

MARCOPPER MINING CORPORATION, PETITIONER, VS. LIWANAG PARAS BRIONES AND NATIONAL LABOR RELATIONS COMMISSION, RESPONDENTS.

G.R. No. 77210. September 19, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

Can a final and executory decision of the NLRC be modified or altered before its execution?

This is the issue in this petition for certiorari with prayer for a writ of preliminary injunction where petitioner seeks to annul and set aside the Decision of the National Labor Relations Commission in NLRC Case No. RB-N-5-1090-83[1] dated July 16, 1986, which set aside the order of Labor Arbiter Vicente B. Manzano[2] dated March 7, 1986.

Petitioner Marcopper Mining Corporation is a domestic corporation while private respondent Liwanag Briones is an employee of the petitioner, having been initially hired as a probationary employee on April 28, 1980 with a designation as a warehouse clerk. Thereafter, Briones was extended permanent employment on July 28, 1980. She was subsequently reclassified as a Department Secretary assigned to the Warehouse Manager on July 1, 1981.

Due to worldwide recession and a marked protracted slump in metal prices, petitioner encountered grave financial difficulties, incurring debilitating losses in the successive years, forcing petitioner to streamline its operations in accordance with the economic standards set by the lending banks. It embarked on a two-stage retrenchment program. The first stage involved enticing employees, preferably the most senior ones, to apply for early retirement with special incentives like one month salary for every year of service. The second stage involved forced retrenchment of employees with separation pay of one-half (1/2) month salary for every year of service.

Respondent Briones did not avail of the earlier retirement and was one of those retrenched. Her position was taken by a certain Dalisay Arenas, a former secretary of the resident manager, whose position was abolished. It appears that Arenas signified her willingness to retire from the company pursuant to the retrenchment program but the same was disapproved by herein petitioner. Instead, respondent Briones was retrenched despite her protest. Notwithstanding the tender of separation pay made by the petitioner, respondent Briones refused to receive the same and instead charged[3] herein petitioner with illegal dismissal before the Regional Arbitration Branch No. IV of the National Labor Relations Commission (NLRC).[4]

On October 7, 1983, Labor Arbiter Manzano rendered judgment in favor of Briones, the pertinent portion of which reads as follows:

"x x This office therefore on the bases (sic) of the evidence on record, is of the opinion that there was no valid basis for the company to retrench complainant herein. As a matter of fact, if indeed respondent was fair and just in its effort to streamline its operations and to reduce overhead expenses, it should have accepted the application for retirement of Dalisay Arenas whose position was abolished to attain its purpose but instead, it

retained the services of Arenas and dismissed and retrenched complainant herein. Her retrenchment is not therefore justified and as such, this office declares her retrenchment as illegal.

"WHEREFORE, premises considered, respondent is hereby ordered to reinstate complainant Liwanag Paras Briones to her former position without loss of seniority rights and other privileges and pay her back wages, allowances, and other monetary benefits starting February 5, 1983 up to the actual date of her reinstatement." [5]

From this decision, petitioner appealed to the National Labor Relations Commission. The NLRC affirmed [6] the decision appealed from and dismissed the appeal for lack of merit. [7] It later denied petitioner's motion for reconsideration.

The denial of petitioner's motion for reconsideration prompted herein petitioner to file a petition for certiorari with this Court, docketed as G.R. No. 71740. In a resolution dated September 2, 1985, the Court dismissed the petition for lack of merit. [8] The order of dismissal became final and executory on October 7, 1985.

Pursuant thereto, on November 12, 1985, the NLRC issued a corresponding writ of execution directing the actual reinstatement of Briones and the payment of P53,732.25 representing her backwages, allowances and other monetary benefits from February 5, 1983 to October 31, 1985, excluding what is due respondent Briones after said date. [9] Copy of the said writ was received by herein petitioner on December 9, 1985.

On December 12, 1985, petitioner filed a motion for recomputation before Regional Arbitration Branch No. IV on the ground that the judgment of the labor arbiter directing reinstatement of Briones to her former position was impossible to comply with as there was no vacancy among the petitioner's pool of secretaries and that the position which Briones held at the time of her termination had already been abolished, and that the amount of P53,732.25 should be modified as Briones obtained employment in the Office of Assemblywoman Carmencita O. Reyes. [10]

Private respondent disputed the aforesaid manifestation maintaining, among others, that her position was never subsequently abolished as the same was being held by one Zenaida Echinigue. She also denied having been employed in the office of the said assemblywoman. [11] Pending consideration of petitioner's manifestation, the labor arbiter stayed execution and heard the motion, allowing both parties to adduce their respective evidence. Petitioner submitted its position paper together with a certification [12] from its personnel officer attesting to the fact that private respondent's position was among those abolished during the second retrenchment sometime in 1985. Private respondent failed to file her position paper.

