

C-E CONSTRUCTION CORPORATION, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND RAYMUNDO HERNANDEZ, RESPONDENTS.

G.R. No. 180188. March 25, 2009

Ponente: TINGA, J.

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TINGA, J.:

Petitioner C-E Construction Corporation (petitioner) is a duly organized corporation primarily engaged in general contract construction. Petitioner employed respondent Raymundo Hernandez as an electrician and carpenter on January 17, 1996 for its Filinvest Festival Supermall project.

The employment contract executed between Hernandez and petitioner specifically provides that the former's employment is co-terminus with the project.

On December 17, 1996, petitioner dismissed Hernandez allegedly because the initial phase of the project had been completed.[1] Hernandez immediately filed a complaint against petitioner for illegal dismissal, praying for reinstatement, backwages and attorney's fees.[2] Petitioner disputed the claims of Hernandez, asserting that Hernandez was a project employee and his services were terminated since the phase of the Supermall project for which he was hired had been finished. Thus, there was no illegal dismissal to speak of.

On February 16, 1998, the labor arbiter rendered a decision declaring petitioner's dismissal as illegal and directed petitioner to reinstate petitioner to his former position, the dispositive portion of which reads:

WHEREFORE, premises all considered, judgment is hereby rendered ordering respondent C.E. Construction Corporation and Ambrosio Salazar to:

(a)

reinstate complainant, Raymundo Hernandez to his former position without loss of seniority rights;

(b)

pay complainant full backwages from the time he was illegally dismissed up to actual reinstatement which amounts to P56,833.29.

(c)

pay complainant moral damages by reason of the illegal dismissal in the amount of P50,000.00.

(d)

pay complainant attorney's fees in the amount of ten (10%) percent of the total award.

All other claims are dismissed for lack of merit.

SO ORDERED.[3]

Petitioner appealed the decision of the Labor Arbiter to the NLRC. On September 8, 1998, the NLRC partially reversed the decision of the Labor Arbiter to the extent of deleting the award of moral damages and attorney's fees.[4] CECC moved for reconsideration[5] but this was denied by the NLRC.

In due time, petitioner filed a petition for certiorari with the Court of Appeals.[6] The Court of Appeals denied the petition.[7] The appellate court found that the record was bare of any evidence that the project's initial phase was completed. It concluded that petitioner had failed to discharge the burden to prove that there was valid cause for dismissing Hernandez. The appellate court also noted that petitioner had not given notice nor hearing to Hernandez.

Aggrieved, petitioner filed a petition for review on certiorari with this Court but this was denied in a resolution dated October 18, 2000 for failure to show reversible error.[8] Petitioner moved for reconsideration but this was similarly denied by this Court in a resolution dated January 15, 2001 for lack of merit.[9] The decision attained finality on February 9, 2001 and entry of judgment was made on July 27, 2001.

On February 26, 2001, Hernandez filed an omnibus motion for "re-computation" of judgment award and issuance of writ of execution with the labor arbiter.[10] On January 28, 2002, the labor arbiter issued an order awarding Hernandez backwages.[11] The computation set forth in the order is as follows:

As per decision P56,833.29

A) Additional Backwages

1. Basic Salary

$2/16/98-12/31/98=10.50$

$P198 \times 26 \times 10.5 \text{ P}54,054.00$

$1/1/99-10/30/99=10.00$

$P223.50 \times 26 \times 10.00 \text{ P}58,110.00$

$10/31/99-3/30/01=20.97$

$P250 \times 26 \times 20.97 \text{ P}136,305.00 \text{ P}248,469.00$

13[th] mo pay

$P \text{ } 248,469.00/12 \text{ P}20,705.75$

2. SILP

$2/16/98-12/31/98=10.50$

$P198 \times 5 \times 10.5/12$

$\text{P}866.25$

$1/1/99-12/31/99=12$

$P223.50 \times 5 \times 12/12$

$1,117.50$

$1/1/00-12/31/00=3$

$P250 \times 5 \times 12/12$

1,1250.00

1/1/01-3/30/01=3

250 X 5 X 3/12

312.50

3,546.25

Total P 329,554.29

Petitioner appealed the 2002 order to the NLRC. Petitioner claimed that the wages that Hernandez could have possibly earned during the pendency of the case should be deducted from the calculation of the backwages. Moreover, petitioner asserted that it had not been furnished with any writ of execution reinstating Hernandez; hence, it was not legally bound to pay the latter backwages. Petitioner also argued that backwages should only cover the period of the project where Hernandez was engaged to work and not include the period after the completion of the project.

Unimpressed by petitioner's arguments, the NLRC affirmed the decision of the Labor Arbiter on September 23, 2002.[12] Petitioner moved for reconsideration but this was also denied by the NLRC on November 30, 2004.[13] After the NLRC denied its motion for reconsideration, petitioner filed a petition for certiorari[14] with the appellate court reiterating the arguments it raised before the NLRC. On February 28, 2006, the appellate court dismissed the petition for lack of merit. The appellate court pointed out that petitioner's argument regarding the correctness of the computation of backwages is a factual question that is not a proper subject of a petition for certiorari.[15] The appellate court stressed that there was nothing both in the NLRC's or labor arbiter's decisions that would indicate grave abuse of discretion on their part.

Hence, the instant petition. Abandoning its earlier posture that the wages Hernandez could have earned should be excluded and that backwages are not demandable since no order of execution was served on CECC, petitioner focuses on its submission that the backwages of Hernandez as an illegally dismissed project employee should cover only the unexpired portion of the project he was engaged in.

For his part, Hernandez asserts that petitioner maliciously failed to mention that both the NLRC and the labor arbiter found that he was a regular employee.

