

LUZVILLA B. DAGPIN, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (NLRC), CASILDA TAN AND/OR C & L LENDING INVESTOR, RESPONDENTS.

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

This Resolves private respondents' Motion for Reconsideration[1] filed on November 6, 2013 of this Court's Decision[2] promulgated on September 24, 2013.

After a circumspect evaluation of the grounds relied upon by the private respondents, this Court finds no strong and cogent reason to set aside its earlier Decision. The reasons and arguments set forth by the movant are basically reiterations of what this Court had already amply and exhaustively discussed and ruled upon in its Decision dated September 24, 2013 which quoted below:

"It is the emerging trend in our jurisprudence to afford every party-litigant the amplest opportunity for the proper and just determination of his cause free from the constraints of technicalities says the Supreme Court in *Garcia v. Court of Appeals*. Thus, in several instances, the Supreme Court relaxed the rigid application of the rules of procedure to afford the parties the opportunity to fully ventilate their cases on the merits. In fact, in *Spouses Bergonia v. Court of Appeals*, it is said:

"This is in line with the time honored principle that cases should be decided only after giving all the parties the chance to argue their causes and defenses. Technicality and procedural imperfections should thus not serve as bases of decisions. In that way, the ends of justice would be better served. For indeed, the general objective of procedure is to facilitate the application of justice to the rival claims of contending parties, bearing always in mind that procedure is not to hinder but to promote the administration of justice."

The explanation offered by petitioner should have gained NLRC's utmost consideration given the fact that petitioner's counsel on record Atty. Carin was attending an IBP Convention on March 26-29, 2009. Even Atty. Rosal, who entered his special appearance for petitioner, was at the said Convention. Both could not have prepared an intelligent Appeal Memorandum in a very short span of time.

Noticeably, the February 19, 2009 Order which was addressed to "L. Dagpin c/o Atty Kenneth Rosal" was sent to petitioner herself when such should have been sent to Atty. Rosal in accordance with the mailing address indicated on the face of the mailing envelope. It must be stressed that the moment an attorney appears for any party, notice should be given to the former. It has been settled that:

". . . where a party appears by attorney in an action or proceeding in a court of record all notices thereafter required to be given in the action or proceeding must be given to the attorney and not to the client; and a notice given to the client and not to his attorney is not a notice in law."

Thus, notice to client alone is not the legal service of the notice contemplated by law. Under the facts of the present case, petitioner could not be declared in default. The filing therefore of her appeal memorandum on April 13, 2003 could still be considered filed within the reglementary period. Clearly, the NLRC committed grave abuse

of discretion when it whimsically and capriciously dismissed the appeal for non-perfection when there was no legal service of the notice/Order was done.

Now, comes to the core issue at hand. Would a re-computation of petitioner's monetary awards run counter to the principle of immutability of judgment?

We answer in the negative.

A re-computation (or an original computation, if no previous computation has been made) is a part of the law – specifically, Article 279 of the Labor Code and the established jurisprudence on this provision – that is read into the decision. The re-computation of the consequences of illegal dismissal upon execution of the decision clarified by the Supreme Court in *Session Delights Ice Cream v. Fast Foods v. CA*, does not constitute an alteration or amendment of the final decision being implemented. The illegal dismissal ruling stands; only the computation of monetary consequences of this dismissal is affected and this is not a violation of the principle of immutability of final judgments.

That being settled, let Us now address the question on when should the computation of separation pay start and when should it end. This question had been addressed by the Supreme Court in the case of *Javellana, Jr., v. Belen*, where it ruled:

“Technically the computation of his separation pay would end on the day he was dismissed on August 20, 1999 when he supposedly ceased to render service and his wages ended. But, since Belen was entitled to collect backwages until the judgment for illegal dismissal in his favor became final, here on September 22, 2008, the computation of his separation pay should also end on that date.”

Thus, when private respondent pursued the review of this case up to the Supreme Court, it is only when the Supreme Court wrote *finis* on the issue on petitioner's illegal dismissal that the decision thereof was rendered final. This is regardless of the fact that petitioner was able to successfully secure a Writ of Execution before the Labor Arbiter where her monetary awards like backwages and separation pay in lieu of reinstatement were computed up to January 10, 2005. It must be further stressed that the finality of the illegal dismissal decision is the reckoning point instead of the reinstatement that the law decrees. Thus, in allowing separation pay, the final decision effectively declares that the employment relationship ended so that separation pay and backwages are to be computed up to that point.

Having this to consider, it is but just to re-compute the monetary awards due to petitioner. However, as she was able to collect Php1,005,146.83, it also proper to deduct the same from whatever she is supposed to claim.

She should be entitled to backwages from when she was dismissed to August 21, 2008, when the judgment for illegal dismissal in G.R. 182268 became final. Her separation pay, on the other hand, which is equivalent to one month pay for every year of service, a fraction of six months to be considered as one whole year should begin from when petitioner began her service until the judgment for illegal dismissal in her favor became final on August 21, 2008.

Furthermore, as the decision becomes a judgment for money, another consequence to be considered is the payment of interest in case of delay. In accordance with the Supreme Court's ruling in *Eastern Shipping Lines, Inc. v. Court of Appeals*, a legal interest of 12% should be imposed on whatever remaining balance of petitioner's monetary awards after deducting the Php1,005,146.83 reckoned from the finality of the judgment on August 21, 2008 until fully satisfied.

WHEREFORE, in view of the foregoing, the instant Petition for Certiorari is hereby GRANTED. The assailed Resolutions of public respondent National Labor Relations Commission promulgated on August 27, 2009 and

October 30, 2009 are ORDERED REVERSED and SET ASIDE. The Order dated February 19, 2009 of the Labor Arbiter in NLRC Case No. Sub-RAB-09-06-10033-03 is likewise REVERSED and SET ASIDE.

The Labor Arbiter is herein ORDERED to re-compute the monetary awards due to petitioner Luzvilla Dagpin. It is further ORDERED to deduct therefrom the amount of Php1,005,146.83 which petitioner was able to collect sometime in 2004.

A legal interest of 12% shall be imposed on the remaining monetary awards reckoned from the finality of the judgment on August 21, 2008 until fully satisfied.

WHEREFORE, the Motion for Reconsideration is hereby DENIED.

SO ORDERED.

Borja, J., Ch., and Badelles, JJ., concur.

[1] Rollo, p. 173.

[2] Rollo, p. 163.

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