

JESUS B. SALAYAO, ALBERTO GONDRAN, GELO MONDOY, ALBERTO MENDOZA, PAQUITO NIANGAR, AURELIO RITAGA, SILVESTRE SERGIO ABELADA, HENRY GALLEG0, AND ANTONIO ARAGON, PETITIONERS, VS. T...

Ponente: VILLON, J.

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VILLON, J.:

This is a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended, assailing, on grounds of grave abuse of discretion amounting to lack or excess of jurisdiction, the decision[1] dated January 20, 2012 and resolution[2] dated July 25, 2012 of public respondent National Labor Relations Commission (NLRC), First Division, in NLRC LAC No. 06-001494-11. The assailed issuances modified the February 28, 2011 decision[3] of Labor Arbiter (LA) Edgardo M. Madriaga in NLRC NCR Case Nos. 05-07302-10, 06-07713-10, 06-08696-10 and 08-11217-10 which found merit in petitioners' complaint for non-payment of retirement benefits and other money claims.

The factual and procedural antecedents of the case are hardly in dispute.

On various occasions during the period between 1973 and 1979, petitioners were hired by private respondent United Dockhandlers, Inc. (UDI), an arrastre and stevedoring company which operated in Piers 6, 12, 14 and 16 of the Manila North Harbor. On April 15, 2000, petitioners were absorbed by the Philippine Ports Authority (PPA) after it took over the arrastre and stevedoring services in the North Harbor.

On November 19, 2009, PPA entered into a contract with Manila North Harbor Port, Inc. (MNHPI) "For the Development, Management, Operation and Maintenance of the Manila North Harbor." [4] Worth noting is Section 6.01 of the agreement which provides for the absorption by MNHPI of PPA's workers, viz.:

"Section 6.01 – Absorption of Port labor – Subject to the consent of the port of labor/workers at the Manila North Harbor and/or their respective unions, the CONTRACTOR shall absorb the existing port labor as may be determined by the Joint Committee taking into consideration the list of port labor/workers set out in the Contract Documents. The absorbed laborers shall be considered as new hires and their employment with the CONTRACTOR shall be governed by new employment contracts."

On March 25, 2010, MNHPI, in a letter[5] addressed to the company's duly accredited labor union, the Alliance of Port Transport Workers and Porters – North Harbor (APTWP-NH), informed the latter that MNHPI was willing to pay all bonafide members of the union their "past services benefits" due from their previous employers which "shall be equivalent to twenty-six (26) days per year of service "without prejudice to the claim of past services benefits against them, which was then "pending before the NLRC." Then, on March 30, 2010, MNHPI entered into a Memorandum of Agreement[6] with APTWP-NH which provides, inter alia, that MNHPI shall advance payment of past service benefits to all absorbed employees, in partial consideration of their past services to their previous employers.

Thereafter, on several dates in the month of April 2010, thirty-nine (39) port workers, including herein petitioners,

filed with UDI, their individual applications for optional retirement.[7] UDI denied all of the applications, prompting petitioners to institute before the arbitration branch of the NLRC a complaint[8] for non-payment of retirement benefits and other money claims.

In their position paper[9] dated October 9, 2010, petitioners asserted, among others, that: (1) when they were temporarily absorbed by PPA on April 15, 2000, their employment with UDI was not interrupted and, as such, their employment should be reckoned from the time that they were originally hired by UDI; and (2) by virtue of the provisions of the Collective Bargaining Agreement (CBA)[10] between UDI and their union, the Samahan ng Manggagawa sa Pantalan – National Federation of Workers Union (SMAP-NFWU), they are entitled to separation and/or retirement pay.

In response to petitioners' claims, UDI argued in its position paper[11] dated October 13, 2010 that: (1) UDI cannot be compelled to approve petitioners' applications for optional retirement and pay their retirement benefits because of the Memorandum of Agreement between APTWP-NH and MNHPI wherein the latter agreed to absorb the port workers' claim for past service benefits and consider them as new employees; and (2) even if petitioners were entitled to money claims, the said benefits accrued only from October 1, 2001 and not from their original dates of employment with UDI.

On February 28, 2011, the LA rendered a judgment in favor of petitioners, disposing as follows:

“Fundamental is the rule that in money claims, the only defense available to the employer is payment and the payrolls are the best evidence thereof.