The petition lacks merit.

We disfavor delay in the enforcement of the labor arbiter's decision. Once a judgment becomes final and executory, the prevailing party should not be denied the fruits of his victory by some subterfuge devised by the losing party. Final and executory judgments can neither be amended nor altered except for correction of clerical errors, even if the purpose is to correct erroneous conclusions of fact or of law.[16] Trial and execution proceedings constitute one whole action or suit such that a case in which execution has been issued is regarded as still pending so that all proceedings in the execution are proceedings in the suit.[17]

Petitioner argues that based on prevailing jurisprudence, the calculation of back wages of an illegally dismissed project employee should only be up to the completion of the project.[18] Hernandez counters that he is a regular employee and that the order of execution is in accord with the final ruling in the case.

That Hernandez is a regular employee should be deemed a settled matter. Both the labor arbiter and the NLRC so ruled in their respective decisions. The labor arbiter held that Hernandez "became regular employee entitled to security of tenure despite the fact that he signed an individual project employment contract." [19] And the NLRC

concluded: "Complainant is considered therefore a work pool worker whose job would actually be continuous and ongoing." [20]

The Court of Appeals affirmed without modification the NLRC decision, with the following dispositive portion:

WHEREFORE, the petition is DENIED, and the challenged Decision and Resolution of the NLRC are hereby AFFIRMED. No pronouncement as to costs.

SO ORDERED. [21]

True, the Court of Appeals mentioned in its discussion that Hernandez was a project employee. But the statement appears only in the body of the decision, not in the dispositive portion. Thus, the statement should be considered an obiter dictum at the most. [22] What is enforceable by a writ of execution is the dispositive portion of the decision. [23]

Furthermore, petitioner did not succeed in overturning the decision of the Court of Appeals. This Court denied petitioner's petition for review in G.R. No. 144948 [24] as well as its motion for reconsideration of the resolution of denial. [25]

Everything considered, what should be enforced thru an order or writ of execution in this case is the dispositive portion of the Labor Arbiter's decision as affirmed by the NLRC and Court of Appeals. Since the writ of execution issued by the Labor Arbiter does not vary but is in fact completely consistent with the final decision in this case, the order of execution issued by the labor arbiter is beyond challenge.

It is no longer legally feasible to modify the final ruling in this case through the expediency of a petition questioning the order of execution. Judgment of courts should attain finality at some point lest there be no end to litigation. [26] The final judgment in this case may no longer be reviewed, or in any way modified directly or indirectly, by a higher court, not even by the Supreme Court. [27]

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals dated February 28, 2006 and its Resolution dated October 24, 2007 are hereby AFFIRMED.

SO ORDERED.

Austria-Martinez[*], Corona[**], Velasco, Jr., and Brion, JJ., concur.

[*]Additional member per Special Order No. 593 in lieu of J. Quisumbing who is on official leave.

[**]Additional member per Special Order No. 600 in lieu of J. Carpio-Morales who is on official leave.

[1] CA rollo, p. 64.

[2] Id.

[3] Id. at 65-66.

[4] Id. at 88-100.

[5] Id. at 26-33.

[6] Id. at 2-17.

[7] Id. at 63-73; penned by Justice Ruben T. Reyes and concurred in by Justices Andres B. Reyes and Jose L. Sabio Jr., members.

[8] Rollo, p. 153; G.R. No. 144948.

[9] Id. at 152.

[10] Id. at 12.

[11] Id. at 142-143.

[12] Id. at 127-132.

[13] Id. at 117-118.

[14] CA rollo, pp. 2-17.

[15] Supra note 6.

[16] Aboitiz Shipping Employees Association v. Trajano, 348 Phil. 910, 915 (1997).

[17] Ysmael v. Court of Appeals, 339 Phil. 361, 376 (1997).

[18] Rollo, pp. 14-20.

[19] CA rollo, p. 94.

[20] Id. at 98-99.

[21] Rollo, p. 165.

[22] Ayala Corporation v. Rosa-Diana Realty and Development Corporation, 400 Phil. 511, 521 (2000).

[23] Magat v. Judge Pimentel, Jr., 311 Phil. 728, 735 (2000); Olac v. Court of Appeals, G.R. No. 84256, September 12, 1992, 213 SCRA 321, September 2, 1992; Gabuya v. Layug, 250 SCRA 218; Buan v. Court of Appeals, 235 SCRA 424.

[24] Rollo, p. 152; Per Resolution dated in G.R. No. 144948 entitled "C-E Construction, Corporation/ Ambrosio Salazar v. Raymundo Hernandez.

[25] Id. at 153.

[26] Id. at 154.

[27] In Re Joaquin T. Borromeo, 311 Phil. 441, 512 (1995), citing Miranda v. Court of Appeals, G.R. No. 59370, February 11, 1986, 141 SCRA 302, citing Malia v. Intermediate Appellate Court, G.R. No. 66395, August 7, 1985, 138 SCRA 116 ; Castillo v. Donato, G.R. No. 70230, June 24, 1985, 137 SCRA 210; Bethel Temple, Inc. v. General Council of Assemblies of God, Inc., G.R. No. L-355633, April 30, 1985, 136 SCRA 203; Insular Bank of Asia and America Employees' Union (IBAAEU) v. Inciong, 132 SCRA 663 (1984) and the cases cited therein pertaining to "immutability of judgments," Heirs of Pedro Guminpin v. CA, G.R. No. L-34220, February 21, 1983, 120 SCRA 687; Commission of Internal Revenue v. Visayan Electric Co., G.R. No. L-24921, March 31, 1967, 19 SCRA 696; Daquis v. Bustos, 94 Phil 913.

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