

INSULAR BANK OF ASIA AND AMERICA EMPLOYEES' UNION (IBAAEU), PETITIONER, VS. HON. AMADO G. INCIONG, DEPUTY MINISTER, MINISTRY OF LABOR AND INSULAR BANK OF ASIA AND AMERICA, RESPON...

G.R. No. 52415. October 23, 1984

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition for certiorari to set aside the order dated November 10, 1979, of respondent Deputy Minister of Labor, Amado G. Inciong, in NLRC case No. RB-IV-1561-76 entitled "Insular Bank of Asia and America Employees' Union (complainant-appellee), vs. Insular Bank of Asia and America" (respondent-appellant), the dispositive portion of which reads as follows:

"xx xx.

"ALL THE FOREGOING CONSIDERED, let the appealed Resolution en banc of the National Labor Relations Commission dated 20 June 1978 be, as it is hereby, set aside and a new judgment promulgated dismissing the instant case for lack of merit" (p. 109, rec.).

The antecedent facts culled from the records are as follows:

On June 20, 1975, petitioner filed a complaint against the respondent bank for the payment of holiday pay before the then Department of Labor, National Labor Relations Commission, Regional Office No. IV in Manila. Conciliation having failed, and upon the request of both parties, the case was certified for arbitration on July 7, 1975 (p. 18, NLRC rec.).

On August 25, 1975, Labor Arbiter Ricarte T. Soriano rendered a decision in the above-entitled case, granting petitioner's complaint for payment of holiday pay. Pertinent portions of the decision read:

"xx xx.

"The records disclosed that employees of respondent bank were not paid their wages on unworked regular holidays as mandated by the Code, particularly Article 208, to wit:

'Art. 208. Right to holiday pay. –

‘(a) Every worker shall be paid his regular daily wage during regular holidays, except in retail and service establishments regularly employing less than 10 workers.

‘(b) The term "holi-day" as used in this chapter, shall include: New Year's Day, Maundy Thursday, Good Friday, the ninth of April, the first of May, the twelfth of June, the fourth of July, the thirtieth of November, the twenty-fifth and thirtieth of December and the day designated by law for holding a general election.

'xx xx.'

"This conclusion is deduced from the fact that the daily rate of pay of the bank employees was computed in the past with the unworked regular holidays as excluded for purposes of determining the deductible amount for absences incurred. Thus, if the employer uses the factor 303 days as a divisor in determining the daily rate of monthly paid employee, this gives rise to a presumption that the monthly rate does not include payments for unworked regular holidays. The use of the factor 303 indicates the number of ordinary working days in a year (which normally has 365 calendar days), excluding the 52 Sundays and the 10 regular holidays. The use of 251 as a factor (365 calendar days less 52 Saturdays, 52 Sundays, and 10 regular holidays) gives rise likewise to the same presumption that the unworked Saturdays, Sundays and regular holidays are unpaid. This being the case, it is not amiss to state with certainty that the instant claim for wages on regular unworked holidays is found to be tenable and meritorious.

"WHEREFORE, judgment is hereby rendered:

“(a) xx xx.

“(b) Ordering respondent to pay wages to all its employees for all regular holidays since November 1, 1974" (pp. 97-99, rec., Italics supplied).

Respondent bank did not appeal from the said decision. Instead, it complied with the order of Arbiter Ricarte T. Soriano by paying their holiday pay up to and including January, 1976.

On December 16, 1975, Presidential Decree No. 850 was promulgated amending, among others, the provisions of the Labor Code on the right to holiday pay to read as follows:

"Art. 94. Right to holiday pay. - (a) Every worker shall be paid his regular daily wages during regular holidays, except in retail and service establishments regularly employing less than ten (10) workers;

"(b) The employer may require an employee to work on any holiday but such employee shall be paid a compensation equivalent to twice his regular rate; and

"(c) As used in this Article, 'holiday' includes: New Year's Day, Maundy Thursday, Good Friday, the ninth of April, the first of May, the twelfth of June, the fourth of July, the thirtieth of November, the twenty-fifth and the thirtieth of December, and the day designated by law for holding a general election."

