

HIZON TRANSPORT SERVICES & TRADING INC., & FLORENCIO HIZON, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND VICTORINO R. ROGON, RESPONDENTS.

Ponente: CRUZ, R.A., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f0f9df696f81/>

CRUZ, R.A., J.:

THE CASE

This is a Petition for Certiorari under Rule 65 of the Rules of Court which seeks to reverse and set aside the (i) Resolution dated February 27, 2013[1] of the National Labor Relations Commission (NLRC) in NLRC LER Case No. 02-047-13 (NLRC RAB-IV-09-01316- 12-B) and the subsequent (ii) Resolution dated April 4, 2013,[2] denying petitioners' motion for reconsideration. The dispositive portion of the Resolution dated February 27, 2013 reads:

" xxx xxx xx

WHEREFORE, petition is summarily DISMISSED for not complying with the Rules on Extraordinary Remedy and for utter lack of any merit.

SO ORDERED.

xxx xxx xxx "

THE ANTECEDENTS

On October 5, 2012, Victorino Rogon, as complainant, filed a complaint for illegal dismissal, money claims and payment of moral and exemplary damages, docketed as NLRC Case No. RAB IV 09-01316-12-B, against Hizon Transport Services & Trading, Inc. and its Manager/Owner, Florencio Hizon, as respondents.[3]

In his position paper,[4] complainant alleged that on January 21, 2012, he was verbally terminated from employment by Florencio Hizon when he inquired about the non-payment of the SSS and was not given 13th month pay, service incentive leave and the amount of P100.00 was deducted from his wages without his consent.

Respondents, on the other hand, deny that they dismissed complainant. They averred that complainant was not an employee because his services was merely contracted and was paid on a per trip basis, hence, they are not liable for 13th month pay, service incentive leave and damages.[5]

On December 18, 2012, the labor rendered a Decision[6] finding respondents guilty of illegal dismissal. The labor arbiter ruled that complainant is a regular employee and was dismissed from employment without observance of the twin-notice rule. It also granted complainant's money claims because respondents failed to show the payrolls and vouchers evidencing payment of 13[th] month pay and service incentive leave.

Hence, the labor arbiter decreed:

“ xxx xxx xxx

WHEREFORE, premises considered, respondents are hereby declared guilty of illegal dismissal and ORDERED to reinstate immediately complainant to his former position without prejudice to seniority rights and other benefits. Further, respondents are jointly and severally liable to pay complainant the following:

1. Full backwages from date of dismissal until actual reinstatement which to date amounts to P218,090.84;
2. 13[th] month pay for the year 2010 and 2011 in the total sum of P36,400.00;
3. SIL for the years 2010 and 2011 in the total sum of P7,000.00;
4. Moral Damages in the sum of P100,000.00;
5. Exemplary Damages in the sum of P50,000.00

SO ORDERED.

xxx xxx xxx “

Aggrieved, respondents, as petitioners, filed a Petition for Extraordinary Remedies[7] under Rule XII of the 2011 NLRC Rules of Procedure against the complainant and labor arbiter, as respondents, before the National Labor Relations Commission (NLRC). Petitioners seek to nullify the order of immediate reinstatement of private respondent as pronounced in the labor arbiter's Decision dated 18, 2012 on the following grounds: “(1) the public respondent seriously erred and committed serious/grave abuse of discretion in relying on the Sinumpaang Salaysay dated November 28, 2012, in holding that private respondent was illegally dismissed and, consequently, awarding his causes of action; (2) the public respondent seriously erred in holding that private respondent was able to substantiate his cause of action; (3) the public respondent erred in not dismissing the complaint.”

By Resolution dated February 27, 2013,[8] the NLRC dismissed the petition for non-compliance with the Rules on Extraordinary Remedy. It reasoned that what was contemplated in Rule XII of the 2011 NLRC Rules of Procedure is one which seeks relief from the immediate effect of orders or resolutions and excludes the decisions of the labor arbiter. Also, since petitioners admitted that an appeal has been filed before the NLRC, they have violated the rule on proscription of multiplicity of suits and forum shopping. The dispositive portion of the Resolution reads:

“ xxx xxx xxx

WHEREFORE, the petition is summarily DISMISSED for not complying with the Rules on Extraordinary Remedy and for utter lack of merit.

SO ORDERED.

xxx xxx xxx “

Petitioners filed a motion for reconsideration[9] but the same was denied in the Resolution dated April 4, 2013.[10]

Now, respondents as petitioners are before Us by way of Petition for Certiorari.

