

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**BLISS DEVELOPMENT CORPORATION,
*Petitioner,***

-versus-

**G.R. No. 111017
August 31, 1995**

**NATIONAL LABOR RELATIONS
COMMISSION, TERESITA LEJANO and
RODOLFO ANGELES,
*Respondents.***

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D E C I S I O N

KAPUNAN, J.:

This Petition for *Certiorari* under Rule 65 of the Revised Rules of Court assails the decision dated 11 May 1993 of the National Labor Relations Commission, Second Division, NCR, in NLRC NCR Case No. 00-01-00652-89 dismissing private respondents' final motion for execution for lack of merit and NLRC resolution dated 18 June 1993 denying the motion for reconsideration filed by private respondents.

Private respondent Teresita Lejano was employed by petitioner Bliss Development Corporation (BDC) as Head of the Accounting Task Force while private respondent Rodolfo Angeles was the Acting Division Chief of the Systems Department Finance Group.^[1]

On 6 February 1987, petitioner terminated private respondents on grounds of loss of trust and confidence.^[2]

On 31 January 1989, private respondents filed a complaint for illegal dismissal with the NLRC.^[3]

On 16 August 1987, a Decision was issued by Labor Arbiter Nieves Vivar de Castro, the dispositive portion of which reads as follows:

WHEREFORE, respondent is hereby directed to reinstate complainants to their former position without loss of seniority rights immediately upon receipt hereof and with full backwages from February 6, 1987 to actual reinstatement. To wit:

RODOLFO ANGELES:

P 4,708.80	salary/month
x	29 months or up to July 4, 1989

P136,555.20	

TERESITA LEJANO

P7,604.00	annual salary
x	2 yrs or up to February 4, 1989

P15,208.00	
+ 3,168.30	5 months salary at 633.66/mo

P18,376.30	

otherwise, a writ of execution shall issue.^[4]

On 14 September 1989, private respondents filed an Urgent Motion to Correct/Modify Decision/Order of 16 August 1989 and the same was treated as an appeal by the Labor Arbiter. On 18 September 1989, petitioner appealed the aforesaid Decision to the NLRC.^[5]

On 17 April 1990, the NLRC dismissed petitioner's appeal for failure to post the required bond. Petitioner's petition for certiorari with the Supreme Court was likewise dismissed on 17 June 1991.^[6]

On 03 July 1991, private respondents filed an Urgent Motion for Execution of Judgment which was opposed by petitioner on 13 August 1991.^[7]

On 28 August 1991, private respondents filed a Joint Manifestation together with their computation of entitlements (pp. 272-280, Records). However, during the hearing on 17 October 1991 petitioner's counsel failed to appear. Hence, the Labor Arbiter approved the submitted monetary benefits/entitlements of private respondents and on 29 October 1991, she issued a Writ of Execution ordering payment of private respondents computed monetary benefits amounting to P 1,174,814.28, broken down as follows:

Teresita Z. Lejano

1. Unpaid salary prior to termination	P1,625.73
2. Salary, allowances and other benefits February 6, 1987 August 31, 1991 (transportation allowance, cash gift, economic assistance, medical benefit, uniform allowance, SSS/Medicare Employer's Share, Pag-ibig Employer's share, 13 th month pay, cash equivalent of vacation and sick leave)	652,312.68
3. Attorney's fees 10%	65,312.68
Total	<u>719,250.09</u>

Rodolfo Angeles

1. Unpaid salary prior to termination	983.72
2. Salary allowances and other benefits February 6, 1987 — August 31, 1991	

(transportation and representation allowance, cash gift, economic assistance, medical benefit, uniform allowance, SSS/Medicare Employer's Share, Pag-ibig Employer's Share, 13 th month pay, cash equivalent of vacation and sick leave)	414,716.58
3. Attorney's fees 10%	41,570.03

Total	P457,270.33 ^[8]

On 06 June 1992, private respondents filed a Final Motion for Execution claiming entitlements representing their salaries, allowances and other benefits from 01 September 1991 to 31 May 1992 and separation benefits computed up to 31 May 1992, in lieu of reinstatement amounting to P612,618.06 for Teresita Lejano and P506,228.18 for Rodolfo Angeles, in view of petitioner's dissolution on 30 June 1992 pursuant to E.O. No. 90.^[9]

On 15 September 1992, petitioner filed its opposition/comment on the Final Motion for Execution.

