SUPREME COURT
EN BANC

ARIS (PHIL.) INC.,
***Petitioner*,**

-versus-

G.R. No. 90501
August 5, 1991

NATIONAL LABOR RELATIONS COMMISSION, LABOR ARBITER FELIPE GARDUQUE III, LEODEGARIO DE GUZMAN, LILIA PEREZ, ROBERTO BESTAMONTE, AIDA OPENA, REYNALDO TORIADO, APOLINARIO GAGAHINA, RUFINO DE CASTRO, FLORDELIZA RAYOS DEL SOL, STEVE SANCHO, ESTER CAIRO, MARIETA MAGALAD, and MARY B. NADALA,
***Respondents*.**
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D E C I S I O N

DAVIDE, JR., *J.*:

Petitioner assails the constitutionality of the amendment introduced by Section 12 of Republic Act No. 6715 to Article 223 of the Labor Code of the Philippines (PD. No. 442, as amended) allowing execution pending appeal of the reinstatement aspect of a decision of

a labor arbiter reinstating a dismissed or separated employee and of Section 2 of the NLRC Interim Rules on Appeals under R.A. No. 6715 implementing the same. It also questions the validity of the Transitory Provision (Section 17) of the said Interim Rules.

The challenged portion of Section 12 of Republic Act No. 6715, which took effect on 21 March 1989, reads as follows:

> "SECTION 12. Article 223 of the same code is amended to read as follows:
>
> 'ARTICLE 223. Appeal.
>
> x x x
>
> In any event, the decision of the Labor Arbiter reinstating a dismissed or separated employee, in so far as the reinstatement aspect is concerned, shall immediately be executory, even pending appeal. The employee shall either be admitted back to work under the same terms and conditions prevailing prior to his dismissal or separation or, at the option of the employer, merely reinstated in the payroll. The posting of a bond by the employer shall not stay the execution for reinstatement provided therein.'"

This is a new paragraph ingrafted into the Article.

Sections 2 and 17 of the "NLRC Interim Rules On Appeals Under R.A. No. 6715, Amending the Labor Code", which the National Labor Relations Commission (NLRC) promulgated on 8 August 1989, provide as follows:

> "SECTION 2. Order of Reinstatement and Effect of Bond. — In so far as the reinstatement aspect is concerned, the decision of the Labor Arbiter reinstating a dismissed or separated employee shall immediately be executory even pending appeal. The employee shall either be admitted back to work under the same terms and conditions prevailing prior to his dismissal or separation, or, at the option of the employer, merely be reinstated in the payroll.

> The posting of a bond by the employer shall not stay the execution for reinstatement.
>
> x x x
>
> SECTION 17. Transitory provision. — Appeals filed on or after March 21, 1989, but prior to the effectivity of these Interim Rules must conform to the requirements as herein set forth or as may be directed by the Commission."

The antecedent facts and proceedings which gave rise to this petition are not disputed:

On 11 April 1988, private respondents, who were employees of petitioner, aggrieved by management's failure to attend to their complaints concerning their working surroundings which had become detrimental and hazardous, requested for a grievance conference. As none was arranged, and believing that their appeal would be fruitless, they grouped together after the end of their work that day with other employees and marched directly to the management's office to protest its long silence and inaction on their complaints.

On 12 April 1988, the management issued a memorandum to each of the private respondents, who were identified by the petitioner's supervisors as the most active participants in the "rally", requiring them to explain why they should not be terminated from the service for their conduct. Despite their explanation, private respondents were dismissed for violation of company rules and regulations, more specifically of the provisions on security and public order and on inciting or participating in illegal strikes or concerted actions.

Private respondents lost no time in filing a complaint for illegal dismissal against petitioner and Mr. Gavino Bayan with the regional office of the NLRC at the National Capital Region, Manila, which was docketed therein as NLRC-NCR-00-04-01630-88.

