

**TIGER CONSTRUCTION AND DEVELOPMENT CORPORATION,
PETITIONER, VS. REYNALDO ABAY, RODOLFO ARCENAL, ROLANDO
ARCENAL, PEDRO BALANA, JESUS DEL AYRE, ARNEL EBALE, ARNEL
FRAGA, ANGEL MA...**

G.R. No. 164141. February 26, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

While the general rule is that any decision rendered without jurisdiction is a total nullity and may be struck down at any time, the party that asserts it must be in good faith and not evidently availing thereof simply to thwart the execution of an award that has long become final and executory.

This Petition for Review on Certiorari[1] filed by petitioner Tiger Construction and Development Corporation (TCDC) assails the February 27, 2004[2] Resolution of the Court of Appeals (CA) in CA-G.R. SP No. 82344 which dismissed its petition for certiorari as well as the June 29, 2004[3] Resolution of the same court which denied its motion for reconsideration. The June 29, 2004 Resolution disposed as follows:

This petition was dismissed on February 27, 2004 as follows:

Considering that the Certification against forum-shopping is signed by the manager of petitioner-corporation, unaccompanied by proof that he is authorized to represent the latter in this case, the Court resolves to DISMISS the petition.

In its Motion for Reconsideration to the Resolution, petitioner attached Annex "A" which is the certification of the Board Resolution of TCDC authorizing Mr. Robert Kho to represent the corporation in filing the petition in this case.

Unfortunately, the Board met for the grant of such authority only on February 24, 2004 or four (4) days after the petition was filed on February 20, 2004. In other words, the Board Resolution was a mere afterthought and thus will not serve to cure the fatal omission.

WHEREFORE, the Motion for Reconsideration is DENIED for lack of merit.

SO ORDERED.[4]

Factual Antecedents

On the basis of a complaint filed by respondents Reynaldo Abay and fifty-nine (59) others before the Regional Office of the Department of Labor and Employment (DOLE), an inspection was conducted by DOLE officials at the premises of petitioner TCDC. Several labor standard violations were noted, such as deficiencies in record keeping, non-compliance with various wage orders, non-payment of holiday pay, and underpayment of 13[th] month pay. The case was then set for summary hearing.

However, before the hearing could take place, the Director of Regional Office No. V, Ma. Glenda A. Manalo (Director Manalo), issued an Order on July 25, 2002, which reads:

Consistent with Article 129 of the Labor Code of the Philippines in relation to Article 217 of the same Code, this instant case should be referred back to the National Labor Relations Commission (NLRC) Sub-Arbitration Branch V, Naga City, on the ground that the aggregate money claim of each worker exceeds the jurisdictional amount of this Office [which] is (sic) Five Thousand Pesos Only (P5,000.00).

WHEREFORE, in view of the foregoing, this case falls under the original and exclusive jurisdiction of the National Labor Relations Commission as provided under Article 217 of the Labor Code of the Philippines.[5]

Before the NLRC could take any action, DOLE Secretary Patricia A. Sto. Tomas (Secretary Sto. Tomas), in an apparent reversal of Director Manalo's endorsement, issued another inspection authority on August 2, 2002 in the same case. Pursuant to such authority, DOLE officials conducted another investigation of petitioner's premises and the same violations were discovered.

The DOLE officials issued a Notice of Inspection Results to petitioner directing it to rectify the violations within five days from notice. For failure to comply with the directive, the case was set for summary hearing on August 19, 2002. On even date, petitioner allegedly questioned the inspector's findings and argued that the proceedings before the regional office had been rendered moot by the issuance of the July 25, 2002 Order endorsing the case to the NLRC. According to petitioner, this July 25, 2002 Order was tantamount to a dismissal on the ground of lack of jurisdiction, which dismissal had attained finality; hence, all proceedings before the DOLE regional office after July 25, 2002 were null and void for want of jurisdiction.

