

SESSION DELIGHTS ICE CREAM AND FAST FOODS, PETITIONER, VS. THE HON. COURT OF APPEALS (SIXTH DIVISION), HON. NATIONAL LABOR RELATIONS COMMISSION (SECOND DIVISION) AND ADONIS ARME...

G.R. No. 172149. February 08, 2010

Ponente: BRION, J.

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BRION, J.:

We rule on the petition for review on certiorari assailing the decision[1] and resolution[2] of the Court of Appeals[3] (CA) in CA-G.R. SP No. 89326. These CA rulings dismissed the petition for certiorari the petitioner - Session Delights Ice Cream and Fast Foods (petitioner) - filed to challenge the resolutions[4] of the Second Division of the National Labor Relations Commission[5] (NLRC) that in turn affirmed the order[6] of the Labor Arbiter[7] granting a re-computation of the monetary awards in favor of the private respondent Adonis Armenio M. Flora (private respondent).

The Facts

The private respondent filed against the petitioner a complaint for illegal dismissal, entitled "Adonis Armenio M. Flora, Complainant versus Session Delights Ice Cream & Fast Foods, et. al, Private respondents," docketed as NLRC Case No. RAB-CAR 09-0507-00.

The labor arbiter decided the complaint on February 8, 2001, finding that the petitioner illegally dismissed the private respondent. The decision awarded the private respondent backwages, separation pay in lieu of reinstatement, indemnity, and attorney's fees, under a computation that the decision itself outlined in its dispositive portion. The dispositive portion reads:

WHEREFORE, judgment is hereby rendered declaring private respondent guilty of illegal dismissal. Accordingly, private respondent SESSION DELIGHTS is ordered to pay complainant the following:

a) Backwages:

P170.00 x 154 days P 26,180.00
Proportional 13[th] month pay
P 26,180/12 2,181.65 28,361.65

b) Separation Pay:

P 170.00 x 314/12 x 1 4,448.35

c) Indemnity of P5,000.00 for failure to observe due process

d) Attorney's fees which is 10% of the total award in the amount of P3,781.00.

SO ORDERED.[8]

On the petitioner's appeal, the NLRC affirmed the labor arbiter's decision in its resolutions dated May 31, 2002 and September 30, 2002.[9] The dispositive portion of the NLRC's resolution of May 31, 2002 states:

WHEREFORE, premises considered, the decision under review is hereby AFFIRMED, and the appeal, DISMISSED, for lack of merit.[10]

The petitioner continued to seek relief, this time by filing a petition for certiorari before the CA, which petition was docketed as CA-G.R. SP No. 74653.

On July 4, 2003, the CA dismissed the petition and affirmed with modification the NLRC decision by deleting the awards for a proportionate 13[th] month pay and for indemnity.[11] The CA decision became final per Entry of Judgment dated July 29, 2003.[12] The dispositive portion of this CA decision states:

WHEREFORE, premises considered, the instant petition is hereby DISMISSED. The decision of the National Labor Relations Commission is AFFIRMED with modification that the award of proportional 13[th] month pay as well as the award of indemnity of P 5,000.00 for failure to observe due process are DELETED.

In January 2004, and in the course of the execution of the above final judgment pursuant to Section 3, Rule VIII[13] of the then NLRC Rules of Procedure, the Finance Analyst of the Labor Arbiter's Office held a pre-execution conference with the contending parties in attendance. The Finance Analyst submitted an updated computation of the monetary awards due the private respondent in the total amount of P235,986.00.[14] This updated computation included additional backwages and separation pay due the private respondent computed from March 1, 2001 to September 17, 2003. The computation also included the proportionate amount of the private respondent's 13[th] month pay. On March 25, 2004, the labor arbiter approved the updated computation which ran, as follows:

C O M P U T A T I O N

Total computation as per NLRC CAR

decision dated February 8, 2001 (sic)

