

MARICALUM MINING CORPORATION, PETITIONER, VS. HON. ARTURO D. BRION IN HIS OFFICIAL CAPACITY AS ACTING SECRETARY OF LABOR AND EMPLOYMENT AND THE NATIONAL MINES AND ALLIED WORKERS...

G.R. Nos. 157696-97. February 09, 2006

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This petition for review on certiorari under Rule 45 of the Rules of Court seeks to set aside the Decision[1] dated 24 January 2002 of the Court of Appeals in CA-G.R. SP No. 65351 and No. 65458 entitled, "Carlos G. Nerja, Jr., et al. v. Hon. Arturo D. Brion, et al." and "Maricalum Mining Corporation v. Hon. Arturo D. Brion, et al.," respectively, and the Resolution dated 18 March 2003 denying petitioner's motion for reconsideration.

Petitioner Maricalum Mining Corporation (MMC) is a domestic corporation engaged in mining business and operation, while private respondent National Mines and Allied Workers Union Local 103 (NMAWU) is the exclusive bargaining agent of the rank and file employees of petitioner.

On 29 January 1996, NMAWU submitted its Collective Bargaining Agreement (CBA) proposals to petitioner. Due to petitioner's inaction to the proposals submitted by NMAWU, the latter filed on 19 March 1996, its first Notice of Strike with the National Conciliation and Mediation Board (NCMB), Bacolod City, for refusal to bargain and Unfair Labor Practice.

Eventually, petitioner presented its counter-proposals and started the CBA negotiations. While the negotiations were going on, petitioner dismissed some workers effective 06 May 1996.

On 23 August 1996, NMAWU filed a second Notice of Strike for Unfair Labor Practice against petitioner.

On 05 September 1996, while the NCMB Bacolod City was conducting conciliation meetings, petitioner issued Notices of Temporary Lay-off to its selected rank and file employees effective 07 October 1996.

After the NCMB failed to conciliate the labor dispute between NMAWU and petitioner, then Department of Labor and Employment (DOLE) Secretary Leonardo Quisumbing,[2] on 03 October 1996, assumed jurisdiction over the case docketed as OS-AJ-10-96-014 (NCMB-RB6-08-06-96).

Meanwhile, Pedro M. Abuana, Jr., an adversely affected employee of petitioner during the retrenchment effected on 07 October 1996, filed, in his own behalf, an illegal dismissal case against the petitioner before the Regional Arbitration Branch No. VI, National Labor Relations Commission (NLRC) docketed as RAB Case No. 06-12-10636-96 (Abuana case). The Labor Arbiter ruled that the dismissal of Abuana was legal and valid.[3] On appeal, the NLRC affirmed the ruling of the Labor Arbiter, which decision became final and executory.[4]

In an order dated 30 July 1997 (Quisumbing order), Secretary Quisumbing resolved the labor dispute in favor of NAMAWU: (1) directing the reinstatement with backwages of the workers laid-off in May and October 1996; (2) finding petitioner guilty of illegal dismissal and unfair labor practice; (3) directing the parties to enter into a collective bargaining agreement incorporating all the terms and conditions of the previous bargaining agreement; and (4) providing for across-the-board increase of all rank-and-file workers. The dispositive portion reads:

WHEREFORE, judgment is hereby rendered:

- Declaring that lay-offs implemented on May 7, 1996 and October 7, 1996 as illegal;
- Ordering that all workers, whether union members or not, who were laid-off on May 7, 1996 and October 7, 1996 be immediately reinstated without gap in service, loss of seniority, and that their full backwages and benefits from the time of termination until actual reinstatement be paid;
- Declaring the Company to have violated the Labor Code provisions on Unfair Labor Practice for negotiating in bad faith and later refusing to negotiate; and
- Ordering the parties to enter into a new collective bargaining agreement incorporating all the terms and conditions of the previous collective bargaining agreement between the Company and the NFL, except the name of the exclusive bargaining agent, and providing for an annual across-the-board increase in the daily wage of all rank and file workers in the amount of P60.00 per day from February, 1995 until January, 1998 and another P50.00 increase annually effective February 1, 1998 until January 31, 2000.

