

**3RD ALERT SECURITY AND DETECTIVE SERVICES, INC.,
PETITIONER, VS. CARPIO, (CHAIRPERSON), BRION, PEREZ, SERENO,
AND REYES, JJ. ROMUALDO NAVIA, RESPONDENT.**

G.R. No. 200653. June 13, 2012

Ponente: BRION, J.

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BRION, J.:

This is a petition for review on certiorari[1] under Rule 45 of the Rules of Court, assailing the decision[2] dated September 30, 2011 and the resolution[3] dated February 15, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 117361, which dismissed the petition filed by 3[rd] Alert Security and Detective Services, Inc. (3[rd] Alert).

The Antecedent Facts

This case started from an illegal dismissal complaint filed by Romualdo Navia against 3rd Alert.

On November 30, 2005, the labor arbiter issued a decision that Navia's dismissal was illegal. 3[rd] Alert appealed to the National Labor Relations Commission (NLRC) which affirmed the ruling of the labor arbiter. 3[rd] Alert's motion for reconsideration of the NLRC decision was denied in a resolution dated October 19, 2008.

From this ruling, 3[rd] Alert filed an appeal with the CA (docketed as CA-G.R. SP No. 106963) with a prayer for the issuance of a temporary restraining order. The CA denied the appeal; 3rd Alert moved for a motion for reconsideration but the motion was also denied.

The writ of execution (CA-G.R. SP No. 117361)

In the meantime, on January 29, 2009, the NLRC issued an Entry of Judgment certifying that the NLRC resolution dated October 19, 2008 has become final and executory. Thus, Navia filed with the labor arbiter an ex-parte motion for recomputation of back wages and an ex-parte motion for execution based on the recomputed back wages.

On November 10, 2009, the labor arbiter issued a writ of execution to enforce the recomputed monetary awards.

3[rd] Alert appealed the recomputed amount stated in the writ of execution to the NLRC. 3[rd] Alert also alleged that the writ was issued with grave abuse of discretion since there was already a notice of reinstatement sent to Navia.

The NLRC dismissed the appeal, ruling that 3[rd] Alert is guilty of bad faith since there was no earnest effort to reinstate Navia. The NLRC also ruled that there was no notice or reinstatement sent to Navia's counsel. A motion for reconsideration was filed, but it was likewise denied.

3[rd] Alert filed a petition for certiorari with the CA which found the petition without merit because Navia had not been reinstated either physically or in the payroll. The CA also denied the motion for reconsideration filed by 3[rd] Alert; hence, this petition.

The Issue

In this petition, we resolve the issue of whether the CA erred in ruling that the NLRC did not commit any grave abuse of discretion.

The Ruling

We do not see any grave abuse of discretion after a close examination of the petition and the attached records where 3[rd] Alert insists that a copy of the manifestation on reinstatement had been sent to Navia's counsel and was received by a certain "Biznar."

Time and again, we have held that this Court is not a trier of facts.[4] In the absence of any attendant grave abuse of discretion, these findings are entitled not only to respect, but to our final recognition in this appellate review. Since it was ruled that there had been no notice of reinstatement sent to Navia or his counsel, as also affirmed by the CA, we cannot rule otherwise in the absence of any compelling evidence.

Article 223 of the Labor Code provides that in case there is an order of reinstatement, the employer must admit the dismissed employee under the same terms and conditions, or merely reinstate the employee in the payroll. The order shall be immediately executory. Thus, 3[rd] Alert cannot escape liability by simply invoking that Navia did not report for work. The law states that the employer must still reinstate the employee in the payroll. Where reinstatement is no longer viable as an option, separation pay equivalent to one (1) month salary for every year of service could be awarded as an alternative.[5]

Since the proceedings below indicate that 3[rd] Alert failed to adduce additional evidence to show that it tried to reinstate Navia, either physically or in the payroll, we adopt as correct the finding that there was no earnest effort to reinstate Navia. The CA was correct in affirming the judgment of the NLRC in this regard.

We also take note that 3[rd] Alert resorted to legal tactics to frustrate the execution of the labor arbiter's order; for about four (4) years, it evaded the obligation to reinstate Navia. By so doing, 3[rd] Alert has made a mockery of justice. We thus find it proper, under the circumstances, to impose treble costs against 3[rd] Alert for its utter disregard to comply with the writ of execution. To reiterate, no indication exists showing that 3[rd] Alert exerted any efforts to reinstate Navia; worse, 3[rd] Alert's lame excuse of having sent a notice of reinstatement to a certain "Biznar" only compounded the intent to mislead the courts.

Also, the main issue of this case, finding Navia to have been illegally dismissed, has already attained finality. Litigation must end and terminate sometime and somewhere, and it is essential for an effective and efficient administration of justice that, once a judgment has become final, the winning party be not deprived of the fruits of the verdict.[6] The order is to reinstate Navia; sadly, the mere execution of this judgment has to even reach the highest court of the land, thereby frustrating the entire judicial process. This justifies the treble costs we now impose against 3[rd] Alert.[7]

"It is settled that in actions for recovery of wages or where an employee was forced to litigate and incur expenses to protect his right and interest, he is entitled to an award of attorney's fees." [8] Navia, having been compelled to litigate due to 3rd Alert's failure to satisfy his valid claim, is also entitled to attorney's fees of ten percent (10%) of the total award at the time of actual payment, following prevailing jurisprudence.[9]

While we agree that lawyers owe their entire devotion to the interest of their clients, they should not forget that they are also officers of the court, bound to exert every effort to assist in the speedy and efficient administration of justice. They should not, therefore, misuse the rules of procedure to defeat the ends of justice or unduly delay a case, impede the execution of a judgment or misuse court processes.[10]

WHEREFORE, premises considered, we hereby DENY the petition outright and AFFIRM the decision dated September 30, 2011 and the resolution dated February 15, 2012 of the Court of Appeals in CA-G.R. SP No. 117361. Treble costs and attorney's fees of ten percent (10%) of the total monetary award at the time of actual payment against 3rd Alert are hereby also awarded to Romualdo Navia.

SO ORDERED.

Carpio, Perez, Sereno and Reyes, JJ., concur.

[1] Rollo, pp. 9-24.

[2] Id. at 27-34; penned by Associate Justice Manuel M. Barrios, and concurred in by Associate Justices Mario L. Guariña III and Apolinario D. Bruselas, Jr.

[3] Id. at 35-36.

[4] Commissioner of Customs v. Phil. Phosphate Fertilizer Corp., 481 Phil. 31 (2004).

[5] Pheschem Industrial Corp. v. Moldez, 497 Phil. 647 (2005).

[6] Dizon v. Court of Appeals, G.R. Nos. 122544 and 124741, January 28, 2003, 396 SCRA 151, 157.

[7] Section 3, Rule 142 of the Rules of Court: Where an action or an appeal is found to be frivolous, double or treble costs may be imposed on the plaintiff or appellant, which shall be paid by his attorney, if so ordered by the court.

[8] Rasonable v. NLRC, 324 Phil. 191, 195-196 (1996), citing Article 2208 (7) & (2) of the Civil Code.

[9] Remigio v. NLRC, 521 Phil. 330, 353 (2006).

[10] National Power Corporation v. Philippine Commercial and Industrial Bank, G.R. No. 171176, September 04, 2009, 598 SCRA 326.

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