thousand Seven Hundred Eighty Three and 40/100 (P252, 783.40) Pesos, to fully cover the monetary award of Four Hundred Thirty Four Thousand Seven Hundred Fifty Two Pesos and 50/100 (P434,752.50) Pesos.

On September 22, 1993, however, the NLRC denied petitioners' motion for reconsideration for lack of merit. (p. 28, Rollo)

Undaunted, petitioners found their way to this Court via the present petition, contending that the NLRC gravely abused its discretion in dismissing their appeal.