On 22 October 1992, the Labor Arbiter issued an Order granting the final motion for execution of private respondents and ordering additional payments to them in the amounts of P668,230.33 for Teresita Z. Lejano and P551,772.99 for Rodolfo Angeles.^[10]

On appeal to the NLRC, petitioner contends that the Labor Arbiter, in its decision dated 16 August 1989 ordered reinstatement and full backwages, nothing more. There was specifically no award for attorney's fees.

On 11 May 1993, the NLRC set aside the Order of the Labor Arbiter dated 22 October 1992 and dismissed private respondents' final motion for execution. The dispositive portion reads as follows:

WHEREFORE, the Order of the Labor Arbiter dated 22 October 1992 is hereby, SET ASIDE and a new Order is hereby promulgated DISMISSING complainants' Final Motion for Execution for lack of merit.

Accordingly, this case is hereby, considered closed and terminated.

SO ORDERED.^[11]

In its assailed decision, the NLRC ruled that the computation of private respondents' backwages should be confined only to basic salary at the time of dismissal including regular allowance and thirteenth-month pay only and that the same should not exceed the three-year period.^[12]

Hence, the instant petition for certiorari.

The sole issue presented by petitioner is whether or not public respondent NLRC gravely abused its discretion in not incorporating in its decision of May 11, 1993, an order directing private respondents to refund the excess payment they received from petitioner despite a clear finding in said Decision that there were indeed such excess payments.^[13]

Petitioner argues that:

- (1) the backwages awarded to private respondents should not have exceeded the 3 year-period as mandated by the Mercury Drug Rule; and
- (2) the 3-year rule on backwages applies to final and executory judgments, hence, the NLRC should order private respondents to return the excess amount they received.^[14]

We find the petition meritorious.

Private respondents, as verily ruled by the NLRC, are entitled only to three (3) years backwages. The amendatory provision in R.A. No. 6715^[15] consequently allowing illegally dismissed employees to be awarded their full backwages took effect on March 21, 1989 or two (2) years after private respondents were terminated on February 6, 1987. We have consistently ruled that said amendment has no retroactive

effect and therefore, does not apply. In *Arms Taxi vs. NLRC*,^[16] we put it thus:

The full backwages claimed by Culla and provided in Section 34 of Republic Act No. 6715, which took effect on March 21, 1989, cannot be granted to him for his summary dismissal occurred on June 11, 1986, three (3) years before R.A. 6715 took effect. The new law may not be applied retroactively (*Sealand Service Inc., vs. NLRC*, 190 SCRA 347; *Lantion vs. NLRC*, 181 SCRA 513).

In the case at bench, the policy of awarding illegally dismissed employees' backwages limited to three (3) years, without qualification or deduction, otherwise known as the Mercury Drug Rule,^[17] would thus prevail.

We find untenable private respondents' contention that since the decision of the Labor Arbiter has become final and executory and was in fact partially executed, it can no longer be disturbed or modified. We adhere to our ruling in *Sealand Service, Inc. vs. NLRC*,^[18] thus:

We have constantly adopted the policy of awarding backwages to illegally dismissed employees to three years without qualification or deduction. This policy applies even to final decisions awarding backwages in excess of three years.

As we ruled in *Mansalay Catholic High School vs. National Labor Relations Commission, et al.*:

Even if the decision of the NLRC that was being enforced through execution has become final and executory, the same should be interpreted and implemented in that in cases of illegal dismissal, the backwages that the employee should be entitled to should be for a period of not exceeding three (3) years. The excuse of the NLRC that the decision has become final and executory and cannot be modified is puerile. Such decision is subject to this rule. Any decision or order granting backwages in excess of three (3) years is null and void as to the excess. A departure therefrom constitutes a grave abuse of discretion.