“In the case at bar, while the defense of respondent United Dockhandlers, Inc. is payment they never presented any documentary evidence that complainants were paid their separation pay by UDI, the Manila North Harbor Port, Inc. (MNHDI) or the Philippine Ports Authority.

“The payment of separation or retirement pay to employees is usually supported by payrolls and vouchers, or a Compromise Agreement with individual Quitclaim and Release executed by each employee who received their benefits.

“There is no iota of documentary evidence in the case at bar for UDI's bare allegations that complainants were already paid either by the Manila North Harbor Port, Inc. the successor of UDI in port operations, or the Philippine Ports Authority by virtue of a Memorandum of Agreement.

"In fact, this Office exerted its best efforts for the parties to settle the case amicably but the negotiations for an amount reasonable to both complainants and respondents did not prosper.

"Hence, unless there is documentary proof of payment, this Office rules that complainants are entitled to separation pay or retirement pay, as the case may be, as per their Collective Bargaining Agreement which stipulates for a uniform one month for every year of service for either separation pay and/or retirement pay, plus 10% thereof as attorney's fees computed below as follows:

1.

JESUS B. SALAYAO – August 1, 1974-April 11, 2010 = 36 years

P13,365.00 x 36 years =

P481,140.00

2.

ALBERTO GONDRAN – January 1, 1974-April 11,2010 = 36 years

$P13,280.00 \times 36 \text{ years} =$

P478,080.00

3.

GELO MONDOY – July 1, 1978-April 11, 2010 = 32 years

$P13,292.09 \times 32 \text{ years} =$

P425,346.88

4.

ALBERTO MENDOZA – March 17, 1978-April 11, 2010 = 32 years

$P444.75 \times 365/12 \times 32 \text{ years} =$

P432,889.98

5.

PAQUITO NIANGAR – August 1, 1978-April 11, 2010 = 32 years

$P13,248.00 \times 32 \text{ years} =$

P432,936.00

6.

AURELIO RITAGA – August 1, 1978-April11, 2010 = 32 years

$P11,538.05 \times 32 \text{ years} =$

P369,217.60

7.

SILVESTRE SERGIO ABELADA – February22, 1979-April 11,2010 = 32 years

$P13,444.17 \times 31 \text{ years} =$

P416,769.27

8.

HENRY GALLEG0 – August 1, 1978-April11, 2010 = 32 years

$P447.75 \times 365/12 \times 32 \text{ years} =$

P435,809.98

9.

ANTONIO ARAGON – August 16, 1973-April 11, 2010 = 37 years

$P446.00 \times 365/12 \times 37 \text{ years} =$

P501,935.82

10.

VALENTIN MANA-AY – August 1, 1978-April 11, 2010 = 32 years

$P13,300.00 \times 32 \text{ years} =$

P425,600.00

11.

MARINO ACBANGIN – August 1, 1978-April 11, 2010 = 32 years

$P13,178.02 \times 32 \text{ years} =$

P421,696.64

12.

REYNALDO ROSALES – August 1, 1978-April 11, 2010 = 32 years

$P13,178.02 \times 32 \text{ years} =$

P421,696.64

13.

RODOLFO ROLDAN – July 1, 1978-April 11, 2010 = 32 years

$P13,200.00 \times 32 \text{ years} =$

P422,400.00

14.

TOMAS MACASA – January 3, 1978-April 11, 2010 = 32 years

$P13,269.28 \times 32 \text{ years} =$

P424,616.96

15.

EDUARDO SANTOS, JR. – November 1, 1978-April 11, 2010= 31 years

P13,177.00 x 31 years =

P408,487.00

16.

ROMUALDO ILIGAN – August 1, 1978-April 11, 2010 = 32 years

P13,229.00 x 32 years =

P423,328.00

17

MARIO RAMIL – August 1, 1978-April 11, 2010 = 32 years

P13,444.75 x 32 years =

P430,232.00

P7,343.182.77

10% Attorney's Fees

P734,318.28

Total Monetary Awards

P8,077.501.05

WHEREFORE, premises considered, respondent United Dockhandlers, Inc. is directed to pay complainants' monetary awards as computed above.

