

**FEDERICO S. ROBOSA, ROLANDO E. PANDY, NOEL D. ROXAS,
ALEXANDER ANGELES, VERONICA GUTIERREZ, FERNANDO EMBAT,
AND NANETTE H. PINTO, PETITIONERS, VS. NATIONAL LABOR
RELATIONS COMMI...**

G.R. No. 176085. February 08, 2012

Ponente: BRION, J.

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BRION, J.:

We resolve the petition for review on certiorari[1] seeking the reversal of the resolutions of the Court of Appeals (CA) rendered on February 24, 2006[2] and December 14, 2006[3] in CA-G.R. SP No. 80436.

Factual Background

Federico S. Robosa, Rolando E. Panday, Noel D. Roxas, Alexander Angeles, Veronica Gutierrez, Fernando Embat and Nanette H. Pinto (petitioners) were rank-and-file employees of respondent Chemo-Technische Manufacturing, Inc. (CTMI), the manufacturer and distributor of “Wella” products. They were officers and members of the CTMI Employees Union-DFA (union). Respondent Procter and Gamble Philippines, Inc. (P & GPI) acquired all the interests, franchises and goodwill of CTMI during the pendency of the dispute.

Sometime in the first semester of 1991, the union filed a petition for certification election at CTMI. On June 10, 1991, Med-Arbiter Rasidali Abdullah of the Office of the Department of Labor and Employment in the National Capital Region (DOLE-NCR) granted the petition. The DOLE-NCR conducted a consent election on July 5, 1991, but the union failed to garner the votes required to be certified as the exclusive bargaining agent of the company.

On July 15, 1991, CTMI, through its President and General Manager Franklin R. de Luzuriaga, issued a memorandum[4] announcing that effective that day: (1) all sales territories were demobilized; (2) all vehicles assigned to sales representatives should be returned to the company and would be sold; (3) sales representatives would continue to service their customers through public transportation and would be given transportation allowance; (4) deliveries of customers’ orders would be undertaken by the warehouses; and (5) revolving funds for ex-truck selling held by sales representatives should be surrendered to the cashier (for Metro Manila) or to the supervisor (for Visayas and Mindanao), and truck stocks should immediately be surrendered to the warehouse.

On the same day, CTMI issued another memorandum[5] informing the company’s sales representatives and sales drivers of the new system in the Salon Business Group’s selling operations.

The union asked for the withdrawal and deferment of CTMI’s directives, branding them as union busting acts constituting unfair labor practice. CTMI ignored the request. Instead, it issued on July 23, 1991 a notice of termination of employment to the sales drivers, due to the abolition of the sales driver positions.[6]

On August 1, 1991, the union and its affected members filed a complaint for illegal dismissal and unfair labor practice, with a claim for damages, against CTMI, De Luzuriaga and other CTMI officers. The union also moved

for the issuance of a writ of preliminary injunction and/or temporary restraining order (TRO).

The Compulsory Arbitration Proceedings

The labor arbiter handling the case denied the union's motion for a stay order on the ground that the issues raised by the petitioners can best be ventilated during the trial on the merits of the case. This prompted the union to file on August 16, 1991 with the National Labor Relations Commission (NLRC), a petition for the issuance of a preliminary mandatory injunction and/or TRO.[7]

On August 23, 1991, the NLRC issued a TRO.[8] It directed CTMI, De Luzuriaga and other company executives to (1) cease and desist from dismissing any member of the union and from implementing the July 23, 1991 memorandum terminating the services of the sales drivers, and to immediately reinstate them if the dismissals have been effected; (2) cease and desist from implementing the July 15, 1991 memorandum grounding the sales personnel; and (3) restore the status quo ante prior to the formation of the union and the conduct of the consent election.

Allegedly, the respondents did not comply with the NLRC's August 23, 1991 resolution. They instead moved to dissolve the TRO and opposed the union's petition for preliminary injunction.

On September 12, 1991, the NLRC upgraded the TRO to a writ of preliminary injunction.[9] The respondents moved for reconsideration. The union opposed the motion and urgently moved to cite the responsible CTMI officers in contempt of court.