Petitioner filed a motion for reconsideration which was granted by succeeding DOLE Secretary Cresenciano Trajano in an order dated 17 April 1998 (Trajano order). The Trajano order modified the Quisumbing order as follows: (1) setting aside the finding of illegal dismissal and unfair labor practice and remanding these issues to the arbitration level of the NLRC for a hearing on the merits; and (2) deleting the award of backwages for the workers to be reinstated. The pertinent portions of the Trajano order state:

This Office finds that there are no new matters/evidence in the Motion for Reconsideration which would warrant a reversal of Our decision on wage issue.

We however find it necessary, in the interest of justice and fairness, to reconsider Our finding of Unfair Labor Practice which could ultimately subject the Company and its officers to criminal prosecution.

x x x x

This being the case, it is a matter of necessity that a full-blown hearing be conducted on the issue of unfair labor practice. Indeed, Art. 247 of the Labor Code, as amended, mandates that a hearing should be conducted in the resolution of an unfair labor practice.

Pending resolution of the issue of unfair labor practice and illegal termination, the Company is directed to physically reinstate all workers, whether union members or not who were laid-off on May 7, 1996 and October 7, 1996.

WHEREFORE, except as above modified, Our Order dated 30 July 1997 is hereby AFFIRMED.

The Executive Labor Arbiter, Regional Arbitration Branch No. VI, National Labor Relations Commission, is hereby deputized as Hearing Officer and is directed to conduct hearing/s and receive evidence as expeditiously as possible on the issues of unfair labor practice and terminations effected by the Company on May 7, 1996 and October 7, 1996, and to submit his Report and Recommendation to this Office within ten (10) days from termination of the hearing.

Meanwhile, as earlier mentioned, on 30 April 1998, the Labor Arbiter handling RAB Case No. 06-12-10636-96

which was filed by Abuana ruled that the retrenchment effected by MMC on 07 May 1996 and 07 October 1996 were valid and legal.[5]

Dissatisfied by the Quisumbing and Trajano orders, petitioner MMC filed a petition for certiorari before this Court docketed as G.R. No. 133519 entitled, "Maricalum Mining Corporation v. Hon. Cresenciano B. Trajano, et al." In a resolution dated 06 July 1998 (Resolution), this Court dismissed the petition on the ground that the then Secretary of DOLE Quisumbing did not commit grave abuse of discretion in issuing his order dated 30 July 1997.

Petitioner moved for a reconsideration of the Resolution.

On 11 September 1998, NMAWU filed a Motion for Partial Execution with the DOLE which was not acted upon due to the pendency of petitioner's motion for reconsideration.

During the pendency of petitioner's motion for reconsideration, the decision in *St. Martin's Funeral Homes v. National Labor Relations Commission*[6] was promulgated. Following the ruling in said case, petitioner's motion for reconsideration of our resolution dated 06 July 1998 was remanded to the Court of Appeals for proper disposition.

On 14 June 1999, the appellate court denied petitioner's motion for reconsideration.

Still undaunted, petitioner brought the case anew to this Court via petition for review on certiorari, docketed as G.R. No. 138996 entitled, "Maricalum Mining Corporation v. Hon Cresenciano B. Trajano, in his capacity as the Secretary of the DOLE and NMAWU Local 103," which was, however, denied with finality in a resolution dated 26 January 2000.

On 10 February 2000, NMAWU filed an Ex-Parte Manifestation and Second Motion for Execution with the Secretary of DOLE. The motion also sought assistance from the Bureau of Working Conditions (BWC) in the computation of the awards/benefits due NMAWU's members under the Quisumbing order.

On 25 July 2000, the BWC submitted to the DOLE its findings and observation, coming up with a computation in the aggregate amount of One Hundred Fifty-Nine Million, Fifty-Four Thousand Nine Hundred Seventy-One and 30/100 (P159,054,971.30) Pesos for loss of time, benefits, rice subsidy, health insurance bonus and backwages of union members who were illegally dismissed.