On September 30, 2002, Director Manalo issued an Order directing TCDC to pay P2,123,235.90 to its employees representing underpayment of salaries, 13th month pay, and underpayment of service incentive leave pay and regular holiday pay. TCDC filed a Motion for Reconsideration on October 17, 2002 and a Supplemental Pleading to the Motion for Reconsideration on November 21, 2002, reiterating the argument that Director Manalo had lost jurisdiction over the matter.

Apparently convinced by petitioner's arguments, Director Manalo again endorsed the case to the NLRC Regional Arbitration Branch V (Legaspi City). On January 27, 2003, the NLRC returned the entire records of the case to Director Manalo on the ground that the NLRC does not have jurisdiction over the complaint.

Having the case in her office once more, Director Manalo finally issued an Order dated January 29, 2003 denying petitioner's motion for reconsideration for lack of merit.

Since TCDC did not interpose an appeal within the prescribed period, Director Manalo issued forthwith a Writ of Execution on February 12, 2003.

On May 14, 2003, while the sheriff was in the process of enforcing the Writ of Execution, and more than three months after the denial of its motion for reconsideration, TCDC filed an admittedly belated appeal with the DOLE Secretary. There it reiterated its argument that, subsequent to the July 25, 2002 Order, all of Director Manalo's actions concerning the case are null and void for having been issued without jurisdiction.

Acting on the ill-timed appeal, Secretary Sto. Tomas issued an Order^[6] dated January 19, 2004 dismissing petitioner's appeal for lack of merit. Citing *Guico v. Quisumbing*,^[7] Secretary Sto. Tomas held that jurisdiction over the case properly belongs with the regional director; hence, Director Manalo's endorsement to the NLRC was a clear error. Such mistakes of its agents cannot bind the State, thus Director Manalo was not prevented from continuing to exercise jurisdiction over the case.

Petitioner then filed a petition for certiorari[8] before the CA but the petition was dismissed for failure to certify against non-forum shopping. Petitioner's motion for reconsideration was likewise denied because the board resolution submitted was found to be a mere after-thought.

Petitioner thus filed the instant petition, which we initially denied on September 15, 2004[9] on the ground that the petition did not show any reversible error in the assailed Resolutions of the CA. Undaunted, TCDC filed a Motion for Reconsideration[10] insisting that the CA erred in dismissing its petition for certiorari on a mere technicality. Petitioner argues that the strict application of the rule on verification and certification of non-forum shopping will result in a patent denial of substantial justice.

Since respondents did not[11] file a comment on the motion for reconsideration, we resolved[12] to grant the same and to reinstate the petition.[13]

Issue

The issue in the case is whether petitioner can still assail the January 29, 2003 Order of Director Manalo allegedly on the ground of lack of jurisdiction, after said Order has attained finality and is already in the execution stage.

Our Ruling

The petition lacks merit.

Petitioner admits that it failed to appeal the January 29, 2003 Order within the period prescribed by law. It likewise admits that the case was already in the execution process when it resorted to a belated appeal to the DOLE Secretary. Petitioner, however, excuses itself from the effects of the finality of the Order by arguing that it was allegedly issued without jurisdiction and may be assailed at any time.

While it is true that orders issued without jurisdiction are considered null and void and, as a general rule, may be assailed at any time, the fact of the matter is that in this case, Director Manalo acted within her jurisdiction. Under Article

128 (b) of the Labor Code,[14] as amended by Republic Act (RA) No. 7730,[15] the DOLE Secretary and her representatives, the regional directors, have jurisdiction over labor standards violations based on findings made in the course of inspection of an employer's premises. The said jurisdiction is not affected by the amount of claim involved, as RA 7730 had effectively removed the jurisdictional limitations found in Articles 129 and 217 of the Labor Code insofar as inspection cases, pursuant to the visitorial and enforcement powers of the DOLE Secretary, are concerned.[16] The last sentence of Article 128(b) of the Labor Code recognizes an exception[17] to the jurisdiction of the DOLE Secretary and her representatives, but such exception is neither an issue nor applicable here.