THE ISSUES BEFORE US

In assailing the resolution, petitioners advance the following posers, that:

I. THE PUBLIC RESPONDENT SERIOUSLY ERRED AND COMMITTED SERIOUS/GRAVE ABUSE OF DISCRETION IN HOLDING THAT THE EXTRAORDINARY REMEDY PROVIDED UNDER RULE XII OF THE 2011 NLRC RULES OF PROCEDURE DOES NOT FIND APPLICATION IN THE CASE AT BAR;

II. THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION , IN NOT HOLDING THAT THE SINUMPAANG SALAYSAY DATED NOVEMBER 28, 2012, PURPORTEDLY EXECUTED BY PRIVATE RESPONDENT, UPON WHICH THE LABOR ARBITER DREW HIS FINDING THAT PRIVATE RESPONDENT WAS ILLEGALLY DISMISSED, WAS ACTUALLY NON-EXISTENT;

III. THE PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION WHICH IS TANTAMOUNT TO LACK OF JURISDICTION IN DISMISSING THE PETITION FOR EXTRAORDINARY REMEDY.

Petitioners, in their Petition,[11] fault Public respondent NLRC for dismissing their Petition for Extraordinary Remedy. They assert that while they have availed of the remedy of appeal with respect to the monetary award, said appeal is not adequate, speedy and sufficient remedy insofar as the order of reinstatement is concerned, thus, their recourse was the extraordinary remedy provided under the 2011 NLRC Rules of Procedure.

On the other hand, private respondent, in his Comment,[12] maintains that the NLRC was correct in dismissing the petition because petitioners have already interposed an appeal before the NLRC.

OUR RULING

It is petitioners' position that the NLRC acted with grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing their Petition for Extraordinary Remedy because an appeal before the NLRC is not an adequate, speedy and sufficient remedy insofar as the labor arbiter's order of reinstatement is concerned.

This posture is weak.

Rule XII of the 2011 NLRC Rules of Procedure has instituted a Verified Petition for Extraordinary Remedy to annul or modify any order or resolution of the labor arbiter including those issued during execution proceedings.[13] The petition filed under this Rule may be entertained only on any of the following grounds: a) if there is prima facie evidence of abuse of discretion on the part of the labor arbiter; b) if serious errors in the findings of facts are raised which, if not corrected, would cause grave or irreparable damage or injury to the petitioner; c) if a party by fraud, accident, mistake or excusable negligence has been prevented from taking an appeal; d) if made purely on questions of law; or e) if the order or resolution will cause injustice if not rectified.[14] The NLRC may however dismiss the petition if it finds the same to be patently without merit, prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration.[15]

We agree with the NLRC that the act of petitioners' filing the Petition for Extraordinary Remedy violated the policy against multiplicity of suits. The records reveal and petitioners' admitted that they have already filed an appeal of the labor arbiter's Decision dated December 18, 2012 before the NLRC. Without waiting for the NLRC's action on the appeal, a Petition for Extraordinary Remedy was also filed and a perusal thereof shows that petitioners essentially want the NLRC to determine if private respondent was dismissed. In Our view, the issues

of whether there was illegal dismissal and whether private respondent is entitled to the reliefs can be properly threshed out and ventilated in the appeal. Indeed, to file two separate cases would only result in multiplicity of suits and cause unnecessary delay. To obviate delay, the dismissal of the petition is proper.

Moreover, under Article 223 of the Labor Code, the decision of the labor arbiter reinstating a dismissed or separated employee, insofar as the reinstatement aspect is concerned, shall immediately be executory, even pending appeal.[16] The 2011 NLRC Rules of Procedure is likewise explicit that if the labor arbiter's decision includes an order of reinstatement, the decision should state that the reinstatement aspect is immediately executory.[17] And, should the employer disobey the directive of the labor arbiter or refuse to reinstate the dismissed employee, the labor arbiter shall immediately issue a writ of execution, even pending appeal, directing the employer to immediately reinstate the dismissed employee either physically or in the payroll and to pay the accrued salaries as a consequence of such reinstatement.[18] The perfection of appeal shall stay the execution of the decision of the labor arbiter except execution for reinstatement pending appeal.[19]

Here, the dispositive portion of the labor arbiter's Decision dated December 18, 2012 ordered the immediate reinstatement of private respondent. Based on the foregoing provisions, it is clear that as soon as an order or award of reinstatement is handed down by the labor arbiter, such order is immediately enforceable. Petitioners, as employer, have to either re-admit private respondent to work under the same terms and conditions prevailing prior to his dismissal, or to reinstate him in the payroll, a privilege which Article 223 of the Labor Code itself grants. Hence, private respondent should not be made to wait until the outcome of the appeal. Verily, the Petition for Extraordinary Remedy would only run counter to the immediately executory nature of the labor arbiter's order of reinstatement and must therefore be dismissed.