On August 25, 1993, the NLRC denied the respondents' motion for reconsideration and directed Labor Arbiter Cristeta Tamayo to hear the motion for contempt. In reaction, the respondents questioned the NLRC orders before this Court through a petition for certiorari and prohibition with preliminary injunction. The Court dismissed the petition for being premature. It also denied the respondents' motion for reconsideration, as well as a second motion for reconsideration, with finality. This notwithstanding, the respondents allegedly refused to obey the NLRC directives. The respondents' defiance, according to the petitioners, resulted in the loss of their employment.

Meanwhile, the NLRC heard the contempt charge. On October 31, 2000, it issued a resolution[10] dismissing the charge. It ordered the labor arbiter to proceed hearing the main case on the merits.

The petitioners moved for, but failed to secure, a reconsideration from the NLRC on the dismissal of the contempt charge. They then sought relief from the CA by way of a petition for certiorari under Rule 65.

The CA Decision

The CA saw no need to dwell on the issues raised by the petitioners as the question it deemed appropriate for resolution is whether the NLRC's dismissal of the contempt charge against the respondents may be the proper subject of an appeal. It opined that the dismissal is not subject to review by an appellate court. Accordingly, the CA Special Sixth Division dismissed the petition in its resolution of February 24, 2006.[11]

The CA considered the prayer of P & GPI to be dropped as party-respondent moot and academic.

The petitioners sought a reconsideration, but the CA denied the motion in its resolution of December 14, 2006.[12] Hence, the present Rule 45 petition.

The Petition

The petitioners charge the CA with grave abuse of discretion in upholding the NLRC resolutions, despite the

reversible errors the labor tribunal committed in dismissing the contempt charge against the respondents. They contend that the respondents were guilty of contempt for their failure (1) to observe strictly the NLRC status quo order; and (2) to reinstate the dismissed petitioners and to pay them their lost wages, sales commissions, per diems, allowances and other employee benefits. They also claim that the NLRC, in effect, overturned this Court's affirmation of the TRO and of the preliminary injunction.

The petitioners assail the CA's reliance on the Court's ruling that a contempt charge partakes of a criminal proceeding where an acquittal is not subject to appeal. They argue that the facts obtaining in the present case are different from the facts of the cases where the Court's ruling was made. They further argue that by the nature of this case, the Labor Code and its implementing rules and regulations should apply, but in any event, the appellate court is not prevented from reviewing the factual basis of the acquittal of the respondents from the contempt charges.

The petitioners lament that the NLRC, in issuing the challenged resolutions, had unconstitutionally applied the law. They maintain that not only did the NLRC unconscionably delay the disposition of the case for more than twelve (12) years; it also rendered an unjust, unkind and dubious judgment. They bewail that "[f]or some strange reason, the respondent NLRC made a queer [somersault] from its earlier rulings which favor the petitioners." [13]

The Case for the Respondents

Franklin K. De Luzuriaga

De Luzuriaga filed a Comment [14] on May 17, 2007 and a Memorandum on December 4, 2008, [15] praying for a dismissal of the petition.

De Luzuriaga argues that the CA committed no error when it dismissed the petition for certiorari since the dismissal of the contempt charge against the respondents amounted to an acquittal where review by an appellate court will not lie. In any event, he submits, the respondents were charged with indirect contempt which may be initiated only in the appropriate regional trial court, pursuant to Section 12, Rule 71 of the Rules of Court. He posits that the NLRC has no jurisdiction over an indirect contempt charge. He thus argues that the petitioners improperly brought the contempt charge before the NLRC.

Additionally, De Luzuriaga points out that the petition raises only questions of facts which, procedurally, is not allowed in a petition for review on certiorari. Be this as it may, he submits that pursuant to *Philippine Long Distance Telephone Company, Inc. v. Tiamson*, [16] factual findings of labor officials, who are deemed to have acquired expertise in matters within their respective jurisdictions, are generally accorded not only respect but even finality. He stresses that the CA committed no reversible error in not reviewing the NLRC's factual findings.

Further, De Luzuriaga contends that the petitioners' verification and certification against forum shopping is defective because it was only Robosa and Pandy who executed the document. There was no indication that they were authorized by Roxas, Angeles, Gutierrez, Embat and Pinto to execute the required verification and certification.

