



Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION

RICARDO N. AZUELO,
 Petitioner,

G.R. No. 192573

Present:

PERALTA, J.,*
Acting Chairperson,
 VILLARAMA, JR.,
 REYES,
 PERLAS-BERNABE,** and
 JARDELEZA, JJ.

- versus -

**ZAMECO II ELECTRIC
 COOPERATIVE, INC.,**
 Respondent.

Promulgated:

October 22, 2014

[Signature]

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DECISION

REYES, J.:

Before this Court is a petition for review on *certiorari*¹ under Rule 45 of the Rules of Court seeking to annul and set aside the Decision² dated February 26, 2010 and Resolution³ dated June 10, 2010 issued by the Court of Appeals (CA) in CA-G.R. SP No. 107762, which affirmed the Decision⁴ dated September 22, 2008 and Resolution⁵ dated December 15, 2008 of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 052567-07.

* Acting Chairperson per Special Order No. 1815 dated October 3, 2014 *vice* Associate Justice Presbitero J. Velasco, Jr.

** Additional member per Special Order No. 1816 dated October 3, 2014 *vice* Associate Justice Presbitero J. Velasco, Jr.

¹ *Rollo*, pp. 10-25.

² Penned by Associate Justice Japar B. Dimaampao, with Associate Justices Remedios A. Salazar-Fernando and Francisco P. Acosta, concurring; *id.* at 117-123.

³ *Id.* at 140-141.

⁴ *Id.* at 64-70.

⁵ *Id.* at 80-81.

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The Facts

Petitioner Ricardo N. Azuelo (Azuelo) was employed by the respondent ZAMECO II Electric Cooperative, Inc. (ZAMECO) as a maintenance worker. It appears that sometime in March 2006, Azuelo filed with the Regional Arbitration Branch (RAB) of the NLRC in San Fernando City, Pampanga a Complaint⁶ for illegal dismissal and non-payment of benefits against ZAMECO. The complaint was docketed as NLRC Case No. RAB III-03-9912-06 and was assigned to Labor Arbiter (LA) Mariano L. Bactin (LA Bactin). After several mediations, LA Bactin ordered the parties to submit their respective position papers on July 14, 2006.

On July 14, 2006, Azuelo, instead of submitting his position paper, moved that the submission of his position paper be extended to August 4, 2006, which was granted by LA Bactin. On August 4, 2006, Azuelo again failed to submit his position paper. LA Bactin then directed Azuelo to submit his position papers on August 22, 2006. On the said date, Azuelo, instead of submitting his position paper, moved for the issuance of an order directing ZAMECO to furnish him with a complete copy of the investigation report as regards his dismissal. ZAMECO opposed the said motion, asserting that it has already furnished Azuelo with a copy of its investigation report.

On November 6, 2006, LA Bactin issued an Order,⁷ which reads:

Record shows that respondent has already filed its position paper while complainant, despite ample opportunity given him, failed to file his[,] leaving this office with no option but to dismiss this case for lack of interest.

WHEREFORE, let this case be, as it is hereby dismissed for lack of [merit].

SO ORDERED.⁸

Azuelo received a copy of LA Bactin's Order dated November 6, 2006 on November 17, 2006.

On November 21, 2006, Azuelo again filed a complaint with the RAB of the NLRC in San Fernando City, Pampanga for illegal dismissal with money claims against ZAMECO, containing the same allegations in his first

⁶ Id. at 29-30.

⁷ Id. at 41.

⁸ Id.

complaint. The case was docketed as NLRC Case No. RAB-III-11-10779-06 and was assigned to LA Reynaldo V. Abdon (LA Abdon).

On December 20, 2006, ZAMECO filed a Motion to Dismiss⁹ the second complaint filed by Azuelo on the ground of *res judicata*. ZAMECO pointed out that Azuelo had earlier filed a similar complaint, which was dismissed by LA Bactin due to his unreasonable failure to submit his position paper despite ample opportunity given to him by LA Bactin. ZAMECO likewise averred that Azuelo should have appealed from LA Bactin's Order dated November 6, 2006 instead of filing a complaint for illegal dismissal anew.

