

**EMELINDA SUNGA, SUSANA GERONIMO, ESPERANZA SANTIAGO,
PERLA BUSTOS, CARMELA CRUZ, ESTRELLA CANILANG, ANABELLE
DAQUIZ, LOIDA TINALIGA, AND RUEL MARTINEZ, PETITIONERS, VS.
NATIONAL...**

G.R. No. 82278. May 12, 1989

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition for certiorari, prohibition and mandamus questioning certain resolutions of the National Labor Relations Commission (NLRC), to wit: 1) a restraining order dated April 30, 1987, staying the execution of the labor arbiter's decision in NLRC-NCR Case No. 6-2423-86 pending resolution of the petition for relief from judgment; 2) resolution dated November 5, 1987, granting the motion of herein petitioners to compel the posting of bond thus ordering ACD Computer Services and Ma. Rosario Cabel to post a bond in the amount of P107,085.17; and 3) resolution dated January 28, 1988, reducing the bond required to be posted to P5,000.00 upon a motion for reconsideration filed by ACD Computer Services and Cabel.

The following facts led to the filing of the present petition.

On June 20, 1986, herein petitioners filed before the NLRC a complaint against ACD Computer Services and Ma. Rosario A. Cabel for illegal dismissal and non-payment of certain benefits. The case was docketed as NLRC-NCR Case No. 6-2423-86.

On February 18, 1987, the labor arbiter rendered a decision sustaining the petitioners' position. The dispositive portion of the decision reads as follows:

WHEREFORE, IN VIEW OF THE FOREGOING, the respondents are hereby ordered to pay complainants the total sum of P111,097.32 as itemized in the body of this Decision and P11,109.70, or 10% of the total amount as attorney's fees.

On March 19, 1987, the labor arbiter, upon motion of the petitioners, issued a writ of execution to enforce said decision.

The following day, the sheriff served a notice of garnishment to the Commercial Bank of Manila after which the total amount of P15,031.85 was garnished. This amount has already been turned over to the petitioners.

On March 31, 1987, a levy on execution was made upon the properties found in the respondents' office premises.

ACD Group Inc., an American firm based in California, U.S.A., through its Chairman, Alfredo Dulay filed a third-party claim in the NLRC case on the ground that it is the real owner of the computers levied upon and scheduled for auction on April 10, 1987. This third-party claim was denied in an order dated April 14, 1987.

On April 1, 1987, ACD Computer Services and Ma. Rosario A. Cabal filed before the NLRC a petition for relief from judgment in NLRC - NCR Case No. 6-2423-86 with prayer for the issuance of a writ of preliminary

injunction and/or restraining order. This petition was docketed as Injunction Case No. 1402.

The NLRC then issued the questioned resolutions incidental to Injunction Case No. 1402.

On December 9, 1987, the petitioners filed before the NLRC a motion to dismiss and/or answer to the petition on the ground that a petition for relief is not a remedy granted under the Labor Code and NLRC Rules.

Without waiting for the NLRC's resolution on their motion to dismiss, the petitioners filed the present petition.

This petition seeks to annul the three NLRC resolutions, to prohibit the NLRC from taking further proceedings in Injunction Case No. 1402 and to direct the NLRC to dismiss said injunction case and to order the full execution of the decision in NLRC - NCR Case No. 6-2423-86.

Atty. Luis A. Paredes, counsel for ACD Computer Services and Ma. Rosario A. Cabel, was served copies of all resolutions of the Court in this case. On June 27, 1988, he filed a manifestation stating he was no longer their counsel but without any indication as to the name of new counsel nor the advice he gave to his clients. Considering that the only issue is the validity of the questioned resolutions of the NLRC and that the various aspects pro and con of the petition have been fully discussed by the petitioners' counsel on one side and the Solicitor General on the other, the Court resolved to decide this petition without any further delay. The various pleadings and annexes give a full picture of what was before the public respondent. What is involved here is an unreasonable delay in the execution of a final and partially executed judgment.

The Solicitor General recommends that the petition be dismissed for being premature, applying the doctrine of exhaustion of administrative remedies. He further stressed the jurisdiction of the NLRC and its exercise of sound discretion.

However, we gave due course to this petition on a finding, among others, that the instant case falls under the exceptions to the general rule on exhaustion of administrative remedies.

