

LUALHATI L. LINA, PETITIONER, VS. THE HONORABLE AMANTE P. PURISIMA IN HIS CAPACITY AS PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, PHILIPPINE VETERANS BANK, AND EST...

G.R. No. L-39380. April 14, 1978

Ponente: BARREDO, J.

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BARREDO, J.:

Petition for certiorari and mandamus to annul the two successive orders of dismissal, for supposed lack of jurisdiction, of petitioner's complaint in Special Civil Action No. 94986 of the Court of First Instance of Manila issued by respondent judge and to command said respondent to try and decide the said case on the merits.

The first order of dismissal in question dated August 14, 1974 is as follows:

"Petition in this case is for the writ of mandamus to compel respondents 'to restore petitioner to the position she was excluded from' in the Philippine Veterans Bank.

"While the petition avers that respondent Esteban Cabanos, as President of the Bank, 'in grave abuse of discretion and authority forcibly excluded petitioner from the position without valid cause, nor basis in law, it also states that the removal of petitioner was 'upon recommendation of Branch Manager, Julio Tamondong,' x x x 'which recommendation and action of respondent Esteban Cabanos was later approved by the Board of Directors of the said Bank.'

"The petition likewise avers that petitioner has appealed to the Office of the President, but the latter denied the same.

"The allegation in the petition that respondent Cabanos committed 'grave abuse of discretion and authority' in dismissing petitioner from her office is a legal conclusion, not a statement of the ultimate facts giving rise to the cause of action being asserted. Why petitioner's removal from office by Cabanos was in grave abuse of discretion is not averred.

"Neither is it shown in the petition why petitioner is entitled to the office from which she was removed - to reinstatement, in other words.

"It is equally noticeable that while annexed to the petition is the letter of Assistant Executive Secretary Ronaldo B. Zamora to Atty. Pantaleon Z. Salcedo informing him of the denial of petitioner's request for reconsideration as contained in the therewith enclosed copy of the 2nd indorsement of said office, the petition before the Court does not include said enclosure as an annex, nor copied therein, which should show why the said request for reconsideration was denied, one of the ultimate facts which must necessarily be looked into should the petition be given due course. For that matter, neither is the letter or notice of petitioner's removal from office included in the petition.

"Considering all the foregoing observations, the Court does not find the petition to be sufficient in form and substance to justify the process of requiring respondents to answer the petition pursuant to Section 6 of Rule 65 of the Rules of Court.

"Wherefore, the petition is hereby dismissed."

In an attempt to cure the supposed defects pointed out in the foregoing order, petitioner filed an amended petition, which, however, met the same fate as the original one. The second order of dismissal dated September 3, 1974 runs thus:

"Before the Court is petitioner's motion to admit amended petition, with the amended petition already attached, filed obviously for the purpose of correcting defects in the original petition which was earlier dismissed by the Court upon the ground that it found the same not to be sufficient in form and substance.

"Documents not annexed to the original petition which were pointed out in the order dismissing the original petition are now annexed to the amended petition. And the nature of their contents explain why they were conveniently suppressed in the original petition.

"It now appears from the annexes of the amended petition that petitioner was dismissed by respondent president of the Philippine Veterans Bank pursuant to Letters of Instruction No. 14 and No. 19-A, for being notoriously undesirable. (Annex 'H'). This being the case, petitioner had a right to appeal from her dismissal, and the venue of the appeal is the Office of the President, She did appeal. (Annex 'G'). But the appeal was denied. (Annex 'H' - letter from the Office of the President).

"The aforesaid letter from the Office of the President in effect affirmed the position taken by respondent Cabanos in dismissing petitioner pursuant to Letter of Instruction No. 14-A.

"Since the removal of petitioner is pursuant to a Letter of Instruction issued by the President pursuant to Proclamation No. 1081, the validity or legality of said act is beyond the power of the courts to review, much less modify or reverse, whether by means of the writ of certiorari and/or mandamus, or any other court process. This is one of the express limitations upon the power of Courts imposed by General Order No. 3 issued by the President on September 22, 1972. Said general order provides:

xxx xxx xxx

'I do hereby further order that the Judiciary shall continue to function in accordance with its present organization and personnel, and shall try and decide in accordance with existing laws all criminal and civil cases, except the following cases:

- Those involving the validity, legality, or constitutionality of any decree, order or act issued, promulgated or performed by me or by my duly designated representative pursuant to Proclamation No. 1081, dated Sept. 21, 1972.
- Those involving the validity, legality or constitutionality of any rules, orders or acts issued, promulgated or performed by public servants pursuant to decrees, orders, rules and regulations issued and promulgated by me or by my duly designated representative pursuant to Proclamation No. 1081, dated Sept. 21, 1972.'

