

**NAGA COLLEGE FOUNDATION EDUCATION WORKERS
ORGANIZATION (NCFEWO), GERARDO J. SAMAN, EDUARDO C.
LAURELES, NESTOR P. AVENIDO, AND OLIVE CEA, PETITIONERS, VS.
HON. VITO C. BOSE, IN H...**

G.R. No. 122633. April 20, 1998

Ponente: MENDOZA, J.

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MENDOZA, J.:

Petitioners were employees of the Naga College Foundation of which private respondent Melchor T. Villanueva is the president. In 1990, petitioners filed a complaint with the Regional Arbitration Branch of the National Labor Relations Commission (NLRC) in Naga City for unfair labor practice, reinstatement, backwages, and damages against private respondents, alleging illegal dismissal. On the other hand, private respondents filed a complaint against petitioners for conducting an illegal strike.

The cases were consolidated and referred to the public respondent Executive Labor Arbiter (ELA) in Legaspi City. On August 20, 1992 the ELA rendered a decision, ordering the reinstatement of petitioners and the payment of backwages to them. The dispositive portion of his decision reads:

WHEREFORE, judgment is hereby rendered, directing Naga College Foundation and Dr. Melchor T. Villanueva or any responsible official to immediately reinstate the individual complainants to their respective former or equivalent positions without loss of seniority rights and other privileges and to pay their backwages thru this Branch within ten (10) days from receipt hereof, as follows:

1. Eduardo C. Laureles P 81,671.85
2. Olivia E. Cea 80,521.55
3. Ramon V. Surara..... 87,285.35
4. Nestor P. Avenido..... 73,619.70
5. Gerardo J. Saman..... 91,587.50

GRAND TOTAL ===== P414,685.95

All other claims are dismissed for lack of merit.

SO ORDERED.[1]

Private respondents appealed. On January 19, 1993, while the appeal was pending, petitioners moved for the execution of the portion of the decision insofar as it granted reinstatement.[2] The motion was made pursuant to Art. 223 of the Labor Code, as amended by §12 of R.A. No. 6715.

On February 23, 1993, the parties entered into an agreement whereby private respondents agreed to reinstate

petitioners in the payroll effective September 21, 1992, the date of receipt by them of the ELA's decision. Private respondents agreed to pay petitioners their monthly salary beginning March 30, 1993, plus the additional amount of P3,000.00, as monthly installment on the salaries which had accrued, plus interest. The agreement was approved by the ELA in his order, dated March 26, 1993.

However, after paying three installments of the accrued salaries of petitioners, private respondents failed to make further payments to petitioners. Petitioners asked the ELA for assistance and, as no action was taken on their request,[3] petitioner Laureles on October 19, 1993 filed a motion for execution directly with the NLRC in Manila.[4]

Meanwhile, on June 15, 1993, the NLRC rendered a decision affirming that of the Labor Arbiter.[5] Private respondents filed a motion for reconsideration but it was denied.[6] They filed a petition for certiorari, which this Court likewise dismissed in its resolution of July 11, 1994 (G.R. No. 113621).[7] Petitioners' motion for reconsideration was denied with finality on August 31, 1994 and, on October 3, 1994, entry of judgment was made.[8]

On January 30, 1995, petitioner Eduardo Laureles filed a motion for issuance of a writ of execution.[9] He filed other motions on February 13, 1995[10] and March 10, 1995,[11] reiterating his prayer for a writ of execution.

On March 16, 1995,[12] respondent ELA denied the motions on the ground that the records of the case were still in the NLRC in Manila. He stated, however, that he would execute the decision once he received the records.

On March 24, 1995,[13] petitioners again moved for the execution of the decision on the basis of information that the records of the case had already been remanded to the ELA as early as January of 1994. It appears that although the records had indeed been returned to the ELA in January 1994, they were subsequently borrowed by the Solicitor General for the preparation of the comment on the Supreme Court petition for certiorari filed by private respondents. When the Solicitor General returned the records of the case, they were returned to the NLRC branch in Naga City, instead of Legaspi City. It was not until public respondent inquired from the NLRC in Manila on April 11, 1995 that the error was discovered.

Anyway, the records were finally received by the ELA in Legaspi City on April 21, 1995.[14] But execution was held off because of the failure of petitioners to submit evidence of income which they earned during their dismissal.[15] Petitioners insisted on execution according to the tenor of the original decision, without need of determining how much they might have earned during the period of their dismissal. They claimed that for the ELA to consider and deduct the income earned by them would be for him to amend the decision in their favor, which had already become final and executory.

On November 27, 1995, petitioners filed the instant petition for mandamus to compel the ELA to resolve the matters pending before him and to issue a writ of execution.

On November 28, 1995, the ELA finally acted on petitioners' motion. He denied execution on the ground that by filing a motion for execution in the NLRC in Manila, petitioners had abandoned their motions in the Legaspi office. At the same time, however, noting that the incidents relating to the execution of the decision had caused friction between the parties and strained their relations, thus allegedly making the reinstatement of petitioners to their former positions impracticable, the ELA ordered that, in lieu of reinstatement, petitioners be given separation pay.

