

DY PAC PAKIAO WORKERS UNION, PETITIONER, VS. DY PAC AND COMPANY, INC., ALFONSO SANTOS SORIANO AND COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G.R. No. L-27377. March 31, 1971

Ponente: CASTRO, J.

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CASTRO, J.:

On January 30, 1961, the respondents Dy Pac & Company, Inc. and Alfonso Santos Soriano were adjudged guilty of unfair labor practice by the respondent Court of Industrial Relations and were consequently ordered to pay certain workers, all members of the petitioner Dy Pac Pakiao Workers Union, backwages from the date of their unjust dismissal to the date of the finality of the CIR's decision, without, however, the benefit of reinstatement. Both the Company and the Union moved for reconsideration of this decision, but their motions were denied. On appeal by the respondent Company, this Court, in *Dy Pac & Company vs. CIR and Dy Pac Pakiao Workers Union*, L-18460,[1] affirmed the CIR decision in its entirety.

Upon this Court's decision becoming final and executory on December 1, 1962, the Union moved in the CIR for computation of the backwages awarded to its members. The motion was granted. On January 30, 1963, the chief examiner of the CIR turned in his assessment of backwages based principally on the time records and payrolls pertaining to the affected workers for the period from August 25 to November 3, 1956 -- the only records then extant and available for the purpose. According to the chief examiner's report, the backwages covering the period from January 20, 1957 (the date when the workers ceased in their employment) to December 1, 1962 (date of the finality of the decision of this Court) amounted to a total of P65,122.59 corresponding to 17 of the 19 workers listed as complainants in exhibit I, page of the original records. Two workers, Floro Asada and Percival Echaluze, were not included in the computation due to the absence of their names in the time records and payrolls made available by the Company.

The parties filed their oppositions to the report. On November 9, 1966, after evaluating the evidence adduced and hearing the arguments of the oppositors, the CIR, through Judge Joaquin Salvador, issued an order approving the chief examiner's report on the whole, and ordering the inclusion of Percival Echaluze among the workers entitled to backwages. Floro Asada remained excluded, however, due allegedly to the absence of a sufficient basis for his inclusion. Both the Company and the Union took exception to this ruling, and moved for modification thereof.

On January 28, 1967, after hearing duly had, the CIR en banc passed a resolution, concurred in by three of its judges, with the two others not taking part, modifying the order of November 9, 1966. The award was thereby drastically reduced to only six months of backwages, the first three months corresponding to the time when the old carro of the Company was operating without the workers involved in this case, and the next three corresponding to an arbitrary period during which the same workers would have, "in all probability," found some other employment following the complete stoppage of the operations of the old carro. The resolution of the CIR en banc also contained an order for the inclusion of Floro Asada upon a finding that, the latter was employed at

the old carro during the time involved in this case but happened to be on sick leave when the pertinent time records and payrolls were prepared. The name of Percival Echaluze was, however, caused to be excluded due to its non-appearance in the same time records and payrolls.

The Union has come to this Court on a special civil action of certiorari questioning the authority of the CIR en banc to render its resolution of January 28, 1967.

The two issues posed for resolution we shall discuss in seriatim.

1. The dispositive portion of the original decision of January 30, 1961, rendered by the CIR through Judge Jose Bautista, reads:

"IN VIEW OF ALL THE FOREGOING CONSIDERATIONS, the respondents are hereby ordered to pay immediately the backwages of the complainant workers, from the date of the stoppage of work in the old carro up to the time when this decision shall become final and executory, without reinstatement."

Subsequently, the CIR en banc, through a resolution also penned by Judge Bautista, denied the motions for reconsideration filed by both the Union and the Company. This resolution, dated March 23, 1961, stated:

"Respondents moved for new trial and the reconsideration of the decision of this Court dated January 30, 1961; while complainant, in its motion for reconsideration, prayed that said decision be modified in the sense that the company should also be ordered to reinstate the workers in addition to the payment of their back wages.

"After a careful examination of the evidence of the parties, together with the reasons given in the motions for reconsideration, we find respondents' reasons for new trial and reconsideration of the decision of this Court of January 30, 1961 without merit. Complainant's motion for reconsideration also cannot be entertained because there is no operation in the old carro. The operation of the old carro depends upon a filer who could make the bunch of crates function smoothly. When Alfonso Santos Soriano abandoned the work, the work was stopped. Then his son, Alfredo Santos Soriano took over, but he had to quit because he was not a competent filer. To reinstate the workers concerned when there is no work to be done would be injustice to the company, because management would be forced to give salaries to the workers even if they have nothing to do. It should be noted that the punishment which this Court imposes upon any erring party is remedial and not punitive in character.

"WHEREFORE, all motions for reconsideration should be, as they are hereby, DENIED."