Accordingly, on February 16, 1976, by authority of Article 5 of the same Code, the Department of Labor (now Ministry of Labor) promulgated the rules and regulations for the implementation of holidays with pay. The controversial section thereof reads:

"SEC. 2. Status of employees paid by the month. -- Employees who are uniformly paid by the month, irrespective of the number of working days therein, with a salary of not less than the statutory or established minimum wage shall be presumed to be paid for all days in the month whether worked or not.

"For this purpose, the monthly minimum wage shall not be less than the statutory minimum wage multiplied by 365 days divided by twelve" (Italics supplied).

On April 23, 1976, Policy Instruction No. 9 was issued by the then Secretary of Labor (now Minister) interpreting the above-quoted rule, pertinent portion of which read:

"xx xx.

"The ten (10) paid legal holidays law, to start with, is intended to benefit principally daily employees. In the case of monthly, only those whose monthly salary did not yet include payment for the ten (10) paid legal holidays are entitled to the benefit.

"Under the rules implementing P.D. 850, this policy has been fully clarified to eliminate controversies on the entitlement of monthly paid employees. The new determining rule is this: If the monthly paid employee is receiving not less than P240, the maximum monthly minimum wage, and his monthly pay is uniform from January to December, he is presumed to be already paid the ten (10) paid legal holidays. However, if deductions are made from his monthly salary on account of holidays in months where they occur, then he is still entitled to the ten (10) paid legal holidays. x x x" (Italics supplied).

Respondent bank, by reason of the ruling laid down by the aforesaid rule implementing Article 94 of the Labor Code and by Policy Instruction No. 9, stopped the payment of holiday pay to all its employees.

On August 30, 1976, petitioner filed a motion for a writ of execution to enforce the arbiter's decision of August 25, 1975, whereby the respondent bank was ordered to pay its employees their daily wage for the unworked

regular holidays.

On September 10, 1975, respondent bank filed an opposition to the motion for a writ of execution alleging, among others, that: (a) its refusal to pay the corresponding unworked holiday pay in accordance with the award of Labor Arbiter Ricarte T. Soriano, dated August 25, 1975, is based on and justified by Policy Instruction No. 9 which interpreted the rules implementing P. D. 850; and (b) that the said award is already repealed by P.D. 850 which took effect on December 16, 1975, and by said Policy Instruction No. 9 of the Department of Labor, considering that its monthly paid employees are not receiving less than P240.00 and their monthly pay is uniform from January to December, and that no deductions are made from the monthly salaries of its employees on account of holidays in months where they occur (pp. 64-65, NLRC, rec.).

On October 18, 1976, Labor Arbiter Ricarte T. Soriano, instead of issuing a writ of execution, issued an order enjoining the respondent bank to continue paying its employees their regular holiday pay on the following grounds: (a) that the judgment is already final and the findings which is found in the body of the decision as well as the dispositive portion thereof is *res judicata* or is the law of the case between the parties; and (b) that since the decision had been partially implemented by the re-spondent bank, appeal from the said decision is no longer available (pp. 100-103, rec.).

On November 17, 1976, respondent bank appealed from the above-cited order of Labor Arbiter Soriano to the National Labor Relations Commission, reiterating therein its contentions averred in its opposition to the motion for writ of execution. Respondent bank further alleged for the first time that the questioned order is not supported by evidence insofar as it finds that respondent bank discontinued payment of holiday pay beginning January, 1976 (p. 84, NLRC rec.).

On June 20, 1978, the National Labor Relations Commission promulgated its resolution *en banc* dismissing respondent bank's appeal, the dispositive portion of which reads as follows:

"In view of the foregoing, we hereby resolve to dismiss, as we hereby dismiss, respondent's appeal; to set aside Labor Arbiter Ricarte T. Soriano's order of 18 October 1976 and, as prayed for by complainant, to order the issuance of the proper writ of execution" (p. 244, NLRC rec.).

Copies of the above resolution were served on the petitioner only on February 9, 1979 or almost eight (8) months after it was promulgated, while copies were served on the respondent bank on February 13, 1979.