Petitioner filed a comment to the BWC findings on 08 September 2000, stating that the BWC computation was erroneous for the following reasons: (1) there is no legal basis for the computation of backwages because the Trajano order deleted the award of backwages made in the Quisumbing order; (2) the entitlement to backwages of the employees retrenched in May and October 1996 would be dependent on the resolution of the cases for illegal dismissal and unfair labor practice; and (3) the wage increase awarded by the Secretary cannot be availed of by the other employees who were not retrenched in May and October 1996.

On 18 November 2000, 149 employees of petitioner who claimed were part of the 215 members of NMAWU filed a Motion for Intervention With Prior Leave before the Office of the Secretary of DOLE.[7]

In an order[8]dated 09 May 2001, DOLE Acting Secretary Arturo D. Brion granted NMAWU's motion for execution, approved BWC's computation of the benefits due to the laid-off employees and denied the motion for intervention, thus:

WHEREFORE, premises considered, judgment is hereby rendered:

- Ordering respondent MMC to immediately reinstate all workers whether union member or not, who were laid-off on May 7, 1997 and October 7, 1996 without gap in service, loss of seniority, and that their full backwages and benefits from the time of termination until actual reinstatement be paid;
- Approving the computation of BWC consisting of 23 pages based on the Order of July 30, 1997 submitted on this office on July 25, 2000 through Director Danilo S. Lorredo and made integral part thereof;
- Denying intervenor's motion for intervention; and
- Ordering the Bureau of Working Condition to compute the remaining amount of the award due to complainants as per order of the Secretary of Labor dated July 30, 1997 starting October 1, 1999 until January 31, 2000.

Let a partial writ of execution be issued directing the Sheriff, Regional Office No. VI, Department of Labor and Employment, Bacolod City to proceed to the premises of Mariculum Mining Corporation to execute the Order dated July 30, 1997 affirmed by the Court of Appeals and the Supreme Court in the resolutions dated June 14, 1999 and July 6, 1998, respectively, and collect the aggregate amount of P159,054,971.30 whose breakdown is specified in the partial writ of execution.

Petitioner filed a motion for reconsideration. On 11 May 2001, then DOLE Acting Secretary Brion issued a Partial Writ of Execution,[9]directing to proceed to the MMC premises for the execution of the same. In an order dated 06 June 2001, Acting Secretary Brion denied petitioner's motion for reconsideration.

With the denial of petitioner's motion, Carlos G. Nerja, Jr. and Eugenio D. Caras, who claimed to represent the 342 employees of petitioner at that time and who allegedly stand to be adversely affected by the enforcement of the Partial Writ of Execution, filed a petition for certiorari before the Court of Appeals docketed as CA-G.R. SP No. 65351.

Petitioner also filed a petition for certiorari before the Court of Appeals which was docketed as CA-G.R. SP No. 65458.

NAMAWU filed a motion for consolidation of the two petitions which was granted by the appellate court in its order dated 12 November 2001.

The Court of Appeals dispose of the two petitions by dismissing them in a Decision dated 24 January 2002.

Motions for reconsiderations were filed, which the Court of Appeals denied in an order dated 18 March 2003.

Carlos G. Nerja, Jr. and Eugenio D. Caras filed a petition for review before this Court which was dismissed on 09 June 2003.

On 11 April 2003, petitioner filed the instant petition for review on certiorari.

In its Memorandum, petitioner raises the following issues:

I

WHETHER THE COURT OF APPEALS ERRED IN NOT RULING THAT THE TRAJANO ORDER MODIFIED THE QUISUMBING ORDER AND THUS, PUBLIC RESPONDENT GRAVELY ABUSED HIS DISCRETION IN ORDERING AND ISSUING A WRIT OF EXECUTION BASED ON THE QUISUMBING ORDER.

II

WHETHER THE COURT OF APPEALS ERRED IN NOT RULING THAT PUBLIC RESPONDENT ACTED WHIMSICALLY AND CAPRICIOUSLY IN APPROVING THE COMPUTATION OF THE

BUREAU OF WORKING CONDITIONS (BWC) WITHOUT GIVING ANY CONSIDERATION TO THE SUPERVENING EVENTS THAT RENDER THE ENFORCEMENT OF THE BWC COMPUTATION UNREASONABLE AND UNJUST.