Hence, in the case at bar, the open-ended duration prescribed in the decision sought to be enforced by the questioned resolution should be subject to said limitation and the award of backwages should, therefore, be limited to three (3) years without qualification or deduction. The computation of the award made by the labor arbiter in excess of this limit is null and void and the writ of execution issued pursuant thereto should be set aside.

Likewise, we find no justification for the award of attorney's fees. The decision of the Labor Arbiter dated 16 August 1989, on which the writs of execution dated 29 October 1991 and 22 October 1992 of the labor arbiter were based, was limited to the reinstatement of private respondents and payment of their backwages. Attorney's fees were not awarded. Private respondents contended that they have "successfully appealed the award of attorney's fees"^[19] through the urgent motion to correct/modify decision of 16 August 1989 which they filed on 14 September 1989. However, the record is bereft of any evidence to show that their motion was granted or particularly, that attorney's fees were granted to them. It is a long standing rule that:

When the writ of execution is not in harmony with and exceeds the judgment which gives it life, the writ has pro tanto no validity.^[20]

The execution of judgment must conform to that which is ordained and decreed in the dispositive portion of the decision. Where the writ runs counter to, differs from or exceeds the specific provisions in the judgment the same is issued without or in excess of jurisdiction.^[21]

The NLRC is vested with authority to look into the correctness of the execution of the decision and to consider supervening events that may affect such execution.^[22] In its assailed decision, the NLRC declared that:

After an examination of the subject computation, We cannot help but declare a finding of patent departure from applicable jurisprudence on the computation of backwages by

complainants and the Labor Arbiter a quo considering that the computation covers a period of four years and six months more or less and it included items not covered by the term backwages as well as an award of 10% attorney's fees which was not included in the Decision of the Labor Arbiter dated 16 August 1989.^[23]

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Likewise, complainants' backwages should not exceed the three (3) year period and this applies even to final and executory judgment.

X X X

As regards the claim of respondents that the Writ of Execution included benefits not awarded in the decision of the Labor Arbiter dated August 16, 1989, the Supreme Court in a number of cases ruled as follows:

Where the execution is not in harmony with the exceeds the judgment that gives it life, the writ has no authority. (Christian Literature Crusade vs. NLRC, 171 SCRA 712).

Execution must conform with the dispositive portion of the decision. (Paylago vs. Nicolas, 189 SCRA 722).

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Despite such pronouncements, however, the NLRC failed to rectify the writ of execution previously issued by the Labor Arbiter. The NLRC should have proceeded to modify or make a recomputation of the monetary award to conform with its ruling as afore-quoted. Clearly, the NLRC has been remiss in its duty.

We cannot uphold the NLRC's decision not to disturb the computation of backwages awarded to private respondents on the basis of petitioner's voluntary admission of liability. The NLRC opined:

On the other hand, respondent submitted their own computation of the amount due herein complainants wherein they admitted their liabilities to them in the amount of P443,733.98 for Teresita Lejano, and P300,952.39 representing three (3) years backwages, 13th month pay, economic or educational assistance, clothing allowance, transportation allowance, vacation leave, cash allowance/incentive pay and retrenchment package. Although the said computation (pp. 412-415, Records) includes benefits not covered by the term wages as defined in the afore-quoted decision of the Supreme Court in the case of Paramount Vinyl Products vs. NLRC, *Ibid.*, since the same is voluntarily admitted by respondents to be due complainants, we will no longer disturb the same, except as to the computation on separation pay, which we will discuss in the latter part of this decision. (Emphasis ours.)

Now, as to the questioned Order of the Labor Arbiter a quo dated 22 October 1992, allowing an additional and uninterrupted backwages/monetary benefits to complainants-appellees, We find the same to be contrary to the jurisprudence aforequoted and should be set aside.