On February 21, 1979, respondent bank filed with the Office of the Minister of Labor a motion for reconsideration/appeal with urgent prayer to stay execution, alleging therein the following: (a) that there is *prima facie* evidence of grave abuse of discretion, amounting to lack of jurisdiction on the part of the National Labor Relations Commission, in dismissing the respondent's appeal on pure technicalities without passing upon the merits of the appeal; and (b) that the resolution appealed from is contrary to the law and jurisprudence (pp. 260-274, NLRC rec.).

On March 19, 1979, petitioner filed its opposition to the respondent bank's appeal and alleged the following grounds: (a) that the office of the Minister of Labor has no jurisdiction to entertain the instant appeal pursuant to the provisions of P.D. 1391; (b) that the labor arbiter's decision being final, executory and unappealable, execution is a matter of right for the petitioner; and (c) that the decision of the labor arbiter dated August 25, 1975 is supported by the law and the evidence in the case (p. 364, NLRC rec.).

On July 30, 1979, petitioner filed a second motion for execution pending appeal, praying that a writ of execution be issued by the National Labor Relations Commission pending appeal of the case with the Office of the Minister

of Labor. Respondent bank filed its opposition thereto on August 8, 1979.

On August 13, 1979, the National Labor Relations Commission issued an order which states:

"The Chief, Research and Information Division of this Commission is hereby directed to designate a Socio-Economic Analyst to compute the holiday pay of the employees of the Insular Bank of Asia and America from April 1976 to the present, in accordance with the Decision of the Labor Arbiter dated August 25, 1975" (p. 80, rec.).

On November 10, 1979, the Office of the Minister of Labor, through Deputy Minister Amado G. Inciong, issued an order, the dispositive portion of which states:

"ALL THE FOREGOING CONSIDERED, let the appealed Resolution en banc of the National Labor Relations Commission dated 20 June 1978 be, as it is hereby, set aside and a new judgment promulgated dismissing the instant case for lack of merit" (p. 436, NLRC rec.).

Hence, this petition for certiorari charging public respondent Amado G. Inciong with abuse of discretion amounting to lack or excess of jurisdiction.

The issue in this case is: whether or not the decision of a Labor Arbiter awarding payment of regular holiday pay can still be set aside on appeal by the Deputy Minister of Labor even though it has already become final and had been partially executed, the finality of which was affirmed by the National Labor Relations Commission sitting en banc, on the basis of an Implementing Rule and Policy Instruction promulgated by the Ministry of Labor long after the said decision had become final and executory.

WE find for the petitioner.

I

WE agree with the petitioner's contention that Section 2, Rule IV, Book III of the implementing rules and Policy Instruction No. 9 issued by the then Secretary of Labor are null and void since in the guise of clarifying the Labor Code's provisions on holiday pay, they in effect amended them by enlarging the scope of their exclusion (p. 11, rec.).

Article 94 of the Labor Code, as amended by P.D. 850, provides:

"Art. 94. Right to holiday pay. -- (a) Every worker shall be paid his regular daily wage during regular holidays, except in retail and service establishments regularly employing less than ten (10) workers. x x x x."

The coverage and scope of exclusion of the Labor Code's holiday pay provisions is spelled out under Article 82 thereof which reads:

"Art. 82. Coverage. – The provision of this Title shall apply to employees in all establishments and undertakings, whether for profit or not, but not to government employees, managerial employees, field personnel, members of the family of the employer who are dependent on him for support, domestic helpers, persons in the personal service of another, and workers who are paid by results as determined by the Secretary of Labor in appropriate regulations.

"xx xx" (*Italics supplied*).

From the above-cited provisions, it is clear that monthly paid employees are not excluded from the benefits of holiday pay. However, the implementing rules on holiday pay promulgated by the then Secretary of Labor excludes monthly paid employees from the said benefits by inserting, under Rule IV, Book III of the implementing rules, Section 2, which provides that: "employees who are uniformly paid by the month, irrespective of the number of working days therein, with a salary of not less than the statutory or established minimum wage shall be presumed to be paid for all days in the month whether worked or not."