On December 21, 1995, petitioners asked for a reconsideration of the ELA's order.[16] As private respondents deposited with the ELA four checks for P142,332.00, representing the separation pay of the four individual complainants, allegedly to stop the running of the period in relation to backwages,[17] petitioners in addition filed

another manifestation[18] objecting to the payment. Petitioners denounced the payment as nothing but a scheme to circumvent the original decision, already final, which ordered their reinstatement and not the payment of separation pay.

On January 5, 1996,[19] the ELA treated the manifestations of petitioners as an appeal from his order dated November 28, 1995 and directed the records of the case to be sent to the NLRC in Manila for review.

On January 12, 1996, petitioners filed a motion for reconsideration, denying that they had intended to appeal from the order of the Labor Arbiter and arguing that to consider their manifestations as notice of intention to appeal would be to make litigation endless.

On March 15, 1996, petitioners filed a manifestation in this case, praying that the January 5, 1996 order of the ELA be set aside and that the ELA be restrained from acting further in the case. Petitioners contended that the reinstatement portion of the decision had already been the subject of a compromise agreement and, therefore, the order deleting the order of reinstatement and awarding separation pay in lieu thereof in effect amended a final and executory order. Petitioners claimed that they had been forced to file a motion directly in the NLRC because of the ELA's failure to act upon their motions, but that they had no intention at all of abandoning their motion in the ELA's office.

Petitioners submit the following issues for resolution:

- 1) Whether or not petitioners abandoned the agreement when they moved for the execution of the decision, and whether by doing so, the Executive Labor Arbiter could freely consider supervening events;
- 2) Whether or not the Executive Labor Arbiter committed a grave abuse of discretion in considering as an appeal the manifestation of petitioners re the granting of separation pay in lieu of reinstatement and the opposition to the compliance of the private respondents; and
- 3) Whether petitioners are entitled to full backwages.

It is alleged in private respondents' comment that petitioner Ramon V. Surara was paid on October 3, 1995 P172,980.50, representing three (3) years backwages and six years' separation pay as full payment of all his claims against private respondents.[20] On the other hand, Gerardo Saman, Olivia Cea, and Nestor Avenido have allegedly been given their separation pay in the amounts of P47,772.00, P21,000.00, and P41,600.00, respectively,[21] and only have to be paid backwages. Only Eduardo Laureles would, therefore, appear to still have an interest in this case. This allegation need not be determined in this case, being more appropriately taken up in the execution of the decision of the NLRC.

First. It is contended that the ELA no longer had jurisdiction to order payment of separation pay in lieu of reinstatement because the June 15, 1993 decision of the NLRC, ordering reinstatement of petitioners, had already become final and executory. Indeed, in the compromise agreement made on February 23, 1993, private respondents undertook to reinstate petitioners.

The Solicitor General contends, however, that by asking for the execution of the decision of the NLRC petitioner in effect abandoned or rescinded the compromise agreement, leaving the ELA free to consider supervening events, such as the strain in relations of the parties, in the resolution of the motion for execution. There is no basis in the record for supposing that petitioners gave up their claim for reinstatement. The subject of the compromise agreement was their reinstatement as ordered in the decision of August 20, 1992 of the ELA. The subject of the NLRC decision, dated June 15, 1993, which they sought to enforce in the motion for execution which they filed on January 30, 1995, was also their reinstatement.

Whichever one it is, no supervening event rendering execution unjust can be considered. For one, petitioners did not occupy any managerial or confidential position in the Naga College Foundation which might be affected by any bad feeling which might have been engendered as a result of the execution of the decision. For another, it was private respondents who appear to have caused a strain in the relation of the parties. Any bad feeling was caused by its failure to comply in good faith with their undertaking under the compromise agreement.

As held in *Globe-Mackay Cable and Radio Corp. v. National Labor Relations Commission*:^[22]

Obviously, the principle of “strained relations” cannot be applied indiscriminately. Otherwise, reinstatement can never be possible simply because some hostility is invariably engendered between the parties as a result of litigation. That is human nature.

Besides, no strained relations should arise from a valid and legal act of asserting one’s right; otherwise an employee who shall assert his right could be easily separated from the service, by merely paying his separation pay on the pretext that his relationship with his employer had already become strained.

Nor can it be argued that petitioners had abandoned the benefits of the compromise agreement by resorting to the NLRC. Petitioners were frustrated at the undue delay in the resolution of their motions by the ELA and they thought of turning to the NLRC in Manila in the hope of obtaining assistance. Abandonment was far from their intention. It was clearly grave abuse of discretion for the ELA to order separation pay in lieu of reinstatement and to consider the motion for execution of petitioners abandoned.

Second. It was bad enough for the ELA to order separation pay in lieu of reinstatement. It was worse for him when, after private respondents had deposited four (4) checks for the separation pay and petitioners objected, the ELA considered petitioners’ opposition and manifestation as an appeal, which would mean further delay in the realization of the fruits of petitioners’ victory.

