

SILLIMAN UNIVERSITY AND/OR DR. BEN MALAYANG III, AS PRESIDENT, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION (NLRC), SEVENTH DIVISION, CEBU CITY AND ROSITA GENERAL, RESPO...

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

In this petition for certiorari,[1] petitioners Silliman University and/or Dr. Ben Malayang III seek to set aside the Decision[2] dated April 30, 2012 (assailed Decision) and Resolution[3] dated June 29, 2012 (assailed Resolution) of the National Labor Relations Commission, 7[th] Division, Cebu City (NLRC) in NLRC Case No. VER-03-000009-12 for being rendered with grave abuse of discretion amounting to lack or excess of jurisdiction and for not being in accord with law and applicable jurisprudence. The NLRC's assailed Decision dismissed petitioners' Petition to Annul Writ of Execution, while the assailed Resolution denied its Motion for Reconsideration.

The factual antecedents of this case are not disputed, and the same was aptly summarized by the NLRC in its assailed Decision, thus:

“This takes root from the complaint for illegal dismissal and claim for retirement benefit filed by herein private respondent-Rosita General against petitioners, among others. On 28 September 2007 then Labor Arbiter Fructuoso T. Villarin IV rendered a Decision thereon, with the following decretal portion:

“WHEREFORE, foregoing considered, We find complainant to have been illegally dismissed. Respondent is ordered to reinstate complainant and to pay complainant backwages computed from the time of her illegal dismissal up to her actual reinstatement in the amount of P595,296.00 (Nov. 2003 – Sept. 2007 = 3 yrs. & 10 mos. or 46 mos.; P12, 941.23/mo. x 46 mos. = P595,296.00). Should complainant opt to retire optionally, respondent is ordered to pay complainant separation pay of one month salary for every year of service, a fraction of six months being considered as one whole year.

SO ORDERED.”

Petitioners, along with the other respondents in the original case, elevated the matter on appeal to the Commission. Their appeal was, however, dismissed and resultantly, the Labor Arbiter's Decision was affirmed by the Commission on 30 May 2008.

Moreover, the Motion for Reconsideration that they subsequently filed was denied by the Commission on 30 September 2008. Hence a Petition for Certiorari was filed before the Court of Appeals, which, as of 8 April 2011, was submitted for decision.[4]

Meanwhile, way back 30 January 2009, entered in the Commission's Book of Entries of Judgment was its 30 May 2008 Decision of this case, for having attained finality as of 25 November 2008.

Then, on 28 September 2011, a Motion for Issuance of a Writ of Execution was filed by herein private

respondent.

A Writ of Execution was eventually issued by public respondent-Labor Arbiter Leo N. Montenegro on 6 December 2011. Petitioners, among other originally impleaded respondents, filed a Motion to Quash thereto, but the same was denied by said public respondent-Labor Arbiter in a Resolution dated 16 February 2012.”[5]

Petitioners explained in the instant petition that they filed a Petition to Annul Writ of Execution on March 7, 2012 as an extraordinary remedy for relief from the nullity of the execution, in accordance with Section 4, Rule XII of the 2011 NLRC Rules.

This Petition to Annul Writ of Execution was dismissed by the NLRC through the assailed Decision wherein the NLRC disposed as follows:

“WHEREFORE, premises considered, the instant Petition with application for a Temporary Restraining Order and/or Writ of Preliminary Injunction is DISMISSED for lack of merit.

SO ORDERED.”[6]

Hence, petitioners are before us with the instant petition raising the following issues:

“1. Whether or not the NLRC Decision dated April 30, 2012 is contrary to law and jurisprudence, which if not reviewed would cause grave injustice and irreparable damage to the Petitioner.

2. Whether or not public respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing petitioner's Petition to Annul Writ of Execution.”[7]

As previously mentioned, the NLRC decision dated May 30, 2008, which is subject of the Writ of Execution sought to be annulled, was raised to this Court through a petition for certiorari. The same was docketed as Case No. CA-G.R. SP No. 03987, with the case title, “Silliman University and/or Dr. Ben Malayang III, as President vs. National Labor Relations Commission, Fourth Division, Cebu City, and Rosita General.”

We take judicial notice that Case No. CA-G.R. SP No. 03987 has already been decided on the merits affirming the NLRC decision dated May 30, 2008. The dispositive portion of the Court of Appeals Decision promulgated on December 5, 2012 reads:

“WHEREFORE, premises considered, the instant Petition for Certiorari is DISMISSED. The Decision of the NLRC dated May 30, 2008 and the Resolution dated September 30, 2008 are AFFIRMED in toto.