III

WHETHER THE COURT OF APPEALS ERRED IN NOT RULING THAT NAMAWU HAD NO LEGAL STANDING TO SEEK THE IMPLEMENTATION OF THE ASSAILED ORDERS GIVEN THAT MAJORITY OF ITS TOTAL MEMBERSHIP HAS CHOSEN TO DISAFFILIATE.

The petition has no merit.

On the first issue, petitioner contends that the Court of Appeals erred in affirming the assailed orders issued by DOLE Acting Secretary Brion finding that it was the Quisumbing order that this Court upheld in G.R. No. 133519 and that the said order should be the basis for the enforcement of the writ of execution.

Petitioner stresses that the Trajano order superseded and modified the Quisumbing order, hence, the basis for the issuance and enforcement of the writ of execution must be the former order. To support its stance, petitioner argues that when it filed the petition in G.R. No. 133519, it merely questioned the Trajano order inasmuch as the said order affirmed the Quisumbing order directing the reinstatement of the laid-off workers and the award of wage increase. Petitioner points out that since the only issues raised by it in G.R. No. 133519 were the reinstatement and award of wage increase, it follows that the other issues such as unfair labor practice and the award of backwages are excluded. Thus, the effect of the dismissal of the petition in G.R. No. 133519 was the reinstatement of the Trajano order.

Petitioner also asserts that even assuming that the Resolution affirmed the Quisumbing order in its entirety without a similar pronouncement that the Trajano order was a nullity, would only mean that there were two valid and subsisting orders. Since the Trajano order is the later issuance, ergo, it supersedes and modifies the Quisumbing order.

Petitioner further claims that NAMAWU admitted the validity, finality and enforceability of the Trajano order in its Motion for Partial Execution dated 11 September 1998.

In the petition filed by petitioner in G.R. No. 133519, the following averments appear:[10]

Now, not only was the assumption improperly made, but worse, its implementation was also gravely abused by the then Secretary of Labor. It may be well to note that in the first assailed Order dated 30 July 1997, the Petitioner was found guilty of unfair labor practice and illegal dismissal, a finding that was arrived at by then Secretary Quisumbing without observing the measure of due process demanded by the gravity of the charges made against MMC x x x.

For all its efforts, the Petitioner should have, at the very least, been spared of these whimsical and arbitrary impositions of the Public Respondent and his predecessor in office (referring to Secretary Quisumbing) x x x.

The foregoing portion of the petition amply suggests that petitioner was assailing the Quisumbing order, not only on the issues of reinstatement and the award of wage increase, but also on the matter of unfair labor practice, illegal dismissal and the award of backwages as well. Assuming *arguendo* that indeed the issues on unfair labor practice and award of backwages were not raised by petitioner, there is nothing to prevent this Court from reviewing matters not specifically raised or assigned as error by the parties, if their consideration is necessary in arriving at a just resolution of the controversy, as in the instant case. Thus we held:

x x x It is axiomatic that an appeal, once accepted by this Court, throws the entire case open to review, and that

this Court has the authority to review matters not specifically raised or assigned as error by the parties, if their consideration is necessary in arriving at a just resolution of the case.[11]

In upholding the Quisumbing order over the Trajano order, we resolved:[12]

Indeed, the timing of the retrenchment of workers tends to confirm the finding of the Secretary of Labor that the cessation of operations on October 7, 1996 was an illegal lock-out. It is noteworthy that Petitioner claimed business losses to justify the retrenchment of workers at the time when the parties were negotiating a new CBA.

Considering that he found Petitioner to be guilty of unfair labor practice in bargaining in bad faith, the reinstatement of the dismissed workers and the grant of wage increase were proper.

It must be noted that the Trajano order omitted the findings of unfair labor practice and illegal dismissal and the award of backwages which were embodied in the Quisumbing order. Since we upheld entirely the findings in the Quisumbing order, i.e., illegal dismissal, unfair labor practice, award of backwages, reinstatement and wage increase in our Resolution, as a result the Trajano order is necessarily vacated.

