

DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONER, VS. HON. LABOR ARBITER ARIEL C. SANTOS, PHILIPPINE ASSOCIATION OF FREE LABOR UNIONS (PAFLU-RMC CHAPTER) AND ITS MEMBERS, MICHAEL...

G.R. Nos. 78261-62. March 08, 1989

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This petition calls for the interpretation of Article 110 of the Labor Code which gives the workers preferences as regards wages in case of liquidation or bankruptcy of an employer's business. Petitioner Development Bank of the Philippines (DBP) maintains that Article 110 does not apply where there has been an extra-judicial foreclosure proceeding while the respondents claim otherwise. Labor Arbiter Ariel C. Santos sustained the private respondents' position. Petitioner DBP has now elevated the case to us by way of this petition for certiorari.

On November 29, 1984, in NLRC-NCR Case No. 2517-84 entitled "Philippine Association of Free Labor Unions (PAFLU-RMC Chapter) and its Members v. Riverside Mills Corporation, et al.", Labor Arbiter Manuel Caday awarded separation pay, wage and/or living allowance increases and 13th month pay to the individual complainants who comprise some of the respondents in this case.

On March 18, 1985, Labor Arbiter Teodorico Dogelio likewise awarded separation pay, vacation pay and sick leave pay and unpaid increases in the basic wage and allowances to the other private respondents herein in NLRC Case No. NCR - 7-2577-84 entitled "Michael Penalosa, Jose Garcia and Apolinar Ray, et al. v. Riverside Mills Corporation, et al., and Samahang Diwang Manggagawa sa RMC-FFW Chapter, et al., v. Riverside Mills Corporation (RMC)." On March 29, 1985, after the judgment had become final and executory, Dogelio issued a writ of execution directing NLRC Deputy Sheriff Juanito Atienza to collect the total sum of Eighty Five Million Nine Hundred Sixty One Thousand Fifty-Eight & 70/100 Pesos (P85,961,058.70). The Deputy Sheriff, however, failed to collect the amount so he levied upon personal and real properties of RMC.

On April 25, 1985, a notice of levy on execution of certain real properties was annotated on the certificate of title filed with the Register of Deeds of Pasig, Metro Manila, where all the said properties are situated.

Meanwhile in the other development which led to this case, petitioner DBP obtained a writ of possession on June 7, 1985 from the Regional Trial Court (RTC) of Pasig of all the properties of RMC after having extra-judicially foreclosed the same at public auction earlier in 1983. DBP subsequently leased the said properties to Egret Trading and Manufacturing Corporation, Rosario Textile Mills and General Textile Mills.

The writ of possession prevented the scheduled auction sale of the RMC properties which were levied upon by the private respondents. As a result, on June 19, 1985, the latter filed an incidental petition with the NLRC to declare their preference over the levied properties. The petition entitled "PAFLU-RMC Chapter and its members, Michael Penalosa, et al., and the Samahang Diwang Manggagawa sa RMC-FFW Chapter and its members v. RMC and

DBP, et al.", was docketed as NLRC Case No. NCR-7-2577-84. Petitioner DBP filed its position paper and memorandum in answer to the petition.

On October 31, 1985, Dogelio issued an order recognizing and declaring the respondents' first preference as regards wages and other benefits due them over and above all earlier encumbrances on the aforesaid properties/assets of said company, particularly those being asserted by respondent Development Bank of the Philippines." (p. 84, Rollo)

The petitioner appealed the order of Dogelio to the NLRC. The latter in turn, set aside the order and remanded the case to public respondent Labor Arbiter Santos for further proceedings.

Meanwhile, another set of complainants (who are also named as respondents herein) filed, on April 7, 1986, a complaint for separation pay, underpayment, damages, etc., entitled "Jaime Arada, et al. v. RMC, DBP, Egret-Trading and Manufacturing Corp., docketed as NLRC Case NO. NCR-4-1278-86." This case was subsequently consolidated with the case pending before respondent Santos. Accordingly, the latter conducted several hearings where the parties, particularly DBP, General Textile Mills, Inc., and Rosario Textile Mills, Inc., were given the opportunity to argue their respective theories of the case. Eventually, all the parties agreed that the case shall be submitted for decision after their filing of position papers and/or memorandums.