"Foregoing considered, the amended petition is hereby dismissed upon the grounds already stated in the order dated August 14, 1974, and upon the more important ground that the relief prayed for therein is for the present beyond the power of the Court to extend."

Considering that petitioner filed an amended complaint purporting to comply with the tenor of the first order of dismissal in question, it is unnecessary for Us to make any ruling as to the propriety of His Honor's action of dismissing the original complaint.

Anent the second order, it is at once obvious that petitioner's right to redress against the same is beyond dispute. Respondent court's invocation of General Order No. 3 of September 21, 1972 is nothing short of an unwarranted abdication of judicial authority, which no judge duly imbued with the implications of the paramount principle of independence of the judiciary should ever think of doing. It is unfortunate indeed that respondent judge is apparently unaware that it is a matter of highly significant historical fact that this Court has always deemed General Order No. 3 including its amendment by General Orders No. 3-a,[1] as practically inoperative even in the light of Proclamation 1081 of September 21, 1972 and Proclamation 1104 of January 17, 1973 placing the whole Philippines under martial law. While the members of the Court are not agreed on whether or not particular instances of attack against the validity of certain Presidential Decrees raise political questions which the judiciary would not interfere with, there is unanimity among Us in the view that it is for the Court rather than the Executive to determine whether or not We may take cognizance of any given case involving the validity of acts of the Executive Department purportedly under the authority of the martial law proclamations.

In this regard, to the credit of President Marcos, it has been noted by the Court that the President has publicly acknowledged as one of the distinctive cardinal features of the prevailing martial law regime that the constitutional authority, prerogatives and jurisdiction of the Supreme Court, as they have ever existed in normal times, remain integrally unimpaired despite the proclamation of martial law. In plainer terms, it has been repeatedly announced by the President, even to international or foreign audiences, that our martial law government is subject, as by constitutional mandate it should always be, to the authority and jurisdiction of the Supreme Court. And undoubtedly, in appropriate cases, such pronouncements can apply to the judiciary as a whole. Accordingly, We do not hesitate to reject the reasoning advanced by respondent court as a constitutionally-uncalled-for submissiveness to the Executive, certainly unworthy of the judicial office. We hold that the legal premise of the impugned order is absolutely erroneous from the point of view of sacred constitutional principles. Such an order does not deserve to be given sanction by this Court as being in keeping with the role of the courts in this momentous era of our national existence as a democratic republic committed to

hold inviolate the independence of the judiciary at all times, so long as the constitution continues to be in force.

Now, strictly speaking and observing the usual procedural rules, what has just been said should suffice to dispose of this case. In other words, in the light of Our view that respondent court committed a grave error in declaring itself jurisdictionally impotent in the premises, ordinarily, what remains for Us to do is only to direct that petitioner's case be tried and decided by respondent judge on the merits. But this is the Supreme Court whose power and duty to do substantial justice in every case before it are inherent, plenary and imperative, hence extensive to all instances where it appears that final resolution of the controversy before it is feasible without denying any of the parties involved full opportunity to be heard. Stated differently, if in any case elevated to this Court for the correction of any supposed procedural error of any lower court, it should be found that indeed there has been a mistake, and it further appears that all the facts needed for a complete determination of the whole controversy are already before the Court undisputed or uncontroverted by the parties, the Supreme Court may at its option, whenever it feels the best interests of justice would be thereby subserved, dispense with the usual procedure of remanding the case to the court of origin for its own judgment, and instead, the Supreme Court may already resolve the pertinent determinative issues and render the final judgment on the merits. The obvious reason for such an extension in the exercise of the Court's pervasive power is that any other procedure would amount to an unnecessary rigmarole which can only augment the expenses, efforts and anxieties of the parties and uselessly delay the administration of justice, no other result for all concerned being anyway perceptible.