After due trial, Labor Arbiter Felipe Garduque III handed down on 22 June 1989 a Decision[1] the dispositive portion of which reads:

> "ACCORDINGLY, respondent Aris (Phils.), Inc. is hereby ordered to reinstate within ten (10) days from receipt hereof, herein complainants Leodegario de Guzman, Rufino de Castro, Lilia M. Perez, Marieta Magalad, Flordeliza Rayos del Sol, Reynaldo Toriado, Roberto Besmonte, Apolinario Gagabina, Aidam (sic) Opena, Steve C. Sancho, Ester Cairo, and Mary B. Nadala to their former respective positions or any substantial equivalent positions if already filled up, without loss of seniority right and privileges but with limited backwages of six (6) months except complainant Leodegario de Guzman.
>
> All other claims and prayers are hereby denied for lack of merit.
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> SO ORDERED."

On 19 July 1989, complainants (herein private respondents) filed a Motion For Issuance of a Writ of Execution[2] pursuant to the above-quoted Section 12 of R.A. No. 6715.

On 21 July 1989, petitioner filed its Appeal.[3]

On 26 July 1989, the complainants, except Flor Rayos del Sol, filed a Partial Appeal.[4]

On 10 August 1989, complainant Flor Rayos del Sol filed a Partial Appeal.[5]

On 29 August 1989, petitioner filed an Opposition[6] to the motion for execution alleging that Section 12 of R.A. No. 6715 on execution pending appeal cannot be applied retroactively to cases pending at the time of its effectivity because it does not expressly provide that it shall be given retroactive effect[7] and to give retroactive effect to Section 12 thereof to pending cases would not only result in the imposition of an additional obligation on petitioner but would also dilute its right to appeal since it would be burdened with the consequences of reinstatement without the benefit of a final judgment. In their Reply[8] filed on 1 September 1989, complainants argued that R.A. No. 6715 is not sought to be given retroactive effect in this case since the decision to be executed pursuant to it was

rendered after the effectivity of the Act. The said law took effect on 21 March 1989, while the Decision was rendered on 22 June 1989.

Petitioner submitted a Rejoinder to the Reply on 5 September 1989.[9]

On 5 October 1989, the Labor Arbiter issued an Order[10] granting the motion for execution and the issuance of a partial writ of execution "as far as reinstatement of herein complainants is concerned in consonance with the provision of Section 2 of the rules particularly the last sentence thereof."

In this Order, the Labor Arbiter also made reference to Section 17 of the NLRC Interim Rules in this wise:

> "Since Section 17 of the said rules made mention of appeals filed on or after March 21, 1989, but prior to the effectivity of these interim rules which must conform with the requirements as therein set forth (Section 2) or as may be directed by the Commission, it obviously treats of decisions of Labor Arbiters before March 21, 1989. With more reason these interim rules be made to apply to the instant case since the decision hereof (sic) was rendered thereafter.[11]

Unable to accept the above Order, petitioner filed the instant petition on 26 October 1989[12] raising the issues adverted to in the introductory portion of this decision under the following assignment of errors:

> "A. THE LABOR ARBITER A QUO AND THE NLRC, IN ORDERING THE REINSTATEMENT OF THE PRIVATE RESPONDENTS PENDING APPEAL AND IN PROVIDING FOR SECTION 2 OF THE INTERIM RULES, RESPECTIVELY, ACTED WITHOUT AND IN EXCESS OF JURISDICTION SINCE THE BASIS FOR SAID ORDER AND INTERIM RULE, i.e., SECTION 12 OF R.A.6715 IS VIOLATIVE OF THE CONSTITUTIONAL GUARANTY OF DUE PROCESS—IT BEING OPPRESSIVE AND UNREASONABLE.

B. GRANTING ARGUENDO THAT THE PROVISION IN (SIC) REINSTATEMENT PENDING APPEAL IS VALID, NONETHELESS, THE LABOR ARBITER A QUO AND THE NLRC STILL ACTED IN EXCESS AND WITHOUT JURISDICTION IN RETROACTIVELY APPLYING SAID PROVISION TO PENDING LABOR CASES."

In Our resolution of 7 March 1989, We required the respondents to comment on the petition.