Director Manalo's initial endorsement of the case to the NLRC, on the mistaken opinion that the claim was within the latter's jurisdiction, did not oust or deprive her of jurisdiction over the case. She therefore retained the jurisdiction to decide the case when it was eventually returned to her office by the DOLE Secretary. "Jurisdiction or authority to try a certain case is conferred by law and not by the interested parties, much less by one of them, and should be exercised precisely by the person in authority or body in whose hands it has been placed by the law." [18]

We also cannot accept petitioner's theory that Director Manalo's initial endorsement of the case to the NLRC served as a dismissal of the case, which prevented her from subsequently assuming jurisdiction over the same. The said endorsement was evidently not meant as a final disposition of the case; it was a mere referral to another agency, the NLRC, on the mistaken belief that jurisdiction was lodged with the latter. It cannot preclude the

regional director from subsequently deciding the case after the mistake was rectified and the case was returned to her by the DOLE Secretary, particularly since it was a labor case where procedural lapses may be disregarded in the interest of substantial justice.[19]

"Procedural due process as understood in administrative proceedings follows a more flexible standard as long as the proceedings were undertaken in an atmosphere of fairness and justice." [20] Although Director Manalo's endorsement of the complaint to the NLRC turned out to be ill-advised (because the regional director actually had jurisdiction), we note that no right of the parties was prejudiced by such action. Petitioner was properly investigated, received a Notice of Inspection Results, participated fully in the summary hearings, filed a Motion for Reconsideration, and even a Supplemental Pleading to the Motion for Reconsideration.

There is also reason to doubt the good faith of petitioner in raising the alleged lack of jurisdiction. If, in all honesty and earnestness, petitioner believed that Director Manalo was acting without jurisdiction, it could have filed a petition for certiorari under Rule 65 within the proper period prescribed, which is 60 days from notice of the order.[21] Its failure to do so, without any explanation for such failure, belies its good faith. In such circumstances, it becomes apparent that petitioner is merely using the alleged lack of jurisdiction in a belated attempt to reverse or modify an order or judgment that had already become final and executory. This cannot be done. In *Estoesta, Sr. v. Court of Appeals*, [22] cited by petitioner itself (albeit out of context), we ruled that when a decision has already become final and executory, an appellate court loses jurisdiction to entertain an appeal much less to alter, modify or reverse the final and executory judgment. Thus:

Well-settled is the rule that perfection of an appeal in the manner and within the reglementary period allowed by law is not only mandatory but also jurisdictional. Thus, if no appeal is perfected on time, the decision becomes final and executory by operation of law after the lapse of the reglementary period of appeal. Being final and executory the decision in question can no longer be altered, modified, or reversed by the trial court nor by the appellate court. Accordingly, the prevailing party is entitled as a matter of right to a writ of execution the issuance of which is a ministerial duty compelled by mandamus.[23]

It is actually within this context that the Court ruled that the appellate court, in reviewing a judgment that is already final and executory, acts without jurisdiction, and its decision is thus void and can be assailed at any time.

In view of our ruling above that the January 29, 2003 Order was rendered with jurisdiction and can no longer be questioned (as it is final and executory), we can no longer entertain petitioner's half-hearted and unsubstantiated arguments that the said Order was allegedly based on erroneous computation and included non-employees. Likewise, we find no more need to address petitioner's contention that the CA erred in dismissing its petition on the ground of its belated compliance with the requirement of certification against forum-shopping.

WHEREFORE, the instant petition is DENIED. The assailed February 27, 2004 Resolution as well as the June 29, 2004 Resolution of the Court of Appeals in CA-G.R. SP No. 82344 are AFFIRMED insofar as it dismisses Tiger Construction and Development Corporation's petition and motion for reconsideration. Costs against petitioner.