Lastly, De Luzuriaga maintains that the petitioners are guilty of forum shopping as the reliefs prayed for in the petition before the CA, as well as in the present petition, are the same reliefs that the petitioners may be entitled to in the complaint before the labor arbiter. [17]

P & GPI

As it did with the CA when it was asked to comment on the petitioners' motion for reconsideration,[18] P & GPI prays in its Comment[19] and Memorandum[20] that it be dropped as a party-respondent, and that it be excused from further participating in the proceedings. It argues that inasmuch as the NLRC resolved the contempt charge on the merits, an appeal from its dismissal through a petition for certiorari is barred. Especially in its case, the dismissal of the petition for certiorari is correct because it was never made a party to the contempt proceedings and, thus, it was never afforded the opportunity to be heard. It adds that it is an entity separate from CTMI. It submits that it cannot be made to assume any or all of CTMI's liabilities, absent an agreement to that effect but even if it may be liable, the present proceedings are not the proper venue to determine its liability, if any.

On December 16, 2008, the petitioners filed a Memorandum[21] raising essentially the same issues and arguments laid down in the petition.

The Court's Ruling

Issues

The parties' submissions raise the following issues:

- (1) whether the NLRC has contempt powers;
- (2) whether the dismissal of a contempt charge is appealable; and
- (3) whether the NLRC committed grave abuse of discretion in dismissing the contempt charge against the respondents.

On the first issue, we stress that under Article 218[22] of the Labor Code, the NLRC (and the labor arbiters) may hold any offending party in contempt, directly or indirectly, and impose appropriate penalties in accordance with law. The penalty for direct contempt consists of either imprisonment or fine, the degree or amount depends on whether the contempt is against the Commission or the labor arbiter. The Labor Code, however, requires the labor arbiter or the Commission to deal with indirect contempt in the manner prescribed under Rule 71 of the Rules of Court.[23]

Rule 71 of the Rules of Court does not require the labor arbiter or the NLRC to initiate indirect contempt proceedings before the trial court. This mode is to be observed only when there is no law granting them contempt powers.[24] As is clear under Article 218(d) of the Labor Code, the labor arbiter or the Commission is empowered or has jurisdiction to hold the offending party or parties in direct or indirect contempt. The petitioners, therefore, have not improperly brought the indirect contempt charges against the respondents before the NLRC.

The second issue pertains to the nature of contempt proceedings, especially with respect to the remedy available to the party adjudged to have committed indirect contempt or has been absolved of indirect contempt charges. In this regard, Section 11, Rule 71 of the Rules of Court states that the judgment or final order of a court in a case of indirect contempt may be appealed to the proper court as in a criminal case. This is not the point at issue, however, in this petition. It is rather the question of whether the dismissal of a contempt charge, as in the present case, is appealable. The CA held that the NLRC's dismissal of the contempt charges against the respondents amounts to an acquittal in a criminal case and is not subject to appeal.

The CA ruling is grounded on prevailing jurisprudence.

In *Yasay, Jr. v. Recto*,[25] the Court declared:

A distinction is made between a civil and [a] criminal contempt. Civil contempt is the failure to do something

ordered by a court to be done for the benefit of a party. A criminal contempt is any conduct directed against the authority or dignity of the court.[26]

The Court further explained in *Remman Enterprises, Inc. v. Court of Appeals*[27] and *People v. Godoy*[28] the character of contempt proceedings, thus –

The real character of the proceedings in contempt cases is to be determined by the relief sought or by the dominant purpose. The proceedings are to be regarded as criminal when the purpose is primarily punishment and civil when the purpose is primarily compensatory or remedial.

Still further, the Court held in *Santiago v. Anunciacion, Jr.*[29] that:

But whether the first or the second, contempt is still a criminal proceeding in which acquittal, for instance, is a bar to a second prosecution. The distinction is for the purpose only of determining the character of punishment to be administered.