Furthermore, the dispositive portion could not have been clearer as it categorically declares that the Secretary of Labor, i.e., Leonardo Quisumbing, did not commit grave abuse in his order dated 30 July 1997, thus:

WHEREFORE, the petition for certiorari is DISMISSED for lack of showing that the Secretary of Labor and Employment committed grave abuse of discretion in his order of July 30, 1997.

The order that we sustained in the foregoing fallo is the Quisumbing order which is dated 30 July 1997, and definitely not the Trajano order which is dated 17 April 1998. Even if we did not explicitly annul the Trajano order, nevertheless the tenor of the Resolution's dispositive portion indubitably decreed that we sustained the order dated 30 July 1997 or the Quisumbing order. Indeed, it is the dispositive part of the judgment that actually settles and declares the rights and obligations of the parties, finally, definitively, authoritatively, notwithstanding the existence of inconsistent statements in the body that may tend to confuse.[13] It is the dispositive part that controls, for purposes of execution.[14] Hence, there is no doubt that it was the Quisumbing order, not the Trajano order, that we upheld in our Resolution and which should be the basis of the writ of execution.

As to petitioner's contention that NAMAWU allegedly admitted in its Motion for Partial Execution dated 11 September 1998 the validity and finality the Trajano order, the same is unsubstantiated. It does not appear from the said motion that NAMAWU made such categorical admission.

Besides, even if there was such an admission, the same does not bind this Court. It is not the interpretation of NAMAWU that makes the Trajano order or the Quisumbing order controlling, rather, it is the Court's declaration that settles such issue.

Anent the second issue, petitioner questions the BWC computation. It accentuates that the same is flawed as it included the award of backwages which was already deleted in the Trajano order.

Petitioner also insists that the Abuana case – where the dismissal of Abuana was declared valid, and therefore the award of backwages was deleted by the labor arbiter and later affirmed by the NLRC - should have a bearing in the instant case considering that the circumstances surrounding the dismissal of Abuana are the same circumstances that resulted in the retrenchments of NAMAWU's members in May and October 1996. As Abuana was not awarded backwages, NAMAWU's members should not have been awarded backwages as well.

Petitioner likewise avers that the employees who were not retrenched in May and October 1996 should not be awarded the wage increase because of subsequent and supervening events such as the fact that these employees

had entered into separate agreements with petitioner for the adoption of a new progressive wage system and that they executed quitclaims releasing petitioner from any liabilities.

According to petitioner, another reason why the wage increase cannot be availed of by the employees not retrenched in May and October 1996, is because the NAMAWU and petitioner have yet to enter into a collective bargaining as required by the Quisumbing order. It is petitioner's interpretation of the said order that prior to the implementation of the wage increase, a CBA must first be constituted.

On the other hand, the Court of Appeals opined that the Quisumbing order, and not the Trajano order, is controlling and should be the basis of the issuance of the writ of execution.

As to the Abuana case, the appellate court ruled that the same cannot prevail over the Quisumbing order, the latter having been affirmed both by the Court of Appeals and this Court. The Court of Appeals added that the decision in Abuana cannot bind the parties in the instant case since they are not involved in the said Abuana case.

Addressing the matter on the execution of quitclaims, the Court of Appeals discredited the same on the grounds that the copies of the same were not presented, and that granting that they were indeed executed, the same cannot bar the execution of the Quisumbing order in the absence of any showing that the entire amount due the employees was fully satisfied with the execution of the quitclaims.

It ruled that the wage increase embodied in the BWC computation does not refer to the agreed wage increase that can only be implemented after a CBA is reached by the parties, rather, it refers to the across-the-board increase granted in the Quisumbing order as a result of a finding of unfair labor practice on the part of petitioner due to its failure to observe its duty to bargain. Thus, the wage increase as computed by the BWC, is legally in order even in the absence of a new CBA.

We agree with the Court of Appeals.

Petitioner's assertion that there is no basis for the computation of backwages, because the backwages awarded in the Quisumbing order was deleted in the Trajano order flounders in view of our declaration that the Quisumbing order sets aside the Trajano order.