41,591.00

1. Additional backwages: (March 1, 2001-Sept. 17, 2003)

March 1, 2001-April 30, 2002:

P178.00 x 52 days =

9,256.00

May 1, 2001-June 30, 2002:

P185.00 x 365 days =

67,525.00

July 1, 2002- Sept. 17, 2003:

P190.00 x 382 days =

72,580.00

149,361.00

Proportional 13[th] month pay:

$P149,361.00/12 =$

12,446.75

161,807.75

2. Additional separation pay:

$P190.00 \times 314/12 \times 3 \text{ years} =$

14,915.00

3. Additional attorney's fee:

$P176,722.75 \times 10\% =$

17,672.25

194,395.00

TOTAL

253,986.00

The petitioner objected to the re-computation and appealed the labor arbiter's order to the NLRC. The petitioner claimed that the updated computation was inconsistent with the dispositive portion of the labor arbiter's February 8, 2001 decision, as modified by the CA in CA-G.R. SP No. 74653. The NLRC disagreed with the petitioner and affirmed the labor arbiter's decision in a resolution dated October 25, 2004. The NLRC also denied the petitioner's motion for reconsideration in its resolution dated January 31, 2005.

The petitioner sought recourse with the CA through a petition for certiorari on the ground that the NLRC acted with grave abuse of discretion amounting to lack or excess of jurisdiction.

The CA Rulings

The CA partially granted the petition in its decision of December 19, 2005 (now challenged before us) by deleting the awarded proportionate 13[th] month pay. The CA ruled:

WHEREFORE, the petition is PARTIALLY GRANTED. The Labor Arbiter is DIRECTED to compute only the following (a) private respondent's backwages from the time his salary was withheld up to July 29, 2003, the finality of the Decision in CA-G.R. SP No. 74653; (b) private respondent's separation pay from July 31, 2000 up to July 29, 2003; and (c) attorney's fees equivalent to 10% of the total monetary claims from (a) and (b). The total monetary award shall earn legal interest from July 29, 2003 until fully paid. No pronouncement as to cost.

SO ORDERED.[15]

The CA explained in this ruling that employees illegally dismissed are entitled to reinstatement, full backwages, inclusive of allowances and other benefits or their monetary equivalent, computed from the time actual compensation was withheld from them, up to the time of actual reinstatement. If reinstatement is no longer feasible, the backwages shall be computed from the time of their illegal dismissal up to the finality of the decision. The CA reasoned that a re-computation of the monetary awards was necessary to determine the correct amount due the private respondent from the time his salary was withheld from him until July 29, 2003 (the date of finality of the July 4, 2003 decision in CA-G.R. SP No. 74653) since the separation pay, which was awarded in

lieu of reinstatement, had not been paid by the petitioner. The attorney's fees likewise have to be re-computed in light of the deletion of the proportionate 13[th] month pay and indemnity awards.

The petitioner timely filed a motion for reconsideration which the CA denied in its resolution of March 30, 2006, now similarly assailed before us.

The Issue

The lone issue the petitioner raised is whether a final and executory decision (the labor arbiter's decision of February 8, 2001, as affirmed with modification by the CA decision in CA-G.R. SP No. 74653) may be enforced beyond the terms decreed in its dispositive portion.

In the pleadings submitted to the Court, the petitioner insists on a literal reading and application of the labor arbiter's February 8, 2001 decision, as modified by the CA in CA-G.R. SP No. 74653. The petitioner argues that since the modified labor arbiter's February 8, 2001 decision did not provide in its dispositive portion for a computation of the monetary award up to the finality of the judgment in the case, the CA should have enforced the decision according to its express and literal terms. In other words, the CA cannot now allow the execution of the labor arbiter's original decision (which the CA affirmed with finality but with modification) beyond the express terms of its dispositive portion; thus, the amounts that accrued during the pendency of the petitioner's recourses with the NLRC and the CA cannot be read into and implemented as part of the final and executory judgment.