In the earlier case of *The Insurance Commissioner v. Globe Assurance Co., Inc.*,[30] the Court dismissed the appeal from the ruling of the lower court denying a petition to punish the respondent therein from contempt for lack of evidence. The Court said in that case:

It is not the sole reason for dismissing this appeal. In the leading case of *In re Mison, Jr. v. Subido*, it was stressed by Justice J.B.L. Reyes as ponente, that the contempt proceeding far from being a civil action is “of a criminal nature and of summary character in which the court exercises but limited jurisdiction.” It was then explicitly held: “Hence, as in criminal proceedings, an appeal would not lie from the order of dismissal of, or an exoneration from, a charge of contempt of court.” [footnote omitted]

Is the NLRC’s dismissal of the contempt charges against the respondents beyond review by this Court? On this important question, we note that the petitioners, in assailing the CA main decision, claim that the appellate court committed grave abuse of discretion in not ruling on the dismissal by the NLRC of the contempt charges.[31] They also charge the NLRC of having gravely abused its discretion and having committed reversible errors in:

- (1) setting aside its earlier resolutions and orders, including the writ of preliminary injunction it issued, with its dismissal of the petition to cite the respondents in contempt of court;
- (2) overturning this Court’s resolutions upholding the TRO and the writ of preliminary injunction;
- (3) failing to impose administrative fines upon the respondents for violation of the TRO and the writ of preliminary injunction; and
- (4) failing to order the reinstatement of the dismissed petitioners and the payment of their accrued wages and other benefits.

In view of the grave abuse of discretion allegation in this case, we deem it necessary to look into the NLRC’s dismissal of the contempt charges against the respondents. As the charges were rooted into the respondents’ alleged non-compliance with the NLRC directives contained in the TRO[32] and the writ of preliminary injunction,[33] we first inquire into what really happened to these directives.

The assailed NLRC resolution of October 31, 2000[34] gave us the following account on the matter -

On the first directive, x x x We find that there was no violation of the said order. A perusal of the records would show that in compliance with the temporary restraining order (TRO), respondents reinstated back to work the sales drivers who complained of illegal dismissal (Memorandum of Respondents, page 4).

Petitioners’ allegation that there was only payroll reinstatement does not make the respondents guilty of

contempt of court. Even if the drivers were just in the garage doing nothing, the same does not make respondents guilty of contempt nor does it make them violators of the injunction order. What is important is that they were reinstated and receiving their salaries.

As for petitioners Danilo Real, Roberto Sedano and Rolando Manalo, they have resigned from their jobs and were paid their separation pay xxx (Exhibits “6,” “6-A,” “7,” “7-A,” “8,” “8-A,” Respondents’ Memorandum dated August 12, 1996). The issue of whether they were illegally dismissed should be threshed out before the Labor Arbiter in whose sala the case of unfair labor practice and illegal dismissal were (sic) filed. Records also show that petitioner Antonio Desquitado during the pendency of the case executed an affidavit of desistance asking that he be dropped as party complainant in as much as he has already accepted separation benefits totaling to P63,087.33.

With respect to the second directive ordering respondents to cease and desist from implementing the memoranda dated July 15, 1991 designed to ground sales personnel who are members of the union, respondents alleged that they can no longer be restrained or enjoined and that the status quo can no longer be restored, for implementation of the memorandum was already consummated or was a *fait accompli*. x x x

All sales vehicles were ordered to be turned over to management and the same were already sold[.] xxx [I]t would be hard to undo the sales transactions, the same being valid and binding. The memorandum of July 15, 1991 authorized still all sales representatives to continue servicing their customers using public transportation and a transportation allowance would be issued.

x x x x

The third directive of the Commission is to preserve the “status quo ante” between the parties.

Records reveal that WELLA AG of Germany terminated its Licensing Agreement with respondent company effective December 31, 1991 (Exhibit “11,” Respondents’ Memorandum).

On January 31, 1992, individual petitioners together with the other employees were terminated xxx. In fact, this event resulted to the closure of the respondent company. The manufacturing and marketing operations ceased. This is evidenced by the testimony of Rosalito del Rosario and her affidavit (Exh. “9,” memorandum of Respondents) as well as Employer’s Monthly Report on Employees Termination/dismissals/suspension xxx (Exhibits “12-A” to “12-F,” *ibid*) as well as the report that there is a permanent shutdown/total closure of all units of operations in the establishment (*Ibid*). A letter was likewise sent to the Department of Labor and Employment (Exh. “12,” *Ibid*) in compliance with Article 283 of the Labor Code, serving notice that it will cease business operations effective January 31, 1992.