On March 31, 1987, public respondent Santos rendered the questioned decision, the dispositive portion of which reads:

"WHEREFORE, it is hereby declared that all the complainants in the above-entitled cases, as former employees of respondent Riverside Mills Corporation, enjoy first preference as regards separation pay, unpaid wages and other benefits due them over and above all earlier encumbrances on all of the assets/properties of RMC specifically those being asserted by respondent DBP.

"As a consequence of the above declaration, the decision dated March 18, 1983 of the then Hon. Arbiter Teodorico Dogelio should be immediately enforced against DBP who is hereby directed to pay all the monetary claims of complainants who were former employees of respondent RMC.

"Anent the Arada case, DBP is hereby directed to pay all the amounts as indicated opposite the names of complainants listed from page 1 to page 5 of Annex "A" of complainants' complaint provided that their names are not among those listed in the Penalosa case.

"It is hereby also declared that former employees whose names are not listed in the complainants' position papers but can prove that they were former employees of RMC prior to its bankruptcy, should also be paid the same monetary benefits being granted to herein complainants.

"Finally, DBP is hereby ordered to deposit with the National Labor Relations Commission the proceeds of the sale of the assets of RMC between DBP on one hand and General Textile Mills, Inc. and/or Rosario Textile Mills, Inc., on the other hand and that future payment being made by the latter to the former should also be deposited with the National Labor Relations Commission for proper disposition." (pp. 174-175, Rollo)

Hence, this petition.

Petitioner DBP maintains that the public respondent misinterpreted Article 110 of the Labor Code and Section 10, Rule VIII, Book III of the Revised Rules and Regulations Implementing the Labor Code in that the said respondent upheld the existence of the worker's preference over and above earlier encumbrances on the properties of RMC despite the absence of any bankruptcy or liquidation proceeding instituted against the latter. The petitioner argues that there must be a judicial declaration, or at the very least, a cognizance by an appropriate court or administrative agency of bankruptcy or inability of the employer to meet its obligations.

On the other hand, the respondents contend that under both Article 110 and its implementing rule, the claims of the laborers for unpaid wages and other monetary benefits due them for services rendered prior to bankruptcy enjoy first preference in the satisfaction of credits against a bankrupt company; that the work "bankruptcy" in the Labor Code is used in its generic sense, meaning that condition of inability to pay one's debt; and that Article 110 of the Labor Code is not confined to the situation contemplated in Articles 2236-2245 of the Civil Code where all the preferred creditors must necessarily be convened and the import of their claims ascertained.

We apply the rule expressed in *Republic v. Peralta* (150 SCRA 37 [1988]), where we stated:

"Article 110 of the Labor Code, in determining the reach of its terms, cannot be viewed in isolation. Rather, Article 110 must be read in relation to the provisions of the Civil Code concerning the classification, concurrence and preference of credits, which provisions find particular application in insolvency proceedings where the claims of all creditors, preferred or non-preferred, may be adjudicated in a binding manner. (*Barreto v. Villanueva*, 1 SCRA 288 [1961])." (pp. 44-45)

In the above quoted case, there was a voluntary insolvency proceeding instituted by the employer. The respondents, however, contend that since in the case at bar there is only an extra-judicial proceeding, Article 110 is still the only law applicable without regard to the provisions of the Civil Code.

We do not agree with this contention.

Article 110 of the Labor Code and Section 10, Rule VIII, Book III of the Revised Rules and Regulations Implementing the Labor Code provide:

"Article 110, Worker preference in case of bankruptcy. -- In the event of bankruptcy or liquidation of an employer's business, his workers shall enjoy first preference as regards wages due them for services rendered during the period prior to the bankruptcy or liquidation, any provision of law to the contrary notwithstanding. Unpaid wages shall be paid in full before other creditors may establish any claim to a share in the assets of the employer.

"Article 10. Payment of wages in case of bankruptcy. -- Unpaid wages earned by the employee before the declaration of bankruptcy or judicial liquidation of the employer's business shall be given first preference and shall be paid in full before other creditors may establish any claim to the assets of the employer."