On appeal to this Court by the Company, we decided the case (L-18460, supra) with the following dispositive statement: "WHEREFORE, the decision appealed from is hereby affirmed with costs against the appellant."

The CIR en banc, in now constricting the coverage of the backwages due to the workers from 5 years and 10 month plus to only 6 months, relied heavily on the argument that since the work at the old carro had been permanently stopped after March 2, 1958 due to the non-availability of a qualified filer, the workers involved could not have been reinstated to their former jobs. The CIR en banc thus concluded that whatever backwages these workers were entitled to should not extend beyond the time when, had they been reinstated, they would have nevertheless ceased working due to the legitimate shutting up of the carro.

This Court will not dwell on the validity of the legal proposition that "backwages should not extend beyond the date of closure of business where such closure was due to legitimate business reasons and not merely to an attempt to defeat the order for reinstatement." [2] Without determining whether or not this precept applies to the peculiar circumstances of the present case, it is our considered view that the CIR en banc acted in excess of its jurisdiction when it delimited, as it did, the workers' right to the recovery of backwages as originally adjudicated in its decision of January 30, 1961. The latter decision explicitly ruled that backwages were to span a period

commencing "from the date of the stoppage of work in the old carro up to the time when this decision shall become final and executory." The pretension that this was modified by resolution of the CIR en banc cannot stand scrutiny because the same resolution merely rejected the parties' motions for reconsideration and did not afford any kind of modified relief from the operation and effects of the judgment of January 30, 1961. It should be remembered that while the body of a decision, order or resolution might create some ambiguity regarding which way the court's reasoning preponderates, it is the dispositive portion thereof that finally invests rights upon the parties, sets conditions for the exercise of those rights, and imposes the corresponding duties or obligations.[3]

The award by the CIR of backwages from the time the old carro ceased operations up to the time its decision, as affirmed by this Court, became final and executory, is now the law of the case and is beyond the reach of review by the CIR or by this Court.

By "law of the case" is meant that "whatever is once in revocably established as the controlling legal rule or decision between the same parties in the same case continues to be the law of the case" so long as the "facts on which such decision was predicated continue to be the facts of the case before the court. And once the decision becomes final, it is binding on all inferior courts and, hence, beyond their power and authority to alter or modify.[4]

What we said in *Galvez vs. Philippine Long Distance Company*[5] is apropos:

"The equitable considerations that led the lower court to take the action complained of can not offset the demands of public policy and public interest -- which are also responsive to the tenets of equity -- requiring that all issues passed upon in decisions or final orders that have become executory, be deemed conclusively disposed of and definitely closed, for, otherwise, there would be no end to litigations, thus setting at naught the main role of courts of justice, which is to assist in the enforcement of the rule of law and the maintenance of peace and order, by setting justiciable controversies with finality."

2. The CIR en banc, in its resolution subject of the pre-sent action, ordered the name of Percival Echaluze stricken from the list of workers entitled to backwages, while at the same it ordered the restoration of the name of Floro Asada in the list. The CIR en banc, unfortunately, did not state its reasons for ousting Echaluze. We can only infer that it based its ruling upon the fact that Echaluze's name does not appear in the only payrolls and time records available. The ultimate question we thus confront is whether or not evidence exists regarding Echaluze's employment with the Company during the time the latter committed acts constituting unfair labor practice, independently of those payrolls and time records.

This Court need not venture far for the answer. The order of November 9, 1966 penned by Judge Joaquin Salvador who conducted a hearing on the examiner's report, found with respect to Echaluze that "the evidence is clear that he was working in the company when the old 'carro' ceased operation ... the reason why his name does not appear in the payrolls is the fact that he was then absent when they were signed." The Company appears not to have overcome this evidence, having relied solely on the strength of the extant payrolls and time records.

At all events, that Percival Echaluze and Floro Asada were among the complainants in L-18460, is not controverted by the Company. They must, therefore, perforce be considered as included within the coverage and intendment of the dispositive portion of the decision of this Court in L-18460.

The essential question that confronts the CIR is merely one of computation of the backwages of these two complainants, there being no record or payroll to indicate the exact amount of the wages they were receiving at the time that the old carro stopped operations. We can, however, with a certain degree of fairness, rely on the solution stated by Judge Salvador in his order dated November 9, 1966, which solution is apparently acceptable to both the Company and the Union, there being no indication in the record to the contrary. This mode of

computation is expressed in the said order as follows: "His backwages should be based on the average of what his co-members received as shown in the payrolls."

ACCORDINGLY, the resolution of the CIR en banc of January 28, 1967 is hereby modified so that, first, the computation of backwages shall cover the period from the date of the stoppage of work at the old carro up to December 1, 1962, the date the decision in the original case became final and executory, and, second, Percival Echaluze and Floro Asada are entitled to backwages which shall be based on the average of what their co-workers received as shown in the pertinent payrolls. Because the workers herein involved may have found other employment or other means of livelihood after they were dismissed, it is only just and equitable that whatever they may have earned during the period covered by the award of backwages should be deducted from the total liability of the Company. To this end the CIR is hereby directed to admit pertinent evidence that may be adduced by the Company.