Azuelo opposed ZAMECO's motion to dismiss,¹⁰ alleging that the dismissal of his first complaint by LA Bactin was without prejudice. He explained that his failure to submit his position paper was due to ZAMECO's refusal to furnish him with the complete documents pertaining to his illegal dismissal. He further claimed that, since the dismissal of his first complaint was without prejudice, his remedy was either to file a motion for reconsideration or to re-file the case within 10 days from receipt of the order of dismissal.

On March 12, 2007, LA Abdon issued an Order,¹¹ which dismissed Azuelo's second complaint for illegal dismissal on the ground of *res judicata*. LA Abdon pointed out that the dismissal of Azuelo's first complaint for illegal dismissal was with prejudice; that the appropriate remedy available to Azuelo against LA Bactin's dismissal of the first complaint was to appeal from the same and not to file a second complaint for illegal dismissal.

On appeal, the NLRC, in its Decision¹² dated September 22, 2008, affirmed the Order issued on March 12, 2007 by LA Abdon. The NLRC pointed out that LA Bactin gave Azuelo ample opportunity to submit his position paper, which he still failed to do. That his failure to prosecute his action for unreasonable length of time indeed warranted the dismissal of his first complaint, which is deemed to be with prejudice, unless otherwise stated. Considering that the Order issued on November 6, 2006 by LA Bactin did not qualify the nature of the dismissal of the first complaint, the NLRC opined that the said dismissal is with prejudice. Thus, the filing of the second complaint for illegal dismissal is already barred by the prior dismissal of Azuelo's first complaint.

⁹ Id. at 31-36.

¹⁰ Id. at 37-40.

¹¹ Id. at 42-45.

¹² Id. at 64-70.

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Azuelo sought reconsideration¹³ of the Decision dated September 22, 2008 but it was denied by the NLRC in its Resolution¹⁴ dated December 15, 2008.

Azuelo then filed a petition for *certiorari*¹⁵ with the CA, alleging that the NLRC gravely abused its discretion in ruling that the dismissal of his first complaint was with prejudice, thus constituting a bar to the filing anew of his complaint for illegal dismissal against ZAMECO. He likewise asserted that, since the dismissal of his first complaint was without prejudice, the remedy available to him, contrary to LA Abdon's ruling, was to re-file his complaint, which he did.

On February 26, 2010, the CA rendered the herein assailed Decision,¹⁶ which denied the petition for *certiorari* filed by Azuelo. The CA held that the NLRC did not commit any abuse of discretion in affirming the dismissal of Azuelo's second complaint for illegal dismissal on the ground of *res judicata*. That the dismissal of the first complaint, which was with prejudice, bars the filing of a subsequent complaint for illegal dismissal based on the same allegations.

Azuelo's Motion for Reconsideration¹⁷ was denied by the CA in its Resolution¹⁸ dated June 10, 2010.

Hence, the instant petition.

Issue

Essentially, the issue set forth by Azuelo for the Court's resolution is whether the dismissal of his first complaint for illegal dismissal, on the ground of lack of interest on his part to prosecute the same, bars the filing of another complaint for illegal dismissal against ZAMECO based on the same allegations.

Ruling of the Court

The petition is denied.

¹³ Id. at 71-76.

¹⁴ Id. at 80-81.

¹⁵ Id. at 82-94.

¹⁶ Id. at 117-123.

¹⁷ Id. at 124-131.

¹⁸ Id. at 140-141.