The Court of Appeals is correct in saying that the pronouncement in the Abuana case is not binding on the parties in this case. We further state that the Abuana case does not affect NAMAWU no matter the similarity in situation is on the ground that NAMAWU was not impleaded as a party in the Abuana case. It is a basic postulate in this jurisdiction that "no man shall be affected [in] any proceeding to which he is a stranger, and strangers to a case are not bound by any judgment rendered by the court."^[15] Due process requires that a court decision can only bind a party therein and not against one who did not have his day in court.

As to petitioner's argument on the new progressive wage, suffice it to state that the same issue had already been passed upon in *Maricalum Mining Corporation v. Trajano*^[16] where we affirmed the finding of the Court of Appeals, viz:^[17]

The alleged acceptance of the workers of the new wage structure is likewise unreliable. If the alternative is dismissal, who would not sign an "acceptance" of such new wage structure? Besides, as pointed out by the private respondent, even granting that the workers freely agreed to such wage structures, the company could not have validly negotiated with them without violating the Labor Code, considering that the private respondent was still then the exclusive bargaining agent of the rank-and-file employees.

Petitioner's contention that the workers whose services were terminated subsequent in May and October 1996 executed quitclaims does not merit our attention because petitioner failed to prove such execution.

Quitclaims are commonly frowned upon as contrary to public policy and ineffective to bar claims for the full measure of the workers' legal rights especially if the following are present: (a) there is clear proof that the waiver was wangled from an unsuspecting or gullible person; or (b) the terms of the settlement are unconscionable, and on their face invalid, such quitclaims must be struck down as invalid or illegal.[18] In the instant case, the execution of the alleged quitclaims appears to be suspect because of the illegal dismissal of the workers and the unfair labor practice committed by petitioner. For fear of getting nothing from petitioner, it may be readily concluded that employees were compelled to sign the quitclaims. Also, petitioner failed to present evidence to show that payments to the workers were made.

Equally unavailing is petitioner's assertion that the wage increase or adjustment adopted under the BWC computation is premature since no CBA had been entered into.

As accurately explained by the appellate court:[19]

Neither can We subscribe to petitioner's contention that the wage adjustment or increase adopted in the BWC computation cannot be implemented in the absence of a new CBA. It is undisputed that the increase adverted to in the BWC computation does not refer to the agreed wage increase that could only be implemented based on a new CBA. Rather, it refers to the across-the-board increase granted in the Quisumbing order as a consequence of a finding of unfair labor practice on the part of MMC due to its failure to observe its duty to bargain.

Anent the third issue, petitioner argues that NAMA-WU had no legal standing to seek the implementation of the assailed orders of DOLE Acting Secretary Brion because of the disaffiliation of the majority of its members which deprived NAMA-WU's authority to represent its members.

Article 256 of the Labor Code partly provides:

REPRESENTATION ISSUE IN ORGANIZED ESTABLISHMENTS. – In organized establishments, when a verified petition questioning the majority status of the incumbent bargaining agent is filed before the Department of Labor and Employment within the sixty-day period before the expiration of the collective bargaining agreement, the Med-Arbitrator shall automatically order an election by secret ballot when the verified petition is supported by the written consent of at least twenty-five (25%) percent of all the employees in the appropriate bargaining unit.

x x x x

At the expiration of the freedom period, the employer shall continue to recognize the majority status of the incumbent bargaining agent where no petition for certification election is filed.

According to the foregoing provision, for a union to become an exclusive bargaining representative of a particular establishment, it must emerge as winner in a certification election. In the case at bar, there was no certification election held challenging the majority status of NAMA-WU as the exclusive bargaining representative of petitioner's employees. NAMA-WU, therefore, remains the exclusive bargaining representative of petitioner's employees and possesses legal standing to represent them.

One final point. NAMA-WU accuses petitioner of forum shopping. NAMA-WU alleges that the instant petition is filed for the purpose of preventing the execution of the Quisumbing order as affirmed by this Court on 06 July 1998 in G.R. No. 133519 and on 26 January 2000 in G.R. No. 138996.

Petitioner counters that it did not commit forum shopping because the relief prayed for in the previous case was the reversal of the Trajano order while the relief prayed for in this petition is the reversal of the orders enforcing and executing the terms of the Quisumbing order.