The petitioner, as an alternative argument, argues that even assuming that the body of the CA decision in CA-G.R. SP No. 74653 intended a computation of the monetary award up to the finality of the decision, the dispositive portion remains to be the directive that should be enforced, as it is the part of the decision that governs, settles, and declares the rights and obligations of the parties.

The private respondent, for his part, counters that the computation of the monetary award until the finality of the CA decision in CA-G.R. SP No. 74653 is in accord with Article 279 of the Labor Code, as amended.

The Court's Ruling

We resolve to dismiss the petition and, accordingly, affirm the CA decision.

We state at the outset that, as a rule, we frown upon any delay in the execution of final and executory decisions, as the immediate enforcement of the parties' rights, confirmed by a final decision, is a major component of the ideal administration of justice. We admit, however, that circumstances may transpire rendering delay unavoidable. One such occasion is when the execution of the final judgment is not in accord with what the final judgment decrees in its dispositive portion. Just as the execution of a final judgment is a matter of right for the winning litigant who should not be denied the fruits of his or her victory, the right of the losing party to give, perform, pay, and deliver only what has been decreed in the final judgment should also be respected.

That a judgment should be implemented according to the terms of its dispositive portion is a long and well-established rule.[16] Otherwise stated, it is the dispositive portion that categorically states the rights and obligations of the parties to the dispute as against each other.[17] Thus, it is the dispositive portion which the entities charged with the execution of a final judgment that must be enforced to ensure the validity of the execution.[18]

A companion to the above rule on the execution of a final judgment is the principle of its immutability. Save for recognized exceptions,[19] a final judgment may no longer be altered, amended or modified, even if the alteration, amendment or modification is meant to correct what is perceived to be an erroneous conclusion of fact

or law and regardless of what court, be it the highest Court of the land, renders it.[20] Any attempt on the part of the responsible entities charged with the execution of a final judgment to insert, change or add matters not clearly contemplated in the dispositive portion violates the rule on immutability of judgments.

In the present case, with the CA's deletion of the proportionate 13[th] month pay and indemnity awards in the labor arbiter's February 8, 2001 decision, only the awards of backwages, separation pay, and attorney's fees remain. These are the awards subject to execution.

Award of backwages and separation pay

A distinct feature of the judgment under execution is that the February 8, 2001 labor arbiter decision already provided for the computation of the payable separation pay and backwages due, and did not literally order the computation of the monetary awards up to the time of the finality of the judgment. The private respondent, too, did not contest the decision through an appeal. The petitioner's argument to confine the awards to what the labor arbiter stated in the dispositive part of his decision is largely based on these established features of the judgment.

We reject the petitioner's view as a narrow and misplaced interpretation of an illegal dismissal decision, particularly of the terms of the labor arbiter's decision.

While the private respondent failed to appeal the February 8, 2001 decision of the labor arbiter, the failure, at the most, had the effect of making the awards granted to him final so that he could no longer seek any other affirmative relief, or pray for any award additional to what the labor arbiter had given. Other than these, the illegal dismissal case remained open for adjudication based on the appeal made for the higher tribunals' consideration. In other words, the higher tribunals, on appropriate recourses made, may reverse the judgment and declare that no illegal dismissal took place, or affirm the illegal dismissal already decreed with or without modifying the monetary consequences flowing from the dismissal.

As the case developed and is presented to us, the issue before us is not the correctness of the awards, nor the finality of the CA's judgment, nor the petitioner's failure to appeal. The issue before us is the propriety of the computation of the awards made, and, whether this violated the principle of immutability of final judgments.

In concrete terms, the question is whether a re-computation in the course of execution of the labor arbiter's original computation of the awards made, pegged as of the time the decision was rendered and confirmed with modification by a final CA decision, is legally proper. The question is posed, given that the petitioner did not immediately pay the awards stated in the original labor arbiter's decision; it delayed payment because it continued with the litigation until final judgment at the CA level.

