GREGORIO GELITO, ALEX[] REYES, NARCISO TAN AND ERNAN MALALUAN, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, HON. ELIAS H. SALINAS, IN HIS CAPACITY AS LABOR ARBITER, AND...

Ponente: BATO, JR., J.

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BATO, JR., J.:

Before this Court is a petition for certiorari[1] filed under Rule 65 of the Rules of Court, assailing the following issuances of the National Labor Relations Commission (NLRC) in NLRC LER Case No. 10-216-12: 1) 07 December 2012 Resolution[2] which denied petitioners' Motion to Dismiss; 2) 31 January 2013 Resolution[3] which denied their Motion for Reconsideration; and 3) 27 February 2013 Decision[4] which gave due course to private respondent's petition questioning the computation of petitioners' backwages.

Claiming that they were illegally dismissed, petitioners Gregorio Gelito, Alex Reyes, Narciso Tan and Ernan Malaluan filed a Complaint for illegal dismissal against private respondent Monde M.Y. San Corporation. Their complaint was however dismissed by the Labor Arbiter on 25 November 2008. Said dismissal was affirmed by the NLRC in its Decision dated 20 July 2009.

Undeterred, petitioners filed a petition for certiorari with this Court. By a Decision dated 09 November 2010, this Court's Special Seventeenth (17th) Division reversed the NLRC's Decision. The dispositive portion of said decision reads:

> "WHEREFORE, in view of the foregoing premises, judgment is hereby rendered, by us GRANTING the instant petition. The Resolution issued by the Second Division of the National Labor Relations Commission dated July 20, 2009 and September 29, 2009 in NLRC NCR 05-07586-08 are hereby REVERSED and SET ASIDE. Petitioners are hereby awarded full backwages and other allowances, without qualifications and diminutions, computed from the time when they were illegally dismissed up to the time when they are actually reinstated. Let this case be remanded to the Labor Arbiter for proper computation of the full backwages due respondents, in accordance with Article 279 of the Labor Code, as expeditiously as possible.
>
> SO ORDERED."[5]

Both parties filed their respective motions for reconsideration which were resolved by this Court's Special 17th Division via a Resolution[6] dated 18 May 2011, as follows:

> "WHEREFORE, in view of the foregoing premises, the Motion for Partial Reconsideration filed by the petitioners is hereby PARTIALLY GRANTED. The petitioners are hereby declared illegally dismissed and private respondent Monde M.Y. San Corporation is thereby directed to reinstate them to their former positions without loss of seniority rights and other privileges. Petitioners, in addition to full backwages and other allowances, are hereby awarded other benefits to which they are entitled to, or their monetary equivalent, computed from the time when they were illegally dismissed up to the time when they are actually reinstated. Petitioners are further awarded attorney's fees equivalent to ten percent (10%) of the total monetary award. All

> other dispositions in our said November 9, 2010 Decision are hereby AFFIRMED. Consequently, the motion for reconsideration filed by the private respondent in this case is hereby DENIED.
>
> SO ORDERED."[7]

Private respondent sought relief before the Supreme Court but the latter found no reversible error on the part of this Court's Special 17th Division, per its Minute Resolution promulgated on 22 August 2011. Private respondent's Motion for Reconsideration thereto was likewise denied by the Supreme Court in a Resolution dated 19 October 2011. The latter Resolution became final and executory on 20 December 2011.

On 16 February 2012, petitioners filed a Motion for Computation of Award before the NLRC. After the parties were directed to file their comment to the computation of the monetary awards done by the Examination and Computation Unit of the NLRC, the Labor Arbiter approved said computation in an Order[8] dated 15 August 2012, viz.:

> "Consequently, let a writ of execution issue directing the Sheriff to collect from the respondent the following monetary awards due to the complainants, to wit:

1. GREGORIO GELITO

P1,186,247.98

2. ALEXANDER REYES

P1,186,247.98

3. NARCISO TAN

P1,031,809.98

4.

ERNAN MALALUAN

P 996,165.74

PLUS 10% ATTORNEY'S FEES

P 442,917.17

TOTAL AWARD

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P4,843,388.85

> WHEREFORE, premises considered, let a writ of execution issue to collect the sum of P4,843,338.85 from the respondent MY San Corporation by way of enforcing the May 18, 2011 Resolution of the Court of Appeals.
>
> SO ORDERED."[9]

Claiming that the computation of petitioners' backwages included items which should not have been included, private respondent filed with the NLRC a petition[10] pursuant to Rule XII[11] of the 2011 NLRC Rules of Procedure, to modify the 15 August 2012 Order of the Labor Arbiter. The petition was captioned as "Petition with Application for the Issuance of Writ of Preliminary Injunction."

