

JOSE DEL PILAR, EMELBA BALIWAG, RENATO BAUYON, LOIDA DOTONG, VICTORIANA EJE, NENITA LASIN, PADILLA REGONDOLA, MAURO RODRIGUEZ, AND MA. SALOME SANTOYO, PETITIONERS, VS. NATIONAL ...

Ponente: BERSAMIN, L.P., J.

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BERSAMIN, L.P., J.:

In this special civil action for certiorari, the petitioning employees, alleging grave abuse of discretion amounting to lack or excess of jurisdiction, assail the resolutions dated March 22, 2002[1] and June 14, 2002[2] issued by the National Labor Relations Commission (NLRC).

Petitioner Jose Del Pilar is the complainant in NLRC Case No. RAB IV-2-4204-92-B. The other petitioners are the complainants in NLRC Case No. RAB-IV-2-4799-93-B of the Regional Arbitration Branch (RAB), Region IV, NLRC; and in NLRC CA No. L-001167.

The private respondents are the petitioners' employer Batangas II Electric Cooperative, Inc. and its officers (collectively, Batelec II), being the respondents-appellants in NLRC-RAB-IV-02-4202092-B and RAB-IV-02-4799-93-B of the Regional Arbitration Branch (RAB), Region IV, NLRC; and NLRC CA No. L-001167.

On October 15, 1993, Labor Arbiter Pedro Ramos rendered his decision in NLRC Case Nos. RAB-IV-2-4204-92-B and RAB-IV-02-4799-93-B, to wit:

WHEREFORE, judgment is rendered finding the dismissal of complainants EMELBA BALIWAG, RENATO BANYAN, EDGARDO CABRERA, BIBIANA CARING, JOSE DEL PILAR, LOIDA DUTONG, VICTOR EJE, LAMBERTO CABIMBING, NENITA LASIM, EVELYN MENDOZA, ARTHUR MERCADO, PADILLA RECONDOLA, MAURO RODRIGUEZ, MA. SALOME SANTOYO, JAIME SANCHEZ, IMELDA VILLAME and GLORIA VILLAPANDO as illegal.

Respondents Batangas II Electric Cooperative, Inc., (BATELEC II), Democrito Manalo, Franklin Castillo and George Din are hereby ordered to:

1. Immediately REINSTATE the complainants to their former positions under the same terms and conditions obtaining at the time of their illegal dismissal, either physically or in the pay roll, at the option of the respondents, as provided by the 'Herrera Law', without loss of seniority rights and other privileges;

2. Jointly and severally PAY complainants the following sums, to wit:

(a). full BACKWAGES, inclusive of allowances and other benefits or their monetary equivalent, but not to exceed three (3) years, without deduction of earnings elsewhere, partially computed from the time their compensation was withheld from them on December 1, 1992 up to November 30, 1993 in the amount of One Million Eight Thousand Six Hundred Seventy-Four Pesos (P1,008,674.00); (b) xxx xxx xxx

(c) xxx xxx xxx

(d) xxx xxx xxx

SO ORDERED.[3]

Batelec II appealed to the NLRC and exhausted their remedies until the Supreme Court, which dismissed with finality on July 27, 1994 Batelec II's petition in G.R. No. 115449. Pending the recourse, Batelec II reinstated the petitioners in the payroll.[4]

Earlier, on September 11, 1993, the Board of Directors of Batelec II adopted a resolution approving "a proposed reorganization of BATELEC II," of which the Labor Arbiter was not informed. As a result of the re-organizational structuring of Batelec II, the positions formerly held by the petitioners were either abolished, merged or given to others deemed qualified for the positions.[5]

On February 2, 1995, Labor Arbiter Ramos issued a writ of execution, among others, to effect the physical reinstatement of the petitioners. Although welcomed back to the ranks of Batelec II employees effective March 1, 1995, the petitioners were not allowed to report to work for a month to enable Batelec II's management to "clear up their positions with the NEA" and the NLRC. The petitioners objected to the manner in which they were received by the management, forcing them to file on March 17, 1995 their motion to cite the officers of Batelec II for contempt.[6]

On March 31, 1995, Batelec II filed its manifestation with motion before the Labor Arbiter, stating, among others, that the petitioners could no longer be physically reinstated due to redundancy and the installation of computers; and that the cooperative was willing to pay their corresponding separation pay equivalent to 1-month pay for every year of service.[7]

On September 29, 1995, the Labor Arbiter found reinstatement to be physically impossible and awarded them separation pay in the total sum of P1,568,744.00, plus P156,874.40 as attorney's fees.[8] The petitioners appealed but the Labor Arbiter was affirmed by the NLRC on April 15, 1996.[9] Thus, the petitioners commenced a special civil action for certiorari in the Court of Appeals, docketed as CA-GR SP No. 50900 entitled Jose Del Pilar, et al. v. National Labor Relations Commission, et al.