Respondent NLRC, through the Office of the Solicitor General, filed its Comment on 20 November 1989.[13] Meeting squarely the issues raised by petitioner, it submits that the provision concerning the mandatory and automatic reinstatement of an employee whose dismissal is found unjustified by the labor arbiter is a valid exercise of the police power of the state and the contested provision "is then a police legislation."

As regards the retroactive application thereof, it maintains that being merely procedural in nature, it can apply to cases pending at the time of its effectivity on the theory that no one can claim a vested right in a rule of procedure. Moreover, such a law is compatible with the constitutional provision on protection to labor.

On 11 December 1989, private respondents filed a Manifestation[14] informing the Court that they are adopting the Comment filed by the Solicitor General and stressing that petitioner failed to comply with the requisites for a valid petition for certiorari under Rule 65 of the Rules of Court.

On 20 December 1989, petitioner filed a Rejoinder[15] to the Comment of the Solicitor General.

In the resolution of 11 January 1990,[16] We considered the Comments as respondents' Answers, gave due course to the petition, and directed that the case be calendared for deliberation.

In urging Us to declare as unconstitutional that portion of Section 223 of the Labor Code introduced by Section 12 of R.A. No. 6715, as well as the implementing provision covered by Section 2 of the NLRC

Interim Rules, allowing immediate execution, even pending appeal, of the reinstatement aspect of a decision of a labor arbiter reinstating a dismissed or separated employee, petitioner submits that said portion violates the due process clause of the Constitution in that it is oppressive and unreasonable. It argues that a reinstatement pending appeal negates the right of the employer to self-protection for it has been ruled that an employer cannot be compelled to continue in employment an employee guilty of acts inimical to the interest of the employer; the right of an employer to dismiss is consistent with the legal truism that the law, in protecting the rights of the laborer, authorizes neither the oppression nor the destruction of the employer. For, social justice should be implemented not through mistaken sympathy for or misplaced antipathy against any group, but evenhandedly and fairly.[17]

To clinch its case, petitioner tries to demonstrate the oppressiveness of reinstatement pending appeal by portraying the following consequences: (a) the employer would be compelled to hire additional employees or adjust the duties of other employees simply to have someone watch over the reinstated employee to prevent the commission of further acts prejudicial to the employer, (b) reinstatement of an undeserving, if not undesirable, employee may demoralize the rank and file, and (c) it may encourage and embolden not only the reinstated employees but also other employees to commit similar, if not graver infractions.

These rationalizations and portrayals are misplaced and are purely conjectural which, unfortunately, proceed from a misunderstanding of the nature and scope of the relief of execution pending appeal.

Execution pending appeal is interlinked with the right to appeal. One cannot be divorced from the other. The latter may be availed of by the losing party or a party who is not satisfied with a judgment, while the former may be applied for by the prevailing party during the pendency of the appeal. The right to appeal, however, is not a constitutional, natural or inherent right. It is a statutory privilege of statutory origin[18] and, therefore, available only if granted or provided by statute. The law may then validly provide limitations or qualifications thereto or relief to the prevailing party in the event an appeal is interposed by the losing party. Execution pending appeal is

one such relief long recognized in this jurisdiction. The Revised Rules of Court allows execution pending appeal and the grant thereof is left to the discretion of the court upon good reasons to be stated in a special order.[19]

Before its amendment by Section 12 of R.A. No. 6716, Article 223 of the Labor Code already allowed execution of decisions of the NLRC pending their appeal to the Secretary of Labor and Employment.

In authorizing execution pending appeal of the reinstatement aspect of a decision of the Labor Arbiter reinstating a dismissed or separated employee, the law itself has laid down a compassionate policy which, once more, vivifies and enhances the provisions of the 1987 Constitution on labor and the workingman.