Such is the situation in the case at bar. Although no trial was held in the court below, the pleadings before Us portray all the vital issues between the parties. The facts alleged by both of them are mutually uncontroverted and, on the other hand, the legal issues are properly joined. Respondents have from all appearances unquestioningly submitted all matters in controversy for resolution of this Court. In fact, in their "Manifestation and Comment" dated November 12, 1975 respondents state their position in this respect unequivocally thus:

"That they join with the petitioner in her Motion With Leave for Early Resolution dated September 20, 1976, consistent with herein respondents submittal that the instant case be resolved by this Honorable Tribunal 'without further remanding the case to the court of origin' as manifested in their Reply dated July 14, 1975."

Accordingly, We shall now proceed to determine petitioner's prayer for mandamus on its merits.

In this connection, it may be stated that on May 22, 1975, subsequent to the hearing of this case, respondents filed a manifestation to the effect that on May 12, 1975, the following Administrative Order No. 6, Series of 1975, had been issued:

"ADMINISTRATIVE ORDER NO. 6
SERIES OF 1975

SUBJECT: Reinstatement to the Service
of LUALHATI L. LINA

In line with the policy of management to promote industrial peace, Administrative Order No. 75 dated October 16, 1972, is set aside, and Miss LUALHATI L. LINA is hereby reinstated to her former position as Bookkeeper in the Bank, effective upon assumption to duty, with entitlement to the pay and allowances

appurtenant thereto.

This order of reinstatement is without prejudice to the outcome of the proceedings pending before the Supreme Court.

(SGD.) ESTEBAN B. CABANOS"

That manifestation reads in full as follows:

"COME NOW the respondents PHILIPPINE VETERANS BANK and ESTEBAN B. CABANOS in his capacity as President of the Bank, thru the undersigned counsel and to this Honorable Court most respectfully manifest: -

"1. That the principal issue in this case is the questioned ruling and/or order of the lower court presided by the respondent Judge Amante P. Purisima to the effect that the relief prayed for by the petitioner for mandamus and damages is beyond the power of the court to extend;

"2. That respondents, without necessarily admitting the correctness of the position taken by the petitioner, have issued Administrative Order No. 6 dated May 12, 1975, reinstating petitioner to her former position as bookkeeper, effective upon assumption of office, without prejudice to the result of the proceedings pending before the Honorable Supreme Court, a certified xerox copy of which is hereto attached as Annex 'A';

"3. That respondents in addition to reinstatement, will pay all back salaries and other emoluments due her from October 17, 1972;

"4. That the respondents in addition to reinstatement and payment of back wages and other emoluments are willing to reimburse the petitioner the actual expenses incurred by her in connection with this case;

"5. That the reinstatement of the petitioner is in line with the policy of Management to eliminate all possible irritants between labor and management, to reassure labor of the fairness of management, in order to promote industrial peace.

"WHEREFORE, it is most respectfully prayed that the Manifestation be duly considered in whatever resolution this Honorable Court may deem just and proper in the premises."

Notwithstanding her receipt of the above communications, petitioner has not returned to her work. Instead, she

filed the following "Comments and Manifestation" on June 19, 1975:

"PETITIONER, by counsel, pursuant to and in compliance with the Court's resolution dated May 29, 1975, and received by counsel on June 9, 1975, now comes before this Honorable Tribunal to submit these comments and manifestations and respectfully avers that –

"1. Petitioner concurs with the manifestation of respondents to the effect that she be restored to the position she was excluded from 'effective upon assumption of office without prejudice to the result of the proceedings pending before the Honorable Supreme Court'; the payment of her back salaries and other emoluments she is entitled to and the reimbursement of her expenses actually incurred in connection with the case at bar; provided that her claim for damages, actual, moral and exemplary shall stand unaffected by her concurrence to respondents' manifestation and shall remain subject to the resolution of this most Honorable Tribunal.

"2. The above entitled case arose out of the dismissal by the lower court of the petition for mandamus with damages filed by your petitioner, docketed as Special Civil Action No. 94986 upon the only ground that the relief prayed for in the said petition is 'beyond the power of the court to extend.'

"3. The petition in the Lower Court sought two specific purposes. These purposes are: (1) the restoration of petitioner to the position she was excluded from including the payment of her back salaries, actual expenses incurred in connection with the case and other emoluments due her by virtue of the office, and (2) the payment of damages, actual, moral and exemplary as a result of her dismissal.

