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SUPREME COURT
THIRD DIVISION

C-E CONSTRUCTION CORPORATION,
***Petitioner*,**

-versus-

G.R. No. 145930
August 19, 2003

NATIONAL LABOR RELATIONS COMMISSION and GILBERT SUMCAD,
***Respondents*.**
x---x

D E C I S I O N

PANGANIBAN, *J.*:

Once it has become final and executory, a Decision of the National Labor Relations Commission (NLRC) may no longer be changed or amended. By the same token, a party may no longer be allowed to present evidence to show that the final judgment is erroneous.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, seeking to annul the June 22, 2000 Decision[2] and the October 27, 2000 Resolution[3] of the Court of Appeals (CA) in CA-GR SP No. 50114. The decretal portion of the assailed Decision reads as follows:

> "WHEREFORE, the Order dated January 22, 1998 of Labor Arbiter Manuel M. Manansala and the Decision dated August 21, 1998 and Resolution dated October 21, 1998 of respondent [NLRC] are declared NULL AND VOID for want of jurisdiction. Labor Arbiter Manuel M. Manansala is hereby ordered to issue a WRIT OF EXECUTION for the immediate reinstatement of Gilbert Sumcad and the payment of his back wages pursuant to the decision of respondent NLRC, in NLRC NCR 00-10-05830-92 dated April 20, 1994."[4]

The assailed Resolution denied petitioner's Motion for Reconsideration.

The Facts

On October 19, 1992, Private Respondent Gilbert Sumcad filed a Complaint for illegal dismissal against Petitioner C-E Construction Corporation and Johnny Tan *(its president and manager)*. Alleging that he was a regular employee dismissed without cause and proper notice, private respondent prayed for reinstatement to his former position without loss of seniority rights, other privileges and benefits, full back wages from the time of his illegal dismissal until his actual reinstatement, and attorney's fees.

On the other hand, petitioner claimed that private respondent was a project — not a regular — employee, whose services had been fully paid upon the completion of the project. It alleged that the Complaint should be dismissed, as the termination of his services had been made in accordance with Policy Instruction No. 20 of the Department of Labor and Employment (DOLE).

In a Decision dated May 31, 1993, Labor Arbiter (LA) Potenciano S. Canizares Jr. ruled in favor of private respondent. Petitioner was ordered to reinstate Sumcad to his former position, with payment of full back wages from the time his salary had been withheld until his actual reinstatement, pay differential, premium pay for holidays and rest days, service incentive leaves, and 13th month pay for three (3) years counted backward from the date the Complaint was filed, as well as attorney's fees. Unconvinced, petitioner appealed to the NLRC.

On April 20, 1994, the NLRC found private respondent to be a regular employee and ordered the payment of his back wages for one (1) year. However, it set aside for lack of basis the monetary awards corresponding to his 13th month pay, sick leave pay, premium pay for legal holidays and rest days, and attorney's fees.

On June 3, 1994, private respondent filed an Ex Parte Motion for Execution. For its part, petitioner filed a Motion for Reconsideration which was subsequently denied in the NLRC's October 7, 1994 Resolution. Thus, on October 24, 1994, private respondent again moved for the execution of the Decision.

Accordingly, the deputy executive clerk of the NLRC issued an Entry of Judgment on December 12, 1994, certifying that its Resolution had become final and executory on December 8, 1994. This development prompted petitioner to file before the Supreme Court a Petition for Certiorari,[5] contending that the labor tribunal had gravely abused its discretion in disregarding Article 280 of the Labor Code, as well as Policy Instruction No. 20.

On February 5, 1997, this Court issued a Resolution dismissing the Petition for its failure to show grave abuse of discretion. Thereafter, an Entry of judgment was issued by the Clerk of Court, certifying that the Resolution had become final and executory on July 16, 1997. For the third time, private respondent moved for its execution. On October 22, 1997, the records of the case were remanded to LA Canizares.

Although the case had been set for conference on November 12, 1997, LA Canizares inhibited himself. As a consequence, the case was re-raffled to LA Manansala. A Manifestation and Motion was then filed by petitioner, requesting a hearing to enable it to present evidence of private respondent's earnings from employment with other entities during the period of litigation. This request was denied in the LA's January 22, 1998 Order directing reinstatement and payment of back wages for one (1) year and additional back wages. On February 2, 1998, a Writ of Execution was issued.

