

**WOODLAND PARKS HOTEL AND RESTAURANT CO., GORDON BOYCE,
RIZA MANALESE AND CLEOFE M. REYES, PETITIONERS, VS.
NATIONAL LABOR RELATIONS COMMISSION (2ND DIVISION),
ELIZABETH JULOM; L...**

Ponente: GAERLAN, S.H., J.

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GAERLAN, S.H., J.:

This is a Petition for Certiorari and Prohibition with Application for Writ of Preliminary Injunction[1] filed under Rule 65 of the 1997 Rules of Civil Procedure seeking to nullify and set aside the Resolutions dated 28 June 2012[2] and 31 August 2012[3] of public respondent National Labor Relations Commission (NLRC), Second Division, in LER Case No. 05-093-12. The first assailed Resolution affirmed the Order[4] dated 26 April 2012 of then Acting Executive Labor Arbiter Mariano L. Bactin in NLRC Case No. RAB-111-01-2776-01; and second assailed Resolution denied petitioners' Motions for Reconsideration[5] dated 17 July 2012 from respondent Commission's Resolution dated 28 June 2012.

FACTS

The relevant chronology is as follows:

In 2004, private respondents filed their Complaint for illegal dismissal; illegal suspension; illegal lay-off; illegal deductions; underpayment of wages; non-payment of salaries, overtime pay, premium pay for holiday, night-shift differential pay, and premium pay for rest day; non-payment of 13th month pay; non-payment of service incentive leave, service charges. Their Complaint was docketed as NLRC Case No. RAB-111-01-2776-01 and was raffled to Labor Arbiter Henry D. Isorena.

On 10 March 2004, Labor Arbiter Isorena rendered a Decision[6] finding petitioners (formerly, respondents) guilty of illegal dismissal and ordering, inter alia, the immediate reinstatement of herein private respondent employees (formerly, complainants), viz:

“WHEREFORE, premises considered, judgment is hereby rendered declaring the respondents guilty of illegal suspension and illegal dismissal. Consequently, they are hereby ordered as follows:

1. To reinstate the complainants to their former or equivalent positions without loss of seniority rights and privileges;
2. To pay complainants their backwages and other benefits computed from the date of their respective dismissals up to their actual or payroll reinstatement, which as of this writing is in the total amount of P3,527,857.65;
3. To pay complainants Catherine Yabut, Rosemarie L. Salas and Gina G. Marcelo their salaries during the period of their illegal suspension in the total amount of P15,093.00;
4. To pay the salary differentials of complainants Joyce Marie D. Sebastian, Renante M. Roman, Jesus Bahil, Joel E. Mananis, Ricky D. Gutierrez, Michael M. Roque, Rosemarie L. Salas, Alicia Antonio, June M.

Mercado, Carmelito M. Punzalan, Lily M. Mariano, Teresita M. Torres and Gina G. Marcelo in the total amount of P97,657.74;

5. To pay the amounts of P1,966.67 and P983.34 that were illegally deducted from the salaries of complainants Lily M. Mariano and Teresita M. Torres, respectively; and

6. To pay the unpaid salaries of complainant Josephine Mendoza for the period December 16 to 23, 2000 in the amount of P2,041.69.

All other issues and or claims are hereby dismissed for lack of sufficient basis.

SO ORDERED.”

On appeal, the NLRC issued a Resolution date 21 July 2005,[7] which set aside the Labor Arbiter's finding of illegal dismissal and, accordingly, modified the latter's ruling in this wise:

“WHEREFORE, in the light of the foregoing, the appealed decision is hereby MODIFIED, and a new judgment is hereby rendered ordering the respondent-appellant:

1. To pay complainants Julom, Mariano and Torres the amount of P10,000.00 each as financial assistance. Their reinstatement with backwages are hereby deleted;

2. To pay complainants Mananis, Gutierrez, and Roque nominal damages in the amount of P30,000.00 to each of them, in the total amount of P90,000.00;

3. To pay complainants Mananis, Gutierrez, Roque, and Bahil their respective separation pay in lieu of reinstatement in the total amount of P50,372.00, distributed as follows: to complainant Mananis in the amount of P5,031.00; to complainant Gutierrez the amount of P5,031; to complainant Roque the amount of P15,093; and to complainant Bahil the amount of P35,217.00.