"4. The manifestation of respondents speaks only of the restoration of petitioner to the position she was excluded from and the payment of her back salaries, other emoluments due her and the actual expenses incurred in connection with the case at bar, but leaving out, or perhaps purposely omitting the question of damages prayed for in the petition of origin out of the manifestation and excluding also the award of attorney's fees to petitioner.

"5. The concurrence therefore, of your petitioner to the manifestation of respondents is only limited to the matters therein mentioned but without prejudice to her claim of actual, moral and exemplary damages." (Pp. 111-112, Record.)

with prayer that:

"WHEREFORE, it is most respectfully prayed to this Most Honorable Tribunal that an order be issued to respondents to –

"a. restore your petitioner to her former position;

"b. pay your petitioner's back salaries, and other emoluments due her by virtue of the office;

"c. reimburse your petitioner the expenses she actually incurred in connection with the case;

"d. pay attorney's fees as prayed for in the petition of origin which includes actual, moral and exemplary or in the alternative, to remand the question of damages to the court of origin.

"FURTHER, petitioner prays for such other relief deemed just, proper and equitable under the premises." (Pp. 112-113, Record.)

which prayer she reiterated in her subsequent motions of September 24, 1976, November 8, 1976 and September 13, 1977.

With this denouement in the circumstances of this case after the same was submitted for Our decision, it has become unnecessary for Us to pass on the claims of petitioner to (1) reinstatement, (2) back salaries and other emoluments due her by virtue of her office and (3) reimbursement of all expenses actually incurred by her in connection with this case. Respondents have already committed themselves to accede to her prayer in these respects, thus:

"Your respondents hereby respectfully submit that it is no longer necessary for the petitioner to pray to this Honorable Tribunal that judgment be rendered ordering respondents to:

'1. Restore your petitioner movant to her former position;

'2. Pay your petitioner movant her back salaries and other emoluments due her by virtue of the position;

'3. Reimburse your petitioner movant the expenses actually incurred in connection with the case, including attorney's fees;'

because the respondents, though without admitting the validity of the cause of action of the petitioner, have already voluntarily and freely expressed their absolute and unqualified willingness and ability to comply with those demands of petitioner, as respondents have expressed in the Administrative Order No. 6 dated May 12, 1975 and in their Manifestation dated May 22, 1975 wherein they further unconditionally committed themselves that petitioner can return to work any time without waiting for any resolution of this Honorable Tribunal. That which is already being voluntarily complied with need not be ordered anymore." (Manifestation and Comment of respondents dated November 12, 1976.)

In the same Manifestation and Comment just partially quoted, however, respondents pleaded as follows:

"However, because of the unexplained failure of petitioner to report back to work pursuant to Administrative

Order No. 6, the herein respondent bank's commitment to pay back salaries and allowances, we beg leave, should be confined and limited to the period from October 16, 1972 (date of her dismissal) up to only some reasonable time from May 12, 1975 when Administrative Order No. 6 was issued.

"Thus, the only issue left for determination and resolution of this Honorable Tribunal is whether or not the respondent is still liable for moral or exemplary damages despite respondents' voluntary action to reinstate petitioner and pay her back salaries, allowances and actual damages. As regards this issue, both petitioner and respondents are in unison in moving that this Honorable Tribunal resolve the said issue without remanding the case to the court of origin. The willingness and voluntary action of respondent Bank to reinstate petitioner, to pay all back salaries and allowances and actual expenses incurred by petitioner, we beg leave of this Honorable Tribunal to be considered in the determination and passing judgment upon the petitioner's claim for moral and/or exemplary damages.

"In this connection the respondents Bank and Esteban B. Cabanos profess good faith as they were impelled not by ill-will nor personal malice, but only by their ultimate purpose to serve the best interest of the Bank and the Goals of the New Dispensation and the Program of Reform in and out of the Government service.

"WHEREFORE, the herein represented respondents move for the early resolution of the instant case without further remanding the same to the court of origin and in the consideration of the facts and law applicable to the instant case, herein respondents further respectfully pray that this Honorable Tribunal take into account the honest and sincere gesture of the respondents in issuing Administrative Order No. 6 dated May 12, 1975 in clear manifestation of their desire to promote industrial peace, to reassure labor of the fairness of management in the respondent Philippine Veterans Bank.

