

**FAR EAST REALTY INVESTMENT, INC., WILLIAM LI YAO AND
GENERAL MANAGER (OF FAR EAST REALTY INVESTMENT, INC.),
PETITIONERS, VS. HON. COURT OF INDUSTRIAL RELATIONS AND
RICARDO GRANA...**

G.R. No. L-37974. April 15, 1988

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for review of the order of the de-funct Court of Industrial Relations (CIR, for short) dated 2 November 1973, denying petitioners' motion to quash execution and its resolution dated 11 December 1973 denying petitioners' motion for reconsideration thereof, in Case No. 2330-V entitled "Ricardo Granada versus Far East Realty Investment, Inc., et al.". The petition likewise seeks to permanently enjoin the respondents from implementing the writ of execution dated 10 October 1973 issued in the same case.

In Case No. 3920-ULP entitled "International Labor and Marine Union of the Philippines vs. William Liyao and Manuel T. Villa, et al." the CIR rendered a decision, dated 3 March 1966, ordering the respondents therein to reinstate Ricardo Granada and to pay him backwages from the date of his dismissal up to his actual reinstatement. The decision was affirmed, on appeal, by this Court in its resolution dated 28 March 1968, issued in G.R. No. L-28828. A writ of execution was subsequently issued. Pursuant thereto, petitioners herein paid respondent Granada the total sum of P5,628.00 representing backwages from 30 September 1963 to 12 August 1967, the latter date being the actual date of reinstatement, as determined by the CIR in its order dated 5 March 1970. In addition, respondent Granada received from petitioners the sum of P2,000.00 as agreed to by them in a Compromise Agreement.

On 22 December 1966, or while Case No. 3920-ULP was still pending, respondent Granada filed Case No. 2330-V against petitioners for wage differential and Sunday and legal holiday pay. Respondent Granada alleged that at the time of his dismissal, he was receiving a salary of P4.00 a day and that, on 21 April 1965, the New Minimum Wage Law took effect, raising the daily floor wage to P6.00 a day[1].

On 15 February 1971, in Case No. 2330-V, the CIR issued an order directing the petitioners to pay respondent Granada wage differential pay from 21 April 1965 to 30 July 1969 and extra pay for Sundays and Holidays from 16 September 1963 to 30 July 1969, in the sum of P3,642.00[2].

Petitioners appealed to this Court, by way of a Petition for Certiorari and Prohibition with Preliminary Injunction. The petition was denied for having been filed out of time[3].

On 10 October 1973, the CIR issued a writ of execution[4] pursuant to its order dated 15 February 1971. Petitioners filed an Urgent Motion to Quash Execution[5]. This was denied by the court a quo in its order dated 2 November 1973[6]. Likewise, the Motion for Reconsideration of said order, filed by petitioners, was denied by the same court in its resolution dated 11 December 1973[7].

Hence, the instant petition for review.

The petition is untenable. It is not disputed that the order of the CIR dated 15 February 1971, from which the order for the issuance of a writ of execution dated 10 October 1973 stemmed, had long become final. As admitted by the petitioners, said order was appealed by them to this Court, which appeal was, however, denied by the Court en banc for having been filed late[8]. The court a quo, thus, could not be faulted for having issued the assailed orders on the belief that "the order of the trial court dated 15 February 1971 which is the subject of the present case has long become final"[9]. Fundamental is the rule that a court cannot refuse to issue a writ of execution upon a final and executory judgment, its duty therein being ministerial, except when certain facts and circumstances transpire or supervene after the judgment has become final which could render the execution of the judgment unjust[10], or where the order of execution in the opinion of the defeated party varies the terms of the judgment and does not conform to the essence thereof or when the terms of the judgment are not clear and there is room for interpretation and the interpretation given by the trial court, as contained in its order of execution, is wrong in the opinion of the defeated party[11].

Such exceptions are absent in the case at bar. Thus, since the present case does not fall within said exceptions, the general rule applies that an order of execution of a final and executory judgment is not appealable[12].

Herein petitioners argue that the CIR acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction in taking cognizance of Case No. 2330-V and in issuing the questioned orders of 2 November 1973 and 11 December 1973, because Case No. 3920-ULP which was already a closed and terminated case, cannot be resurrected by Case No. 2330-V; that the order of 15 February 1971 signed by Judge Martinez (in Case No. 2330-V) contravenes the order of 5 March 1970 signed by Judge Bugayong (in Case No. 3920-ULP); and that the court a quo had no jurisdiction to issue the writ of execution dated 10 October 1973 which was based on a judgment which the court had no jurisdiction to render as: a) there is no employer-employee relationship whatsoever between petitioners and respondent Granada in Case No. 2330-V; b) private respondent never sought reinstatement c) the demand for differential pay did not involve an actual strike; and d) the differential wage claimed was not above the applicable statutory minimum[13]. These grounds, which petitioners also cited in their Motion to Quash Execution, are not proper grounds in a motion to quash execution or in the present petition. These grounds are plausible grounds for an appeal, a remedy which petitioners tried to avail of but failed to succeed in. Besides, Case No. 3920-ULP and Case No. 2330-V are founded on different causes of action.

WHEREFORE, the petition is DISMISSED. Petitioners are hereby ordered to pay respondent Ricardo Granada the sum of P3,642.00 with interest at 12% per annum from 10 October 1973 until payment is fully made. This decision is immediately executory. With costs against the petitioners.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Paras, and Sarmiento, JJ., concur.

[1] Rollo, pp. 33-35

[2] Rollo, p. 39

[3] Rollo, p. 42

[4] Petition, p. 6

[5] Annexes E & F, Rollo, pp. 38;52

[6] Rollo, p. 59

[7] Rollo, p. 74

[8] Rollo, p. 53

[9] Annex G, Rollo, p. 59

[10] Cabrias vs. Adil, 135 SCRA 354; 360; Service Specialists Incorporated vs. Sheriff of Manila, 145 SCRA 139, 150

[11] De Guzman vs. CA, 137 SCRA 730; 736

[12] Id. p. 736

[13] Petition, pp. 9-10

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