It is quite clear from the provisions that a declaration of bankruptcy or a judicial liquidation must be present before the worker's preference may be enforced. Thus, Article 110 of the Labor Code and its implementing rule cannot be invoked by the respondents in this case absent a formal declaration of bankruptcy or a liquidation order. Following the rule in *Republic v. Peralta*, supra, to hold that Article 110 is also applicable in extra-judicial proceedings would be putting the worker in a better position than the State which could only assert its own prior preference in case of a judicial proceeding. Therefore, as stated earlier, Article 110 must not be viewed in isolation and must always be reckoned with the provisions of the Civil Code.

There was no issue of judicial vis-a-vis extra-judicial proceedings in the *Republic v. Peralta* interpretation Article 110 but the necessity of a judicial adjudication was pointed out when we explained the impact of Article 110 on the concurrence and preference of credits provided in the Civil Code.

We stated:

"We come to the question of what impact Article 110 of the Labor Code has had upon the complete scheme of classification, concurrence and preference of credits in insolvency set out in the Civil Code. We believe and so hold that Article 110 of the Labor Code did not sweep away the overriding preference accorded under the scheme of the Civil Code to tax claims of the government or any subdivision thereof which constitute a lien

upon properties of the Insolvent. x x x. It cannot be assumed simpliciter that the legislative authority, by using Article 110 of the words 'first preference' and any provisions of law to the contrary notwithstanding' intended to disrupt the elaborate and symmetrical structure set up in the Civil Code. Neither can it be assumed casually that Article 110 intended to subsume the sovereign itself within the term 'other creditors', in stating that 'unpaid wages shall be paid in full before other creditors may establish any claim to a share in the assets of employer.' Insistent considerations of public policy prevent us from giving to 'other creditors a linguistically unlimited scope that would embrace the universe of creditors save only unpaid employees."

Moreover, the reason behind the necessity for a judicial proceeding or a proceeding in rem before the concurrence and preference of credits may be applied was explained by this Court in the case of *Philippine Savings Bank v. Lantin* (124 SCRA 476 [1983]). We said:

"The proceedings in the court below do not partake of the nature of the insolvency proceedings or settlement of a decedent's estate. The action filed by Ramos was only to collect the unpaid cost of the construction of the duplex apartment. It is far from being a general liquidation of the estate of the Tabligan spouses.

"Insolvency proceedings and settlement of a decedent's estate are both proceedings in rem which are binding against the whole world. All persons having interest in the subject matter involved, whether they were notified or not, are equally bound. Consequently, a liquidation of similar import or other equivalent general liquidation must also necessarily be a proceeding in rem so that all interested persons whether known to the parties or not may be bound by such proceeding.

"In the case at bar, although the lower court found that 'there were no known creditors other than the plaintiff and the defendant herein', this can not be conclusive. It will not bar other creditors in the event they show up and present their claim against the petitioner bank, claiming that they also have preferred liens against the property involved. Consequently, transfer Certificate of Title No. 101864 issued in favor of the bank which is supposed to be indefeasible would remain constantly unstable and questionable. Such could not have been the intention of Article 2243 of the Civil Code although it considers claims and credits under Article 2242 at statutory liens. Neither does the *De Barreto* case x x x."

The claims of all creditors whether preferred or non-preferred, the identification of the preferred ones and the totality of the employer's asset should be brought into the picture. There can then be an authoritative, fair, and binding adjudication instead of the piece meal settlement which would result from the questioned decision in this case.

We, therefore, hold that Labor Arbiter Ariel C. Santos committed grave abuse of discretion in ruling that the private respondents may enforce their first preference in the satisfaction of their claims over those of the petitioner in the absence of a declaration of bankruptcy or judicial liquidation of RMC. There is, of course, nothing in this decision which prevents the respondents from instituting involuntary insolvency or any other appropriate proceeding against their employer RMC where respondents' claims can be asserted with respect to their employer's assets.

WHEREFORE, the petition is hereby GRANTED. The questioned decision of the public respondent is ANNULLED and SET ASIDE. The Temporary Restraining Order we issued on May 20, 1987 enjoining the enforcement of the questioned decision is made PERMANENT. No costs.

SO ORDERED.

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

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