"Herein respondents also pray that no award of moral and exemplary damages be imposed against them."

In the factual premises just stated, We do not believe petitioner is entitled to more than what respondents are willing to concede. For a moment some members of the Court entertained the thought of awarding her moral and exemplary damages plus attorney's fees. On further reflection, however, the Court has come to the unanimous conclusion that petitioner's reaction to the well taken decision of respondents to rectify whatever legal injury had been caused her by her dismissal, that indeed appears to be rather precipitate, does not conform with law and justice. It is Our considered view that upon receipt of the above-quoted memorandum of May 12, 1975 and, particularly, the manifestation of respondents of May 22, 1975, which were duly served on her counsel, it became the inescapable duty of petitioner to immediately report for work without having to wait for Our final action. Indeed, by her posture of obstinacy in refusing to report for duty after respondent insistently reiterated their conformity, in their Manifestation and Comment of November 12, 1976 above referred to and partly quoted, to her demand for reinstatement, payment of back salaries and all incidental expenses, she lost every ground of fairness and equity she might have initially had as a result of her abrupt separation from the service. As may be observed, respondents' order of reinstatement and formal tender of her back salaries and expenses was expressly subject to the ultimate outcome of this case. There was, therefore, nothing anymore that petitioner could risk by immediately reporting for work, insofar as her right to relief in law is concerned. All she could be entitled to could not have been more securely safeguarded. Under these circumstances, We have no alternative than to hold that she has deprived herself of legal and equitable basis for the additional relief of moral and exemplary damages.

The unbending rule of jurisprudence in this jurisdiction regarding the right of an employee or worker to reinstatement after an unlawful dismissal does not permit him or her to stand idly by for a long time while awaiting the settlement of the issue. Concomitant with the right to be taken back is the obligation of the dismissed employee or worker to endeavor to secure gainful employment elsewhere. The foundation of such a rule is the principle of no work, no pay. In this particular case, petitioner's failure to report for duty as directed might have impaired the public service being performed by her employer, considering that her expected return must have derailed any plans for her replacement.

Besides, the law on damages imposes upon the claimant, regardless of the unquestionability of his or her entitlement thereto, to minimize the same as much as possible. Such indeed is the demand of equity, for the juridical concept of damages is nothing more than to repair what has been lost materially and morally. It may not be taken advantage of to allow unjust enrichment. Any relevant act of unfairness on the part of the claimant correspondingly writes off the moral wrong involved in the juridical injury inflicted upon him or her.

WHEREFORE, the respondent court's order of September 3, 1974 is hereby declared null and void and set aside, and Civil Case No. 94986 is deemed terminated in accordance with the terms of this decision. The Court further rules that petitioner should report for work within thirty (30) days from service of this decision upon her counsel of record, on pain of her losing her job, if she fails to do so. Respondents' tender of her back salaries and expenses in accordance with their manifestations before the Court of May 22, 1975 and November 12, 1976 is declared well taken, and whether or not petitioner returns for work as herein indicated, she should be paid what she has been promised which, for clarity, We hold includes (a) payment of petitioner's back salaries from October 16, 1972, the date of her dismissal, up to one month or thirty (30) days after her counsel's receipt of the respondents' Manifestation and Comment of November 12, 1976 above referred to and (b) reimbursement of her expenses actually incurred in connection with this case, including attorney's fees equivalent to ten (10) per centum of the amount of total recovery as herein allowed.[2]

No costs.

Castro, C.J., Fernando, Antonio, Muñoz Palma, Aquino, Concepcion, Jr., Santos, Fernandez, and Guerrero, JJ., concur.

Teehankee, J., concurs separate opinion.

Makasiar, J., dissents separate opinion.

[1] Which extended the injunction of General Order No. 3 to cases involving the validity of the martial law proclamation itself.

[2] On the basis of her last salary as indicated in Annex 4 of respondents' Compliance and Manifestation dated February 10, 1975, which is Three Hundred Forty (P340.00) Pesos a month or Four Thousand Eighty (P4,080) Pesos, per annum, and considering that there are exactly four (4) years and two (2) months from October 12, 1972, the date of her dismissal up to December 12, 1975, which is one month after respondents' manifestation of November 12, 1976, the total back salaries due petitioner would amount to slightly more or less P17,000. The amount of the actual expenses may be threshed out by the parties in the most reasonable and expeditious manner that will avoid further litigation between them or recourse to this Court by any of them.

