

PIÑAKAMASARAP CORPORATION AND/OR SEE TIAN TIN AND DOMINGO TAN, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, HON, LABOR ARBITER LILIA S. SAVARI, FILEMON A. ABOGADO, ERNA...

Ponente: CARANDANG, J.

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CARANDANG, J.:

This is a petition for certiorari under Rule 65 of the Rules of Court seeking to nullify and set aside, on the ground of grave abuse of discretion, the Resolution[1] of the National Labor Relations Commission (NLRC) dated October 22, 2004 which dismissed petitioners' appeal for lack of merit and in effect affirmed the enforcement of the Alias Writ of Execution dated February 11, 2004 issued by Labor Arbiter Lilia S. Savari.

Assailed as well is the Order[2] dated February 28, 2005 denying petitioners' motion for reconsideration.

The present case stemmed from a complaint for unfair labor practice, illegal dismissal, damages and attorney's fees filed by private respondents against petitioner Piñakamasarap Corporation (hereinafter "Piñakamasarap"). On January 23, 1996, Labor Arbiter Ricardo C. Nora rendered a Decision[3] declaring Piñakamasarap guilty of unfair labor practice and ordering the reinstatement of private respondents to their former positions as salesmen with backwages from April 8, 1995 up to January 23, 1996 based on P145.00 per day minimum wage. Private respondents moved for execution on the reinstatement aspect of the judgment award. A writ of execution was issued on February 29, 1996.[4] However, private respondents were not reinstated as per Sheriff's Return dated March 12, 1996.[5]

On appeal, the NLRC issued a Decision[6] on October 7, 1996 which absolved Piñakamasarap of the charge of unfair labor practice and deleted the award of backwages. It nonetheless affirmed the reinstatement of private respondents as salesmen without loss of seniority rights and other privileges and benefits. After denial of the motion for reconsideration in the Resolution of November 18, 1996, the October 7, 1996 Decision of the NLRC became final and executory on December 13, 1996 and recorded in the Entry of Judgment.[7]

On January 22, 1997, an Alias Writ of Execution was issued directing the Sheriff to reinstate private respondents, who were physically reinstated on January 27, 1997 and were required to report for work twice a week.[8] However, Piñakamasarap failed to provide them with the goods to be sold and the vehicles to be used in their respective sales routes. Subsequently, they were barred from entering the company's premises beginning April 19, 1997. Hence, private respondents filed a claim for reinstatement compensation. On July 21, 1998, Labor Arbiter Francisco A. Robles issued an Order[9] ordering Piñakamasarap to pay private respondents their respective compensation in the total amount of P11,829,000.00 and was again directed to reinstate the salesmen. On appeal, the NLRC affirmed with modification the said Order by reducing the award of compensation to P6,780,000.00.[10] Piñakamasarap moved for reconsideration alleging that private respondents are not entitled to compensation commission. In the Decision[11] of March 31, 2000, the NLRC set-aside the July 7, 1999 Decision by reducing the award to P2,923,904.10 representing the accrued income of private respondents from January 27,

1997 to March 31, 2000 and ordering the payment of separation pay in lieu of reinstatement.

Both parties appealed to this Court. Piñakamasarap's petition was dismissed on the ground of a defective verification and certification against non-forum shopping. On further appeal, the Supreme Court likewise denied the petition. On the other hand, private respondent's petition, docketed as CA-G.R. SP NO. 60476, was partially granted in the Decision[12] of November 29, 2001, the dispositive portion of which reads:

“WHEREFORE, premises considered, the instant petition is partially GRANTED, and the assailed Decision dated 31 March 2000 is hereby MODIFIED, declaring the award of separation pay in lieu of reinstatement as NULL and VOID.

Private respondent is hereby ORDERED:

- To pay petitioners their accrued income in the total amount of P2,923,904.10 for the period from 27 January 1997 to 27 June 1998;

- To reinstate petitioners as salesmen without loss of seniority rights and other benefits.

SO ORDERED.”

Its motion for reconsideration having been denied[13], Piñakamasarap filed a petition for review on certiorari to the Supreme Court docketed as G.R. No. 152509. It was denied in the Resolution[14] of August 12, 2002 and the Resolution[15] dated September 30, 2002, denying the motion for reconsideration. The Resolution became final and executory on November 5, 2002 and recorded in the Book of Entries of Judgments.[16]

Private respondents thereafter filed a motion for execution praying for the issuance of a writ of execution to enforce the final decision of this Court dated November 29, 2001. On March 6, 2003, Labor Arbiter Robles issued a 2[nd] Alias Writ of Execution. As per Sheriff's Return[17] dated May 16, 2003, Piñakamasarap complied with the payment of P2,923,904.10 representing private respondent's accrued income but it failed to comply with the reinstatement of the salesmen.