No pronouncement as to cost.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Fernando, Barredo, Villamor, and Makasiar, JJ., concur. Teehankee, J., concurs and dissents in a separate opinion.

[1] August 24, 1962, 5 SCRA 892 (per Concepcion, J.).

[2] Durable Shoe Factory vs. CIR, et al., L-7783, May 31, 1956.

[3] Manalang vs. Vidal Tuason de Rickards, L-11986, July 31, 1953.

[4] Kabigting vs. Acting Director of Prisons, L-15548, October 1962, 6 SCRA 286; People's Homesite and Housing Corporation vs. Mencias, L-24114, August 16, 1967, 20 SCRA 1041.

[5] L-16370, October 31, 1961, 3 SCRA 418, 423.

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SEPARATE CONCURRING AND DISSENTING OPINION

TEEHANKEE, J.:

I concur with the disposition of the case as per the main opinion of Mr. Justice Fred Ruiz Castro, but dissent therefrom insofar as on the first and main issue it orders that "the computation of backwages shall cover the period from the date of stoppage of work at the old carro up to December 1, 1962, the date the decision in the original case became final and executory", or a total amount of P65,122.59 corresponding to 17 of the 19 workers-complainants, which will now come up to P72,784.07 (with the inclusion now ordered of the two workers previously excluded, at the same average of about P3,830.74 per worker), corresponding to backwages for a period of about 5 years and 10 months - less whatever earnings of said workers during the period may be proven by the company.

The original decision of January 30, 1961 of the industrial court's trial Judge Bautista sentenced the company "to

pay immediately the backwages of the complainant workers, from the date of the stoppage of work in the old carro up to the time when this decision shall become final and executory, without reinstatement."

In denying the motions for reconsideration filed by both the company and the union, with the union asking for reinstatement of the workers, Judge Bautista for the court en banc held in its resolution of March 23, 1961 that "To reinstate the workers concerned when there is no work to be done would be injustice to the company, because management would be forced to give salaries to the workers even if they have nothing to do. It should be noted that the punishment which this Court imposes upon any erring par-ty is remedial and not punitive in character." (emphasis supplied)

The Court, on appeal, in its decision of August 24, 1962 affirmed the lower court's judgment of unfair labor practice with backwages, thus: "WHEREFORE, the decision appealed from is hereby affirmed, with costs against the appellant."

The present action concerns the execution of the industrial court's original decision of January 30, 1961, as upheld in the court's en banc resolution of March 23, 1961 and affirmed by this Court on August 24, 1962.

The lower court, in its en banc resolution of January 28, 1967 drastically reduced the award to only six months of backwages. It upheld in effect the company's contention that what this Court had af-firmed on appeal was not the lower court's decision of January 30, 1961, "standing alone", (since the same could not be the subject of an appeal) but said decision, as "amended or modified by the findings of fact and of law as contained in the resolution (en banc) of March 23, 1961, which had been appealed to and affirmed by this Honorable Court." [1]

It found "that from January 20, 1957 [the date of stoppage of operation of the old carro] to December 2, 1957, the old carro was not operated. And, since it was not in operation, the complaining workers could not have earned anything even if they were allowed to work, for admittedly, their work was dependent on the operation of the old carro. Consequently, since they did not lose anything, they can-not recover what they could not have lost." [2]

It further found that "from December 2, 1957 to March 2, 1958, or a period of three (3) months, the old carro was operated without the complaining workers. Said complaining workers could have earned something if they were allowed to work. For this reason, it is but justifiable and fair that t hey should be allowed to recover what they had lost in the form of earnings for a period of three (3) months." [3]

It also found that "(H)owever, from March 2, 1958, the old carro stopped operation for no other reason, as found by the Court en banc, but because Alfredo Santos Soriano had to quit as he was not a compe-tent filer. There is no evidence adduced showing that after March 2, 1958, the old carro was again operated. Consequently, since the complaining workers could not have earned even if they were allowed to work as the old carro was not again operated, they, under the afore-said principle abhorring unjust enrichment and considering that the purpose of backpay order is not punitive in nature, can not recover what they could not have earned as nothing was lost and therefore, nothing can be recovered." [4]

Applying the dictum in *Sta. Cecilia Sawmills, Inc. vs. CIR* [5] it ruled that "it is a fact that from March 2, 1958, the old carro has not been operated, to prevent injustice to the respondent (company) and in order not to foster indolence on the discharged laborers, the herein complaining workers should be allowed to recover..... another three months' backearnings (March 3, 1958 to June 3, 1958), considering that after the lapse of three months after March 2, 1958 (last day of operation), as the Supreme Court ruled in the above-cited case in all probability, they must have located some other work to tide them over." [6]

The lower court, therefore, in implementing the original deci-sion of January 30, 1961, deemed that the same was modified by the court's unanimous en banc resolution of March 23, 1961 setting the premises that the company

should not "be forced to give salaries to the workers even if they have nothing to do" and that the "punishment" imposed by it was "remedial and not punitive in character", and that it was such decision, as so modified, that was affirmed on appeal by this Court's decision of August 24, 1962.