SO ORDERED.

Carpio, (Chairperson), Brion, Abad, and Perez, JJ., concur.

[1] Rollo, pp. 9-26.

[2] *Id.* at 28; penned by Associate Justice Romeo A. Brawner and concurred in by Associate Justices Rebecca De Guia-Salvador and Jose C. Reyes, Jr.

[3] Id. at 30.

[4] Assailed Resolution, id. at 30.

[5] Id. at 12.

[6] CA rollo, pp. 19-23.

[7] 359 Phil. 197, 207 (1998).

[8] CA rollo, pp. 1-18.

[9] Rollo, p. 76.

[10] Id. at 77-80.

[11] Id. at 81, 98.

[12] Id. at 102-103.

[13] In light of the parties' failure to file their respective memoranda within the fixed periods, the Court resolved on November 12, 2008 (id. at 115) to deem waived the filing of memoranda for both parties.

[14] Article 128 of the Labor Code provides:

Article 128. VISITORIAL AND ENFORCEMENT POWER. - x x x

(b) Notwithstanding the provisions of Articles 129 and 217 of this Code to the contrary, and in cases where the relationship of employer-employee still exists, the Secretary of Labor and Employment or his duly authorized representatives shall have the power to issue compliance orders to give effect to the labor standards provisions of this Code and other labor legislation based on the findings of labor employment and enforcement officers or industrial safety engineers made in the course of inspection. The Secretary or his duly authorized representatives shall issue writs of execution to the appropriate authority for the enforcement of their orders, except in cases where the employer contests the findings of the labor employment and enforcement officer and raises issues supported by documentary proofs which were not considered in the course of inspection.

[15] Entitled "AN ACT FURTHER STRENGTHENING THE VISITORIAL AND ENFORCEMENT POWERS OF THE SECRETARY OF LABOR AND EMPLOYMENT, AMENDING FOR THE PURPOSE ARTICLE 128 OF P.D. 442, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES," dated June 2, 1994.

[16] *Ex-Bataan Veterans Security Agency, Inc. v. Laguesma*, G.R. No. 152396, November 20, 2007, 537 SCRA 651, 659; *V.L. Enterprises v. Court of Appeals*, G.R. No. 167512, March 12, 2007, 518 SCRA 174, 175; *EJR Crafts Corporation v. Court of Appeals*, G.R. No. 154101, March 10, 2006, 484 SCRA 340, 350; *Guico v. Quisumbing*, supra note 7.

[17] As explained in *Ex-Bataan Veterans Security Agency, Inc. v. Laguesma*, supra note 16, "if the labor standards case is covered by the exception clause in Article 128(b) of the Labor Code, then the Regional Director will have to endorse the case to the appropriate Arbitration Branch of the NLRC. In order to divest the Regional Director or his representatives of jurisdiction, the following elements must be present: (a) that the employer contests the findings of the labor regulations officer and raises issues thereon; (b) that in order to resolve such issues, there is a need to examine evidentiary matters; and (c) that such matters are not verifiable in the normal course of inspection. The rules also provide that the employer shall raise such objections during the hearing of the case or at any time after receipt of the notice of inspection results."

[18] Tolentino v. Quirino, 64 Phil. 873, 874 (1937).

[19] Pamplona Plantation Company, Inc. v. Tinghil, 491 Phil. 15, 30 (2005); Ranara v. National Labor Relations Commission, G.R. No. 100969, August 14, 1992, 212 SCRA 631, 634.

[20] T.H. Valderrama and Sons, Inc. v. Drilon, G.R. No. 78212, January 22, 1990, 181 SCRA 308.

[21] See National Federation of Labor v. Hon. Laguesma, 364 Phil. 405, 411 (1999).

[22] G.R. No. 74817, November 8, 1989, 179 SCRA 203, 211-212.

[23] Id.

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