After petitioner appealed again, the NLRC deleted the award of additional back wages in its August 21, 1998 Decision. The latter also denied the motion for Reconsideration in its October 21, 1998 Resolution.

Ruling of the Court of Appeals

In avoiding the January 22, 1998 Order of the LA, as well as the August 21, 1998 Decision and the October 21, 1998 Resolution of the NLRC, the CA held that these labor agencies could not alter or modify earlier rulings that had become final and executory.[6] The April 20, 1994 Decision and the October 7, 1994 Resolution, being already final and executory, could no longer be subjected to a new trial and hearing. The CA then ordered the LA to issue a writ of execution for the immediate reinstatement of private respondent and the payment of his back wages.

Hence, this Petition.[7]

Issues

In its Memorandum, petitioner raises the following issues for our consideration:

"I

> Whether or not the Court of Appeals, in affirming the public respondent NLRC and the Labor Arbiter a quo, committed grave abuse of discretion in issuing a writ of execution without a hearing and without giving the petitioner the opportunity to present evidence of private respondent's earnings elsewhere, and awarded 'additional backwages' which is in substantial variance to the decision being executed.

II

> Whether or not the Court of Appeals, in affirming the NLRC and the Labor Arbiter a quo, committed serious errors in applying retroactively the ruling in Osmalik Bustamante vs. NLRC."[8]

> Stripped of unnecessary verbiage, the issue in this case is simple: whether the NLRC's final and executory Decision may still be modified.[9]

The Court's Ruling

The Petition has no merit.

Sole Issue:

Non-Modification of Final and Executory Decision

As earlier stated, petitioner assails the June 22, 2000 Decision of the CA, which ruled thus:

> "The records show that [LA] Manansala altered the Decision dated April 20, 1994 of respondent NLRC by awarding additional backwages to private respondent which is not embodied in the said decision of respondent NLRC [and] which is beyond his power and competence. It is fundamental that a final and executory decision cannot be amended or corrected[,] except for clerical errors or mistakes. A definitive judgment is no longer subject to change, revision, amendment, or reversal and the court loses jurisdiction over it, except to order its execution"[10]

Dissatisfied with the appellate court's Decision, petitioner filed herein Petition to enable it to present evidence of private respondent's earnings derived elsewhere. Such move cannot be countenanced. Since the NLRC's April 20, 1994 Decision had long become final and executory, the LA had no more authority to alter it. When he did so, the NLRC itself, in its August 21, 1998 Decision, modified his Order by deleting the additional back wages. In rendering this second NLRC Decision null and void, the CA merely reverted to the April 20, 1994 NLRC Decision which, as earlier mentioned, had already become final and executory.

What LA Manansala should have done was to issue a writ of execution in accordance with Section 1 (paragraphs 1 and 2) of Rule VIII and

Section 16 (paragraph 3) of Rule V of the NLRC's New Rules of Procedure.[11] The CA's voidance of his proceedings for being violative of those rules was a foregone conclusion.

Although "administrative and quasi-judicial bodies, like the NLRC, are not bound by the technical rules of procedure in the adjudication of cases filed before them,"[12] what is important is that the parties be given sufficient opportunity to be heard.[13] "Findings of facts of quasi-judicial agencies like the NLRC, which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only respect but at times even finality if such findings are supported by substantial evidence."[14] Indeed, more than a mere scintilla of evidence will be accepted by a reasonable mind as adequate to support a conclusion.[15] In this case, we find that the requirement of substantial evidence has adequately been met.

True, even after a judgment has become final and executory, an appellate court may still modify or alter it when intervening circumstances render execution of that decision unjust and inequitable. This principle does not apply, however, when the basis for modification is previously existing evidence that a party fails to adduce during the hearing on the merits, despite ample opportunity to do so. Here, there are no supervening events that would make the issuance of a writ of execution unjust.

Settled is the rule that, except for correction of clerical errors, final and executory judgments can neither be amended nor altered, even if the purpose is to correct erroneous conclusions of fact or of law.[16] Thus, petitioner cannot be allowed to present evidence again, especially when that which it seeks to present is unnecessary. Under Republic Act No. 6715, an illegally dismissed employee is entitled to full back wages, without any diminution or reduction by earnings derived elsewhere during the period of illegal dismissal.