SO ORDERED.”[8]

Because of this supervening event, the issues presented by the instant petition have been rendered moot by the promulgation of judgment in Case No. CA-G.R. SP No. 03987. This Court's decision in the aforementioned case affirmed the NLRC decision dated May 30, 2008. Accordingly, the writ of execution, which seeks basis on the NLRC decision dated May 30, 2008, is also affirmed by this Court.

With the foregoing, NLRC's denial of petitioner's Petition to Annul Writ of Execution has firmer basis to stand on particularly because the ground relied upon by the petitioner in his Petition to Annul Writ of Execution and also in this instant petition was the pendency of the certiorari action in Case No. CA-G.R. SP No. 03987.

It is settled that courts do not entertain a moot question. A moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical value. As a rule, courts decline jurisdiction over such case, or dismiss it on ground of mootness.[9]

Indeed, this case will be dismissed because of its mootness. But even if the same is decided on the merits, the

petition is clearly dismissible because no grave abuse of discretion could be ascribed to the NLRC in rendering the assailed Decision.

It is settled that an action for certiorari does not stay the execution of the award of the NLRC, unless stayed by the Court of Appeals or the Supreme Court through a restraining order.[10] The 2011 NLRC Rules of Procedure, as amended by NLRC En Banc Resolution No. 11-12 Series of 2012, is clear, thus:

“SECTION 4. EFFECT OF PETITION FOR CERTIORARI ON EXECUTION. - A petition for certiorari with the Court of Appeals or the Supreme Court shall not stay the execution of the assailed decision unless a restraining order is issued by said courts.”[11]

In *Leonis Navigation Co. v. Villamater*,^[12] the Supreme Court ruled that the finality of a case decided by the NLRC does not render a petition for certiorari before the Court of Appeals moot and academic. The Supreme Court ratiocinated that when an NLRC decision or resolution has been declared to have been tainted with grave abuse of discretion amounting to excess or lack of jurisdiction, the same is considered void and produces no effect; hence, the decision or resolution never became final and executory, to wit:

“The CA, therefore, could grant the petition for certiorari if it finds that the NLRC, in its assailed decision or resolution, committed grave abuse of discretion by capriciously, whimsically, or arbitrarily disregarding evidence that is material to or decisive of the controversy; and it cannot make this determination without looking into the evidence of the parties. Necessarily, the appellate court can only evaluate the materiality or significance of the evidence, which is alleged to have been capriciously, whimsically, or arbitrarily disregarded by the NLRC, in relation to all other evidence on record. Notably, if the CA grants the petition and nullifies the decision or resolution of the NLRC on the ground of grave abuse of discretion amounting to excess or lack of jurisdiction, the decision or resolution of the NLRC is, in contemplation of law, null and void ab initio; hence, the decision or resolution never became final and executory.”[13]

In cases, however, where there is an execution of the NLRC decision pending the certiorari action with the Court of Appeals, the NLRC Rules, as amended, provide for the remedy to address reversals of decisions, thus:

“SECTION 18. RESTITUTION - Where the executed judgment is totally or partially reversed or annulled by the Court of Appeals or the Supreme Court with finality, the Labor Arbiter shall, on motion, issue such order of restitution of the executed award, except reinstatement wages paid pending appeal.”

In this light, We hold that the NLRC only applied the rules as it should be and such cannot be considered a grave abuse of discretion.

WHEREFORE, this petition for certiorari is hereby DISMISSED. The Decision and Resolution dated April 30, 2012 and June 29, 2012, respectively, of the National Labor Relations Commission, 7th Division, Cebu City in NLRC Case No. VER-03-000009-12 are AFFIRMED.

SO ORDERED.

Ingles,[*] and Azcarraga-Jacob, JJ., concur.

[*] Acting Chairperson per Office Order No. 14-14-GTI dated June 26, 2014.

[1] Rollo, pp. 4-20.

[2] Rollo, pp. 22-26.

[3] Rollo, pp. 35-36.

[4] Case No. CA-G.R. SP No. 03987.

[5] Rollo, pp. 22-24.

[6] Rollo, p. 26.

[7] Rollo, p. 11.

[8] See CA Decision dated December 5, 2012 in Case No. CA-G.R. SP No. 03987.

[9] Gunsi, Sr. v. Commissioners, the Commission on Elections, G.R. No. 168792, February 23, 2009.

[10] Leonis Navigation Co. v. Villamater, G.R. No. 179169, March 3, 2010.

[11] Underscoring supplied.

[12] Supra, note 10.

[13] Underscoring supplied.

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