

FOREMOST FARMS, INCORPORATED, PETITIONER, VS. THE DEPARTMENT OF LABOR AND EMPLOYMENT, PURA FERRER--CALLEJA, IN HER CAPACITY AS DIRECTOR, BUREAU OF LABOR RELATIONS, AND FEDERATIO...

G.R. Nos. 84985-86. December 11, 1995

Ponente: VITUG, J.

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VITUG, J.:

This petition for certiorari assails the alias writ of execution issued on 31 August 1988 by Director Pura Ferrer-Calleja of the Bureau of Labor Relations.

The events that led to the filing of the instant petition for certiorari were narrated in the decision, dated 18 June 1987, of Acting Department of Labor and Employment Secretary Ricardo Castro.

"On 16 April 1986, Aranzamendez, a ranking officer of the Union, together with a group of workers at the Company, were expelled from the Federation of Free Workers because of their 'walk-out' during the 16th National Convention of the Federation.

"On 18 June 1986, the FFW Foremost Farms, Inc. Chapter held an election for local officers. The contending parties were the incumbent officers, the Sablawon-Ruaya Group who are identified with Aranzamendez and the Bello group, identified with Tan.

"On 19 June 1986, the Sablawon-Ruaya Group filed a protest with the COMELEC regarding the results of the elections which the Bello group won.

"On 24 June 1986, the Sablawon-Ruaya Group notified the Company that being the incumbent officers of the union they still have the right to represent the workers and entitled to the union dues pending resolution of their election protest, and requested the Company to deal with them on labor-management matters.

"On 25 June 1986, the Bello Group likewise notified the Company that they were the newly and duly elected officers of the Union by virtue of the election of 18 June 1986, and requested the Company to remit the union dues to them.

"On 15 July 1986, the COMELEC with four members present dismissed the election protest and proclaimed the winning candidates (Bello Group) as the duly elected officers of the Union.

"On 24 July 1986, the Sablawon-Ruaya Group filed with the National Capital Region a Notice of Strike for unfair labor practice against the Company for refusal to recognize them.

"On 15 August 1986, the COMELEC with the attendance of 12 members declared a failure of election and called for another election of officers in the Union.

"On 11 September 1986, the Bello Group filed with the Bureau of Labor Relations a strike notice for unfair labor practice against the Company for refusal to recognize them.

"The Company filed on 27 November 1986 with the National Capital Region a Petition for Interpleader in the intra-union conflict between the two groups suggesting, among other things, that as a way of maintaining a 'modus vivendi' the different groups can be represented by their respective followers in any grievance meeting and whatever the decision reached by said representative group should be honored by all parties concerned.

"On 17 December 1986, the Bello Group struck. This Office assumed jurisdiction over the labor dispute on 18 December 1986.

"Several conciliation conferences were held to explore the possibility of settling dispute, but all these proved futile. Consequently, the parties were directed to submit their respective position papers and supporting proofs, after which the case was deemed submitted for resolution."[1]

On 18 June 1987, the Department of Labor and Employment ("DOLE"), rendered its decision decreeing, in the dispositive portion thereof, as follows:

"1.

Ordering the Bureau of Labor Relations to conduct and to supervise the certification election among the rank-and-file employees of the company, with the payroll of December 16, 1986 serving as the basis for those who are qualified to vote, including those who are to be temporarily reinstated. The choices are, a) Federation of Free Workers (FFW); b) Confederation of Filipino Workers (CFW); and c) No union.

"2.

Directing the Company to remit, effective immediately, to the Bureau of Labor Relations all union dues upon receipt of this order for safekeeping until further orders from this Office.

"3.

Ordering the management of Foremost Farms, Inc. to effect the immediate temporary reinstatement of the remaining striking workers who are still to be readmitted as above indicated, under the same terms and conditions prevailing before the strike on 17 December 1986 within forty-eight (48) hours from receipt of this Order, without prejudice to the outcome of the cases filed or may be filed against them in connection with the strike.

"4.

Directing the Regional Director, National Capital Region or his duly authorized representative to hear and receive evidence on the legality/illegality of the strike and submit his recommendation within ten (10) days from submission of the case for resolution."[2]

Following the decision, Director Pura Ferrer-Calleja of the Bureau of Labor Relations issued a writ of execution in the following tenor:

"NOW, THEREFORE, you are hereby commanded to proceed to the office address of place of operation of the company and execute fully and faithfully the Decision of the Honorable Secretary dated 18 June 1987, by seeing to the actual and physical reinstatement of the remaining striking workers who are yet to be readmitted as ordered in the Decision, under the same terms and conditions prevailing before the strike on 17 December 1986, and if necessary, seek the aid of the Antipolo Police Station, 3rd Police District, Antipolo, Rizal which is hereby deputized for purposes of aiding this Department in the enforcement of its Order."[3]

Petitioner questioned before this Court the above writ in a Petition for Certiorari, docketed G.R. No. 80489-90; the case, however, was dismissed in our resolution of 23 May 1988. A motion for its reconsideration was denied.