SO ORDERED.”[12]

Aggrieved, UDI interposed an appeal[13] before the NLRC. Petitioners filed a motion to dismiss[14] the appeal on the ground that it was filed beyond the reglementary period allowed by law. Based on the registry return card[15], along with the certifications issued by the Quezon City Central Post Office[16] and the Office of the Postmaster, Central Post Office,[17] the LA decision was received by UDI's counsel on April 29, 2011. UDI only had ten (10) days from receipt thereof, or until May 9, 2011, within which to perfect an appeal. Thus, petitioners contended that when UDI filed its appeal on May 12, 2011, the judgment of the LA had already become final and executory.

In its opposition[18] to petitioners' motion to dismiss, UDI reasoned out that the registry return cards did not indicate the actual date of its counsel's receipt of the decision of the LA; that a certification[19] issued by the Office of the Postmaster, Central Post Office, showed that UDI received copy of the said decision only on May 3,

2011; and that its appeal to the NLRC was therefore filed within the prescribed period.

UDI likewise filed before the NLRC an Urgent Motion for Issuance of Subpoena Duces Tecum,[20] which was duly opposed[21] by petitioners, asking that MNHPI be ordered to submit evidence to prove that petitioners' money claims had already been paid.

On January 20, 2012, the NLRC rendered the assailed decision affirming with modification the judgment of the LA. Relying on its previous decision[22] dated July 31, 2008 in NLRC-NCR CA No. 040219-04, the NLRC decreed as follows:

“WHEREFORE, the assailed Decision is AFFIRMED, subject to the modification on the date of complainants' employment which shall be reckoned at October 1, 2001, for purposes of computing the award granted. The respondents' Urgent Motion for Issuance of Subpoena Duces Tecum is denied for lack of merit.

SO ORDERED.”[23]

Petitioners' motion for reconsideration[24] was denied in the assailed NLRC resolution dated July 25, 2012.

Hence the present recourse, petitioners raising the following issues for Our consideration:

I.

WHETHER OR NOT PUBLIC RESPONDENT NLRC FIRST DIVISION NOT ONLY SERIOUSLY OR GRAVELY ERRED IN RULING THAT THE APPEAL TAKEN BY PRIVATE RESPONDENTS WAS ALREADY FILED OUT OF TIME BUT LIKEWISE ACTED WHIMSICALLY, CAPRICIOUSLY AND ARBITRARILY AND COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN ITS ASSAILED FINDINGS AND ISSUANCE OF THE NOW ASSAILED DECISION PROMULGATED ON JANUARY 20, 2012 AND THE SUBSEQUENT RESOLUTION PROMULGATED ON JULY 25, 2012;

II.

WHETHER OR NOT PUBLIC RESPONDENT NLRC FIRST DIVISION NOT ONLY SERIOUSLY OR GRAVELY ERRED IN RULING THAT THE RECKONING OF PETITIONERS' EMPLOYMENT WAS ONLY ON OCTOBER 1, 2001 FOR PURPOSES OF COMPUTING THE AWARD OF SEPARATION PAY BUT LIKEWISE ACTED WHIMSICALLY, CAPRICIOUSLY AND ARBITRARILY AND COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION;

III.

WHETHER OR NOT PUBLIC RESPONDENT NLRC FIRST DIVISION SERIOUSLY OR GRAVELY ERRED IN APPLYING LIBERAL CONSTRUCTION AND INTERPRETING THE PROVISIONS OF THE LABOR CODE IN FAVOR OF PRIVATE RESPONDENTS AND AGAINST HEREIN PETITIONERS BUT LIKEWISE ACTED WHIMSICALLY, CAPRICIOUSLY AND ARBITRARILY AND COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION; AND

IV.