On motion of private respondents, Labor Arbiter Savari issued a Resolution on November 26, 2003 ordering a further computation of private respondents accrued income from April 1, 2000 up to the present since the cut-off of the last computation was March 31, 2000.[18] Thus, an additional computation was made by the Computation and Examination Unit covering private respondents accrued income for the period April 1, 2000 to January 15, 2004, in the total amount of P4,363,905.00.[19]

Private respondents moved for the issuance of a writ of execution. On February 11, 2004, a 3[rd] Alias Writ of Execution was issued for the collection of the total award of P4,363,905.00. Pertinent portion of the writ reads as follows:

“xxx

NOW, THEREFORE you are hereby commanded to proceed to respondents Piñakamasarap Corporation and/or See Tian Tin and Domingo tan, located at 23 Atlas Road, San Bartolome, Novaliches, Quezon City or anywhere they may be found within the jurisdiction of the Republic of the Philippines. Collect from the same the total award of FOUR MILLION THREE HUNDRED SIXTY THREE THOUSAND NINE HUNDRED FIVE PESOS (P4,363,905.00) and deposit the same to the NLRC cashier for proper disposition to complainants in accordance with the usual proper accounting procedure.

In case you failed to collect said amount in cash, you are to cause the satisfaction of the same from Surety Bond No. JCL(15) 00616 SICI Bond No. 7074 of Stronghold Insurance Co. Inc. in the amount of TWO

MILLION FIVE HUNDRED THOUSAND PESOS (P2,500,000.00) or from the movable or immovable property of respondents not exempt from execution.”

Piñakamasarap filed an appeal to the NLRC questioning the issuance of the alias writ of execution alleging that it was defective both substantially and procedurally and sought to enjoin the enforcement of the writ. On October 22, 2004, the NLRC issued the assailed Resolution dismissing petitioner’s appeal for lack of merit. The NLRC ratiocinated that Piñakamasarap was not denied due process because prior to the issuance of the writ, hearings were conducted and Piñakamasarap was duly represented by its counsel. Further, there was no overpayment since the amount of P2,923,904.10 earlier paid to private respondents represented their backwages and this amount was affirmed by this Court as being rightly due to private respondents.

Its motion for reconsideration having been denied, Piñakamasarap filed this petition for certiorari ascribing grave abuse of discretion on the part of the NLRC. Piñakamasarap argues before Us that:

-I-

THE PUBLIC RESPONDENT HAS ACTED WITHOUT OR IN EXCESS OF JURISDICTION AND/OR WITH GRAVE ABUSE OF DISCRETION WHEN IT UPHELD THE WRIT OF LA SAVARI. SUCH AFFIRMATION IS NOT SUPPORTED BY THE FACTS, THE EVIDENCE NOR EVEN THE PRIOR DECISION OF THE COURT OF APPEALS.

-II-

THE PUBLIC RESPONDENT HAS ACTED WITHOUT OR IN EXCESS OF JURISDICTION AND/OR GRAVE ABUSE OF DISCRETION WHEN IT UPHELD THE WRIT OF LA SAVARI, EVEN IF THE SAME WAS ISSUED IN DENIAL OF PETITIONERS’ RIGHT TO DUE PROCESS.

The petition is bereft of merit.

Private respondents are salesmen of Piñakamasarap Corporation assigned to various routes in Metro Manila and in the provinces of Aurora, Batangas, Bicol, Bulacan, Cavite, Laguna, Pangasinan and Tarlac selling various Piñakamasarap products such as soysauce, patis, vinegar and sukang puti. They were issued company vehicles for their use in their respective sales routes. Prior to the 1993 strike staged by the rank-and-file employees of Piñakamasarap which brought about the dismissal of private respondents, the latter were receiving a minimum wage plus commissions based on a percentage of the sales they made.