As held in the case of *Rocamora v. RTC-Cebu (Branch VIII)*, (G.R. No. 65037, November 23, 1988):

But the doctrine of exhaustion of administrative remedies is not an inflexible rule. In fact, it yields to many accepted exceptions. As we have noted in a number of cases, exhaustion is not necessary where inter alia there is estoppel on the part of the party invoking the doctrine; where the challenged administrative act is patently illegal, amounting to lack of jurisdiction; where there is unreasonable delay or official action that will irretrievably prejudice the complainant; where the amount involved is relatively small so as to make the rule impractical and oppressive; where the question involved is purely legal and will ultimately have to be decided anyway by the courts of justice.

At least two of these exceptions are present in the instant case.

There had been no action on the challenge to the petition for relief from judgment for almost a year. This is considerably long considering that the labor arbiter's decision had already become final and in fact has been partially executed. The main case had been filed as early as June 20, 1986.

Moreover, this case involving the propriety of a remedy and the suspension of an execution would only be further delayed if we remand it to the NLRC, only to have any decision raised again before this Court.

Considering that all the relevant facts are before this Court, we resolve to discuss and settle the dispute with finality. (See *Tejones v. Gironella*, G.R. No. 35506, March 21, 1988; *Quillian v. Court of Appeals*, G.R. No. 55457, January 20, 1989).

ACD Computer Services and Cabel filed a petition for relief from judgment on the ground that they were denied

due process, particularly that they were not given "a more definite statement of the specifications of the offenses allegedly committed by them" and the complainants' position paper was not furnished to them. They also raise the long discredited argument that appeal was not timely made as the filing clerk of the respondents' counsel misplaced the labor arbiter's decision.

A careful examination of the records shows that there is no proper case for annulment of judgment. (See *Filipino Pipe Workers Union (NLU) v. Batario*, G.R. No. 75851, July 29, 1988).

On the contrary, the records clearly show that ACD Computer Services and Ms. Cabel have never been denied "their day in court". Instead, they have cleverly used unmeritorious procedural technicalities to delay the execution of a valid judgment.

The essence of due process is simply an opportunity to be heard. (*Planters Products, Inc. v. National Labor Relations Commission*, G.R. No. 78524, January 20, 1989).

ACD Computer Services and Cabel were given ample opportunity to present their side of the labor dispute. They received an order from the labor arbiter requiring them to submit a position paper on or before the scheduled hearing on August 28, 1986. They asked for the resetting of the hearing to September 12, 1986 and extension of time within which to submit their position paper. This extension was granted.

On September 12, 1986, they once more moved for a postponement. This was again granted but they were given only up to October 9, 1986 within which to submit their position paper.

On October 9, 1986, the respondents' counsel failed to appear in the hearing. Moreover, no position paper was submitted by them at any time on or before the said date. The case was then deemed submitted for resolution.

There is nothing in the records to show that they requested for "a more definite statement of the specifications of the offenses allegedly committed by them". The only pleadings they filed were motions for postponements and extensions of time to file a position paper. Despite the granting of these motions, they neither attended the hearing nor submitted a position paper.

The only time they acted upon the case was when the decision had already become final and partially executed.

As held in the case of *Filipino Pipe Workers (NLU) v. Batario*, (supra):

x x x We express displeasure over this last ditch attempt of the Company to thwart the enforcement of the decision of the labor arbiter which had become final and executory as early as September 26, 1983.

In the instant case, the decision of the labor arbiter had already been partially executed when the bank account was garnished and the proceeds were turned over to herein petitioners.

We see no need to discuss the applicability before the National Labor Relations Commission of the Rules of Court on a petition for relief from judgment. We note that the NLRC treated the petition as one to enjoin the enforcement of an allegedly invalid order of execution, an alleged "aberration" challenged as both unreasonable and with no legal basis. Faced with twenty one (21) pages of carefully crafted allegations and arguments in the petition of ACD Computer Services and Ma. Rosario A. Cabel, the public respondent decided to look into the case. The NLRC was initially correct but it committed the reversible error of tolerating an unreasonable delay in the enforcement of a judgment unquestionably final and where there had already been partial execution, thus compelling labor to come to this Court. We are constrained to exercise our power to issue writs of certiorari.

WHEREFORE, the petition is hereby GRANTED. The National Labor Relations Commission is directed to dismiss Injunction Case No. 1402 and to order the full execution of the decision in NLRC-NCR Case No.

6-2423-86 without any further delays.

SO ORDERED.

Fernan, C.J., (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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