Public respondent maintains that "(T)he rules implementing P.D. 850 and Policy Instruction No. 9 were issued to clarify the policy in the implementa-tion of the ten (10) paid legal holidays. As interpreted, 'unworked' legal holidays are deemed paid insofar as monthly paid employees are concerned if (a) they are receiving not less than the statutory minimum wage, (b) their monthly pay is uniform from January to December, and (c) no deduction is made from their monthly salary on account of holidays in months where they occur. As explained in Policy Instruction No. 9, 'The ten (10) paid legal holidays law, to start with, is intended to benefit principally daily paid employees. In case of monthly, only those whose monthly salary did not yet include payment for the ten (10) paid legal holidays are entitled to the benefit'" (pp. 340-341, rec.). This contention is untenable.

It is elementary in the rules of statutory construction that when the language of the law is clear and unequivocal the law must be taken to mean exactly what it says. In the case at bar, the provi-sions of the Labor Code on the entitlement to the benefits of holiday pay are clear and explicit – it provides for both the coverage of and exclusion from the benefits. In Policy Instruction No. 9, the then Secretary of Labor went as far as to categorically state that the benefit is principally intended for daily paid employees, when the law clearly states that every worker shall be paid their regular holiday pay. This is a flagrant violation of the mandatory directive of Article 4 of the Labor Code, which states that "All doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved in favor of labor." Moreover, it shall always be presumed that the legislature intended to enact a valid and permanent statute which would have the most beneficial effect that its language permits (*Orlosky vs. Haskell*, 155 A. 112).

Obviously, the Secretary (Minister) of Labor had exceeded his statutory authority granted by Article 5 of the Labor Code authorizing him to promulgate the necessary implementing rules and regulations.

Public respondent vehemently argues that the intent and spirit of the holiday pay law, as expressed by the Secretary of Labor in the case of *Chartered Bank Employees Association v. The Chartered Bank* (NLRC Case No. RB-1789-75, March 24, 1976), is to correct the disadvantages inherent in the daily compen-sation system of employment -- holiday pay is primarily intended to benefit the daily paid workers whose employ-ment and income are circumscribed by the principle of "no work, no pay." This argument may sound meritorious; but, until the provisions of the Labor Code on holiday pay is amended by another law, monthly paid employees are definitely included in the benefits of regular holiday pay. As earlier stated, the presumption is always in favor of law, negatively put, the Labor Code is always strictly construed against management.

While it is true that the contemporaneous con-struction placed upon a statute by executive officers whose duty is to enforce it should be given great weight by the courts, still if such construction is so erroneous, as in the instant case, the same must be declared as null and void. It is the role of the Judiciary to refine and, when necessary, correct consti-tutional (and/or statutory) interpretation, in the context of the interactions of the three branches of the government, almost always in situations where some agency of the State has engaged in action that stems ultimately from some legitimate area of governmental power (*The Supreme Court in Modern Role*, C. B. Swisher, 1958, p. 36).

Thus, in the case of Philippine Apparel Workers Union vs. National Labor Relations Commission (106 SCRA 444, July 31, 1981) where the Secretary of Labor enlarged the scope of exemption from the coverage of a Presidential Decree granting increase in emergency allowance, this Court ruled that:

"x x x x the Secretary of Labor has exceeded his authority when he included paragraph (k) in Section 1 of the Rules implementing P.D. 1123.

"xx xx xx.

"Clearly, the inclusion of paragraph k contravenes the statutory authority granted to the Secretary of Labor, and the same is therefore void, as ruled by this Court in a long line of cases x x x x.

