

SAMAHANG MANGGAGAWA SA GENERAL OFFSET PRESS, INC., PETITIONER, VS. GENERAL OFFSET PRESS, INC., JUANITA TIU AND JOJI TIU, RESPONDENTS.

G.R. No. 212960. June 08, 2016

Ponente: MENDOZA, J.

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MENDOZA, J.:

This petition for review on certiorari under Rule 45 seeks to annul and set aside the December 19, 2013 Decision[1] and the May 29, 2014 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 126761, which affirmed the February 1, 2012[3] and July 25, 2012[4] Resolutions of the National Labor Relations Commission (NLRC), directing the return of the garnished amount to the respondent, General Offset Press, Inc. (GOPI).

The Antecedents

Petitioner Samahang Manggagawa sa General Offset Press, Inc. (SMGOPI) and its forty (40) members filed a complaint for illegal dismissal, damages and attorney's fees against GOPI. The Labor Arbiter (LA) ruled in favor of the complainants and ordered the reinstatement of the 25 employees and the payment of P50,000.00 to each, as moral damages; and dismissed with prejudice the complaints of the other 15 employees for being moot and academic as they had already entered into some amicable settlement with GOPI.[5]

Pending the appeal of GOPI before the NLRC, the complainants moved for execution pending appeal which was granted by the LA. The corresponding writ of execution[6] was issued immediately the following day. GOPI's account at BPI, Katipunan-Blue Ridge Branch, in the amount of P79,530.26 was garnished and ordered released upon the complainants' motion. Thereafter, the said amount was deposited with the NLRC Cashier.[7]

The appeal pending before the NLRC was eventually resolved against the complainants. The LA decision was reversed, vacated and set aside; the unfair labor practice against GOPI was dismissed; its closure was declared valid; and the employees' strike was found to be illegal. GOPI, however, was ordered to pay each of the complainant financial assistance equivalent to one (1) month salary for every year of service.[8] The financial assistance was subsequently deleted upon GOPI's motion for reconsideration.[9]

The complainants then appealed the NLRC decision to the CA. On February 11, 2009, the CA affirmed the findings of the NLRC. The case was eventually elevated before this Court but the petition was denied on October 14, 2009 for its failure to sufficiently show any reversible error in the CA decision. The said decision became final and executory on March 12, 2010 and was entered in the Book of Entries.[10]

For this reason, GOPI filed its Motion to Release (Garnished Amount and Appeal Bond), on February 17, 2011 before the LA. In its May 4, 2011 Order,[11] the LA granted the motion insofar as the appeal bond was concerned. Thus:

WHEREFORE, premises above considered, the NLRC Cashier is hereby directed to release to respondents, their appeal/ cash bond of P100,000.00 duly deposited thereat under O.R. No. 4308533 dated February 6,

2004. While the garnished amount of P79,530.26 representing payment of all complainants' reinstatement salaries should be released to them, subject to usual government accounting and auditing procedures.

SO ORDERED.[12]

Finding this unacceptable, GOPI appealed the order to the NLRC, arguing that the garnished amount must be released to it and not to the complainants because of the subsequent reversal of the LA finding of illegal dismissal. The NLRC, in its September 29, 2011 Decision,[13] denied the appeal for lack of merit and affirmed the LA order. It explained:

x x x We rule that despite the reversal of the 23 December 2003 Decision, complainants are still entitled to the garnished sum of P79,530.26 representing their accrued wages corresponding to the period from 29 January to 29 April 2004.[14] [Emphasis Supplied]

Undaunted, GOPI moved for reconsideration of the said decision. In its assailed February 1, 2012 Resolution, the NLRC granted the motion. Thus, the dispositive portion reads:

WHEREFORE, respondents' motion for reconsideration is GRANTED, and the Decision promulgated on 29 September 2011 is REVERSED and SET ASIDE. The garnished sum of P79,530.26 is directed to be returned to respondents.