On May 26, 2000, the Court of Appeals rendered its decision,[10] ruling as follows:

WHEREFORE, the assailed Resolution of the National Labor Relations Commission is AFFIRMED with MODIFICATION that respondent BATELEC II is ordered to pay petitioners separation pay equivalent to one (1) month for every year of service, whichever is higher, and in lieu of the fine of P5,000.00 for every employee, full backwages from April 1, 1995, or the time when their employments were terminated up to the time of the finality of this decision. For this purpose, this case is REMANDED to the Labor Arbiter for computation of the separation pay and backwages. Insofar as the six (6) petitioners are concerned who have executed their respective quitclaims and waivers, their petition is DISMISSED."

SO ORDERED.

After the denial of its motion for reconsideration, Batelec II brought the decision of the Court of Appeals to the Supreme Court on certiorari, but on June 20, 2001, the Supreme Court dismissed the petition.[11] The entry of judgment was later issued declaring that the decision became final as of September 13, 2001.[12] On October 15, 2001, the petitioners filed a motion for execution of the decision.[13]

A motion to approve computation was also filed by the petitioners, seeking P20,791,837.00 for the remaining 9 complainants,[14] namely: Jose del Pilar, Emelba Baliwag, Mauro Rodriguez, Nenita Lasin, Loida Dotong, Victorina Eje, Ma. Salome Santoyo, Padilla Regondola and Renato Bauyon. On November 19, 2002, the petitioners filed a manifestation with motion,[15] praying that the attorney's lien of Atty. Franco Loyola and/or

Ms. Edna Venturanza (alleged second wife of the late Atty. Alfredo B. Concepcion, former counsel of the petitioners) be denied due course on the ground that the petitioners had paid their former counsel Atty. Concepcion the appropriate fees billed to them as evidenced by attached receipts, check and statement of account; and that they had terminated the services of Atty. Loyola, attaching their letter dated October 28, 1999 for the purpose.[16]

The petitioners requested a conference with Batelec II before the Labor Arbiter; and at that conference, Batelec II did not make any comment on the computation but merely requested for its copy.

In a comment on computation,[17] Batelec II objected to the computation, asserting that it was not in accord with the dispositive portion of the decision because the impossibility of the petitioners' reinstatement was made effective March 31, 1995.

On December 10, 2001, Labor Arbiter Voltaire A. Balitaan ruled that:

From the foregoing antecedent facts, it is evident that complainants are entitled to full backwages from where it was cut off on April 1, 1995 on top of separation pay up to the time of the finality of the decision on September 13, 2001 (Entry of Judgment, Supreme Court) which was legally the effective date of their separation from the service.

It is now settled that full backwages includes other benefits which complainants should have received had they not been dismissed.

Making these as our guideposts, this Office finds the computation submitted by the complainants in order, not having been sufficiently assailed as contrary to or not consistent with the dispositive portion of the decision notwithstanding opportunity given respondents to do so. Mere generalized statement to the contrary, i.e. that it was not so without supporting evidence would not suffice. All they had done was to rely largely on the decision of the Labor Arbiter a quo of September 29, 1995, which they argued had become final in respect to them and not ruled erroneous by the Court of Appeals. It need not be overemphasized that complainant interposed an appeal therefrom resulting to its modification. It is this modified decision that is now the subject of enforcement.

WHEREFORE, the computation of complainants' separation by way of retirement benefits as well as backwages under consideration is hereby approved. Let writ of execution issue.