These provisions are the quintessence of the aspirations of the workingman for recognition of his role in the social and economic life of the nation, for the protection of his rights, and the promotion of his welfare. Thus, in the Article on Social Justice and Human Rights of the Constitution,[20] which principally directs Congress to give highest priority to the enactment of measures that protect and enhance the right of all people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good, the State is mandated to afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all; to guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law, security of tenure, human conditions of work, and a living wage, to participate in policy and decision-making processes affecting their rights and benefits as may be provided by law; and to promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes. Incidentally, a study of the Constitutions of various nations readily reveals that it is only our Constitution which devotes a separate article on Social Justice and Human Rights. Thus, by no less than its fundamental law, the Philippines has laid down the strong foundations of a truly just and humane society. This Article addresses itself to specified areas of concern — labor, agrarian and

natural resources reform, urban land reform and housing, health, working women, and people's organizations—and reaches out to the underprivileged sector of society, for which reason the President of the Constitutional Commission of 1986, former Associate Justice of this Court Cecilia Muñoz-Palma, aptly describes this Article as the "heart of the new Charter."[21]

These duties and responsibilities of the State are imposed not so much to express sympathy for the workingman as to forcefully and meaningfully underscore labor as a primary social and economic force, which the Constitution also expressly affirms with equal intensity.[22] Labor is an indispensable partner for the nation's progress and stability.

If in ordinary civil actions execution of judgment pending appeal is authorized for reasons the determination of which is merely left to the discretion of the judge, We find no plausible reason to withhold it in cases of decisions reinstating dismissed or separated employees. In such cases, the poor employees had been deprived of their only source of livelihood, their only means of support for their family — their very lifeblood. To Us, this special circumstance is far better than any other which a judge, in his sound discretion, may determine. In short, with respect to decisions reinstating employees, the law itself has determined a sufficiently overwhelming reason for its execution pending appeal.

The validity of the questioned law is not only supported and sustained by the foregoing considerations. As contended by the Solicitor General, it is a valid exercise of the police power of the State. Certainly, if the right of an employer to freely discharge his employees is subject to regulation by the State, basically in the exercise of its permanent police power on the theory that the preservation of the lives of the citizens is a basic duty of the State, that is more vital than the preservation of corporate profits.[23] Then, by and pursuant to the same power, the State may authorize an immediate implementation, pending appeal, of a decision reinstating a dismissed or separated employee since that saving act is designed to stop, although temporarily since the appeal may be decided in favor of the appellant, a continuing threat or danger to the survival or even the life of the dismissed or separated employee and his family.

The charge then that the challenged law as well as the implementing rule are unconstitutional is absolutely baseless. Laws are presumed constitutional.[24] To justify nullification of a law, there must be a clear and unequivocal breach of the Constitution, not a doubtful and argumentative implication; a law shall not be declared invalid unless the conflict with the-constitution is clear beyond reasonable doubt.[25] In Paredes, et al. vs. Executive Secretary,[26] We stated:

> "2. For one thing, it is in accordance with the settled doctrine that between two possible constructions, one avoiding a finding of unconstitutionality and the other yielding such a result, the former is to be preferred. That which will save, not that which will destroy, commends itself for acceptance. After all, the basic presumption all these years is one of validity. The onerous task of proving otherwise is on the party seeking to nullify a statute. It must be proved by clear and convincing evidence that there is an infringement of a constitutional provision, save in those cases where the challenged act is void on its face. Absent such a showing, there can be no finding of unconstitutionality. A doubt, even if well-founded, does not suffice. Justice Malcolm's aphorism is apropos: 'To doubt is to sustain.'"[27]

The reason for this:

> "can be traced to the doctrine of separation of powers which enjoins on each department a proper respect for the acts of the other departments. . . . The theory is that, as the joint act of the legislative and executive authorities, a law is supposed to have been carefully studied and determined to be constitutional before it was finally enacted. Hence, as long as there is some other basis that can be used by the courts for its decision, the constitutionality of the challenged law will not be touched upon and the case will be decided on other available grounds."[28]

The issue concerning Section 17 of the NLRC Interim Rules does not deserve a measure of attention. The reference to it in the Order of the Labor Arbiter of 5 October 1989 was unnecessary since the procedure

of the appeal proper is not involved in this case. Moreover, the questioned interim rules of the NLRC, promulgated on 8 August 1989, can validly be given retroactive effect. They are procedural or remedial in character, promulgated pursuant to the authority vested upon it under Article 218 (a) of the Labor Code of the Philippines, as a mended. Settled is the rule that procedural laws may be given retroactive effect.[29] There are no vested rights in rules of procedure.[30] A remedial statute may be made applicable to cases pending at the time of its enactment.[31]

WHEREFORE, the petition is hereby **DISMISSED** for lack of merit.