The issue of reinstatement in the instant case has become moot and academic considering the respondent's dissolution on 30 June 1992. Thus, We find the award of separation pay proper in lieu of actual reinstatement of complainants. In the cases of Asphalt & Cement Pavers, Inc. vs. Vicente Leogardo, Jr., and Valentin Torillo vs. Vicente Leogardo, Jr., et al., G.R. No. 77205, the Supreme Court held that 'an illegally dismissed employee is entitled to reinstatement to his previous position without loss of seniority rights and backwages for a period of three (3) years without qualification and deduction (Mercury Drug Rule). If reinstatement is no longer feasible, the employer may be ordered to pay in addition to backwages, separation pay as provided by law.'

We find the amount of P123,578.00 ($P7,604.80 \times 1.25 \times 13$ years) due to complainant Teresita Lejano, as her separation pay, while the amount of P76,518.00 ($P4,708.80 \times 1.25 \times 13$ years) due to complainant Rodolfo Angeles as his separation pay. (Annex '2', Retrenchment Program of BDC Employees, pp. 408-410, Records).

However, there is no need to order respondent BDC to pay complainants their aforesated separation pay considering that the aforesated amounts have already been covered in the total amount of P1,174.814.28 received by them as above-discussed. (Emphasis ours)

At most, the NLRC could have simply taken such admission in consideration in recomputing the monetary award due to private respondents. There should be harmony in all aspects of the decision. To rule otherwise would be tantamount to injustice.

WHEREFORE, the questioned decision of the NLRC is **AFFIRMED** subject to the modification that:

- 1) the backwages awarded should be limited to three (3) years only, without qualification or deduction and the excess, if any, shall be refunded to petitioner; and
- 2) petitioner is hereby ordered to pay separation pay in the amount of P123,578.00 for private respondent Teresita Lejano and P76,518.00 for private respondent Rodolfo Angeles, in lieu of reinstatement due to the dissolution of petitioner corporation on 30 June 1992.

SO ORDERED.

Padilla, Davide, Jr., Bellosillo, Bellosillo and Hermosisima, Jr., JJ., concur.

[1] Rollo, p. 22.

[2] Id. at 23.

[3] Id. at 11.

[4] Id. at 56-57.

[5] Id. at 113.

[6] Ibid.

[7] Ibid.

[8] Rollo, pp. 113-114,119-120.

[9] Id. at 63.

[10] Id. at 115.

- [11] Id. at 125.
- [12] Id. at 121.
- [13] Id. at 16.
- [14] Id. at 16-17.
- [15] Art. 279 of the Labor Code as amended by R.A. No. 6715 provides that:
“An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.”
- [16] 219 SCRA 706 (1993). The same ruling was laid down in *Islama Machine Works Corp. vs. Hon. Labor Relations Commission et al.*, G.R. No. 100167, 2 March 1995; *C. Alcantara and Sons, Inc. vs. NLRC*, 229 SCRA 109 (1994); *Sealand Service, Inc. vs. NLRC*, 190 SCRA 347 (1990); *Maranaw Hotels and Resorts Corp. vs. CA*; et at. I, 215 SCRA 501(1992); *Lantion, et al. vs. NLRC*, G.R. No. 82028, 29 Jan. 1990.
- [17] *Mercury Drug Co., Inc. vs. Court of Industrial Relations*, 56 SCRA 694 (1974).
- [18] 190 SCRA 347(1990).
- [19] Rollo, p. 156.
- [20] *Christian Literature Crusade vs. NLRC*, 171 SCRA 712 (1989) citing *Mutual Security Insurance Corp. vs. CA*; 153 SCRA 678 (1987).
- [21] *National Steel Corp. vs. NLRC*, G.R. No. 74711, 19 SCRA 1988.
- [22] *Medado vs. CA*; 185 SCRA 80 (1990); *Abbot vs. NLRC*. 145 SCRA 206 (1986); *Pacific Mills, Inc. vs. NLRC*, 181 SCRA 130 (1990).
- [23] *Ibid.*