

**JANE C. ABALOS, BERNARDO A. BAMBICO, MANUEL G. MALAG,
WILFREDO R. SOTELO, PERCIVAL B. AGRITO, RICHARD M.
BALAN-EG, AND EDGARDO S. NILLO PETITIONERS, VS. PHILEX
MINING CORPORATIO...**

G.R. No. 140374. November 27, 2002

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition for review assails the decision[1] dated July 30, 1999 of the Court of Appeals in CA-G.R. SP No. 50167, which affirmed the order[2] dated December 11, 1998 of Arbitrator Juan Valdez of the National Conciliation and Mediation Board, Cordillera Administrative Region, Baguio City. That order partially modified an earlier one dated March 5, 1994,[3] by directing respondent Philex Mining Corporation to pay petitioners their separation pay in lieu of reinstatement.

The factual antecedent are uncomplicated.

A manpower audit conducted by respondent Philex, for brevity, revealed that 241 of its employees were redundant. Thus, Philex undertook a retrenchment program that resulted in the termination of petitioners' employment effective June 30, 1993. Consequently, petitioners filed a case for illegal dismissal against respondent. The case was submitted for arbitration through a submission agreement coursed through the National Conciliation and Mediation Board, Cordillera Administrative Region, Baguio City.

On March 5, 1994, Voluntary Arbitrator Juan Valdez rendered his decision, concluding that:

IN THE LIGHT OF THE FOREGOING, Respondent is hereby ordered to reinstate the Complainants and Intervenors to their former positions with back wages without loss of seniority and privileges within 10 days from receipt hereof except the two employees namely Pedro Otgalon and Miguel Guyapat who have applied for and granted early retirement; provided that the amount of separation pay already received by them shall be deducted from their backwages; and provided further that should the backwages of the employee concerned be less than the amount of separation pay received, the employee concerned shall refund to Respondent the balance thereof; and for Respondent to pay to Counsel of the Complainants and Intervenors 10% each of the total amount of backwages due the employees represented by them as attorney's fees. No award of damages.

SO ORDERED.[4]

Philex appealed to this Court and the case was remanded to the Court of Appeals. On July 22, 1997, the appellate court promulgated its decision, thus:

In view of the foregoing, we rule that, while there was indeed a valid reason for retrenchment, the means employed were disadvantageous, thus inequitable, to the affected workers. The fact that these workers signed quitclaims and received their separation pay would not estop them from seeking reinstatement. The Supreme Court said: The reason why quitclaims are commonly frowned upon as contrary to public policy, and why they

are held to be ineffective to bar claims for the full measure of the workers' legal rights, is the fact that the employer and the employee obviously do not stand on the same footing. (Marcos vs. National Labor Relations Commission, G.R. No. 111744, 248 SCRA 146 [1995]).

WHEREFORE, the petition is dismissed for lack of merit.

SO ORDERED.[5]

Philex elevated the case to the Supreme Court via a petition for review on certiorari, which we denied in a resolution dated January 14, 1998. Entry of judgment was made on April 27, 1998.

On August 14, 1998, Philex filed a manifestation and motion for leave to offer separation pay to petitioners, in lieu of reinstatement, before the Office of Voluntary Arbitrator Juan Valdez. Philex alleged that petitioners' positions no longer existed and that there arose strained relations between the parties that effectively barred reinstatement.

Arbitrator Juan Valdez granted Philex's motion in his order dated December 11, 1998, thus:

In the light of the foregoing, Respondent is ordered to pay the Complainants and Intervenors the amounts of backwages and separation pay stated above less the total amount of salary they received as a result of their reinstatement thru payroll from November 24, 1997 to date within twenty (20) days from receipt hereof plus ten percent (10%) thereof as attorneys' fees, otherwise this Office will direct the proper Sheriff to execute this Order.

SO ORDERED.[6]

Consequently, petitioners filed a petition for certiorari with the Court of Appeals on the ground that Arbitrator Juan Valdez acted without or in excess of jurisdiction. On July 30, 1990, the Court of Appeals dismissed the petition and affirmed the order of Arbitrator Valdez. It likewise denied the petitioners' motion for reconsideration.