SO ORDERED.[15] [Emphases Supplied]

The complainants sought reconsideration arguing that GOPI failed to reinstate them pursuant to the original ruling of the LA as stated in its December 23, 2003 decision, which was immediately executory. The NLRC, however, denied their motion in its assailed July 25, 2012 Resolution.

Not satisfied, SMGOPI elevated the matter to the CA via a petition for certiorari attributing grave abuse of discretion on the part of the NLRC in reversing itself and ordering the release of the garnished amount to GOPI when it was supposed to compensate the complainants for their salaries during that time when GOPI failed to reinstate them pending appeal of the LA decision.[16]

After a review of the assailed orders of the NLRC, the CA denied the petition in its challenged decision, dated December 19, 2013. It explained that, consistent with the finding of the NLRC, reinstatement was not viable considering the closure of the corporation and the payment of separation pay, the alternative to reinstatement, was not doable either because the complainants were found to have engaged in prohibited acts during a strike which was the basis for their dismissal.[17] Thus,

WHEREFORE, in view of the foregoing, the instant Petition is DENIED. The Resolutions, dated February 1, 2012 and July 25, 2012, issued by public respondent National Labor Relations Commission (NLRC) in NLRC NCR LAC No. 039684-04, are AFFIRMED.

SO ORDERED.[18]

SMGOPI moved for reconsideration but its motion was denied by the CA in the assailed resolution, dated May 29, 2014, stating that all the arguments raised therein had all been discussed and there were no new arguments raised.[19]

SMGOPI is now before this Court via this petition for review on certiorari under Rule 45 raising this lone

ISSUE

Did the Court of Appeals commit an error of law in holding that the garnished amount should be returned to respondents notwithstanding that the same is supposed to compensate the workers for their reinstatement salaries pending appeal?[20]

The task at hand is to determine who is entitled to the garnished amount pursuant to the existing law and the prevailing jurisprudence.

SMGOPI argues that the complainants were entitled to the garnished amount because GOPI failed to reinstate them despite the clear directive of the LA, citing Article 223 (now Article 229) of the Labor Code which provides that an order of reinstatement by the LA is immediately executory even pending appeal.

Art. 223. Appeal. x x x.

In any event, the decision of the Labor Arbiter reinstating a dismissed or separated employee, insofar as the reinstatement aspect is concerned, shall immediately be executory, even pending appeal. The employee shall either be admitted back to work under the same terms and conditions prevailing prior to his dismissal or separation or, at the option of the employer, merely reinstated in the payroll. The posting of a bond by the employer shall not stay the execution for reinstatement provided herein.

SMGOPI claims that the garnished amount was supposed to cover the accrued wages of the complainants from January 29 to April 29, 2004 or that period when they were supposed to have been reinstated.

Although the findings of the LA were subsequently reversed and overturned by the NLRC, SMGOPI argues, citing the 2011 case of *Islriz Trading v. Capada (Islriz)*,^[21] that the complainants were still entitled to their accrued salaries from the time GOPI received the LA decision declaring the termination of their employment illegal up to the time when the NLRC overturned the same.

The Court's Ruling

The Court rules against SMGOPI.

Although the Court's pronouncement in *Islriz* has not been overturned, that case is not on all fours with the case at bench. To begin with, *Islriz Trading* was not under any justifiable circumstance that would excuse it from reinstating the complainants-employees or exercising any of the other options under Article 223 of the Labor Code. Thus, the Court held *Islriz Trading* liable for the accrued salaries of its dismissed employees.^[22]

A careful reading of *Islriz* also teaches that an employee may still be barred from claiming his accrued salaries as when the delay or failure to reinstate said employee was not the fault of the employer. *Islriz*, in discussing the case of *Garcia v. Philippine Airlines Inc.*^[23] (*Garcia*), stated:

x x x The (C)ourt went on to declare that after the Labor Arbiter's decision is reversed by a higher tribunal, the employee may be barred from collecting the accrued wages, if it is shown that the delay in enforcing the reinstatement pending appeal was without fault on the part of the employer. x x x.^[24]

In *Garcia*, the immediate obligation of Philippine Airlines (PAL) to reinstate its employees could not attach because it was then under corporate rehabilitation and the claims against it were suspended. Similarly, in the 2014 case of *Philippine Airlines Inc. v. Paz*^[25] (*Paz*), the Court considered the situation of PAL being under rehabilitation receivership to be sufficient to justify the delay or failure to comply with the reinstatement order of the LA.