We therefore quote with approval the ruling of the NLRC, viz:

" xxx xxx xxx

In this case, the petitioner assails the Decision of the Labor Arbiter dated December 18, 2012. They further alleged that they filed their Appeal assailing such Decision on the same date that they filed this petition. Thus, it is very perplexing and mind boggling for the petitioner to allege that "under the present state of law, there is no provision for appeal from the decision of the public respondent when by their own account they admitted to have filed their appeal on February 14, 2013. By filing this petition and at the same time filing their appeal and on the same day at (sic) that, petitioners violated the rule on proscription of multiplicity of suits and forum shopping. It is with so much regret that it is for this reason that petitioner could not attach their Certificate of Non-forum Shopping to accompany this instant Petition, an essential requisite under Section 4 of Rule XII of our 2011 Rules of Procedure to give due course to this petition.

This petition is filed not in accordance with Rule XII of our 2011 Rules of Procedure. Though it is seasonably filed, the same does not comply with Section 1, of the said Rule XII. Only "a party aggrieved by any order or resolution of the Labor Arbiter including those issued during execution proceedings may file a verified petition to annul or modify such order or resolution." What was contemplated in Rule XII is to seek relief from the immediate effect of an Order or any Resolution issued by the Labor Arbiter. Decision of the Labor Arbiter is excluded from such Rule as there is more appropriate remedy of appeal to assail such Decision than this extraordinary remedy under Rule XII.

Moreover, what the petitioners seek to nullify is mandated and provided under the Labor Code of the Philippines, specifically under Article 223 thereof. It needs more than the ground being "moot and ineffectual" in order to nullify such reinstatement pending appeal. Legally and substantially speaking, such reinstatement pending appeal cannot be nullified except when reinstatement is rendered impossible as there is no more position or work for the complainant to be reinstated, which in those cases, payroll reinstatement may be resorted to.

xxx xxx xxx "

In a Special Action for Certiorari, the burden is on petitioners to prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent. "By grave abuse of discretion is meant capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. Mere abuse of discretion is not enough. It must be grave abuse of discretion as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law." [20] Viewed with this standard, there is nothing whimsical, unreasonable or patently violative of the law in the NLRC's resolutions. Withal, the petition shall fail.

WHEREFORE, premises considered, the petition is DISMISSED. The assailed Resolution dated February 27, 2013 of the National Labor Relations Commission (NLRC) in NLRC LER Case No. 02-047-13 (NLRC RAB-IV-09-01316-12-B) and the subsequent (ii) Resolution dated April 4, 2013 are AFFIRMED.

SO ORDERED.

Abdulwahid (Chairperson) and Barza, JJ., concur.

[1] Penned by Commissioner Angelo Ang Palaña, concurred in by Herminio V. Suelo and Numeriano D. Villena, Rollo, pp. 20-24.

[2] Ibid., pp. 25-26.

[3] Ibid., p. 27.

[4] Complainant's Position Paper; Ibid., 35-48.

[5] Respondents' Position Paper; Ibid., pp. 28-34.

[6] Penned by Labor Arbiter Edgar B. Bisana; Ibid., pp. 70-74.

[7] Ibid., pp. 75-86.

[8] Supra, Note 1.

[9] Ibid., pp. 138-144.

[10] Supra, Note 2.

[11] Petition for Certiorari; Ibid., pp. 3-18.

[12] Ibid., pp. 164-167.

[13] Section 1, Rule XII of the 2011 NLRC Rules of Procedure.

[14] Section 2, Rule XII of the 2011 NLRC Rules of Procedure.

[15] Section 13, Rule XII of the 2011 NLRC Rules of Procedure.

[16] Article 223 of the Labor Code.

[17] Section 18, Rule V of the 2011 NLRC Rules of Procedure.

[18] Section 9, Rule XI of the 2011 NLRC Rules of Procedure.

[19] Section 3, Rule XI of the 2011 NLRC Rules of Procedure.

[20] University of Mindanao, et.al., vs. PDIC, G.R. No. 181201, February 21, 2011. citing Solvic Industrial Corporation v. NLRC, G.R. No. 125548, September 25, 1998, 296 SCRA 432, 441. Jinalinan Technical School, INC. vs. NLRC, et.al., G.R. No. 163167, August 9, 2006. citing Intestate Estate of Carmen de Luna v. Intermediate Appellate Court, G.R. No. 72424, February 13, 1989, 170 SCRA 246, 254.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.