At the outset, it should be stressed that in a petition for review under Rule 45 of the Rules of Court, such as the instant petition, where the CA's disposition in a labor case is sought to be calibrated, the Court's review is quite limited. In ruling for legal correctness, the Court has to view the CA decision in the same context that the petition for *certiorari* it ruled upon was presented to it; the Court has to examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, not on the basis of whether the NLRC decision on the merits of the case was correct.¹⁹

“The phrase ‘grave abuse of discretion’ is well-defined in our jurisprudence. It exists where an act of a court or tribunal is performed with a capricious or whimsical exercise of judgment equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or personal hostility.”²⁰

After a thorough review of the records of the instant case, the Court finds that the CA did not commit any reversible error in upholding the dismissal of Azuelo's second complaint for illegal dismissal on the ground of *res judicata*. The NLRC did not abuse its discretion in ruling that the Order issued on November 6, 2006 by LA Bactin, which dismissed the first complaint filed by Azuelo, was an adjudication on the merits.

At the core of the instant petition is the determination of the nature of the dismissal of Azuelo's first complaint, *i.e.*, whether the dismissal is with prejudice as held by the labor tribunals. The Order issued on November 6, 2006 by LA Bactin is silent as to the nature of the dismissal; it merely stated that the complaint was dismissed due to Azuelo's failure, despite ample opportunity afforded him, to submit his position paper.

Ultimately, the question that has to be resolved is this – whether the dismissal of a complaint for illegal dismissal due to the unreasonable failure of the complainant to submit his position paper amounts to a dismissal with prejudice.

The 2005 Revised Rules of Procedure of the NLRC (2005 Revised Rules), the rules applicable at the time of the controversy, is silent as to the nature of the dismissal of a complaint on the ground of unreasonable failure to submit a position paper by the complainant. Nevertheless, the 2005 Revised Rules, particularly Section 3, Rule I thereof, provides for the

¹⁹ *Montoya v. Transmed Manila Corp./Mr. Ellena, et al.*, 613 Phil. 696, 707 (2009).

²⁰ *Jinalinan Technical School, Inc. v. NLRC (Fourth Div.)*, 530 Phil. 77, 82-83 (2006).

suppletory application of the Rules of Court to arbitration proceedings before the LAs and the NLRC in the absence of any applicable provisions therein, viz:

Section 3. *Suppletory Application of the Rules of Court.* – In the absence of any applicable provisions in these Rules, and **in order to effectuate the objectives of the Labor Code**, the pertinent provisions of the Rules of Court of the Philippines may, **in the interest of expeditious dispensation of labor justice** and whenever practicable and convenient, be applied by analogy or in a suppletory character and effect. (Emphases ours)

The unjustified failure of a complainant in arbitration proceedings before the LA to submit his position paper is akin to the case of a complainant's failure to prosecute his action for an unreasonable length of time in ordinary civil proceedings. In both cases, the complainants are remiss, *sans* reasonable cause, to prove the material allegations in their respective complaints. Accordingly, the Court sees no reason not to apply the rules relative to unreasonable failure to prosecute an action in ordinary civil proceedings to the unjustified failure of a complainant to submit his position paper in arbitration proceedings before the LA.

In this regard, Section 3, Rule 17 of the Rules of Court provides that:

Section 3. *Dismissal due to fault of plaintiff.* — If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, **or to prosecute his action for an unreasonable length of time**, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. **This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.** (Emphases ours)

“The dismissal of a case for failure to prosecute has the effect of adjudication on the merits, and is necessarily understood to be with prejudice to the filing of another action, **unless** otherwise provided in the order of dismissal. Stated differently, the general rule is that dismissal of a case for failure to prosecute is to be regarded as an adjudication on the merits and with prejudice to the filing of another action, and the only exception is when the order of dismissal expressly contains a qualification that the dismissal is without prejudice.”²¹

Thus, in arbitration proceedings before the LA, the dismissal of a complaint on account of the unreasonable failure of the complainant to submit his position paper is likewise regarded as an adjudication on the

²¹ *Gomez v. Alcantara*, 598 Phil. 935, 946-947 (2009).