A source of misunderstanding in implementing the final decision in this case proceeds from the way the original labor arbiter framed his decision. The decision consists essentially of two parts.

The first is that part of the decision that cannot now be disputed because it has been confirmed with finality. This is the finding of the illegality of the dismissal and the awards of separation pay in lieu of reinstatement, backwages, attorney's fees, and legal interests.

The second part is the computation of the awards made. On its face, the computation the labor arbiter made shows that it was time-bound as can be seen from the figures used in the computation. This part, being merely a computation of what the first part of the decision established and declared, can, by its nature, be re-computed. This is the part, too, that the petitioner now posits should no longer be re-computed because the computation is already in the labor arbiter's decision that the CA had affirmed. The public and private respondents, on the other hand, posit that a re-computation is necessary because the relief in an illegal dismissal decision goes all the way

up to reinstatement if reinstatement is to be made, or up to the finality of the decision, if separation pay is to be given in lieu reinstatement.

That the labor arbiter's decision, at the same time that it found that an illegal dismissal had taken place, also made a computation of the award, is understandable in light of Section 3, Rule VIII of the then NLRC Rules of Procedure which requires that a computation be made. This Section in part states:

[T]he Labor Arbiter of origin, in cases involving monetary awards and at all events, as far as practicable, shall embody in any such decision or order the detailed and full amount awarded.

Clearly implied from this original computation is its currency up to the finality of the labor arbiter's decision. As we noted above, this implication is apparent from the terms of the computation itself, and no question would have arisen had the parties terminated the case and implemented the decision at that point.

However, the petitioner disagreed with the labor arbiter's findings on all counts - i.e., on the finding of illegality as well as on all the consequent awards made. Hence, the petitioner appealed the case to the NLRC which, in turn, affirmed the labor arbiter's decision. By law,[21] the NLRC decision is final, reviewable only by the CA on jurisdictional grounds.

The petitioner appropriately sought to nullify the NLRC decision on jurisdictional grounds through a timely filed Rule 65 petition for certiorari. The CA decision, finding that NLRC exceeded its authority in affirming the payment of 13[th] month pay and indemnity, lapsed to finality and was subsequently returned to the labor arbiter of origin for execution.

It was at this point that the present case arose. Focusing on the core illegal dismissal portion of the original labor arbiter's decision, the implementing labor arbiter ordered the award re-computed; he apparently read the figures originally ordered to be paid to be the computation due had the case been terminated and implemented at the labor arbiter's level. Thus, the labor arbiter re-computed the award to include the separation pay and the backwages due up to the finality of the CA decision that fully terminated the case on the merits. Unfortunately, the labor arbiter's approved computation went beyond the finality of the CA decision (July 29, 2003) and included as well the payment for awards the final CA decision had deleted - specifically, the proportionate 13[th] month pay and the indemnity awards. Hence, the CA issued the decision now questioned in the present petition.

We see no error in the CA decision confirming that a re-computation is necessary as it essentially considered the labor arbiter's original decision in accordance with its basic component parts as we discussed above. To reiterate, the first part contains the finding of illegality and its monetary consequences; the second part is the computation of the awards or monetary consequences of the illegal dismissal, computed as of the time of the labor arbiter's original decision.

To illustrate these points, had the case involved a pure money claim for a specific sum (e.g. salary for a specific period) or a specific benefit (e.g. 13[th] month pay for a specific year) made by a former employee, the labor arbiter's computation would admittedly have continuing currency because the sum is specific and any variation may only be on the interests that may run from the finality of the decision ordering the payment of the specific sum.