On March 7, 1986, Labor Arbiter Manzano reconsidered the final and executory decision of October 7, 1983, ruling in particular, as follows:

"x x x. From the authorities cited by the respondent and the evidences submitted to the effect that the position of complainant Liwanag Paras Briones has already been abolished, this Office is left with no alternative but to order the payment of separation pay to complainant, instead of her reinstatement. This ruling is not only sanctioned by the aforesaid jurisprudence, but also Section 4 of Rule I, Book VI of the Rules and Regulations Implementing the Labor Code, x x x." [13]

"x x x x x x x x x x

"WHEREFORE, premises considered, respondent is hereby ordered to pay complainant Liwanag Paras Briones, the amount of SIXTY SIX THOUSAND SEVEN HUNDRED FORTY NINE PESOS and TWENTY FIVE CENTAVOS (P66,749.25), representing the latter's allowances, backwages, 13th month pay and separation pay, within five (5) days from receipt of copy of this Order, otherwise, an Alias Writ of Execution shall be issued." [14]

Invoking the common ground of grave abuse of discretion, both parties appealed to the NLRC. Private respondent

contended that "while the labor arbiter's final decision calls for the complainant's reinstatement with full backwages, allowances, and other monetary benefits from date of dismissal on February 5, 1983 until the date of actual reinstatement, the same Labor Arbiter, in his appealed Order of March 7, 1986 inadvertently amended the same by providing a cut-off period thereto and the payment of separation pay, in lieu of reinstatement." It was her submission that the questioned order "has pro tanto no validity," arguing that it renders violence to the settled rule on immutability of final and executory judgments and in effect amounts to a deprivation of property without due process of law.

The NLRC dismissed petitioner's partial appeal,[*] holding that it was filed beyond the prescribed period,[15] but found merit in private respondent's argument holding in particular:

"Clearly and indisputably, the assailed Order of March 7, 1986 which decreed, upon mere motion and manifestation of the respondents, the payment of separation pay in lieu of reinstatement and ordained the cut-off date for backwages, allowances and 13th month pay as of December 15, 1985, substantially altered the final and executory Decision of October 7, 1983 which ordered reinstatement and awarded full backwages to the complainant, and this, to our considered view, constitutes a reversible error on the part of the Arbiter a quo. Consequently, the basic decision originally issued on October 7, 1983 from which the subsequent order dated March 7, 1986 emanated ought to be revived, observed and enforced in toto.

"WHEREFORE, let the Order of March 7, 1986 be as it is hereby VACATED AND SET ASIDE and the Decision of October 7, 1983 ENFORCED AND IMPLEMENTED within ten (10) days from receipt of this Decision."[16]

Petitioner filed a motion for reconsideration but the same was denied. Hence, the present petition.

Petitioner now comes to this Court contending that the NLRC committed a grave abuse of discretion in reversing the order of the labor arbiter. It claims that enforcement of the original decision of the labor arbiter which directed reinstatement of private respondent, without loss of seniority rights and other privileges, and with back wages, allowances and other monetary benefits computed from February 5, 1983 up to the actual date of her reinstatement, regardless of supervening events, will be productive of injustice, and that said labor arbiter has the power to amend his order to put it in harmony with supervening facts. According to petitioner, the labor arbiter is correct in ordering the payment of separation pay in lieu of reinstatement and the limitation of the award of economic benefits, as the position of private respondent has been abolished.

The petition must fail.

Well-settled is the rule that the court has the power to alter or modify or even set aside its own decisions x x x at anytime before the decision becomes final.[17] A judgment which has become final and executory can no longer be amended or corrected by the court except for clerical errors or mistakes.[18] Once again, We would like to emphasize that a decision which has become final and executory cannot be lawfully altered or modified even by the court which rendered the same, especially where the alteration or modification is material or substantial[19] as in this case. To the extent of being repetitious, We reiterate that a trial court or a labor arbiter can no longer change or modify a decision of this Tribunal which had long become final and executory.[20] In such a situation, the trial court loses jurisdiction over the case except to execute the final judgment. Any amendment or alteration made which substantially affects the final and executory judgment is null and void for lack of jurisdiction, including the entire proceedings held for that purpose.[**]

Petitioner alleges, however, that by way of exception to the general rule, final judgments may still be modified or altered if facts exist which would render execution impossible or unjust. It alleges further that the determination of the existence of a supervening fact, as well as the mode of variation or modification of the final judgment is left to

be decided at the execution proceedings in the original court and that it having been found by the labor arbiter that private respondent's position had been abolished and there being an absence of a substantially equivalent position, modification of a final and executory judgment is proper.

