

MANILA RAILROAD COMPANY, PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS AND KAPISANAN NG MGA MANGGAGAWA SA MRR., RESPONDENTS.

G. R. No. L-18389. January 31, 1963

Ponente: PAREDES, J.

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PAREDES, J.:

Sometime on February 10, 1950, the Court of Industrial Relations rendered a decision in Case No. 270-V, holding, among others, that the petitioner MRR should pay 25% additional compensation for night work performed from 6:00 p.m. , to 6:00 a.m. , the next day. On June 8, 1960 , more than ten (10) years after the rendition of said decision, respondent Union filed a motion, praying that petitioner be required to pay the night differential pay of the Gate Crossing Keepers from February 1, 1950 to October 31, 1950 , who were among the class of laborers found to be entitled to such night work pay. The motion was opposed by petitioner, alleging that the same was a violation of the Order of the CIR dated March 19, 1956 , requiring a simultaneous audit in cases of computations submitted by the Court Examiner, conformably to the accepted procedure of the respondent CIR on the matter. On August 12, 1960, the CIR directed the Chief Examiner of the Court to compute the night work differentials on the Gate Crossing Keepers and to submit a report. On November 1, 1960, the Chief Examiner submitted a report covering a period from February 1, 1960 to October 11, 1960, amounting to P6,938.63, which was objected to by petitioner on the ground that decisions and awards of the courts, including the CIR, cannot be enforced by mere motion, after the lapse of five years but by a new action or proceeding. This objection was anchored on the decision of this Court in "National Development Company vs. Juan Aralar, et al., 108 Phil., 1068, promulgated July 26, 1960 . An opposition was interposed by the Union , contending that the cited case was not applicable and the ground relied upon should have been raised earlier, that is, after the promulgation of CIR order dated March 19, 1956 . The respondent CIR judgment, the pertinent portions of which read—

"The two reports of examiner (one is dated May 20, 1957 and the other is dated November 7, 1960), were compared and the Court found that Francisco Sarmiento, Joaquin Austria, Vicente Sarmiento, Laureano Arceo, Delfin Mauricio, Luis Castillo and Manuel Ariena are in the later report but are not included in the former report. However, while they have not been paid any night work differential before, this Court, believes that the denial to them the payment of the present claim would be merely a technical matter to which this Court is not bound. It is established that their claim are legitimate and in accordance with the decision of February 10, 1950 . The night work differentials of these people were not immediately executed because of the poor financial position of the company. Hence, sometime in September, 1956, the parties entered into a negotiation wherein the outstanding obligations of the company under the above-entitled case may even be paid on monthly installment. If the company were to invoke the live year period, it could have raised that matter in the negotiation in 1956. But, since it had been agreed to pay the claimants of their night work differentials by monthly installment such technicality of filing a new case to execute the award at this stage would be farfetched.

In view thereof, the objection of respondent to the report of examiner dated November 7, 1960 is hereby

overruled.

* * * * *

WHEREFORE, the Collecting and Disbursing Officer of this Court and/or the Accounting Unit of this Court, is hereby directed to withdraw from the deposit in connection with the above-entitled case, the amount of P5,342.75 in favor of the Kapisanan Ng Mga Manggagawa sa MRE, for payment to the workers concerned of their night work differential from February 1, 1950 to October 31, 1950, subject to rules, and regulations. The President and Treasurer of said Union, as well as the union's counsel are hereby directed to render an accounting of the said amount of P5,342.75 within thirty (30) days from receipt of the treasury warrant, otherwise they shall be held in contempt."

On March 10, 1961, the petitioner, thru the corporate counsel, presented a Motion for Reconsideration, which the CIR., en banc, denied on April 12, 1961.

The case is now before Us on a Petition for Review on Certiorari, interposed by the petitioner. The question is centered on one count, to wit: whether in the light of the doctrine laid down in the Aralar case, the claims of the Gate Crossing Keepers have already prescribed. Respondent Union insists on the inapplicability of the ruling in the said case; and submits that the prescriptive period has been arrested, in view of the arrangement made between the MRR and the Union in 1956, in the matter of payment of the petitioner's obligations, even on monthly installments.