Payment of Full Back Wages

Reference was made to Bustamante vs. NLRC,[17] in which this Court allowed the payment of full back wages[18] without diminution of income earned during the "no-work" status of an illegally dismissed employee.

Under the Industrial Peace Act,[19] the Court of Industrial Relations (CIR) had wide discretion in granting or disallowing payment of back wages to an illegally dismissed employee. The CIR also had the implied power to mitigate or reduce back wages,[20] depending on several circumstances. Among these circumstances are the employers' good faith,[21] the employees' employment in other establishments during the period of illegal dismissal, and the probability that the employees could have realized earnings if they had only exercised due diligence in searching for outside employment.[22]

Under the "Mercury Drug rule"[23] and upon consideration of expediency in the execution of a decision, a fixed amount of back wages without qualifications was later awarded. The three-year rule[24] proposed by then justice (later Chief Justice) Claudio Teehankee was adopted in subsequent cases.[25]

Under the Labor Code,[26] it became mandatory to award back wages, computed from the time compensation was withheld up to the time of reinstatement.[27] This notwithstanding, the Court continued to apply the Mercury Drug rule, but limited the award to three (3) years.

When Article 279 of the Labor Code was amended by Republic Act No. 6715,[28] the legislature clearly intended to grant an illegally dismissed employee full back wages[29] inclusive of allowances and other benefits, or the monetary equivalent of such benefits without any diminution or reduction. Employees were thus given more benefits on grounds of equity[30] than were allowed under the Mercury Drug rule. The new compensation package also served as part of the public reparation[31] imposed upon the erring employer for violation of the Labor Code. It further prevented the undue delay and complication of reinstatement proceedings and thus gave more teeth to the constitutional mandate of affording full protection to labor.[32]

Bustamante therefore effectively reversed Maranaw Hotels and Resorts Corp. vs. CA[33] and earlier related cases that had limited the award of back wages to three (3) years without qualification or deduction; and later, Ferrer vs. NLRC,[34] which entitled employees to back wages for the entire period of illegal termination, subject to deductions for amounts earned elsewhere.

In the subsequent cases like Metro Transit Organization vs. NLRC,[35] Rutaquio vs. NLRC,[36] University of the Immaculate Concepcion vs. UIC Teaching and Non-Teaching Personnel and Employees Union,[37] and Perpetual Help Credit Cooperative vs. Faburada,[38] the Court affirmed the grant of full back wages in accordance with Republic Act No. 6715.

The CA correctly applied our ruling in Bustamante. Private respondent was indeed a regular employee whose services lasted for three (3) years. Moreover, after the completion of each project during the three (3) years he was hired, petitioner failed to file termination reports with the nearest public employment office, in contravention of Policy Instruction No. 20. Its failure to do so showed that respondent was not a project employee.[39] Not only did petitioner file a frivolous petition, but also attempted to circumvent our labor law on tenurial security by using construction projects as a convenient excuse for illegally dismissing private respondent. As aptly worded by the CA, the cessation of construction activities at the end of each project is a foreseeable suspension of work, not a severance of employment relations.[40]

At the time of private respondent's illegal dismissal, the applicable law was already Republic Act No. 6715. The application of Bustamante was merely an echo of the legislative intent behind that law.

WHEREFORE, the Petition is hereby **DENIED**, and the assailed Decision and Resolution **AFFIRMED**. Costs against petitioner.

Puno and Sandoval-Gutierrez, *JJ.*, concur.
Corona and Carpio Morales, *JJ.*, on official leave.

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[1] Rollo, pp. 3–18.

[2] Id., pp. 20–37. Penned by Justice Bernardo P. Abesamis and concurred in by Justices Eugenio S. Labitoria (Division chairman) and Wenceslao I. Agnir Jr.

[3] Id., p. 39. Penned by Justice Bernardo P. Abesamis and concurred in by Justices Eugenio S. Labitoria (Division chairman) and Eriberto V. Rosario Jr.

[4] CA Decision, p. 18; rollo, p. 37.

[5] GR No. 118580.

[6] Id., pp. 15–18; rollo, pp. 34–37.