Hence, this petition for review, anchored on a single assignment of error:

THE COURT OF APPEALS COMMITTED AN ERROR OF LAW IN AFFIRMING THE DECEMBER 11, 1998 ORDER OF VOLUNTARY ARBITRATOR JUAN B. VALDEZ ALTERING AND MODIFYING HIS MARCH 5, 1994 DECISION WHICH HAD ALREADY BECOME FINAL AND EXECUTORY ON APRIL 27, 1998.[7]

Petitioners aver that when the March 5, 1994 order directing their reinstatement became final and executory, Arbitrator Valdez no longer had jurisdiction to modify the same. According to them, an order that has become final and executory can no longer be modified or altered.

Petitioners further insist that Philex failed to sufficiently establish (1) that there were supervening events which rendered enforcement of the final order unjust, and (2) that the positions vacated by them no longer existed and there were no similar positions available for them. Petitioners point out that Philex did not conduct any investigation as to the manner and purpose of the abolition of their former positions. They also assert that Philex subcontracted to outsiders the work previously performed by the retrenched employees, which proved that there was no need to abolish their positions.

As to the alleged strained relations between the parties, petitioners maintain that this was also not proven adequately. Petitioners submit that for this doctrine to apply, it must be shown that the affected employees occupied positions of trust and confidence, or that the employees' differences with their employer are of such nature or degree as to preclude reinstatement. Petitioners argue that neither of these conditions is present in this

case.

For its part, respondent contends that it presented evidence showing the impossibility and inappropriateness of reinstatement, which justify the modification of the March 5, 1994 arbitration order. Arbitrator Valdez found proof of this fact and upon appeal, the Court of Appeals declared said finding as sufficiently supported by evidence. Invoking the principle embodied in *Compania Maritima, Inc. vs. Court of Appeals*,^[8] respondent avers that this factual finding must be accorded great weight, in the absence of any showing that it is whimsical, capricious, or arbitrary.

A basic tenet in our rules of procedure is that an award that is final and executory cannot be amended or modified anymore. Nothing is more settled in law than that once a judgment attains finality it thereby becomes immutable and unalterable. It may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land.^[9] However, this rule is subject to exceptions as stated in the case of *David vs. CA*, 316 SCRA 710 (1999), cited by respondent:

One exception is that where facts and/or events transpire after a decision has become executory, which facts and/or events present a supervening cause or reason which renders the final and executory decision no longer enforceable. Under the law, the court may modify or alter a judgment even after the same has become executory whenever circumstances transpire rendering its execution unjust and inequitable, as where certain facts and circumstances justifying or requiring such modification or alteration transpired after the judgment has become final and executory.^[10]

In *David*, we held also that “where an execution order [which] has been issued is still pending, all proceedings on the execution are still proceedings in the suit.”^[11] As such, modification of the execution of such judgment is allowed.

In *Torres vs. National Labor Relations Commission*, 330 SCRA 311 (2000), this Court ruled that:

Execution is the final stage of litigation, the end of the suit. It cannot be frustrated except for serious reasons demanded by justice and equity. In this jurisdiction, the rule is that when a judgment becomes final and executory, it is the ministerial duty of the court to issue a writ of execution to enforce the judgment. A writ of execution may however be refused on equitable grounds as when there was a change in the situation of the parties that would make execution inequitable or when certain circumstances, which transpired after judgment became final, rendered execution of judgment unjust. The fact that the decision has become final does not preclude a modification or an alteration thereof because even with the finality of judgment, when its execution becomes impossible or unjust, it may be modified or altered to harmonize the same with justice and the facts (emphasis supplied). ^[12]

In *Deltaventures Resources Inc. vs. Cabato*, 327 SCRA 521 (2000), we held that “jurisdiction once acquired is not lost upon the instance of the parties but continues until the case is terminated.”^[13] The power of a voluntary arbitrator to issue a writ of execution carries with it the power to inquire into the correctness of its execution and to consider whatever supervening events transpire during execution.^[14] Therefore, we are in agreement with the appellate court that a voluntary arbitrator has jurisdiction to amend the mode of executing an award if and when the case merits such amendment.