One of the arguments adduced by petitioners to justify its refusal to grant the claim is that the Gate Crossing Keepers were not included in the judgment. Apart from the fact that the decision in Case No. 270-V of February 10, 1950, is clear, the said Gate Crossing Keepers, having been workers of the said company, before and subsequent to the judgment, and were similarly situated as the original petitioners, the benefits of the said judgment are extended to them. Workers involved in a dispute include other workers, unionists or not, who are presumed interested in the outcome of the demands or strike, one way or the other (Price Stabilization Corp. vs. PRISCO Workers' Union, 102 Phil., 515, Nov. 29, 1957).

This Court, in the Aralar case has ruled that—

"* * * Under the amendment, if a final judgment or award of the CIR is to be enforced by writ of execution or any other remedy provided by law in the same way that orders and judgments, of Courts of First Instance are enforced, then the legal provisions to the effect that decisions may be enforced only within five years from the date of entry are applicable to decisions or awards of the Industrial Court. Consequently, it is necessary to make distinctions if the award made in 1948 has never been executed as regards all the petitioners, then the present petition should and must be denied. A new action or proceeding would be necessary to enforce the award. However, if the 1948 award has heretofore been executed or enforced as to some or all of the petitioners from the date of the last enforcement up to the date of the present petition, not more than five years have elapsed, then the present petition may be granted as to those petitioners not covered by the prohibition of Section 6, Rule 39, Rules of Court."

It appears from the record, however, that in view of the poor financial position of the company at the time of execution of the February 10, 1950 decision, the trial court issued an order dated January 26, 1956, stating among others, the following—

"However, not a centavo of the said amount has been paid by respondent company: It also failed to pay the employees the compensation for night work that they have earned 'during the period beginning October 1, 1950 and thereafter. According to the manifestation of the respondent on April 26, 1955, and the counter-manifestation of petitioner union dated April 28, 1955, the latter agreed to defer or suspend until January 1, 1956 the enforcement of their demand for payment of 25% additional compensation for night

work."

Since the object of the motion in question was merely the issuance of an alias writ of execution of a judgment which had been the object of various periodical executions, within the 5 years from the date of entry of the said judgment, which were not enforced because of the poor financial condition of the company, and due to the agreement of the parties with the approval of the trial court, as shown in the above quoted portion of the Order, to defer or suspend¹ until January 1, 1956, the enforcement of the employees' demand, and because the deferment or suspension was granted for the benefit of the company-obligor, and since the latter by asking such deferment or suspension had waived its right to enforce the judgment within the prescribed period, the counting of the said period should commence to run after January 1, 1956, the expiration of the period of deferment or suspension agreed upon.

"Where judgments are for money only and are wholly unpaid, and execution has been previously withheld in the interest of the judgment debtor, which is in financial difficulties, the court has no discretion to deny motions for leave to issue execution more than five years after the judgments are entered". (Application of Molnar, Belinsky, et al. vs. Long Is. Amusement Corp., 1 N.Y.S. 2d 866).

"In computing the time limited for suing out of an execution, although there is authority to the contrary, the general rule is that there should not be included the time when execution is stayed, either by agreement of the parties for a definite time, by injunction, by the taking of an appeal or writ of error so as to operate as a supersedeas, by the death of a party, or otherwise. Any interruption or delay occasioned by the debtor will extend the time within which the writ may be issued without scire facias." (23 C.J. 378).

The filing of the motion for alias writ of execution on June 8, 1960, is well within the period. The rule in the Alarar case, heretofore quoted has not been infringed.

Conformably with all the foregoing appeal is hereby dismissed, and the Order sought to be reviewed, is affirmed. With costs against herein petitioner.

Bengzon, C. J., Padilla, Bautista, Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Dizon, Regala and Makalintal, JJ., concur.

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