The petitioners strongly dispute the above account. They maintain that the NLRC failed to consider the following:

1. CTMI violated the status quo ante order when it did not restore to their former work assignments the dismissed sales drivers. They lament that their being “garaged” deprived them of benefits, and they were subjected to ridicule and psychological abuse. They assail the NLRC for considering the payroll reinstatement of the drivers as compliance with its stay order.

They also bewail the NLRC’s recognition of the resignation of Danilo Real, Roberto Sedano, Rolando Manalo and Antonio Desquitado as they were just compelled by economic necessity to resign from their employment. The quitclaims they executed were contrary to public policy and should not bar them from claiming the full measure of their rights, including their counsel who was unduly deprived of his right to collect attorney’s fees.

2. It was error for the NLRC to rule that the memorandum, grounding the sales drivers, could no longer be restrained or enjoined because all sales vehicles were already sold. No substantial evidence was presented by the respondents to prove their allegation, but even if there was a valid sale of the vehicles, it did not relieve the

respondents of responsibility under the stay order.

3. The alleged termination of the licensing agreement between CTMI and WELLA AG of Germany, which allegedly resulted in the closure of CTMI's manufacturing and marketing operations, occurred after the NLRC's issuance of the injunctive reliefs. CTMI failed to present substantial evidence to support its contention that it folded up its operations when the licensing agreement was terminated. Even assuming that there was a valid closure of CTMI's business operations, they should have been paid their lost wages, allowances, incentives, sales commissions, per diems and other employee benefits from August 23, 1991 up to the date of the alleged termination of CTMI's marketing operations.

Did the NLRC commit grave abuse of discretion in dismissing the contempt charges against the respondents? An act of a court or tribunal may only be considered as committed in grave abuse of discretion when it was performed in a capricious or whimsical exercise of judgment which is equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or personal hostility.[35]

The petitioners insist that the respondents violated the NLRC directives, especially the status quo ante order, for their failure to reinstate the dismissed petitioners and to pay them their benefits. In light of the facts of the case as drawn above, we cannot see how the status quo ante or the employer-employee situation before the formation of the union and the conduct of the consent election can be maintained. As the NLRC explained, CTMI closed its manufacturing and marketing operations after the termination of its licensing agreement with WELLA AG of Germany. In fact, the closure resulted in the termination of CTMI's remaining employees on January 31, 1992, aside from the sales drivers who were earlier dismissed but reinstated in the payroll, in compliance with the NLRC injunction. The petitioners' termination of employment, as well as all of their money claims, was the subject of the illegal dismissal and unfair labor practice complaint before the labor arbiter. The latter was ordered by the NLRC on October 31, 2000 to proceed hearing the case.[36] The NLRC thus subsumed all other issues into the main illegal dismissal and unfair labor practice case pending with the labor arbiter. On this point, the NLRC declared:

Note that when the injunction order was issued, WELLA AG of Germany was still under licensing agreement with respondent company. However, the situation has changed when WELLA AG of Germany terminated its licensing agreement with the respondent, causing the latter to close its business.

Respondents could no longer be ordered to restore the status quo as far as the individual petitioners are concerned as these matters regarding the termination of the employees are now pending litigation with the Arbitration Branch of the Commission. To resolve the incident now regarding the closure of the respondent company and the matters alleged by petitioners such as the creations of three (3) new corporations xxx as successor-corporations are matters best left to the Labor Arbiter hearing the merits of the unfair labor practice and illegal dismissal cases.[37]

We find no grave abuse of discretion in the assailed NLRC ruling. It rightly avoided delving into issues which would clearly be in excess of its jurisdiction for they are issues involving the merits of the case which are by law within the original and exclusive jurisdiction of the labor arbiter.[38] To be sure, whether payroll reinstatement of some of the petitioners is proper; whether the resignation of some of them was compelled by dire economic necessity; whether the petitioners are entitled to their money claims; and whether quitclaims are contrary to law or public policy are issues that should be heard by the labor arbiter in the first instance. The NLRC can inquire into them only on appeal after the merits of the case shall have been adjudicated by the labor arbiter.