However, we find respondent’s reliance on the doctrine of “strained relations” misplaced. In *Mercury Drug Corporation vs. Quijano*,^[15] we stated that said doctrine is inapplicable to a situation where the employee has no say in the operation of the employer’s business. Petitioners herein are part of the rank-and-file workforce; they are cooks, miners, helpers and mechanics of the respondent.^[16] As held also in the *Mercury Drug* case:

To protect labor's security of tenure, we emphasize that the doctrine of strained relations should be strictly applied so as not to deprive an illegally dismissed employee of his right to reinstatement. Every labor dispute almost always results in strained relations and the phrase cannot be given an overarching interpretation, otherwise an unjustly dismissed employee can never be reinstated.[17]

Considering the circumstances in the present case, we find that the only issue to be resolved is whether the supervening events are grave enough to warrant a modification in the execution of the judgment. Both the voluntary arbitrator and the Court of Appeals found that reinstatement is no longer possible due to the fact that respondent has been continuously suffering business losses and reducing the number of its employees pending litigation, and so the positions held by petitioners were abolished as a cost-cutting measure.[18] Petitioners argue, however, that "to excuse the respondent from reinstating the petitioners would be to allow it to do indirectly what it was not allowed to do directly – the retrenchment of the petitioners." They add that what is so scheming about this ploy is that respondent now tries to justify its refusal to reinstate the petitioners "by its very own act of abolishing their positions." [19]

Despite our sympathy for the workers' plight, however, we find no legal support for their opposition to the conclusion and findings of the voluntary arbitrator and the Court of Appeals. On record, there is no showing that the abolition of the petitioners' positions was capricious or whimsical. The appellate court, as well as the voluntary arbitrator, based their decisions on applicable law and the evidence. As confirmed by the appellate court, the voluntary arbitrator also found that petitioners' reinstatement had become not only inappropriate but also impossible.

Regrettably, petitioners now raise questions the determination of which would require the Court to look into the evidence adduced by the parties. This cannot be done in a petition for review on certiorari. It is outside its purview under Rule 45 of the 1997 Rules of Court. Factual findings of labor officials who are deemed to have acquired expertise in matters within their respective jurisdiction are generally accorded not only respect but even finality, and bind us when supported by substantial evidence.[20] It is not our function to assess and evaluate the evidence all over again, particularly where the findings of both the arbitrator and the Court of Appeals coincide. Thus, in this case, absent a showing of an error of law committed by the court below, or of whimsical or capricious exercise of its judgment, or a demonstrable lack of basis for its conclusions, we may not disturb its factual findings,[21] much less reverse its judgment outright.

WHEREFORE, the instant petition is DENIED. The decision dated July 30, 1999 of the Court of Appeals in CA-G.R. SP No. 50167, sustaining the order dated December 11, 1998 of the Arbitrator of the National Conciliation and Mediation Board, Cordillera Administrative Region, Baguio City, is AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Bellosillo, (Chairman), Acting Chief Justice, Mendoza, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Rollo, pp. 9-16.

[2] CA Rollo, pp. 51-56.

[3] Id. at 10-24.

[4] Id. at 23-24.

[5] Id. at 31-32.

[6] Id. at 56.

[7] Rollo, p. 42.

[8] 318 SCRA 169, 177 (1999).

[9] Gallardo-Corro v. Gallardo, 350 SCRA 568, 578 (2001).

[10] At pp. 718-719, quoting Aboitiz Shipping Employees Association v. Trajano, 278 SCRA 387, 391 (1997).

[11] Id. at 719, citing Balais v. Velasco, 252 SCRA 707, 708 (1996).

[12] At pp. 316-317.

[13] At p. 530.

[14] Balais v. Velasco, 252 SCRA 707, 720(1996).

[15] 354 Phil. 112, 124 (1998).

[16] Rollo, p. 50.

[17] Supra note 15 at 122.

[18] Records, p. 215-216; Rollo, p. 12-13.

[19] Rollo, p. 199.

[20] C. Planas Commercial vs. National Labor Relations Commission, G.R. No. 121696, 303 SCRA 49, 56-57 (1999).

[21] Telefunken Semiconductors Employees Union-FFW vs. Court of Appeals, G.R. No. 143013-14, 348 SCRA 569, 579-580 (2000).

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