

SAN ANTONIO HAULERS, INC., REP. BY BERNARDO L. ALMENDRALA, PRESIDENT & GENERAL MANAGER, PETITIONERS, VS. ATTY. RICARDO S. MARTINEZ, SR. ANDRHOEL F. JACOBO, REGIONAL DIRECTOR AND...

Ponente: ANTONIO-VALENZUELA, J.

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ANTONIO-VALENZUELA, J.:

This is the Petition For Certiorari With Prayer For The Issuance of A Temporary Restraining Order (TRO) and/or Preliminary Injunction[1] filed by the “San Antonio Haulers Inc., represented by Bernardo L. Almendrala, President and General Manager”(“petitioner”). Named as respondents are “Atty. Ricardo S. Martinez, Sr., and Rhoel F. Jacobo, Regional Director and Sheriff, respectively, Region IV-A CALABARZON, Department of Labor and Employment” (“respondents”).

This Petition imputes grave abuse of discretion amounting to lack of jurisdiction on the part of the named respondents, and seeks to enjoin the implementation of the Alias Writ of Execution[2] issued by respondent Atty. Martinez in LSED Case No. RO400-0901-CI-005-009, and the Notice of Levy Upon Personal Properties Pursuant To The Alias Writ of Execution dated 13 October 2011[3] issued by respondent Sheriff Jacobo.

FACTS

On 5 January 2009, Marlon Aquino filed the Complaint docketed as LSED Case No. RO400-0901-CI-005-009[4] before the Department of Labor And Employment Region IV-A CALABARZON for non payment of legal/special holiday pay, 13[th] month pay, overtime pay, and night shift differential, and underpayment of legal/special holiday pay, 13[th] month pay, and overtime pay. Named as respondents in LSED Case No. RO400-0901-CI-005-009 were “San Antonio Haulers/Bernardo Almendrala.”

On 11 June 2009, the respondent Atty. Martinez issued the Order,[5] the dispositive portion of which read:

WHEREFORE, premises considered, respondent SAN ANTONIO HAULERS, INC. is hereby ordered to pay the affected employees within ten (10) calendar days upon receipt hereof the aggregate amount of TWELVE MILLION THIRTY TWO THOUSAND SIX HUNDRED NINE PESOS AND 58/100 (P12,032,609.58) representing underpayment of wages, non-payment of regular holiday pay, overtime pay, night shift differential pay, 13[th] month pay and salary, broken down as follows:

Not satisfied with the Order dated 11 June 2009, the “San Antonio Haulers Inc., represented by Bernardo L. Almendrala, Its President And General Manager,” filed a petition for certiorari before the Court of Appeals, docketed as CA GR SP. 112503.

During the pendency of CA-GR SP. 112503, and when the efficacy of the temporary restraining order issued by the Sixteenth Division expired, the prevailing party in LSED Case No. R0400-0901-CI-005-009 moved for the execution of the Order dated 11 June 2009. Correspondingly, the DOLE issued the Writ of Execution on 3 August 2011, and subsequently, the Alias Writ of Execution.[6]

On 2 November 2011, the petitioner filed this Petition For Certiorari, docketed as CA-G.R. SP. No. 121888. Essentially, this Petition questions the propriety of the writ issued to implement the DOLE Order of 11 June 2009, allegedly because the writ varied the judgment when it ordered the implementation of the judgment against Bernardo Almendrala, even if the Order dated 11 June 2009 did not include Almendrala.

On 24 February 2012, during the pendency of this case (CA-GR SP. 121888) the Sixteenth Division of this Court issued the Decision[7] in CA-G.R. SP. 112503 which affirmed with modification the Order of 11 June 2009, and ordered the remand of LSED Case No. R0400-00901-CI-005-009 to the DOLE for the re-computation of the monetary awards.

COURT'S RULING

This Petition must be dismissed for the following reasons: the Sixteenth Division of this Court, in its Decision dated 24 February 2012 in CA-G.R. SP. 112503 has modified the Order of 11 June 2009, and ordered the DOLE to re-compute the monetary awards for the affected employees, thus the validity of the Alias Writ of Execution has become moot; the Petition did not comply with Rule 65, Section 5,[8] and Rule 46, Section 3[9] of the Rules of Court (i.e.: it did not join as party respondent, Marlon Aquino, the person(s) interested in sustaining the proceedings before the DOLE CALABARZON; it does not contain proof of service of a copy of the Petition on the indispensable party Marlon Aquino), thus pursuant to Rule 46, Section 3 of the Rules of Court, we dismiss this Petition; since the Petition failed to include the indispensable party Marlon Aquino, and the petitioner did not serve copy of the Petition on such indispensable party, this court did not serve on the indispensable party a copy of an order indicating our initial action on the petition, thereby this Court did not acquire jurisdiction over the person of the indispensable party Marlon Aquino (as provided in Rule 46, Section 4[10] of the Rules of Court).

Upon these reasons, we DISMISS the Petition For Certiorari.

IT IS SO ORDERED.

Veloso (Chairperson) and Lantion, JJ., concur.

[1] C.A. Rollo, p. 3.

[2] C.A. Rollo, p. 28.

[3] C.A. Rollo, p. 35.

[4] C.A. Rollo, p. 41.

[5] C.A. Rollo, p. 48.

[6] C.A. Rollo, p. 28.

[7] C.A. Rollo, p. 136.

[8] Rule 65, Sec. 5. Respondents and costs in certain cases. – When the petition filed relates to the acts or omissions of a judge, court, quasi-judicial agency, tribunal, corporation, board, officer or person, the petitioner shall join, as private respondent or respondents with such public respondent or respondents, the person or persons interested in sustaining the proceedings in the court; and it shall be the duty of such private respondents to appear and defend, both in his or their own behalf and in behalf of the public respondent or respondents affected by the proceedings, and the costs awarded in such proceedings in favor of the petitioner shall be against the private respondents only, and not against the judge, court, quasi-judicial agency, tribunal, corporation, board, officer or

person impleaded as public respondent or respondents.

Unless otherwise specifically directed by the court where the petition is pending, the public respondents shall not appear in or file an answer or comment to the petition or any pleading therein. If the case is elevated to a higher court by either party, the public respondents shall be included therein as nominal parties. However, unless otherwise specifically directed by the court, they shall not appear or participate in the proceedings therein.

[9] Rule 46, Sec. 3. Contents and filing of petition; effect of non-compliance with requirements. – The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statements of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received. (Cir. No. 39-98.)

It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto. The certification shall be accomplished by the proper clerk of court or by his duly authorized representative, or by the proper officer of the court, tribunal, agency or office involved or by his duly authorized representative. The other requisite number of copies of the petition shall be accompanied by clearly legible plain copies of all documents attached to the original.

The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceedings has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

The petitioner shall pay the corresponding docket and other lawful fees to the clerk of court and deposit the amount of P500.00 for costs at the time of the filing of the petition.

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.

[10] Rule 46, Sec. 4. – Jurisdiction over person of respondent, how acquired. – The court shall acquire jurisdiction over the person of the respondent by the service on him of its order or resolution indicating its initial action on the petition or by his voluntary submission to such jurisdiction.

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