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merits and with prejudice to the filing of another complaint, except when the LA's order of dismissal expressly states otherwise.

As already stated, the Order dated November 6, 2006, which dismissed Azuelo's first complaint due to his unreasonable failure to submit his position paper is unqualified. It is thus considered as an adjudication on the merits and with prejudice to filing of another complaint. Accordingly, the NLRC did not abuse its discretion when it affirmed LA Abdon's dismissal of the second complaint for illegal dismissal. Azuelo's filing of a second complaint for illegal dismissal against ZAMECO based on the same allegations cannot be permitted lest the rule on *res judicata* be transgressed.

“Under the rule of *res judicata*, a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies, in all later suits and on all points and matters determined in the previous suit. The term literally means a ‘matter adjudged, judicially acted upon, or settled by judgment.’ The principle bars a subsequent suit involving the same parties, subject matter, and cause of action. The *rationale* for the rule is that ‘public policy requires that controversies must be settled with finality at a given point in time.’”²²

Azuelo's insistence that the dismissal of his first complaint by LA Bactin was without prejudice since he was not remiss in pursuing his complaint for illegal dismissal is plainly untenable. To stress, the Order dated November 6, 2006 was unqualified; hence, the dismissal is deemed with prejudice pursuant to Section 3, Rule 17 of the Rules of Court. In any case, the Court finds Azuelo's failure to file his position paper, despite ample opportunity therefor, unjustified. On this score, LA Abdon's observation is instructive, thus:

That complainant *failed to prosecute his action for unreasonable length of time* before Labor Arbiter Bactin is supported by the records of the case. Records show that as early as July 14, 2006, complainant was already required to submit his position paper on said date. However, instead of submitting one, he requested for “more time” or until August 4, 2006 within which to submit his position paper x x x. Came August 4, 2006, complainant failed to submit the required position paper and again requested for an extension of time until August 22, 2006. The reason given was due [to] “voluminous workload” x x x. Despite the extensions given to complainant, the latter failed to submit his position paper on due date. Instead, what complainant submitted on August 22, 2006 is a **Motion For the Issuance of Order Directing Respondent to Furnish Complainant The Complete Copy of Investigation Report**. As correctly ruled by Labor Arbiter Abdon, the filing of the said motion is of no moment. The fact remains that more than one (1) month has already lapsed from the time complainant was first required to submit his position

²² *Topacio v. Banco Filipino Savings and Mortgage Bank*, G.R. No. 157644, November 17, 2010, 635 SCRA 50, 61, citing *Spouses De la Cruz v. Joaquin*, 502 Phil. 803, 814 (2005).

paper on July 14, 2006 up to the last extension on August 22, 2006. Further, if complainant really intends to prosecute his case within the reasonable time, he should not have waited for August 22, 2006 to file said motion.

It is also worth stressing that under Section 7, Rule V of the NLRC Rules of Procedure, parties are directed to submit position paper *within an inextendible period of ten (10) calendar days from the date of termination of the mandatory conciliation and mediation conference*. Clearly, complainant went beyond this period.²³ (Emphasis and italics in the original)

If indeed Azuelo could not prepare his position paper due to the alleged refusal of ZAMECO to furnish him with its investigation report on his dismissal, he should have immediately sought the issuance of an order directing ZAMECO to produce the said investigation report. However, Azuelo only moved for the production of the investigation report on the due date of the third extension of time granted him by LA Bactin to submit his position paper. It is thus apparent that Azuelo's motion seeking the production of the investigation report is merely a ruse to further extend the period given to Azuelo within which to submit his position paper.

Nonetheless, Azuelo contended that technical rules of procedure, such as the rule on dismissals of actions due to the fault of the plaintiff under Section 3, Rule 17 of the Rules of Court, does not apply to proceedings before the LAs and the NLRC. Hence, Azuelo claimed, LA Abdon erred in dismissing his second complaint for illegal dismissal.

The Court does not agree.