The pendency of G.R. No. 80489-90 caused the initial writ of execution to lapse without it being implemented.

On 31 August 1988, Director Pura Ferrer-Calleja issued the presently questioned alias writ of execution, to wit:

"NOW, THEREFORE, you are hereby commanded to proceed to the office address or place of operation of the company and execute fully and faithfully the Decision of the Honorable Secretary dated 18 June 1987 by seeing to the actual and physical reinstatement of the remaining striking workers who are yet to be readmitted as ordered in the said Decision, under the same terms and conditions prevailing before the strike on 17 December 1986, with full backwages and benefits computed from 18 June 1987 up to the date of actual and physical reinstatement, in the initial amount of FIVE HUNDRED SEVENTEEN THOUSAND, TWO HUNDRED FOURTEEN PESOS AND 40/100 (P517, 214.40).

"You are likewise, hereby commanded to collect from the company the sum of ONE MILLION, SIX HUNDRED FIFTEEN THOUSAND NINE HUNDRED FIFTY ONE PESOS AND 91/100 (P1,615,951.91) representing the backwages of the reinstated worker computed from 17 December 1986 to the date of their actual reinstatement.

"The Company is directed to comply strictly with this Writ within five (5) days from receipt hereof. Any further defiance of this Office's lawful orders shall be meted with the full and unmitigated force of the law in the manner prescribed under Section 7, Rule 71 of the Rules of Court.

"You are hereby directed to ensure faithful compliance with the enforcement of the reinstatement aspect of this Writ and the monetary awards by garnishment and/or attachment of properties of Foremost Farms, Inc., either real or personal in the event of defiance, thereof. You are further authorized to enlist the assistance of the proper police authorities in securing enforcement hereof.

"SO ORDERED."[4]

In its Petition for Certiorari, Foremost, Inc., ascribes grave abuse of discretion in the issuance of the alias writ. Petitioner contends:

"1. The public respondents Department of Labor and Employment and/or Pura Ferrer-Calleja, Director of the Bureau of Labor Relations acted with grave abuse of discretion in issuing the Alias Writ of Execution dated 31 August 1988 (Annex 'C' hereof), considering that the acts enjoined to be enforced thereby were beyond those provided in the dispositive portion of the Decision dated 18 June 1987 (Annex 'A' hereof);

"2. Public respondents, in not quashing or otherwise recalling the questioned Alias Writ of Execution despite timely representation reminding public respondents that the questioned Alias Writ of Execution is at variance with law and jurisprudence on the matter, have acted in excess or in lack of their jurisdiction;

"3. The public respondents must clearly be prohibited from enforcing or otherwise insisting to enforce an unlawful Order or Writ such as exemplified by the questioned Alias Writ of Execution;

"4. Public respondents, in order not to continue violating the law, clearly must be commanded to quash the questioned alias Writ of Execution and in its place public respondents must issue another one strictly adhering to the dispositive portion of the Decision dated 18 June 1987."[5]

There is merit in the petition, and we can understand the Solicitor General in failing to take the cudgels for public respondent.[6] It is "fundamental that execution must conform to that ordained or decreed in the dispositive part of the decision."[7] An order of execution which varies the tenor of the judgment or exceeds the terms thereof is a nullity (*Gamboa's Inc. v. Court of Appeals*, 72 SCRA 131; see *Villoria v. Piccio*, 95 Phil. 802).[8] The decision of 18 June 1987 of the Department of Labor and Employment contained nothing about backwages since, evidently, the matter had yet to await a final determination of and adjudication on the legality or illegality of the strike. The alias writ of execution in decreeing the satisfaction of specific sums supposedly representing "backwages" and "benefits" verily did go beyond what the decision had thus far adjudged and directed.

WHEREFORE, the instant petition for certiorari is GRANTED. The alias writ issued by public respondent on 31 August 1988 insofar as it orders the payment of backwages is hereby quashed. No costs.

SO ORDERED.

Feliciano, (Chairman), Romero, Melo, and Panganiban, JJ., concur.

[1] Rollo, pp. 25-27.

[2] Rollo, p. 30.

[3] Rollo, p. 32.

[4] Rollo, pp. 39-40.

[5] Rollo, pp. 8-9.

[6] The Office of Solicitor General requested to be excused from filing its COMMENT to the petition.

[7] Laingo vs. Camilo, 130 SCRA 144.

[8] Insular Life Assurance Co., Ltd. vs. NLRC, 156 SCRA 741 and Buan vs. Court of Appeals, 235 SCRA 424.

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