"The recognition of the power of administrative officials to promulgate rules in the administration of the statute, necessarily limited to what is provided for in the legislative enactment, may be found in the early case of United States vs. Barrios decided in 1908. Then came in a 1914 decision, United States vs. Tupasi Molina (29 Phil. 119) delineation of the scope of such competence. Thus: 'Of course the regulations adopted under legislative authority by a particular department must be in harmony with the provisions of the law, and for the sole purpose of carrying into effect its general provisions. By such regulations, of course, the law itself cannot be extended. So long, however, as the regulations relate solely to carrying into effect the provisions of the law, they are valid.' In 1936, in People vs. Santos, this Court expressed its disapproval of an administrative order that would amount to an excess of the regulatory power vested in an administrative official. We reaffirmed such a doctrine in a 1951 decision, where we again made clear that where an administrative order betrays inconsistency or repugnancy to the provisions of the Act, 'the mandate of the Act must prevail and must be followed.' Justice Barrera, speaking for the Court in Victorias Milling Inc. vs. Social Security Commission, citing Parker as well as Davis did tersely sum up the matter thus: 'A rule is binding on the Courts so long as the procedure fixed for its promulgation is followed and its scope is within the statutory authority granted by the legislature, even if the courts are not in agreement with the policy stated therein or its innate wisdom x x x. On the other hand, administrative interpretation of the law is at best merely advisory, for it is the courts that finally determine what the law means.'

"It cannot be otherwise as the Constitution limits the authority of the President, in whom all executive power resides, to take care that the laws be faithfully executed. No lesser administrative executive office or agency then can, contrary to the express language of the Constitution, assert for itself a more extensive prerogative. Necessarily, it is bound to observe the constitutional mandate. There must be strict compliance with the legislative enactment. Its terms must be followed. The statute requires adherence to, not departure from its provisions. No deviation is allowable. In the terse language of the present Chief Justice, an administrative agency 'cannot amend an act of Congress.' Respondents can be sustained, therefore, only if it could be shown that the rules and regulations promulgated by them were in accordance with what the Veterans Bill of Rights provides'" (Phil. Apparel Workers Union vs. National Labor Relations Commission, supra, 463, 464, citing Teozon vs. Members of the Board of Administrators, PVA, 33 SCRA 585; see also Santos vs. Hon. Estenzo, et al., 109 Phil. 419; Hilado vs. Collector of Internal Revenue, 100 Phil. 295; Sy Man vs. Jacinto & Fabros, 93 Phil. 1093; Olsen & Co., Inc. vs. Aldanese and Trinidad, 43 Phil. 259).

This ruling of the Court was recently reiterated in the case of American Wire & Cable Workers Union (TUPAS) vs. The National Labor Relations Commission and American Wire & Cable Co., Inc., G.R. No. 53337, promulgated on June 29, 1984.

In view of the foregoing, Section 2, Rule IV, Book III of the Rules to implement the Labor Code and Policy Instruction No. 9 issued by the then Secretary of Labor must be declared null and void. Accordingly, public respondent Deputy Minister of Labor Amado G. Inciong had no basis at all to deny the members of petitioner union their regular holiday pay as directed by the Labor Code.

II

It is not disputed that the decision of Labor Arbiter Ricarte T. Soriano dated August 25, 1975, had already become final, and was, in fact, partially executed by the respondent bank.

However, public respondent maintains that on the authority of *De Luna vs. Kayanan*, 61 SCRA 49, November 13, 1974, he can annul the final decision of Labor Arbiter Soriano since the ensuing promulgation of the integrated implementing rules of the Labor Code pursuant to P.D. 850 on February 16, 1976, and the issuance of Policy Instruction No. 9 on April 23, 1976 by the then Secretary of Labor are facts and circumstances that transpired subsequent to the promulgation of the decision of the labor arbiter, which renders the execution of the said decision impossible and unjust on the part of herein respondent bank (pp. 342-343, rec.).

This contention is untenable.

To start with, unlike the instant case, the case of *De Luna* relied upon by the public respondent is not a labor case wherein the express mandate of the Constitution on the protection to labor is applied. Thus Article 4 of the Labor Code provides that, "All doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved in favor of labor"; and Article 1702 of the Civil Code provides that, "In case of doubt, all labor legislation and all labor contracts shall be construed in favor of the safety and decent living for the laborer."