SO ORDERED.[18]

On December 19, 2001, Batelec II appealed Labor Arbiter Balitaan's order to the NLRC.[19]

The petitioners opposed the appeal,[20] arguing that the computation approved by Labor Arbiter Balitaan was in order; and that the appeal must be dismissed because of Batelec II's failure to post the required bond, a requisite for perfecting an appeal under Art. 223, Labor Code.[21]

On March 22, 2002, the NLRC issued its assailed resolution,[22] viz:

WHEREFORE, premises considered, the Appeal is hereby partially GRANTED. The Order appealed is hereby SUSTAINED subject to the MODIFICATION that Complainants-Appellees' awarded claims for separation pay equivalent to one (1) month pay for every year of service from the date of their hiring up to April 1, 1995, the date of the legal abolition of their respective positions, and for full backwages from April 1, 1995, the date of the termination of their employment, up to the date of the promulgation of the judgment, should be computed based only on their basic pay and regular allowance, i.e., thirteenth (13[th]) month pay.

In this connection, the Examination and Computation Unit of this Commission is hereby directed to compute the total amount complainants-appellees are entitled to pursuant to this Resolution.

SO ORDERED.

The resolution carried the assent of only 2 Commissioners, namely: Tito Genilo and Raul Aquino. The 3rd member, then Commissioner Vicente S.E. Veloso,[23] voted for the dismissal of the appeal,[24] mainly observing that “appeal is no longer allowed in this case, as an order of execution of a final and executory judgment is not appealable, otherwise there would be no end to a case;” and, further pointing out that even assuming that appeal was proper, still the respondents’ appeal must be dismissed for their failure to post an appeal bond.

On April 12, 2002, the petitioners moved for reconsideration,[25] based on the following grounds:

- I. The Honorable Commission committed grave abuse of discretion in entertaining the appeal;
- II. The Honorable Commission committed grave abuse of discretion ruling that the appeal has been perfected.
- III. The Honorable Commission committed grave abuse of discretion in modifying the computation of the separation pay and in excluding the benefits due to the appellees except the thirteenth month pay.

On April 29, 2002, Batelec II also filed their own motion for reconsideration,[26] praying that NLRC should reconsider its resolution dated March 22, 2002 and declare the awards of separation pay and backwages to the petitioners to be unconscionable under the circumstances.

In the meantime, Edna V. Concepcion and Atty. Franco Loyola sought to collect their attorney’s fees by filing their own motion for reconsideration dated April 17, 2002.[27]

On June 14, 2002, the NLRC issued its second assailed resolution,[28] as follows:

WHEREFORE, premises considered, the Motions for Reconsideration of Complainants-Appellees and Respondents-Appellants, respectively, are dismissed for lack of merit and the Motion for Reconsideration of Movants Edna L. Loyola (sic) and Franco L. Loyola are partially GRANTED. Accordingly, the Decision sought to be reconsidered is hereby SUSTAINED subject to the modification that Complainants-Appellees are DIRECTED to pay Movant Edna V. Concepcion attorney’s fees equivalent to ten percent (10%) of their monetary awards subject to deduction of Atty. Concepcion’s attorney’s fees already collected from them (Receipts, Checks and Statements of Accounts, Annexes “A”, etc., their Manifestation and Motion), upon their collection of such monetary awards; and Movant Franco L. Loyola his attorney’s fees of P70,000.00 to be taken from the total award.

SO ORDERED.

Hence, on July 19, 2002, the petitioners commenced this special civil action for certiorari, submitting that the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction:

- xxx IN ENTERTAINING THE APPEAL;
- xxx IN RULING THAT THE APPEAL HAS BEEN PERFECTED;
- xxx IN MODIFYING THE COMPUTATION OF THE SEPARATION PAY AND IN EXCLUDING THE BENEFITS DUE TO THE APPELLEES EXCEPT THE THIRTEENTH MONTH PAY;
- xxx IN DIRECTING THE COMPLAINANTS-APPELLEES TO PAY EDNA VENTURANZA’S ATTORNEY’S FEES EQUIVALENT TO TEN PERCENT (10%) OF THEIR MONETARY AWARDS SUBJECT TO DEDUCTION OF ATTY. CONCEPCION’S ATTORNEY’S FEES ALREADY COLLECTED FROM THEM;
- xxx IN GRANTING ATTY. FRANCO L. LOYOLA ATTORNEY’S FEES OF P70,000.00 TO BE TAKEN FROM THE TOTAL AWARD;

- xxx IN NOT AWARDING THE ATTORNEY'S FEES TO THE CURRENT LEGAL COUNSEL OF THE COMPLAINANT-APPELLEES, ATTY. MELCHISEDEK A. GUAN, WHO HAS BEEN RENDERING THEM LEGAL SERVICES SINCE NOVEMBER 1999 UP TO PRESENT.