4. To pay the separation pay, in lieu of reinstatement, of complainant Sebastian in the amount of P10,062 as two (2) months pay.

5. To pay the salary differentials of complainants Sebastian, Bahil, Mananis, Gutierrez, Roque, Salas, Antonio, Mercado, Punzalan, Mariano, Torres, and Marcelo in the total amount of P80,020.00. The said amount is distributed to the following complainants, to wit: Sebastian is entitled to the amount of P11,585.50; Bahil, the amount of P9,904.50; Mananis, the amount of P7,631.00; Gutierrez, the amount of P7,229.50; Roque, the amount of P24,461.50; Salas, the amount of P2,960.00; Antonio, P2,978.00; and the amount of P2,694 to each of complainants Mercado, Punzalan, Mariano, Torres and Marcelo.

6. All other claims of the complainants are hereby DISMISSED for lack of merit.

SO ORDERED.”

Respondent employees sought reconsideration of the above ruling of the NLRC, but their motion was denied in a Resolution[8] dated 21 March 2006.

Respondent employees elevated their case to this Court via petition for certiorari, which was denied due course and dismissed in a Decision[9] dated 26 April 2007. Private respondents' motion for reconsideration was likewise denied.

Still not satisfied with the resolutions against them, respondent employees went up to the Supreme Court in a petition for certiorari. The Supreme Court dismissed the said petition in a Resolution dated 2 March 2009, which dismissal became final and executory on 29 April 2009.[10]

In the meantime that the appeals were pending resolution, private respondents moved to execute the reinstatement

aspect of the Labor Arbiter's 10 March 2004 Decision. Then Acting Executive Labor Arbiter Mariano L. Bactin granted the motion and issued a Partial Writ of Execution dated 5 August 2005, directing the Sheriff of the NLRC RAB-III to collect the amount of One Million Four Hundred Seventy Four Thousand and Two Hundred Three Pesos (Php1,474,203.00) representing the reinstatement salaries of the employees plus execution fees in the amount of Thirteen Thousand Two Hundred and Fifty Pesos (Php13,250.00). The amount was garnished from the bank accounts of petitioners, including the bank accounts of individual petitioners Riza Manalese and Cleofe Reyes. The garnished amount, however, was not immediately released to herein private respondents.

In 2009, respondent employees filed an Urgent Motion to Release the Garnished Amount of Php1,474,208.00, while petitioners Riza Manalese and Cleofe Reyes filed a Third Party Claim.

On 24 April 2012, then Acting Executive Labor Arbiter Bactin issued an Order[11] denying the Third Party Claim and granting the Urgent Motion to Release the Garnished Amount of Php1,474,208.00, viz:

“WHEREFORE, premises considered, the Third Party Claim of RIZA MANALESE and CLEOFE MANALESE-REYES is hereby ordered DISMISSED with prejudice for lack of merit. The Urgent Motion to release the garnished deposit of P1,474,208.00 to the complainants is hereby GRANTED.

However, since the Writ of Execution dated August 5, 2005 has already expired, let a new 2[nd] Partial Alias Writ of Execution be issued immediately.

The sheriff assigned to this case is hereby directed to serve the new 2nd Partial Alias Writ of Execution to all the parties concerned particularly the bank where he was able to garnish the amount of P1,474,208.00.

The Bank Manager or other responsible persons of the bank where the amount of P1,474,208.00 was garnished is now ordered to release the said amount to the Cashier of the National Labor Relations Commission, Regional Arbitration Branch No. III, San Fernando City, Pampanga, as soon as possible.

SO ORDERED.”

Herein petitioners filed a Verified Petition[12] with Application for Temporary Restraining Order and/or Writ of Preliminary dated 6 May 2012, under the extraordinary remedies of the 2011 NLRC Rules of Procedure, to assail the 24 April 2012 Order of the labor arbiter.