Consequently, contrary to public respondent's allegations, it is patently unjust to deprive the members of petitioner union of their vested right acquired by virtue of a final judgment on the basis of a labor statute promulgated following the acquisition of the "right".

On the question of whether or not a law or statute can annul or modify a judicial order issued prior to its promulgation, this Court, through Associate Justice Claro M. Recto, said:

"xx xx xx.

"We are decidedly of the opinion that they did not. Said order, being unappealable, became final on the date of its issuance and the parties who acquired rights thereunder cannot be deprived thereof by a constitutional provision enacted or promulgated subsequent thereto. Neither the Constitution nor the statutes, except penal laws favorable to the accused, have retroactive effect in the sense of annulling or modifying vested rights, or altering contractual obligations" (*China Ins. & Surety Co. vs. Judge of First Instance of Manila*, 63 Phil. 324, *Italics supplied*).

In the case of *In re: Cunanan, et al.*, 19 Phil. 585, March 18, 1954, this Court said: "x x x when a court renders a decision or promulgates a resolution or order on the basis of and in accordance with a certain law or rule then in force, the subsequent amendment or even repeal of said law or rule may not affect the final decision, order, or resolution already promulgated, in the sense of revoking or rendering it void and of no effect." Thus, the amendatory rule (Rule IV, Book III of the Rules to Implement the Labor Code) cannot be given retroactive effect as to modify final judgments. Not even a law can validly annul final decisions (*In re: Cunanan, et al.*, *Ibid.*).

Furthermore, the facts of the case relied upon by the public respondent are not analogous to that of the case at bar. The case of *De Luna* speaks of final and executory judgment, while in the instant case, the final judgment is partially executed. Just as the court is ousted of its jurisdiction to annul or modify a judgment the moment it becomes final, the court also loses its jurisdiction to annul or modify a writ of execution upon its service or execution; for, otherwise, we will have a situation wherein a final and executed judgment can still be annulled or modified by the court upon mere motion of a party. This would certainly result in endless litigations thereby rendering inutile the rule of law.

Respondent bank counters with the argument that its partial compliance was involuntary because it did so under pain of levy and execution of its assets (p. 138, rec.). WE find no merit in this argument. Respondent bank clearly manifested its voluntariness in complying with the decision of the labor arbiter by not appealing to the National Labor Relations Commission as provided for under the Labor Code under Article 223. A party who waives his right to appeal is deemed to have accepted the judgment, adverse or not, as correct, especially if such party readily acquiesced in the judgment by starting to execute said judgment even before a writ of execution was issued, is in this case. Under these circumstances, to permit a party to appeal from the said partially executed final judgment would make a mockery of the doctrine of finality of judgments long enshrined in this juris-diction.

Section 1 of Rule 39 of the Revised Rules of Court provides that "x x x execution shall issue as a matter of right upon the expiration of the period to appeal x x x or if no appeal has been duly perfected." This rule applies to decisions or orders of labor arbiters who are exercising quasi-judicial functions since; "x x x the rule of execution of judgments under the rules should govern all kinds of execution of judgment, unless it is otherwise provided in other laws" (Sagucio vs. Bulos, 5 SCRA 803) and Article 223 of the Labor Code provides that "x x x decisions, awards, or orders of the Labor Arbiter or compulsory arbitrators are final and executory unless appealed to the Commission by any or both of the parties within ten (10) days from receipt of such awards, orders, or decisions. x x x."

Thus, under the aforecited rule, the lapse of the appeal period deprives the courts of jurisdiction to alter the final judgment and the judgment becomes final ipso jure (Vega vs. WCC, 89 SCRA 143, citing Cruz vs. WCC, 2 PHILAJUR 436, 440, January 31, 1978; see also Soliven vs. WCC, 77 SCRA 621; Carrero vs. WCC and Regala vs. WCC, decided jointly, 77 SCRA 297; Vitug vs. Republic, 75 SCRA 436; Ramos vs. Republic, 69 SCRA 576).

In Galvez vs. Philippine Long Distance Telephone Co., 3 SCRA 422, 423, October 31, 1961, where the lower court modified a final order, this Court ruled thus:

"xx xx xx.