In *Paz*, the employee obtained a favorable ruling from the LA for his illegal dismissal case against PAL but it was

reversed on appeal by the NLRC. PAL was under rehabilitation receivership during the entire period when the illegal dismissal case was being heard. Similarly, the question raised there was whether Paz could collect reinstatement salaries which he was supposed to have received from the time that PAL received a copy of the LA decision ordering his reinstatement and until the said decision was overturned by the NLRC. The Court in the said case ruled that the employee was not entitled to reinstatement salaries.[26]

The two-fold test in Garcia was also applied in Paz in order to determine whether an employee was entitled to the accrued wages during that period when he was supposed to have been reinstated.

x x x (1) there must be actual delay or the fact that the order of reinstatement pending appeal was not executed prior to its reversal; and (2) the delay must not be due to the employer's unjustified act or omission. If the delay is due to the employer's unjustified refusal, the employer may still be required to pay the salaries notwithstanding the reversal of the Labor Arbiter's decision.[27]

In this case, the first test has been undeniably met. What remains is the issue of whether the delay or failure to reinstate was due to GOPI's unjustified act or omission.

GOPI ceased operation way back in March 2002. This was declared valid by the 2004 decision of the NLRC which, in turn, was affirmed by the CA and, subsequently, by this Court. Eventually, it attained finality on March 12, 2010.

With the case at bench being similar to the cases of Garcia and Paz, the Court agrees with the CA that the valid closure of GOPI's operation made it legally impossible to reinstate the complainants who were members of petitioner SMGOPI. Accordingly, GOPI cannot be ordered to pay backwages beyond the date of closure. The NLRC aptly stated it, when it wrote:

Invariably, an employer may not be ordered to pay backwages beyond the date of closure of business where such closure was due to legitimate business reasons and not merely an attempt to defeat the order of reinstatement. Employee is entitled to backwages up to date of closure.[28]

WHEREFORE, the petition is DENIED.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, and Leonen, JJ., concur.
Brion, J., on official leave.

[1] Penned by Associate Justice Agnes Reyes-Carpio with Associate Justice Noel G. Tijam and Associate Justice Pricilla J. Baltazar-Padilla, concurring. Rollo, pp. 24-34.

[2] Id. at 36-37.

[3] Id. at 149-153.

[4] Id. at 160-162.

[5] LA Decision, dated December 23, 2003. Id. at 57-78.

[6] NLRC Order, dated June 10, 2004. Id. at 92-94.

[7] Id. at 26.

[8] NLRC Decision, dated December 15, 2004. Id. at 79-90.

- [9] Id. at 26-27.
- [10] Id. at 97-98.
- [11] Id. at 130-131.
- [12] Id. at 131.
- [13] Id. at 133-139.
- [14] Id. at 138.
- [15] Id. at 152.
- [16] Id. at 28.
- [17] Id. at 30-33.
- [18] Id. at 33-34.
- [19] Id. at 36-37.
- [20] Id. at 15.
- [21] 656 Phil. 9 (2011).
- [22] Id. at 29.
- [23] 596 Phil. 510, 541 (2009).
- [24] *Islriz Trading v. Capada*, supra note 21, at 23.
- [25] G.R. No. 192924, November 26, 2014, 743 SCRA 1.
- [26] Id. at 14-15.
- [27] *Garcia v. Phil. Airlines Inc.*, supra note 23, at 541.
- [28] *Rollo*, p. 151.

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