On 29 May 2012, the public respondent NLRC issued a Temporary Restraining Order (TRO) valid for twenty (20) days.

On 28 June 2012, the respondent Commission rendered the first assailed Resolution[13] denying petitioners' prayer for issuance of a preliminary injunction and affirming the Order dated 24 April 2012 of then Acting Executive Labor Arbiter Bactin, viz:

“WHEREFORE, premises considered, the application for a writ of preliminary injunction is hereby DENIED for lack of merit and the Temporary Restraining Order is hereby ordered LIFTED.

Accordingly, the assailed Orders of the Acting Executive Labor Arbiter stand.

Let therefore the records of this case be forwarded to the office of the labor arbiter for appropriate action.

SO ORDERED.

Petitioners sought reconsideration of the 28 June 2012 NLRC Resolution, but their motion was denied in the second assailed Resolution[14] dated 31 August 2012 for lack of merit.

Thus, the instant Petition raising the following issues:[15]

ISSUES

WHETHER OR NOT THE PUBLIC RESPONDENT NLRC COMMITTED PATENT AND SERIOUS ERRORS AND/OR GRAVE ABUSES OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ITS 28 JUNE 2012 DECISION (SIC) AND 31 AUGUST 2012 RESOLUTION WHEN IT:

I.

FAILED TO ADDRESS THE ISSUES SQUARELY RAISED (IN THE PETITION AND/OR MOTION FOR RECONSIDERATION) THAT:

THE WRIT OF ATTACHMENT ISSUED BY THE PUBLIC RESPONDENT LABOR ARBITER IS NOT IN ACCORDANCE WITH RULE XI SECTION 8 OF THE 2011 NLRC RULES OF PROCEDURE VIOLATING PETITIONERS (SIC) RIGHT TO DUE PROCESS;

THE SEPARATE AND DISTINCT PERSONALITY OF THE CORPORATION (WOODLAND) FROM ITS OFFICERS (RIZA MANALESE AND CLEOFE REYES) ON LIABILITIES/DEBTS;

THE ISSUE OF THE COMPUTATION OF THE AMOUNT OF THE “SALARIES PENDING APPEAL” CONSIDERING THAT ONE (1) OF THE PRIVATE RESPONDENTS PASSED AWAY;

THE ISSUE OF THE THIRD PARTY CLAIM AND THE NOTICE OF THE PRELIMINARY CONFERENCE;

II.

SUSTAINED THAT THE PUBLIC RESPONDENT LABOR ARBITER DID NOT COMMIT ERROR OR GRAVE ABUSE OF DISCRETION IN ISSUING THE ASSAILED 2ND ALIAS WRIT OF EXECUTION BECAUSE IT MERELY ORDERED THE COLLECTION OF THE REINSTATEMENT SALARIES COVERING THE APPEAL PERIOD WHEN THE 2ND WRIT OF EXECUTION WAS ISSUED AGAINST RIZA MANALESE AND CLEOFE REYES, WHO ARE NOT THE EMPLOYERS OF THE PRIVATE RESPONDENTS-COMPLAINANTS JULOM ET. (SIC) AL.;

III.

APPLIED THE ROQUERO VS. PHILIPPINE AIRLINES CASE TO SUSTAIN THE 2ND WRIT OF EXECUTION, AND;

IV.

APPLIED ARTICLE 223 OF THE LABOR CODE TO HEREIN PETITIONERS RIZA MANALESE AND CLEOFE REYES WHEN THEY ARE MERELY OFFICERS OF PETITIONER CORPORATION AND NOT THE EMPLOYERS OF PRIVATE RESPONDENTS.

THE COURT’S RULING

In denying the Third Party Claim of petitioners Riza Manalese and Cleofe Reyes, then Acting Executive Labor Arbiter Bactin ruled:

“Resolving the first issue of this case of whether to grant the Third Party claim of respondents RIZA MANALESE AND CLEOFE MANALESE-REYES, we find the same to be lacking of merit and thus, DENIED with prejudice.