We are aware that on July 17, 2002, Batelec II commenced its own petition for certiorari, assailing the same resolutions of the NLRC by claiming that the NLRC thereby committed grave abuse of discretion in awarding full backwages as penalty. Said special civil action was docketed as CA-GR SP No. 71665 entitled *Batangas II Electric Cooperative Inc. v. NLRC*.

On June 20, 2003, the Seventh Division^[29] promulgated its decision in CA-GR SP No. 71665,^[30] decreeing thus:

WHEREFORE, the petition is partly granted. The assailed NLRC Resolutions are AFFIRMED with the modification that the base figure to be used in the computation of private respondents' full backwages shall only include their salaries up to September 13, 2001.

Let a copy of this Decision be furnished not only the counsels but also the respective Chairmen of the Committees on Justice and Revision of Laws of both Houses of Congress.

SO ORDERED.

Although both parties in CA-GR SP No. 71665 filed their respective motions for reconsideration, the motions were denied on September 22, 2003.³¹^[31]

Subsequently, on October 20, 2003, the Court of Appeals was furnished in CA-GR SP No. 71665 a copy of the petition for review on certiorari filed by Batelec II in the Supreme Court vis-à-vis the decision dated June 30, 2003 promulgated thereat.³²

Inasmuch as the decision thus rendered in CA-GR SP No. 71665 has fully resolved the issues and claims being litigated in this case, and notwithstanding that said decision is now on appeal in the Supreme Court, we are now precluded from resolving such issues and claims on the ground of *litis pendentia*. Instead, we should now dismiss this case pursuant to Sec. 1, Rule 9, 1997 Rules of Civil Procedure, to wit:

Section 1. Defenses and objections not pleaded. — Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim. (2a)

WHEREFORE, this case is DISMISSED on the ground of *litis pendentia*.

SO ORDERED.

Villarama, Jr. and Arevalo-Zenarosa, JJ., concur.

[1] Annex A, petition.

[2] Annex B, petition.

[3] Quoted from the CA Decision dated May 26, 2000 in SP No. 50900; Annex D, petition; rollo, pp. 100-101.

[4] Petition, pp. 5-6; rollo, pp. 6-7.

- [5] Petition, p. 5; rollo, p. 6.
- [6] Petition, p. 6; rollo, p. 7.
- [7] Petition, p. 6; rollo, p. 7.
- [8] The dispositive portion is quoted in the CA Decision dated May 26, 2000 in SP No. 50900; Annex D, petition; rollo, p. 105.
- [9] Petition, p. 6; rollo, p. 7.
- [10] Annex D, petition; rollo, pp. 98-115.
- [11] Annex F, petition; rollo, pp. 121-125.
- [12] Annex G, petition.
- [13] Annex H, petition.
- [14] Annex I, petition; rollo, pp. 155-156.
- [15] Annex J, petition.
- [16] Annexes K and K-1, petition.
- [17] Annex L, petition; rollo, pp. 180-183.
- [18] Annex M, petition; rollo, p. 186.
- [19] Annex N, petition.
- [20] Annex P, petition.
- [21] Per the endorsement of records (Annexes O and O-1, petition) made by the Regional Arbitration Branch on January 7, 2002 to the NLRC, Executive Labor Arbiter Voltaire Balitaan and Labor Arbitration Associate Susan Diesta noted that Batelec II failed to post an appeal bond.
- [22] Annex A, petition.
- [23] Since appointed Associate Justice of the Court of Appeals.
- [24] Annexes A-16-A-23, petition.
- [25] Annex C, petition.
- [26] Annex R, petition.
- [27] Annex S, petition.
- [28] Annex B, petition.
- [29] Associate Justices Ruben T. Reyes (ponente), Elvi John Asuncion and Lucas P. Bersamin.
- [30] Rollo of SP No. 71665, pp. 235-264.
- [31] Rollo of SP No. 71665, pp. 286-287.
- [32] Rollo of SP No. 71665, pp. 288-350.

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