Indeed, the case was already in the final stages of execution of the judgment. In the first place, there was no justification for the modification by the ELA of the decision which was already final. To treat petitioners’ objection to its modification as an appeal would make litigation endless. The ELA did this (i.e., consider the alleged supervening event) after failing for several months to resolve petitioners’ motion for execution. He acted only after this petition for mandamus had been filed in this Court. Hence, the claim that the ELA order in question was an undisguised attempt to moot the pending action in this Court.

Third. Anent the award of backwages, petitioners contend that they are entitled to full backwages without deduction because the decision of the ELA (affirmed by the NLRC on appeal and upheld by the Supreme Court) awarded them backwages without any qualification. They argue that any deduction from the backwages due to them would constitute an amendment of the final and executory decision in their favor.

At the time the decision was rendered by the ELA on August 20, 1992, the doctrine of *Ferrer v. NLRC*^[23] was the prevailing rule. In that case, we held that income earned during the period of illegal dismissal should be deducted from the backwages due to employees.

But petitioners invoke our recent ruling in *Bustamante v. NLRC*^[24] that illegally dismissed employees are entitled to full backwages without deduction or qualification in accordance with R.A. No. 6715, if the cause of action accrued after March 21, 1989, the date of effectivity of R.A. No. 6715.

Private respondents oppose the stand of petitioners and the Solicitor General. They contend that, since at the time the decision in this case became final and executory the *Ferrer* case was the prevailing rule, the *Bustamante* case can not be applied.

There is no question that R.A. 6715 was already in force at the time petitioners were illegally dismissed. However, even after the effectivity of R.A. No. 6715 on March 21, 1989, the Court had applied the rule in *Mercury Drug v. CIR*,^[25] which limited recovery of backwages to three years until the decision in the *Ferrer* case was handed down on July 5, 1993.

With the ruling in *Bustamante v. NLRC* giving full effect to R.A. No. 6715, however, illegally dismissed employees now are entitled to the payment of full backwages as long as the cause of action accrued after March 21, 1989.^[26]

Private respondents contend that, whatever the later rule is, under the doctrine of “law of the case” the *Ferrer* case should be applied to this case because it was the prevailing rule at the time the decision in this case attained finality. The decision of the ELA was rendered on August 20, 1992, and that of the NLRC, affirming the ELA decision, was rendered on June 15, 1993, while the decision in *Ferrer v. NLRC* was rendered only on July 5, 1993. How could the ruling in *Ferrer* have been impliedly embodied in the decision of the ELA? Nor is there any ruling in this case applying to it the *Ferrer* doctrine which could be considered to have settled the question of backwages under the doctrine of “law of the case.” The fact is that the decision of the ELA ordered the payment of backwages to petitioners without any deduction or qualification and that decision has become final and executory.

WHEREFORE, the petition is granted, and the orders of the public respondent Executive Labor Arbiter dated November 28, 1995 and January 5, 1996 are hereby annulled and set aside. Private respondents are hereby ordered to reinstate petitioners to their former positions without loss of seniority and to pay them full backwages, subject however to any agreement the parties may have entered into. The public respondent is ordered to issue forthwith the corresponding writ for the execution of his decision of August 20, 1992 in accordance with this decision.

SO ORDERED.

Regalado, (Chairman), Melo, Puno, and Martinez, JJ., concur.

[1] Petition, Annex A, p. 9; Rollo, p. 28.

[2] *Id.*, Annex B; *id.*, pp. 29-30.

[3] *Id.*, Annexes E and F; *id.*, pp. 37 and p. 39.

[4] *Id.*, Annex E; *id.*, p. 38.

[5] *Id.*, Annex G; *id.*, p. 43-54.

[6] *Id.*, Annex H; *id.*, pp. 56-57.

[7] *Id.*, Annex J; *id.*, p. 79.

[8] *Id.*, Annex K; *id.*, p. 80.

[9] *Id.*, Annex L; *id.*, pp. 82-83.

[10] *Id.*, Annex L-1; *id.*, pp. 84-85.

[11] *Id.*, Annex T; *id.*, pp. 100-101.

[12] *Id.*, Annex R; *id.*, p. 97-98.

[13] Id., Annex M-1; id., p. 88.

[14] Comment of the Solicitor General, pp. 16-17; id., pp. 219-220.

[15] Petition, Annex W; id., pp. 113-114.

[16] Petitioners' Manifestation, Annex B; id., pp. 177-179.

[17] Id., Annex B-1; id., pp. 180-181.

[18] Id., Annex C; id., pp. 182-183.

[19] Id., Annex D; id., p. 184.

[20] Private Respondents' Comment, p. 6; id., p. 271.

[21] Id., p. 16; id., p. 281.

[22] 206 SCRA 701, 712 (1992).

[23] 224 SCRA 410, 423 (1993).

[24] 265 SCRA 61, 70 (1996).

[25] 56 SCRA 694 (1974).

[26] *Ala Mode Garments, Inc. v. NLRC*, 268 SCRA 497 (1997).

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