Petitioners filed a Motion to Dismiss[12] private respondent's petition. They argued that the petition's verification and certification against non-forum shopping[13] was signed by Keng Sun Mar, private respondent's General Manager, who is not a real party in interest and not duly authorized by a board resolution. Moreover, they alleged that the petition's verification is fatally defective since King Sun Mar did not certify under oath that the contents of the petition are true and correct of his own personal knowledge or based on authentic documents, but merely certified that it is "of my own knowledge."

In the assailed 07 December 2012 Resolution,[14] the NLRC denied petitioners' motion to dismiss. The NLRC ruled that the private respondent's petition substantially complied with the NLRC Rules of Procedure.

Petitioners' motion for reconsideration was likewise denied by the NLRC in its Resolution[15] promulgated on 31 January 2013.

Considering that no temporary restraining order was issued by the NLRC while private respondent's petition questioning the computation of petitioners' backwages was pending before it, the Labor Arbiter issued a Writ of Execution[16] on 20 November 2012, to enforce the Court of Appeals' 18 May 2011 Resolution. Pursuant to the above writ, the NLRC Sheriff garnished private respondent's funds in Metrobank amounting to Php4,891,268.85 and deposited it to the NLRC Cashier on 12 December 2012. By an Order dated 07 January 2013, the Labor Arbiter granted petitioners' motion to release the garnished amount. Petitioners received their respective monetary awards on 11 January 2013.

Thus, when the NLRC promulgated its Decision[17] on 27 February 2013 giving due course to the private respondent's "Petition with Application for the Issuance of Writ of Preliminary Injunction," petitioners had already received their monetary awards. In its 27 February 2013 Decision, the NLRC ruled that the computation of petitioners' backwages and other benefits should be at the rate at the time of their dismissal, without taking into account any salary increase, much less CBA benefits. The dispositive portion of said Decision reads:

> "WHEREFORE, premises considered, the assailed Order dated 15 August 2012, including any writ of execution issued pursuant to said Order, is hereby NULLIFIED and SET ASIDE for lack of any legal basis. The Labor Arbiter is ordered to recompute the awards of private respondents in accordance with the foregoing dispositions and correspondingly issue the writ of execution.
>
> SO ORDERED."[18]

Aggrieved, petitioners filed the instant petition for certiorari, raising the following issues for our resolution:

> "I. RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DENIED PETITIONERS' (RESPONDENTS, A QUO) MOTION TO DISMISS BY RESOLVING THE MOTION BASED ONLY ON ONE GROUND DESPITE THE FACT THAT TWO GROUNDS WERE RAISED IN THE MOTION

> II. RESPONDENT NLRC COMMITED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN THE NLRC DENIED PRTITIONERS' (sic), (RESPONDENTS A QUO) MOTION FOR RECONSIDERATION OF THE RESOLUTION DENYING THE MOTION TO DISMISS INVOKING THE SECOND GROUND RAISED IN THE MOTION TO DISMISS TO THE EFFECT THAT THE VERIFICATION IS FATALLY DEFECTIVE FOR FAILURE TO COMPLY WITH THE REQUIREMENTS FOR VERIFICATION AS PROVIDED IN THE RULES OF COURT DESPITE THE FACT THAT IT WAS NOT PASSED UPON IN THE RESOLUTION OF THE MOTION TO DISMISS.
>
> III. RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTINGTO (sic) LACK OF OR IN EXCESS OF JURISDICTION IN GRANTING PRIVATE RESPONDENT'S PETITION DESPITE THE FACT THAT THE ISSUE HAS ALREADY BEEN RENDERED MOOT AND ACADEMIC WHEN THE AWARD GRANTED IN FAVOR OF PETITIONERS' (RESPONDENTS, A QUO) PURSUANT TO THE COMPUTATION PREPARED AND SUBMITTED BY THE FISCAL EXAMINER OF THE NLRC AND DULY APPROVED BY RESPONDENT ARBITER WAS FULLY SATISFIED THRU THE IMPLEMENTATION OF THE WRIT OF EXECUTION."[19]

As defined by jurisprudence, grave abuse of discretion means such capricious and arbitrary exercise of judgment as is equivalent, in the eyes of the law, to lack of jurisdiction.[20] There is grave abuse of discretion where the power is exercised in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility amounting 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.[21] Through time, the meaning of grave abuse of discretion has been expanded to include any action done contrary to the constitution, the law or jurisprudence.[22]

Premised on the foregoing, we find no grave abuse of discretion on the part of the NLRC.