Unfortunately, the facts surrounding the alleged impossibility of the execution of an already final and executory judgment, vis-a-vis the abolition of the position of respondent Briones and the absence of a substantially equivalent position, lean unfavorably against herein petitioner. On the other hand, on the assumption that the said position was indeed abolished as per second retrenchment implemented by the petitioner corporation as certified by its personnel manager,[21] it is highly questionable why the matter was brought to the attention of the labor arbiter only in December, 1985 in the petitioner's motion for recomputation whereas the abolition was allegedly carried out sometime in February, 1985. Moreover, as correctly pointed out by respondent Briones, petitioner in its original petition for certiorari in G.R. No. 71740,[22] in effect admitted the non-abolition of respondent Briones' position whereas the said petition was filed on August 22, 1985, more than five (5) months after the alleged abolition. With these facts at hand, the only conclusion is that if ever, the alleged Abolition was done only as an afterthought due to petitioner's determined move to oust respondent Briones.

As it has been ruled earlier in the arbitration branch, the ouster of respondent Briones was marked with discrimination and was illegal from the very beginning. Said finding was stamped with approval by this Tribunal when petitioner's petition for certiorari was dismissed. Thus, respondent Briones' right to security of tenure should not be denied in the light of the highly orchestrated scheme to finally oust her. As pointed out by the Office of the Solicitor General, assuming that private respondent's position was abolished, she can be reinstated to a substantially equivalent position without loss of seniority rights, but herein petitioner insists that there exists no substantially equivalent position for private respondent. The assertion is unmeritorious considering that petitioner is one of the country's top corporations. Petitioner must reinstate private respondent to a substantially equivalent position without loss of seniority rights, privileges and benefits legally due her and pay private respondent backwages limited to three (3) years computed from February 1, 1983 up to the date of actual payment with legal interest.

WHEREFORE, premises considered, the temporary restraining order issued by the Court in the resolution dated February 23, 1987 is hereby ordered lifted and the petition is hereby DISMISSED for lack of merit, with costs against petitioner. The NLRC decision dated October 7, 1983 is hereby MODIFIED in that the backwages to be paid to private respondent shall be limited to three (3) years without any qualification or deduction, computed from February 1, 1973, with legal interest, until full payment thereof. The case is ordered remanded to the office of the labor arbiter for prompt execution. This decision is immediately executory.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Liwanag Paras Briones v. Marcopper Mining Corporation.

[2] Regional Arbitration Branch No. IV, National Labor Relations Commission.

[3] May 13, 1983.

[4] NLRC RBIV Case No. 5-1090-83.

[5] Pages 40-41, Rollo.

[6] Penned by Presiding Commissioner Guillermo C. Medina and concurred in by Commissioners Gabriel U.

Gatchalian and Miguel B. Varela.

[7] Pages 42-45, Rollo.

[8] Page 79, Rollo.

[9] Pages 80 and 81, Rollo.

[10] Page 83, Rollo.

[11] Page 262, Rollo.

[12] Page 103, Rollo.

[13] Page 110 Rollo.

[14] Page 112, Rollo.

[*] Petitioner appealed the decision in part questioning the computation for payment of backwages and separation pay.

[15] Page 279, Rollo.

[16] Page 281, Rollo.

[17] *People v. Villanueva*, 17 SCRA 272 (1966).

[18] *Maramba v. Lozano*, 20 SCRA 474 (1967).

[19] *Samar v. Montejo*, 9 SCRA 419; *Dela Cruz v. Plaridel Surety & Insurance Co.*, 10 SCRA 727; *Ocampo v. Caluag*, 19 SCRA 971.

[20] *Macantos v. Guino*, 13 SCRA 685 (1965).

[**] There is, therefore, no need to discuss the issues raised by herein petitioner in relation to the said proceedings.

[21] Page 103, Rollo.

[22] Annex C, Petition; pages 47-78, Rollo.

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