WHETHER OR NOT PUBLIC RESPONDENT NLRC FIRST DIVISION NOT ONLY SERIOUSLY OR GRAVELY ERRED BUT LIKEWISE ACTED WHIMSICALLY, CAPRICIOUSLY AND ARBITRARILY AND COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN NOT GRANTING THE ISSUANCE OF A WRIT OF EXECUTION SOUGHT FOR CONSIDERING THAT THE DECISION DATED FEBRUARY 28, 2011 HAS ALREADY BECOME FINAL AND EXECUTORY.[25]

The essence of procedural due process is embodied in the basic requirement of notice and a real opportunity to be heard.[26] In relation thereto, periods prescribed to do certain acts must be followed with fealty as they are

designed primarily to speed up the final disposition of the case. Such reglementary periods are indispensable interdictions against needless delays and for an orderly discharge of judicial business.[27] It must be stressed that the best evidence to prove that notice of a decision, order, or other issuance of a judicial or quasi-judicial body was received by a party to a case “would be a certification from the postmaster, who should certify not only that the notice was issued or sent but also as to how, when and to whom the delivery and receipt was made.”[28] The Court is not unmindful of the fact that there are two certifications from the Office of the Postmaster, Central Post Office, issued by the same person, Fe P. Gaoiran, which contradict each other as to the date of UDI's receipt of the February 28, 2011 decision of the LA. Unfortunately, there is a dearth of evidence that would help Us ascertain which certification is true and correct. Too, as found by the NLRC, it appears that the Labor Arbiter had inadvertently sent copy of the LA decision to the former address of UDI's counsel despite the notice of change of address filed by him. The service of the LA decision was therefore improper.[29] In light of the principle that litigations must be decided on their merits and not on technicality,[30] where labor officials are enjoined by law “to use every reasonable means to ascertain the facts of each case speedily and objectively, without technicalities of law or procedure, all in the interest of due process,”[31] We are inclined to decide the instant petition on the merits.

The resolution of the present controversy hinges on the determination of the reckoning period for the computation of petitioners' separation/retirement pay. Petitioners insist that their retirement benefits should be computed from the date of their original appointment. Conversely, UDI argues that it must be counted only from October 1, 2001.

Generally, factual findings of labor officials, who are deemed to have acquired expertise in matters within their jurisdiction, are generally accorded not only respect but even finality by the courts when supported by substantial evidence, i.e., the amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[32] There are, however, exceptions, among which is when there is a conflict between the factual findings of the NLRC and the Labor Arbiter.[33] Accordingly, this Court must of necessity make an infinitesimal scrutiny and examine the records all over again including the evidence presented by the opposing parties to determine which findings should be preferred as more conformable with evidentiary facts.[34]

The NLRC anchors the assailed decision on the premise that by virtue of its July 31, 2008 decision in NLRC-NCR CA No. 040219-04, petitioners had already received their respective separation and/or retirement claims from PPA. We cannot sustain this obtuse finding. The ruling in that case was based on documentary proof, as well as the tacit admission by one of the complainants therein, that their separation and retirement claims had already been paid by PPA. The instant case involves different parties and different pieces of evidence. Thus, the NLRC's reliance on its previous decision is misplaced.

It is settled that as a general rule, a party who alleges payment as a defense has the burden of proving it.[35] Jurisprudence dictates that the burden of proving payment of monetary claims rests on the employer,[36] and the Court has likewise repeatedly ruled that any doubt, arising from the evaluation of evidence as between the employer and the employee, must be resolved in favor of the latter.[37] Thus, one who pleads payment has the burden of proving it. Even as the employee must allege non-payment, the general rule is that the burden rests on the employer to prove payment, rather than on the employee to prove non-payment. The reason for the rule is that the pertinent personnel files, payrolls, records, remittances, and other similar documents — which will show that overtime, differentials, service incentive leave, and other claims of the worker have been paid — are not in the possession of the worker but in the custody and absolute control of the employer.[38]

Thus, the burden of showing with legal certainty that the obligation has been discharged with payment falls on the debtor, in accordance with the rule that one who pleads payment has the burden of proving it. Only when the debtor introduces evidence that the obligation has been extinguished does the burden shift to the creditor, who is

then under a duty of producing evidence to show why payment does not extinguish the obligation.[39]

In this case, UDI was unable to present any evidence to prove its claim that petitioners have received all the separation and retirement benefits that they are entitled under the law. While it is true that PPA had advanced past service benefits to some of UDI's employees, there is no proof that petitioners were among those who received such benefits. Indeed, there is nothing on the face of UDI and PPA's Memorandum of Agreement,[40] or on the numerous checks and receipts issued by them,[41] as would support the conclusion that petitioners were already paid all of their money claims as UDI employees. Consequently, UDI failed to discharge the burden of proving payment thereby making it liable for petitioners' claim for separation and/or retirement pay. We sustain the Labor Arbiter's computation of the award of petitioners' claims as accruing from the date they were originally employed by UDI.