SEPARATE CONCURRING OPINION

TEEHANKEE, J.:

I concur. The case at bar graphically portrays the grave injustice inflicted upon government employees who have been summarily dismissed "for being notoriously undersirable" when in truth and in fact their record shows the contrary. It is to the credit of respondent Cabanos, as president of respondent bank, that he ordered her immediate reinstatement upon realizing petitioner's high efficiency record, when she sought redress with this Court.

The interests of substantial and expeditious justice justify the Court's disposition of the case on the merits, aside from the fact that respondents have in effect confessed judgment, with their manifestation that they had already voluntarily ordered the reinstatement of petitioner with the payment of back salaries and expenses actually incurred in the case, including attorney's fees.

The Court's judgment is however, incomplete, insofar as it directs that she be reimbursed her actual litigation expenses without determination of such amount, since no trial was held in the lower court which had wrongly dismissed her complaint. The judgment's footnote expresses the expectation that "(T)he amount of the actual expenses may be threshed out by the parties in the most reasonable and expeditious manner that will avoid further litigation between them or recourse to this Court by any of them." The judgment should, however, fully dispose of the controversy. In my view, the judgment should provide for the remand of the case to the lower court only for the purpose of fixing and determining the amount of such actual litigation expenses, without prejudice to the parties coming to an agreement as to a mutually acceptable amount to be paid to petitioner by way of reimbursement.

SEPARATE DISSENTING OPINION

MAKASIAR, J.:

1. Despite the order for her to return or for her reinstatement dated May 12, 1975 without prejudice to the outcome of this case, petitioner did not return for about three years, insisting that this case should first be decided. Such an arrogant attitude is unreasonable and amounts to abandonment of her office or position. Hence, she should not be reinstated. Mandamus to compel reinstatement can only prosper if filed within one (1) year from the accrual of the cause of action. She did not work since she received the order for her reinstatement. Consequently, she is not entitled to back salary, even if reinstated, much less to moral and exemplary damages since there is no proof of bad faith on the part of the respondent Bank and bank president. To pay her back salaries, damages and attorney's fees would be immoral and reprehensible under the circumstances.

The Philippine Veterans Bank is an agency or instrumentality of the government; because only government corporations can be created by special law (Sec. 7, Art. XIV, 1935 Constitution; Sec. 4, Art. XIV, 1973 Constitution). The Philippine Veterans Bank exists by virtue of a special charter, Republic Act No. 3518. Emphasizing that it is a government agency is the fact that her case was raised to the Office of the President. Moreover, it is funded or subsidized by the State (Sec. 3[b], Rep. Act No. 3518).

2. The case should at most be remanded to the trial court for reception of evidence on her efficiency as well as on the charge that she is not cooperative, has poor public relations, and cannot get along with her co-employees and other persons, in order to determine whether she is really notoriously undesirable.

With respect to her efficiency rating, she could be a favorite of her superiors.

If it is true that petitioner, a pharmacist, was appointed bookkeeper, this may demonstrate illegal discrimination in her favor from the start; because of the existence in Manila of many eligibles due to the numerous commerce and business administration graduates who are more qualified since they have more bookkeeping and accounting units or subjects. There are many of these more competent unemployed walking the streets. The function of a bookkeeper in a bank is delicate; any error may result in a serious prejudice to the bank, to its clients or customers and shareholders or any other person dealing with the bank.

For a considerable period of time after her appointment, petitioner must have been trained - for free - for her bookkeeping duties during which time she was being paid her salary.

3. The fact that respondents offered to pay her back wages and expenses pursuant to the manifestations of May 22, 1975 and November 12, 1976, cannot be considered estoppel against the respondent Bank; because there is no estoppel against the government that can be generated by the unauthorized acts of its officers. The funds which are in the custody of the bank do not belong to its officers. As heretofore stated, initially, the bank was capitalized by the government (Sec. 3[b], R.A. 3518). Such funds can only be disposed of by the Bank for its lawful obligations.

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