Forum shopping exists when a party repetitively avails of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in, or already resolved adversely, by some other court.[20] It has been characterized as an act of malpractice that is prohibited and condemned as trifling with the courts and abusing their processes. The test in determining whether a party violates the rule against forum shopping is where a final judgment in one case will amount to res judicata in the action under consideration or where the elements of litis pendentia are present. In turn, the elements of res judicata as enumerated in *Sy Kao v. Court of Appeals*[21] are as follows: (a) identity of parties; (b) identity of rights asserted and reliefs being founded on the same facts; and (c) identity in the two preceding particulars should be such that any judgment which may be rendered on the other action will, regardless of which party is successful, amount to res judicata in the action under consideration.

In this case, the parties are the same, petitioner and NAMAWU. The reliefs prayed for are substantially identical which is ultimately the nullification of the Quisumbing order. Likewise, res judicata[22] exists because a ruling of this Court on the issues raised by petitioner would amount to revisiting and re-ventilating the essentially same issue, i.e., whether or not the Quisumbing order is controlling, which were already passed upon and definitely resolved by this Court in *Maricalum Mining Corporation v. Trajano*. [23] Even on this ground alone, for being violative of the rule against forum shopping, the instant petition for review should be denied.[24]

WHEREFORE, the petition is DENIED. The assailed Decision of the Court of Appeals dated 24 January 2002 and its Resolution dated 18 March 2003 are hereby AFFIRMED. With costs.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez and Callejo, Sr., JJ., concur.

[1] Rollo, pp. 45-61. Penned by Associate Justice Rebecca De Guia-Salvador with Associate Justices Eugenio S. Labitoria and Teodoro P. Regino, concurring.

[2] Now Associate Justice of this Court.

[3] CA rollo (CA-G.R. SP No. 65351), pp. 100-116.

[4] Id., pp. 118-121.

[5] Id., pp. 100-116. The said decision was affirmed by the NLRC on 19 November 1999 and became final and executory on 24 January 2000.

[6] G.R. No. 130866, 16 September 1998, 295 SCRA 494.

[7] CA rollo (CA-G.R. SP No. 65351), pp. 187-198.

[8] Id. (CA-G.R. SP No. 65458), pp. 34-42.

[9] Id. (CA-G.R. SP No. 65351), pp. 59-62.

[10] Rollo, G.R. No. 138996, pp. 225-226.

[11] *Sociedad Europea De Financiacion, S.A v. Court of Appeals*, G.R. No. 75787, 21 January 1991, 193 SCRA 105, 114, citing *Saura Import & Export Co., Inc. v. Philippine International Co., Inc.*, 118 Phil. 150, 156 (1963); *Miguel v. Court of Appeals*, 140 Phil. 304, 312 (1969).

[12] CA rollo (CA-G.R. SP No. 65458), p. 441.

[13]G.R. No. L-44696, 18 October 1988, 166 SCRA 394, 399.

[14] Id.

[15] Orquiola v. Court of Appeals, 435 Phil. 323, 332 (2002), citing Matuguina Integrated Wood Products, Inc. v. Court of Appeals, G.R. No. 98310, 24 October 1996, 263 SCRA 490, 505.

[16]G.R. No. 138996, 26 January 2000 (Resolution).

[17]CA rollo (CA-G.R. SP No. 65458), p. 446.

[18] Phil. Employ Services and Resources, Inc. v. Paramio, G.R. No. 144786, 15 April 2005.

[19] Rollo, p. 59.

[20]Tantoy, Sr. v. Court of Appeals, G.R. No. 141427, 20 April 2001, 357 SCRA 329, 330, citing Gatmaytan v. Court of Appeals, 335 Phil. 155, 167 (1997).

[21]217 Phil. 289, 293 (1984) .

[22]It refers to the rule that a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits on all points and matters determined in the former suit (Taganas v. Emuslan, G.R. No. 146980, 02 September 2003, 410 SCRA 237, 242).

[23] Supra note 16.

[24] Paradero v. Abragan, G.R. No. 158917, 01 March 2004, 424 SCRA 155, 163.

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