The lower court cited as justification for its drastic computation of the backwages at six months, the court's pronouncement in *Durable Shoe Factory vs. CIR*[7] that "backwages should not extend beyond the date of closure of business when such closure was due to legitimate reasons as in the present case." To the same effect is the Court's ruling per the Chief Justice in *San Pablo Oil Factory vs. CIR*[8] that where the industrial court found the company guilty of discriminatory lockout and directed reinstatement with backwages corresponding to the lockout period, the backpay would be computed not on the basis of 85 "working days" during the period but "should be limited to the thirty-nine (39) days in which the factory was actually in operation, during the same period" for "(I)ndeed, even if there had been no lock-out, the laborers in question could not have possibly worked when the factory was not in actual operation. They could not have earned any wages except for the days of said actual operation....."

The case of *Uytiepo vs. Aggabao*[9] where the Court on execution proceedings, modified and reduced the terms of the final and executory judgment assessing "the fixed sum of P200 per month as reasonable rental for (Aggabao's) use of the tractor [from October 18, 1957] until its return to the petitioners "because she had sold the tractor in question to a third party without even having apprised the court which rendered the final judgment of payment of rentals until the tractor's return, may likewise be cited in support of the industrial court's questioned resolution. For in the case at bar, the industrial court was properly apprised of the permanent stoppage of operation of the old carro since March 2, 1958, and the workers could not have earned any wages thereafter even if they had not been unjustly dismissed in January, 1957.

But strictly abiding by the law of the case, as enunciated in the main opinion, I believe that it seems clear from the facts and circumstances of the case that the industrial court's decision of January 30, 1961 en banc and resolution of March 23, 1961 ordered the immediate payment of backwages for a fixed period from the stoppage of work in the old carro [i.e. from January 20, 1957] to the date when its decision would become final and executory, i.e. ten days from its en banc resolution of March 23, 1961, or up to April 2, 1961. The period of twenty (20) months thereafter that elapsed until the Court resolved the company's appeal in its decision of August 24, 1962 which, according to the main opinion, became final and executory on December 1, 1962 was not contemplated and should not be considered as a further award of backwages to the workers. This was a case of pakiao workers and the industrial court had definitely ruled that they could no longer be reinstated as the operation of the old carro had been permanently stopped since March 2, 1958. So, regardless of their unjust dismissal on January 20, 1957, there was no longer any work from March, 1958 and they "could not have earned even if they were allowed to work,"[10] that is to say, even if they had not been unjustly dismissed in January, 1957.

Neither could the Court's affirmance of the decision appealed from be deemed as a further award of backwages to the workers during the twenty-month pendency of the appeal. The appeal, after all, had been given due course under Rule 43, section 3 and was not dismissed outright under section 6 of the same Rule, if it were patently without merit, manifestly dilatory or unsubstantial. Furthermore, under section 10 of the Rule then applicable, the appeal would not stay the industrial court's decision ordering the immediate payment of the backwages, and the same would have been executory notwithstanding the appeal, unless otherwise directed by the Court.

I vote, therefore, to hold that at the most, the award by the industrial court of backwages should be computed from the time the old carro ceased operations on January 20, 1957 to April 2, 1961, or an award of backwages for a period of about 4 years and 2 months, (instead of to December 1, 1962, or a period of about 5 years and 10 months as directed in the main opinion), less such earnings of the workers during the period as may be duly

proven. This latter date of April 2, 1961 was the cut-off date clearly intended by the industrial court and its decision would then have become final and executory, but for the company's appeal which was given due course and for which the company should not be penalized by construing our affirmance of the decision as an additional award for backwages for twenty more months or for as long as this Court's decision shall not have become final and executory.

[1] Respondents' brief, pp. 29, 53.

[2] Rollo, p. 39.

[3] Rollo, pp. 39-40.

[4] *Idem*, p. 40.

[5] 10 SCRA 433 (Feb. 29, 1964).

[6] *Idem*, p. 42.

[7] L-7783, May 31, 1956.

[8] 19 SCRA 552 (Feb. 28, 1967).

[9] 35 SCRA 186 (Sept. 30, 1970).

[10] Rollo, p. 40.

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