Indeed, technical rules of procedure are not binding in labor cases. The LAs and the NLRC are mandated to use every and all reasonable means to ascertain the facts in each case speedily and objectively, without regard to technicalities of the law or procedure.²⁴ Nevertheless, though technical rules of procedure are not ends in themselves, they are necessary for an effective and expeditious administration of justice.²⁵

The non-applicability of technical rules of procedure in labor cases should not be made a license to disregard the rights of employers against unreasonable and/or unjustified claims. Azuelo was given sufficient chances to establish his claim against ZAMECO, which he failed to do when he did not submit his position paper despite several extensions granted him. He cannot now be allowed to raise anew his supposed illegal dismissal as it would be plainly unjust to ZAMECO. It bears stressing that the expeditious

²³ *Rollo*, pp. 68-69.

²⁴ LABOR CODE OF THE PHILIPPINES, Article 221.

²⁵ *See Sy v. ALC Industries, Inc., et al.*, 589 Phil. 354, 362 (2008).

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disposition of labor cases is mandated not only for the benefit of the employees, but of the employers as well.

It should be made clear that when the law tilts the scale of justice in favor of labor, it is but a recognition of the inherent economic inequality between labor and management. The intent is to balance the scale of justice; to put up the two parties on relatively equal positions. There may be cases where the circumstances warrant favoring labor over the interests of management but never should the scale be so tilted if the result is an injustice to the employer, *Justicia remini regarda est* (Justice is to be denied to none).²⁶

Lastly, the Court notes that Azuelo sought the wrong remedy in assailing the Order dated November 6, 2006 issued by LA Bactin. Considering that the dismissal of Azuelo's first complaint was already an adjudication on the merits, he should have filed a verified memorandum of appeal with the RAB of the NLRC in San Fernando City, Pampanga within 10 calendar days from receipt of the said order pursuant to Section 1, Rule VI of the 2005 Revised Rules instead of re-filing his complaint for illegal dismissal.²⁷ His failure to do so rendered LA Bactin's Order dated November 6, 2006, which dismissed his first complaint for illegal dismissal, final and executory.

WHEREFORE, in consideration of the foregoing disquisitions, the petition is **DENIED**. The Decision dated February 26, 2010 and Resolution dated June 10, 2010 of the Court of Appeals in CA-G.R. SP No. 107762 are hereby **AFFIRMED**.

SO ORDERED.


BIENVENIDO L. REYES
Associate Justice


²⁶ *Jamer v. NLRC*, 344 Phil. 181, 201 (1997).

²⁷ Section 1, Rule VI of the 2005 Revised Rules of Procedure of the NLRC reads:

Section 1. *Periods of Appeal*. – Decisions, resolutions or orders of the Labor Arbiter shall be final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt thereof; and in case of decisions, resolutions or orders of the Regional Director of the Department of Labor and Employment pursuant to Article 129 of the Labor Code, within five (5) calendar days from receipt thereof. If the 10th or 5th day, as the case may be, falls on a Saturday, Sunday or holiday, the last day to perfect the appeal shall be the first working day following such Saturday, Sunday or holiday.

No motion or request for extension of the period within which to perfect an appeal shall be allowed.

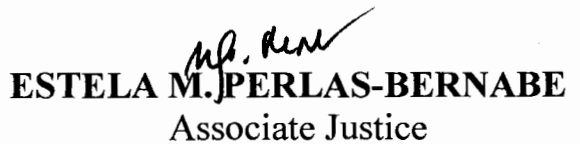
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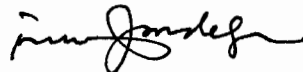
DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson



MARTIN S. VILLARAMA, JR.
Associate Justice



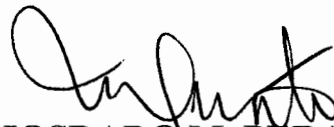
ESTELA M. PERLAS-BERNABE
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION


I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice

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