Anent the first ground, petitioners insist that the verification and certification against forum shopping signed by Keng Sun Mar, private respondent's General Manager, should not have been considered by the NLRC. Private respondent, on the other hand, argues that the NLRC correctly denied petitioners' motion to dismiss since the Supreme Court, in a number of cases, has allowed petitions with verifications signed by officers of the corporation even if they were not named as parties and even if there were no board resolutions authorizing them to sign verifications on behalf of the corporation.

Private respondent's contention must be sustained. The issue anent the validity of the verification and certification against forum shopping signed by a corporate officer without a board resolution is not a novel one. In Pasos vs. Philippine National Construction Corporation,[23] the Supreme Court upheld the validity of the verification and certification signed by a corporate officer sans a board resolution or secretary's certificate, to wit:

> "It has been the constant holding of this Court in cases instituted by corporations that an individual corporate officer cannot exercise any corporate power pertaining to the corporation without authority from the board of directors pursuant to Section 23, in relation to Section 25 of the Corporation Code which clearly enunciates that all corporate powers are exercised, all business conducted, and all properties controlled by the board of directors. However, we have in many cases recognized the authority of some corporate officers to sign the verification and certification against forum-shopping. Some of these cases were enumerated in Cagayan Valley Drug Corporation v. Commissioner of Internal Revenue which was cited by the appellate court:
>
> In Mactan-Cebu International Airport Authority v. CA, we recognized the authority of a general manager or acting general manager to sign the verification and certificate against forum shopping; in Pfizer v. Galan, we upheld the validity of a verification signed by an "employment specialist" who had not even presented any proof of her authority to represent the company; in Novelty Philippines, Inc. v. CA, we ruled that a personnel officer who signed the petition but did not attach the authority from the company is authorized to sign the verification and non-forum shopping certificate; and in Lepanto Consolidated Mining Company v. WMC

> Resources International Pty. Ltd. (Lepanto), we ruled that the Chairperson of the Board and President of the Company can sign the verification and certificate against non-forum shopping even without the submission of the board's authorization.

x x x

x x x

x x x

> While we agree with petitioner that in Cagayan Valley, the requisite board resolution was submitted though belatedly unlike in the instant case, this Court still recognizes the authority of Mr. Erece, Jr. to sign the verification and certification on behalf of PNCC sans a board resolution or secretary's certificate as we have allowed in Pfizer, Inc. v. Galan, one of the cases cited in Cagayan Valley. In Pfizer, the Court ruled as valid the verification signed by an employment specialist as she was in a position to verify the truthfulness and correctness of the allegations in the petition despite the fact that no board resolution authorizing her was ever submitted by Pfizer, Inc. even belatedly. We believe that like the employment specialist in Pfizer, Mr. Erece, Jr. too, as head of the Personnel Services Department of PNCC, was in a position to assure that the allegations in the pleading have been prepared in good faith and are true and correct."

On the second issue, petitioners maintain that the wordings of the verification signed by the private respondent's manager do not conform to Section 4, Rule 7[24] of the Rules of Court.

Assuming arguendo that the verification submitted by the private respondent is defective, it would still be improper to nullify the assailed issuances of the NLRC on a mere technicality. It is well settled that the application of technical rules of procedure in labor cases may be relaxed to serve the demands of substantial justice.[25] As exemplified in Art. 221 of the Labor Code, "the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process."

The requirement regarding verification of a pleading is formal, not jurisdictional. It is simply intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith.[26] Non-compliance therewith or a defect therein does not necessarily render the pleading fatally defective. The court may order its submission or correction or act on the pleading if the attending circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby.[27]

With regard to the third issue, petitioners contend that the assailed NLRC Decision is already moot and academic since the writ of execution issued by the Labor Arbiter had been enforced and executed before the NLRC could rule on private respondent's petition. Private respondent counters that the execution of an award based on an erroneous computation will never bar the correction of a wrong computation.

This Court agrees with the private respondent.