"The lower court was thus aware of the fact that it was thereby altering or modifying its order of January 8, 1959. Regardless of the excellence of the motive for acting as it did, we are constrained to hold, however, that the lower court had no authority to make said alteration or modification. x x x.

"xxx xx xx.

"The equitable considerations that led the lower court to take the action complained of cannot offset the demands of public policy and public interest -- which are also responsive to the tenets of equity -- requiring that all issues passed upon in decisions or final orders that have become executory, be deemed conclusively disposed of and definitely closed, for, other-wise, there would be no end to litigations, thus setting at naught the main role of courts of justice, which is to assist in the enforcement of the rule of law and the maintenance of peace and order, by settling justiciable controversies with finality.

"xx xx xx."

In the recent case of Gabaya vs. Mendoza, 113 SCRA 405, 406, March 30, 1982, this Court said:

"xx xx xx.

"In Marasigan vs. Ronquillo (94 Phil. 237), it was categorically stated that the rule is absolute that after a judgment becomes final, by the expiration of the period pro-vided by the rules within which it so becomes, no further amendment or correction can be made by the court except for clerical errors or mistakes. And such final judgment is conclusive not only as to every matter which was offered and received to sustain or defeat the claim or demand but as to any other admissible matter which must have been offered for that purpose (L7044,

96 Phil. 526). In the earlier case of Contreras and Ginco vs. Felix and China Banking Corp., Inc. (44 O.G. 4306), it was stated that the rule must be adhered to regardless of any possible injustice in a particular case for '(W)e have to subordinate the equity of a particular situation to the over-mastering need of certainty and immutability of judicial pro-nouncements.'

"xx xx xx."

III

The despotic manner by which public respondent Amado G. Inciong divested the members of the petitioner union of their rights acquired by virtue of a final judgment is tantamount to a deprivation of property without due process of law. Public respondent completely ignored the rights of the petitioner union's members in dismissing their complaint since he knew for a fact that the judgment of the labor arbiter had long become final and was even partially executed by the respondent bank.

A final judgment vests in the prevailing party a right recognized and protected by law under the due process clause of the Constitution (China Ins. & Surety Co. vs. Judge of First Instance of Manila, 63 Phil. 324). A final judgment is "a vested interest which it is right and equitable that the government should recognize and protect, and of which the individual could not be deprived arbitrarily without injustice" (Rookledge v. Garwood, 65 N.W. 2d 785, 791).

It is by this guiding principle that the due process clause is interpreted. Thus, in the pithy language of then Justice, later Chief Justice, Concepcion: "x x x acts of Congress, as well as those of the Executive, can deny due process only under pain of nullity, and judicial proceedings suffering from the same flaw are subject to the same sanction, any statutory provision to the contrary notwithstanding" (Vda. de Cuaycong vs. Vda. de Sengbengco, 110 Phil. 118, Italics supplied). And "(I)t has been likewise established that a violation of a constitutional right divests the court of jurisdiction; and as a consequence its judgment is null and void and confers no rights" (Phil. Blooming Mills Employees Organization vs. Phil. Blooming Mills Co., Inc., 51 SCRA 211, June 5, 1973).

Tested by and pitted against this broad concept of the constitutional guarantee of due process, the action of public respondent Amado G. Inciong is a clear example of deprivation of property without due process of law and constituted grave abuse of discretion, amounting to lack or excess of jurisdiction in issuing the order dated November 10, 1979.

WHEREFORE, THE PETITION IS HEREBY GRANTED, THE ORDER OF PUBLIC RESPONDENT IS SET ASIDE, AND THE DECISION OF LABOR ARBITER RICARTE T. SORIANO DATED AUGUST 25, 1975, IS HEREBY REINSTATED.

COSTS AGAINST PRIVATE RESPONDENT INSULAR BANK OF ASIA AND AMERICA.

SO ORDERED.

Guerrero, Escolin, and Cuevas, JJ., concur.

Aquino and Abad Santos, JJ., in the result.

Concepcion, Jr., J., no part.

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