The NLRC correctly dismissed the contempt charges against the respondents. The CA likewise committed no

grave abuse of discretion in not disturbing the NLRC resolution.

In light of the above discussion, we find no need to dwell into the other issues the parties raised.

WHEREFORE, premises considered, we hereby DENY the petition for lack of merit and AFFIRM the assailed resolutions of the Court of Appeals.

SO ORDERED.

Carpio, (Chairperson), Perez, Sereno, and Reyes, JJ., concur.

[1] Rollo, pp. 10-91; filed pursuant to Rule 45 of the Rules of Court.

[2] Id. at 320-327; penned by Associate Justice Arcangelita M. Romilla-Lontok, and concurred in by Associate Justices Marina L. Buzon and Aurora Santiago-Lagman.

[3] Id. at 329-331.

[4] Rollo, p. 450.

[5] Id. at 453.

[6] Id. at 454-462.

[7] Id. at 191-208.

[8] Id. at 209-210.

[9] Id. at 234-235.

[10] Id. at 162-184.

[11] Supra note 2.

[12] Supra note 3.

[13] Rollo, p. 74.

[14] Id. at 415-440.

[15] Id. at 642-686.

[16] G.R. Nos. 164684-85, November 11, 2005, 474 SCRA 761.

[17] NLRC–NCR Case No. 00-08-04455-91.

[18] Rollo, pp. 370-375.

[19] Id. at 504-509.

[20] Id. at 622-633.

[21] Id. at 706-784.

[22] Article 218 of the Labor Code provides:

Powers of the Commission. – The Commission shall have the power and authority:

x x x

(d) To hold any person in contempt directly or indirectly and impose appropriate penalties therefor in accordance with law.

A person guilty of misbehavior in the presence of or so near the Chairman or any member of the Commission or any Labor Arbiter as to obstruct or interrupt the proceedings before the same, including disrespect toward said officials, offensive personalities toward others, or refusal to be sworn, or to answer as a witness or to subscribe an affidavit or deposition when lawfully required to do so, may be summarily adjudged in direct contempt by said officials and punished by fine not exceeding five hundred pesos (P500) or imprisonment not exceeding five (5) days, or both, if it be the Commission, or a member thereof, or by a fine not exceeding one hundred pesos (P100) or imprisonment not exceeding one (1) day, or both, if it be a Labor Arbiter.

The person adjudged in direct contempt by a Labor Arbiter may appeal to the Commission and the execution of the judgment shall be suspended pending the resolution of the appeal upon the filing by such person of a bond on condition that he will abide by and perform the judgment of the Commission should the appeal be decided against him. Judgment of the Commission on direct contempt is immediately executory and unappealable. Indirect contempt shall be dealt with by the Commission or Labor Arbiter in the manner prescribed under Rule 71 of the Revised Rules of Court[.]

[23] *Id.*, last paragraph.

[24] SEC. 12. Contempt against quasi-judicial entities. – Unless otherwise provided by law, this Rule shall apply to contempt committed against persons, entities, bodies or agencies exercising quasi-judicial functions, or shall have suppletory effect to such rules as they may have adopted pursuant to authority granted to them by law to punish for contempt. The Regional Trial Court of the place wherein the contempt has been committed shall have jurisdiction over such charges as may be filed therefor.

[25] G.R. No. 129521, September 7, 1999, 313 SCRA 739, 744.

[26] See also *People v. Godoy*, G.R. Nos. 115908-09, March 29, 1995, 243 SCRA 64.

[27] G.R. No. 107671, February 26, 1997, 268 SCRA 688, 697.

[28] *Supra* note 26, at 78.

[29] G.R. No. 89318, April 3, 1990, 184 SCRA 118, 121.

[30] No. L-27874, January 30, 1982, 111 SCRA 202, 204.

[31] *Supra* note 1, at 47-48.

[32] *Supra* note 8.

[33] *Supra* note 9.

[34] *Supra* note 10, at 181-183.

[35] *Gonzales v. Intermediate Appellate Court*, 252 Phil. 253 (1989); see also *Manila Electric Company v. Barlis*, G.R. No. 114231, June 29, 2004, 433 SCRA 11.

[36] *Supra* note 10.

[37] *Id.* at 183-184.

[38] LABOR CODE, Article 217.

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