Coming now to the first issue, Piñakamasarap contends that the NLRC committed grave abuse of discretion when it upheld the writ of execution issued by Labor Arbiter Savari notwithstanding that the writ awards backwages to private respondents on the premise that they worked six days a week when it was admitted by private respondents and even established in this Court’s Decision dated November 29, 2001 that private respondents reported for work only twice a week. Piñakamasarap claims that even this Court’s award of P2,923,904.10, which has been received by private respondents, overstated the money judgment. The aggregate backwages of private respondents using as basis a two-day workweek amounts to P455,940.00 only. Hence, the excess should either be returned or be offset from whatever liabilities Piñakamasarap may still have.

We do not agree.

After a painstaking review of the records, We found that even prior to the strike and their dismissal in June 1993, private respondents were reporting for work only twice a week at the company’s premises because that was the terms and conditions of their employment. One day was set for the issuance of the goods to be sold in their respective sales routes and another day was set for private respondents to account for the sale of the goods and to

secure another supply of goods to sold.[20] But this does not mean that private respondents are to be paid for two days a week only, because for the rest of the week, they are working in their respective sales routes. Thus, after their reinstatement in January 27, 1997, it is expected that private respondents would also report for work only twice a week at the company's premises since that has been the prevailing terms and conditions prior to the strike.

It bears stressing that the questioned payment of accrued income to the private respondents is an offshoot of the reinstatement order of the NLRC dated October 7, 1996, which has become final and executory on December 13, 1996 and recorded in the Entry of Judgment.[21] Despite being physically reinstated, private respondents were not receiving their salaries thus the NLRC directed the payment of their accrued income.

The Decision of this Court dated November 29, 2001, which ordered the payment of private respondents' accrued income in the total amount of P2,923,904.10 for the period from January 27, 1997 to March 31, 2000 and their reinstatement as salesmen without loss of seniority rights and other privileges and benefits, has become final and executory on November 5, 2002[22], following the Supreme Court's denial of Piñakamasarap's petition for review on certiorari. As a result of the finality of said decision, it now becomes immutable and unalterable that private respondents' accrued income is to be computed on the basis of a six-day workweek multiplied by the prevailing minimum wage of the period covered. It is no longer within Our power or jurisdiction to further modify the said decision. Nothing is more settled in law than that once a judgment attains finality it thereby becomes immutable and unalterable.[23] In other words, such judgment may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law. The reason is grounded on the fundamental considerations of public policy and sound practice that, at the risk of occasional error, the judgments or orders of courts must be final at some definite date fixed by law.[24]

Besides, in the November 29, 2001 Decision, this Court was already aware of the fact that private respondents' only reported for work for twice a week. Yet, it maintained and affirmed the NLRC's ruling that private respondents are entitled to their accrued income using as multiplier a six-day workweek. The Supreme Court found no reversible error in this resolution. Thus, the mathematical formula used in the computation of private respondents' accrued income has attained finality and it could no longer be altered or modified through this certiorari.

In addition, the determination of the correct formula in the computation of the accrued income of private respondents is not proper in this petition since it would be in effect an indirect attempt on the part of Piñakamasarap to question a final and executory decision. In this petition, Piñakamasarap assails the validity of the issuance of the writ of execution but in actuality, it posits issues which delve into the substance of a final and executory decision. Indubitably, this is not allowed.

Further, the issuance of a writ of execution is a ministerial duty on the part of the Labor Arbiter since the decision is now final and executory. Unless there exists special and exceptional circumstances, which in this case We find none, the execution of the final decision should not be suspended.

Thus, considering that the use of a six-day workweek as basis in the computation of the accrued income of private respondents is now settled, there is no overpayment and there is no excess to be returned, contrary to the asseverations of Piñakamasarap.

To reiterate, the company instruction directing private respondents to report to company twice a week, does not mean that the latter work only twice a week, but was clearly intended for control and monitoring purposes of the sales made by private respondents, that is, one day is for them to pick-up the stock and the other day to account for the goods sold.

Anent the second issue, Piñakamasarap asserts that it was denied due process of law when the writ of execution

was issued considering that they were not given a chance to be heard in the computation of the monetary award. It contends that the computation of the NLRC's Computation and Examination Unit was not served upon Piñakamasarap or to its counsel, in violation of their right to due process.

We are not convinced.