A writ of certiorari is an extraordinary prerogative writ that is never demandable as a matter of right. To warrant the issuance thereof, the abuse of discretion must have been so gross or grave, as when there was such capricious and whimsical exercise of judgment equivalent to lack of jurisdiction; or the exercise of power was done in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility. The abuse must have been committed in a manner so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[42] Such is obtaining in this case.

WHEREFORE, in light of all the foregoing, the petition is GRANTED. Accordingly, the decision dated January 20, 2012 and resolution dated July 25, 2012 of public respondent National Labor Relations Commission in NLRC LAC No. 06-001494-11 are hereby ANNULLED and SET ASIDE.

The decision dated February 28, 2011 of Labor Arbiter Edgardo M. Madriaga in NLRC NCR Case Nos. 05-07302-10, 06-07713-10, 06-08696-10 and 08-11217-10 is hereby REINSTATED.

SO ORDERED.

Sadang, M.Q.C.,[*] and Corales, P.B., JJ., concur.

[*] Vice Justice Florito S. Macalino per Office Order No. 469-14-ABR dated November 14, 2014

[1] Rollo, pp. 320-332.

[2] Rollo, pp. 397-402.

[3] Rollo, pp. 196-213.

[4] Rollo, pp. 532-548.

[5] Rollo, p. 549.

[6] Rollo, pp. 550-553.

[7] Rollo, pp. 143-158.

[8] Rollo, pp. 35-39.

[9] Rollo, pp. 40-51.

[10] Rollo, pp. 81-95.

[11] Rollo, pp. 100-117.

- [12] Rollo, pp. 211-213.
- [13] Rollo, pp. 215-238.
- [14] Rollo, pp. 239.
- [15] Rollo, p. 247.
- [16] Rollo, p. 248.
- [17] Rollo, p. 280.
- [18] Rollo, pp. 250-255.
- [19] Rollo, p. 256.
- [20] Rollo, pp. 282-301.
- [21] Rollo, pp. 302-308.
- [22] Rollo, pp. 591-596.
- [23] Rollo, p. 331.
- [24] Rollo, pp. 333-346.
- [25] Rollo, pp. 17-18.
- [26] Ray Peter O. Vivo v. Philippine Amusement and Gaming Corporation, G.R. No. 187854, November 12, 2013.
- [27] LTS Philippines Corporation v. Jocelyn D. Maliwat, G.R. No. 159024, January 14, 2005.
- [28] Heirs of Francisco Bihag v. Heirs of Nicasio Bathan, G.R. No. 181949, April 23, 2014.
- [29] Rollo, p. 327
- [30] Martin Peñoso and Elizabeth Peñoso v. Macrosman Dona, G.R. No. 154018, April 3, 2007.
- [31] Dionisio F. Auza, Jr. v. MOL Philippines, Inc., G.R. No. 175481, November 21, 2012.
- [32] Prince Transport, Inc. v. Diosdado Garcia, G.R. No. 167291, January 12, 2011.
- [33] Rentokil (Initial) Philippines, Inc. v. Leilani D. Sanchez, G.R. No. 176219, December 23, 2008.
- [34] Federico M. Ledesma, Jr. v. NLRC, G.R. No. 174585, October 19, 2007.
- [35] G & M (Phil.), Inc. v. Willie Batomalaque, G.R. No. 151849, June 23, 2005.
- [36] Isabelo L. Galang v. Land Bank of the Philippines, G.R. No. 175276, May 31, 2011.
- [37] Dansart Security Force & Allied Services Company and Danilo A. Sarte v. Jean O. Bagoy , G.R. No. 168495, July 2, 2010; Marival Trading, Inc. v. NLRC, G.R. No. 169600, June 26, 2007.
- [38] E.G & I. Construction Corporation and Edsel Galeos v. Ananias P. Sato, G.R. No. 182070.
- [39] G & M Philippines, Inc. v. Romil V. Cuambot, G.R. No. 162308, November 22, 2006.
- [40] Rollo, pp. 461-463.

[41] Rollo, pp. 464-531.

[42] Ebrencio F. Indoyon, Jr. v. Court of Appeals, G.R. No. 193706, March 12, 2013.

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