We carefully examined the records and we agree with the complainants that the alleged Third Party Claimants, RIZA MANALESE AND CLEOFE MANALESE-REYES were included as party respondents in the original complaint filed by the complainants and the names of these Third Party Claimants were also included as party respondents who were jointly and severally guilty of illegal dismissal and to pay the backwages and benefits including reinstatement wages of these complainants.

Likewise, we find the third party claim filed by the respondents to have been filed without the requirements set forth under paragraph (a) of Section 11, Rule XI of the 2011 NLRC Rules of Procedure, hence, should be outrightly denied and dismissed for lack of merit.”

When they elevated the matter before the respondent Commission, petitioners argued that since the 10 March 2004 Decision of Labor Arbiter Henry Isorena was reversed on appeal by the NLRC and affirmed by the High Courts, said position may no longer be used to hold the petitioners Riza Manalese and Cleofe Reyes liable for the reinstatement salaries of private respondents, considering the separate and distinct personality of the latter for petitioner corporation.

In affirming the public respondent labor arbiter, the NLRC ratiocinated:

“As shown in the aforequoted decision of the labor arbiter dated March 10, 2004, complainants were found illegally dismissed from their employment. Consequently, the reinstatement to their former positions was ordered with payment of backwages and other benefits. However, on appeal the decision was modified by the Commission on July 21, 2005 finding that complainants were validly dismissed from employment.

Under Article 223 of the Labor Code, as amended, the reinstatement aspect of the labor arbiter's decision is immediately executory even pending appeal. In *Roquero versus Philippine Airlines, Inc.*, G.R. No. 152329, April 22, 2003, it was held that it is now the norm that even if the order of reinstatement of the Labor Arbiter is reversed on appeal, it is obligatory on the part of the employer to reinstate and pay the wages of the dismissed employee during the period of appeal until reversal by the higher court. Thus, the Acting Executive Labor Arbiter is correct in ordering the payment of the accrued salaries of the complainants despite the modification of the labor arbiter's decision by the Commission, because jurisprudence holds that respondents are still liable to pay the accrued wages during the appeal period until the decision was modified on July 21, 2005. Thus, we do not find error or grave abuse of discretion on the part of the labor arbiter in issuing the assailed order and the 2nd Alias Writ of Execution because it merely ordered the collection of the reinstatement salaries covering the appeal period.”

After carefully perusing the first assailed Resolution of herein respondent Commission vis-a-vis the arguments raised by petitioners before it, We find the NLRC's ruling too simplistic that it failed to address the real point of the matter.

There appears to be no question that even if the order of reinstatement is reversed on appeal, it is obligatory on the part of the employer to reinstate and pay the wages of the dismissed employee during the period of appeal until reversed by the higher court. In filing the instant petition, however, petitioners take exception to the failure of the respondent Commission to draw the line between respondent employees' entitlement to reinstatement wages, on one hand, and the liability of petitioners Riza Manalese and Cleofe Reyes, as officers of petitioner corporation, to pay the same, on the other hand.

Indeed, it is one thing to hold that the employees are entitled to reinstatement salaries, and it is another thing to hold that the officers of the employer corporation are solidarily liable therefor.

It is well-settled that a corporation, as a juridical entity, may act only through its directors, officers and employees. Obligations incurred as a result of the directors' and officers' acts as corporate agents, are not their personal liability but the direct responsibility of the corporation they represent. As a rule, they are only solidarily liable with the corporation for the illegal termination of services of employees if they acted with malice or bad faith.[16]

To hold a director or officer personally liable for corporate obligations, two requisites must concur: (1) it must be alleged in the complaint that the director or officer assented to patently unlawful acts of the corporation or that the

officer was guilty of gross negligence or bad faith; and (2) there must be proof that the officer acted in bad faith.[17]

In this case, it is an undisputed fact that the ruling, which declared respondent employees to have been validly dismissed, has already attained finality. Given that there was no illegal dismissal to speak of in the first place, there can be no question as to the existence or non-existence of bad faith or malice in the effecting such dismissal on the part of the corporate officers. On this premise, the ruling on the joint and solidary liability of petitioners Riza Manalese and Cleofe Reyes has no leg to stand on.