We have held that due process is satisfied as long as the party is accorded an opportunity to be heard. The essence of due process is that a party is given a reasonable opportunity to be heard and submit any evidence one may have in support of one's defense. Where the opportunity to be heard, either through verbal arguments or pleadings, is accorded and the party can present its side or defend its interest in due course, there is no denial of due process.[25]

In this case, it cannot be ignored that Piñakamasarap was given the opportunity to be heard. Prior to the issuance of the assailed 3rd Alias Writ of Execution, Piñakamasarap filed various pleadings questioning the computation of the accrued income of private respondents, maintaining that the latter only worked twice a week, and praying for a refund of the alleged overpayment.[26] When Labor Arbiter Savari issued the November 26, 2003 Resolution granting a further recomputation of private respondents' accrued income, Piñakamasarap filed a petition to recall the said resolution.[27] Records reveal that hearings were conducted on August 18, 2003 and November 10, 2003, at 2:00 p.m., wherein Piñakamasarap was duly represented by its counsel.[28] Indeed, Piñakamasarap was afforded due process of law.

Moreover, before the Labor Arbiter issued the writ of execution, the Computation and Examination Unit of the NLRC has already submitted an "Additional Computation of Complainants' Accrued Income As Per Resolution of L.A. Lilia S. Savari"[29]. Thus, the writ of execution was issued only after a careful and accurate determination of the monetary award due to private respondents and after the observance of due process. It should be stressed that the formula used as basis in determining the additional monetary award, i.e. six-day workweek multiplied by the prevailing minimum wage for the period covered as mandated by law, is also the same formula used by the NLRC in the earlier computation, which was affirmed by this Court and which has now become final and executory.

One last thing. This Court takes note of the fact that this case has dragged on for many years and some of the private respondents have already died. The pendency of this case is mainly due to the legal maneuverings of Piñakamasarap in failing to comply with a final and executory ruling of the court. The filing of this petition is no exception. As We have observed above, this petition assails the validity of the issuance of the writ of execution, yet, what it seeks to indirectly attain is the reversal of a final and executory decision, principally as to the computation of private respondents' accrued income. It is unarguable that the inexorable result of granting the present petition will precisely be a modification of a final and executory decision, which We cannot do.

WHEREFORE, premises considered, finding no grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the NLRC when it upheld the issuance of the writ of execution, the instant petition is **DISMISSED**. The Resolution of the National Labor Relations Commission dated October 22, 2004 and the order dated February 28, 2005 are hereby **AFFIRMED**.

SO ORDERED.

Dacudao, and Perlas-Bernabe, JJ., concur.

[1] Annex "B" of the Petition, Rollo, pp. 24-29; Records, Volume 6, pp. 96-100.

- [2] Annex “A” of the Petition, Rollo, pp. 20-23; Records, Volume 6, pp. 110-111.
- [3] Records, Volume I, pp. 114-125.
- [4] Records, Volume I, pp. 166-168.
- [5] Records, Volume I, p. 169.
- [6] Records, Volume I, pp. 211-232.
- [7] Records, Volume I, p. 780.
- [8] Sheriff’s Report, Records, Volume I, p. 588.
- [9] Records, Volume I, pp. 701-724.
- [10] Decision, July 7, 1999, Records, Volume I, pp.535-566.
- [11] Rollo, pp. 66-81; Records, Volume I, pp. 389-407.
- [12] Records, Volume I, pp. 898-911.
- [13] See Resolution promulgated on March 8, 2002, Rollo, pp. 96-98.
- [14] Rollo, pp. 99-100.
- [15] Rollo, pp. 101.
- [16] Entry of Judgment, Records, Volume I, p. 887.
- [17] Records, Volume I, p. 848.
- [18] Records, Volume 6, pp. 43-44.
- [19] Records, Volume 6, p. 56.
- [20] See Order dated July 7, 1999, Records, Volume I, pp. 706-707.
- [21] Records, Volume I, p. 780.
- [22] Entry of Judgment, Records, Volume I, p. 887.
- [23] *Honoridez vs. Mahinay*, 466 SCRA 646, August 12, 2005.
- [24] *Nacuray vs. National labor Relations Commission*, G.R. Nos. 114924-27, March 18, 1997, 270 SCRA 9.
- [25] *Villaluz vs. Ligon*, 468 SCRA 486, August 31, 2005.
- [26] See Manifestation, Rejoinder and Manifestation, Sur-Rejoinder and Omnibus Motion filed by petitioner Piñakamasarap, Records, Volume 6, pp. 17-32.
- [27] Records, Volume 6, pp. 46-49.
- [28] See Opposition to the Petition to Recall, Records, Volume 6, pp. 51.
- [29] Records, Volume 6, p. 56

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