An issue is considered moot and academic when it ceases to present a justiciable controversy so that a declaration thereon would be of no practical use or value. In such a case, no actual substantial relief to which a party would be entitled to and would be negated.[28] Under the moot and academic doctrine, the Courts will abstain from expressing its opinion or resolving the case if no legal relief is needed or called for.[29]

In the present case, the fact that the petitioners have already received their money claims based on the erroneous computation did not render moot and academic private respondent's petition. The parties could still be afforded appropriate relief even if the writ of execution had been enforced. To rule that the petition filed by the private

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respondent with the NLRC had been mooted by enforcement of the writ of execution would be tantamount to injustice and unjust enrichment.

Private respondent's cited cases, Christina Literature Crusade vs. NLRC[30] and Islriz Trading vs. Capada, et al. vs. NLRC,[31] are indeed enlightening. In the Christina Literature Crusade case, despite the fact that the illegally dismissed employee had already received her backwages based on an erroneous computation, the Supreme Court ordered said employee to refund to her employer the excess amount. In the same manner, despite the fact that the writ of execution in the Islriz Trading case was already enforced and the employees therein already received their respective monetary awards based on the erroneous computation approved by the Labor Arbiter, the Supreme Court ordered the records of that case to be remanded to the Labor Arbiter for the correct computation of the employees' accrued salaries and the latter were ordered to make the proper restitution to their employer for whatever excess amount which may be determined to have been received by them based on the correct computation.

WHEREFORE, the present petition for certiorari is DENIED. The 07 December 2012 Resolution, 31 January 2013 Resolution and 27 February 2013 Decision, all issued by the NLRC are hereby AFFIRMED. Moreover, petitioners are ordered to make the proper restitution to the private respondent for whatever excess amount which may be determined to have been received by them based on the new computation to be made by the Labor Arbiter.

SO ORDERED.

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Zalameda, and Diy, JJ., concur.

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[*] Also referred to as "Alexander" in some pleadings.

[1] Rollo, pp. 3-17.

[2] Id., pp. 26-30.

[3] Id., p. 31.

[4] Id., pp. 19-25.

[5] As quoted in the Writ of Execution, p. 2; Rollo, p. 65.

[6] Rollo, pp. 48-52.

[7] Resolution, p. 4; Rollo, p. 51.

[8] Rollo, pp. 42-47.

[9] Order, p. 5-6; Rollo, pp. 46-47.

[10] Rollo, pp. 33-40.

[11] RULE XII (EXTRAORDINARY REMEDIES)

> SECTION 1. VERIFIED PETITION. – A party aggrieved by any order or resolution of the Labor Arbiter including those issued during execution proceedings may file a verified petition to annul or modify such or order or resolution. The petition may be accompanied by an application for the issuance of a temporary restraining order and/or writ of preliminary or permanent injunction to enjoin the Labor Arbiter, or any person acting under his/her authority, to desist from enforcing said resolution or order.

[12] Rollo, pp. 53-57.

[13] Id., p. 41.

[14] Supra, at note 2.

[15] Supra, at note 3.

[16] Rollo, pp. 64-68.

[17] Supra, at note 4.

[18]Decision, p. 6; Rollo, p. 24.

[19] Petition, pp. 6-7; Rollo, pp. 8-9.

[20] Vda. De Bacaling vs. Laguna, 54 SCRA 243, p. 251 [1973]; Bacelonia vs. CA, 397 SCRA 286, p. 291 [2003].

[21] Cuison vs. CA, 289 SCRA 159, p. 171 [1998]; Benito vs. COMELEC, 349 SCRA 705, p. 712 [2001].

[22] Republic vs. Cocofed, 372 SCRA 462, p. 493 [2001].

[23] G.R. No. 192394, July 3, 2013.

[24] Sec. 4. Verification. - Except when otherwise specifically required by law or rule, pleadings need not be under oath, verified or accompanied by affidavit.

A pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records.

A pleading required to be verified which contains a verification based on “information and belief” or upon “knowledge, information and belief” or lacks a proper verification, shall be treated as an unsigned pleading.

[25] El Toro Security Agency vs. NLRC, G.R. No. 114308, April 18, 1996.

[26] Pacquing vs. Coca-Cola Philippines, Inc., G.R. No. 157966, January 31, 2008.

[27] Altres vs. Empleo, G.R. No. 180986, December 11, 2008 .

[28] Southeast Asia Manufacturing Corporation vs. The Municipal Council of Tagbilaran, No. L-23858, November 21, 1979.

[29] Desaville vs. CA, G.R. No. 128310, August 13, 2004.

[30] G.R. No. 79106, April 10, 1989.

[31] G.R. No. 168501, January 31, 2011.

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