We, too, find it patently erroneous on the part of then Acting Executive Labor Arbiter to deny the Third Party Claim of petitioners Riza Manalese and Cleofe Reyes for its non-compliance with Section 11 (a), Rule XI of the 2011 NLRC Rules of Procedure. Under the subject provision, a third party claim must conform to the following requirements, to wit:

“SECTION 11. Third Party Claim. — a) If the property levied is claimed by any person other than the losing party, such person may file a third party claim not later than five (5) days from the last day of posting or publication of the notice of execution sale, otherwise the claim shall be forever barred. Such third party claim must comply with the following requirements:

- (1) An affidavit stating title to property or right to the possession thereof with supporting evidence;
- (2) Posting of a bond equivalent to the amount of the claim or judgment award, whichever is lower; and
- (3) Payment of prevailing filing fee.”

A review of the relevant chronology of this case, however, shows that the Third Party Claim under scrutiny was filed sometime in the year 2009. At which time, it was the 2005 NLRC Rules of Procedure that was in effect, which substantially differs from its 2011 counterpart, viz:

“SECTION 12. Third Party Claim. — A third party claim shall be filed within five (5) days from the last day of posting or publication of the notice of execution sale; otherwise the claim shall be forever barred. The third party claimant shall execute an affidavit stating his title to the property or right to possession thereof with supporting evidence, and shall file the same with the Sheriff and the Commission or Labor Arbiter who issued the writ of execution. Upon receipt of the third party claim, all proceedings, with respect to the execution of the property subject of such claim, shall automatically be suspended. The Labor Arbiter who issued the writ may require the third party claimant to adduce additional evidence in support of his third party claim and to post a cash or surety bond equivalent to the amount of his claim, as provided for in Section 6 of Rule VI, without prejudice to the posting by the prevailing party of a supersedeas bond in an amount equivalent to that posted by the third party claimant. The Labor Arbiter shall resolve the propriety of such third party claim within ten (10) working days from submission of said claim for resolution.”

Clearly, then Acting Executive Labor Arbiter rashly misapplied the 2011 NLRC Rules, and the failure of herein respondent Commission address such a patent error, to Our minds, amounts to grave abuse of discretion.

WHEREFORE, premises considered, the petition is hereby GRANTED. The assailed Resolutions dated 28 June 2012 and 31 August 2012 of public respondent National Labor Relations Commission (NLRC), Second Division, are hereby ANNULLED and SET ASIDE. The personal money of petitioners Riza Manalese and Cleofe Reyes deposited with BPI Family Bank, Samsonville Dau Branch, Pampanga are hereby declared EXCLUDED from the execution proceedings of this case, and the amount of money seized by the sheriff from the bank accounts of said petitioners is hereby ordered RETURNED or REIMBURSED.

SO ORDERED.

Pizarro, N.B., Chairperson, and [*]Galapate-Laguilles, Z.T., JJ., concur.

[*] Acting Junior Member, per Office Order No. 15-15-ABR, dated January 20, 2015

[1] Rollo, pp. 3-25.

[2] Rollo, pp. 193-205.

[3] Rollo, pp. 217-220.

[4] Rollo, pp. 26-32.

[5] Rollo, pp. 206-216.

[6] Rollo, pp. 72-103.

[7] Rollo, pp. 104-147.

[8] Rollo, pp. 150-156.

[9] Rollo, pp. 158-180.

[10] Rollo, pp. 184-185.

[11] Supra, note 4.

[12] Rollo, pp. 45-55.

[13] Supra, note 2.

[14] Supra, note 3.

[15] Rollo, page 12.

[16] Girly G. Ico vs. Systems Technology Institute, Inc. et al., G.R. No. 185100, 9 July 2014.

[17] Ibid.

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