Costs against petitioner.

SO ORDERED.

Fernan, *C.J.*, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea and Regalado, *JJ.*, concur.

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[1] Annex "C" of Petition; Rollo, 35-43.
[2] Annex "G" of Petition; Id., 69.
[3] Annex "D" of Petition; Id., 44-57.
[4] Annex "E" of Petition; Id., 58-61.
[5] Annex "F" of Petition; Id., 62-68.
[6] Annex "H" of Petition; Rollo, 71-75.
[7] Article 4, Civil Code.
[8] Annex "I" of Petition; Id., 76-77.
[9] Annex "J" of Petition; Id., 78-80.
[10] Annex "A" of Petition; Id, 28-30.
[11] Rollo, 30.
[12] Id., 2-27.
[13] Rollo, 87-93.
[14] Id., 103-104.
[15] Rollo, 105-108.
[16] Id., 110.
[17] Citing Reyes vs. Minister of Labor, G.R. No. 48705, 9 Feb. 1989; Colgate Palmolive Phil. Inc. vs. Ople, 163 SCRA 323; Cabatan vs. Court of Appeals, 95 SCRA 323; Sosito vs. Aguinaldo Development Corp., 156 SCRA 392.

[18] Aragon vs. Araullo, et al., 11 Phil. 7; U.S. vs. Gomez Jesus, 31 Phil. 218; Layda vs. Legaspi, 39 Phil. 93; Aguilar vs. Navarro, 55 Phil. 898; Santiago vs. Valenzuela, 78 Phil. 397; Abesames vs. Garcia, 98 Phil. 769; Gonzalez vs. CA, 3 SCRA 465; Bello vs. Fernando, 4 SCRA 138; United CMC Textile Workers Union vs. Clave, 187 SCRA 346; Tropical Homes Inc. vs. NHA, 152 SCRA 540; Municipal Govt. of Coron vs. Cariño, 154 SCRA 216; and Ozaeta vs. CA, 179 SCRA 800.
[19] Section 2, Rule 39.
[20] Article XIII, Section 3.
[21] Record of the Constitutional Commission, vol. V, pp. 945, 1010.
[22] Article II, Section 18.
[23] Manila Electric Co. vs. NLRC, supra, citing Euro-Linea, Phil. Inc. vs. NLRC, 156 SCRA 78. See also PAL, Inc. vs. PALEA, 57 SCRA 498; Phil. Apparel Workers Union vs. NLRC, 106 SCRA 444.
[24] La Union Electric Cooperative, Inc. vs. Yaranon, 179 SCRA 828; People vs. Permskul, 173 SCRA 324.
[25] Peralta vs. Commission on Elections, 82 SCRA 30.
[26] 128 SCRA 6, 11.
[27] In Yu Cong Eng vs. Trinidad, 47 Phil. 385.
[28] La Union Electric Cooperative, Inc. vs. Yaranon, supra, citing Isagani A. Cruz, Philippine Political Law, 1989 ed., p. 232.
[29] People vs. Sumilang, 77 Phil. 764; Alday vs. Camilon, 120 SCRA 521; Palomo Building Tenants Association, Inc. vs. IAC, 133 SCRA 168; Sun Insurance Office, Ltd., et al. vs. Asuncion, et al., 170 SCRA 274.
[30] Paras, E.L., Civil Code of the Philippines, Annotated, Vol. I, 1984 ed., p. 22, citing Aguillon vs. Director of Lands, 17 Phil. 507; People vs. Sumilang, 77 Phil. 764; Guevara vs. Laico, 64 Phil. 144; Laurel vs. Misa, 76 Phil. 372.
[31] Enrile vs. Court of First Instance, 36 Phil. 574; Hosana vs. Diomano, 56 Phil. 741.