In contrast with a ruling on a specific pure money claim, is a claim that relates to status (as in this case, where the claim is the legality of the termination of the employment relationship). In this type of cases, the decision or ruling is essentially declaratory of the status and of the rights, obligations and monetary consequences that flow from the declared status (in this case, the payment of separation pay and backwages and attorney's fees when illegal dismissal is found). When this type of decision is executed, what is primarily implemented is the

declaratory finding on the status and the rights and obligations of the parties therein; the arising monetary consequences from the declaration only follow as component of the parties' rights and obligations.

In the present case, the CA confirmed that indeed an illegal dismissal had taken place, so that separation pay in lieu of reinstatement and backwages should be paid. How much that separation pay would be, would ideally be stated in the final CA decision; if not, the matter is for handling and computation by the labor arbiter of origin as the labor official charged with the implementation of decisions before the NLRC.[22]

As the CA correctly pointed out, the basis for the computation of separation pay and backwages is Article 279 of the Labor Code, as amended, which reads:

x x x An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

By jurisprudence derived from this provision, separation pay may be awarded to an illegally dismissed employee in lieu of reinstatement.[23] Recourse to the payment of separation pay is made when continued employment is no longer possible, in cases where the dismissed employee's position is no longer available, or the continued relationship between the employer and the employee is no longer viable due to the strained relations between them, or when the dismissed employee opted not to be reinstated, or payment of separation benefits will be for the best interest of the parties involved.[24]

This reading of Article 279, of course, does not appear to be disputed in the present case as the petitioner admits that separation pay in lieu of reinstatement shall be paid, computed up to the finality of the judgment finding that illegal dismissal had taken place. What the petitioner simply disputes is the re-computation of the award when the final CA decision did not order any re-computation while the NLRC decision that the CA affirmed and the labor arbiter decision the NLRC in turn affirmed, already made a computation that - on the basis of immutability of judgment and the rule on execution of the dispositive portion of the decision - should not now be disturbed.

Consistent with what we discussed above, we hold that under the terms of the decision under execution, no essential change is made by a re-computation as this step is a necessary consequence that flows from the nature of the illegality of dismissal declared in that decision. A re-computation (or an original computation, if no previous computation has been made) is a part of the law - specifically, Article 279 of the Labor Code and the established jurisprudence on this provision - that is read into the decision. By the nature of an illegal dismissal case, the reliefs continue to add on until full satisfaction, as expressed under Article 279 of the Labor Code. The re-computation of the consequences of illegal dismissal upon execution of the decision does not constitute an alteration or amendment of the final decision being implemented. The illegal dismissal ruling stands; only the computation of monetary consequences of this dismissal is affected and this is not a violation of the principle of immutability of final judgments.

We fully appreciate the petitioner's efforts in trying to clarify how the standing jurisprudence on the payment of separation pay in lieu of reinstatement and the accompanying payment of backwages ought to be read and reconciled. Its attempt, however, is out of place and, rather than clarify, may only confuse the implementation of Article 279; the core issue in this case is not the payment of separation pay and backwages but their re-computation in light of an original labor arbiter ruling that already contained a dated computation of the monetary consequences of illegal dismissal.

That the amount the petitioner shall now pay has greatly increased is a consequence that it cannot avoid as it is the risk that it ran when it continued to seek recourses against the labor arbiter's decision. Article 279 provides for the

consequences of illegal dismissal in no uncertain terms, qualified only by jurisprudence in its interpretation of when separation pay in lieu of reinstatement is allowed. When that happens, the finality of the illegal dismissal decision becomes the reckoning point instead of the reinstatement that the law decrees. In allowing separation pay, the final decision effectively declares that the employment relationship ended so that separation pay and backwages are to be computed up to that point. The decision also becomes a judgment for money from which another consequence flows - the payment of interest in case of delay. This was what the CA correctly decreed when it provided for the payment of the legal interest of 12% from the finality of the judgment, in accordance with our ruling in *Eastern Shipping Lines, Inc. v. Court of Appeals*.^[25]

WHEREFORE, premises considered, we hereby AFFIRM the decision of the Court of Appeals dated December 19, 2005 and its resolution dated March 30, 2006 in CA-G.R. SP No. 89326.

For greater certainty, the petitioner is ORDERED to PAY the private respondent:

(a) backwages computed from August 28, 2000 (the date the employer illegally dismissed the private respondent) up to July 29, 2003, the date of finality of the decision of the Court of Appeals in CA-G.R. SP No. 74653;

(b) separation pay computed from July 31, 2000 (the private respondent's first day of employment) up to July 29, 2003 at the rate of one month pay per year of service;

(c) ten percent (10%) attorney's fees based on the total amount of the awards under (a) and (b) above; and

(d) legal interest of twelve percent (12%) per annum of the total monetary awards computed from July 29, 2003, until their full satisfaction.

The labor arbiter is hereby ORDERED to make another re-computation according to the above directives.

Costs against the petitioner.

SO ORDERED.

Carpio (Chairperson), Bersamin[*], Abad, and Perez, JJ., concur.

[*] Designated additional Member of the Second Division vice Associate Justice Mariano C. Del Castillo, per raffle dated January 18, 2010.

[1] Dated December 19, 2005; rollo, pp. 23-32.

[2] Dated March 30, 2006; id. at 33.

[3] Penned by Associate Justice Mariano C. Del Castillo (now a member of this Court), and concurred in by Associate Justice Portia Aliño Hormachuelos and Associate Justice Magdangal M. de Leon.

[4] Dated October 25, 2004 and January 31, 2005; rollo, pp. 62-69 and 80-81.

[5] Docketed as NLRC Case No. RAB-CAR 09-0507-00/NLRC CA No. 028029-0199, and penned by Presiding Commissioner Raul T. Aquino, and concurred in by Commissioner Victoriano R. Calaycay and Commissioner Angelita A. Gacutan.

[6] Dated March 25, 2004; rollo, pp. 70-79.

[7] Docketed as NLRC Case No. RAB-CAR 09-0507-00 and penned by Labor Arbiter Monroe C. Tabingan.

[8] Rollo, p. 89.

[9] Docketed as NLRC CA No. 028029-0199; id. at 90-103.

[10] Annex "E-10", id. at 100.

[11] Id. at 105-113.

[12] Id. at 114.

[13] SEC. 3. Computation. - The Labor Arbiter of origin, in cases involving monetary awards and at all events, as far as practicable, shall embody in any such decision or order the detailed and full amount awarded.

In case of an employee who is unjustly dismissed, his full backwages, shall include allowances and other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

In situations not covered by Section 16, Rule V, but where further computation of the judgment amount is necessary, no execution shall issue until after the computation shall have been approved by the Labor Arbiter the parties shall have been duly notified and heard thereon.

[14] Rollo, p. 115.

[15] Id. at 31.

[16] Suyat v. Gonzales-Tesoro, G.R. No. 162277, December 7, 2005, 476 SCRA 615, 624.

[17] Equitable Bank Corp. v. Sadac, G.R. No. 164772, June 8, 2006, 490 SCRA 380, 417.

[18] Fulgencio v. NLRC, 457 Phil. 868, 883 (2003).

[19] They are: (1) the correction of clerical errors; (2) the making of so-called nun pro tunc entries which cause no prejudice to any party; and (3) where the judgment is void. Equitable Banking Corp. v. Sadac, supra note 15, pp. 416-417.

[20] Id.

[21] Article 223, Labor Code, as amended.

[22] Section 3, Rule VIII of the old NLRC Rules of Procedure now Sections 2 and 4, Rule XI of the 2005 NLRC Rules of Procedure.

[23] Mt. Carmel College v. Resuena, G.R. No. 173076, October 10, 2007, 533 SCRA 518, 541.

[24] Velasco v. NLRC, G.R. No. 161694, June 26, 2006, 492 SCRA 686, 699.

[25] Supra note 34.

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