[7] The case was deemed submitted for decision on January 17, 2002, upon receipt by this Court of public respondent's Memorandum signed by Assistant Solicitor General Mariano M. Martinez and Solicitor Olivia V. Non of the Office of the Solicitor General. Private respondent's Memorandum, signed by Atty. Neva B. Blancaver, was received by this Court on September 26, 2001. On the other hand, filed on October 3, 2001 was petitioner's Memorandum, signed by Attys. Deogracias G. Eufemio, Peter T. Tabang and Edson T. Eufemio.

[8] Petitioner's Memorandum, p. 5; rollo, p. 168.

[9] Private respondent's Memorandum, p. 3; rollo, p. 159; and public respondent's Memorandum, p. 13; rollo, p. 197.

[10] CA Decision, p. 16; id., p. 35.

[11] These rules took effect in 1993.

§1, pars. 1 and 2 of Rule VIII, states:

"(a) Execution shall issue upon an order, resolution or decision that finally disposes of the action or proceedings after the counsel of record and the parties shall have been furnished with copies of the decision.

"The Labor Arbiter shall, motu proprio or upon motion of any interested party, issue a writ of execution on a judgment only within five (5) years from the date it becomes final and executory "

§16, par. 3, Rule V (now §18, par. 2, Rule V):

"In case the decision includes an order of reinstatement, the Labor Arbiter shall direct the employer to immediately reinstate the dismissed employee"

[12] Ford Phils. Salaried Employees Association vs. NLRC, 156 SCRA 284, 296, December 11, 1987, per Padilla, J.

[13] Robusta Agro Marine Products, Inc. vs. Gorombalem, 175 SCRA 93, 98, July 5, 1989.

[14] Manila Mandarin Employees Union vs. NLRC, 154 SCRA 368, 374, September 29, 1987, per Gutierrez, J. See also Columbus Philippine Bus Corporation vs. NLRC, 364 SCRA 606, September 7, 2001; Alfaro vs. CA, 363 SCRA, 799, August 28, 2001; Industrial Timber Corporation vs. NLRC, 169 SCRA 341, 347, January 20, 1989.

[15] Gelmart Industries (Phils.) Inc. vs. Leogardo Jr., 155 SCRA 403, 410, November 5, 1987. See also Santos vs. CA, 360 SCRA 521, July 5, 2001; Ang Tibay vs. Court of Industrial Relations, 69 Phil. 635, 642, February 27, 1940.

[16] Aboitiz Shipping Employees Association vs. Trajano, 278 SCRA 387, 391–392, September 1, 1997.

[17] 332 Phil. 833, 836–837, November 28, 1996.

[18] Back wages represent compensation that should have been earned but were not collected because of unjust dismissal. Ramon R. Mañalac, Philippine Labor Laws and Jurisprudence, 5th ed., 2001, p. 149.

[19] Republic Act No. 875, approved on June 17, 1953.
[20] United Employees Welfare Association vs. Isaac Peral Bowling Alleys, 104 Phil. 640, September 30, 1958.
[21] Findlay Millar Timber Co. v Philippine Land-Air-Sea Labor Union, 6 SCRA 226, September 29, 1962.
[22] Republic Savings Bank vs. Court of Industrial Relations, 21 SCRA 661, October 31, 1967. See also Itogon-Suyoc Mines, Inc. vs. Sañgilo-Itogon Workers' Union, 24 SCRA 873, August 30, 1968; and Mindanao Motor Line, Inc. vs. Court of Industrial Relations, 116 Phil. 1027, November 29, 1962.
[23] Mercury Drug Co., Inc. vs. Court of Industrial Relations, 155 Phil. 636, April 30, 1974.
[24] Id., p. 712. Justice Teehankee's formula for the award of back wages equivalent to three (3) years was based on the period for the trial of the case and for the resolution of the appeal — one (1) year for trial and resolution in the CIR and two (2) years for briefs and decisions in this Court.
[25] Philippine National Oil Company-Energy Development Corp. vs. Leogardo, 175 SCRA 26, July 5, 1989; Associated Anglo-American Tobacco Corp. vs. Lazaro, 210 Phil. 384, October 27, 1983; Danao Development Corp. v NLRC, 81 SCRA 487, February 16, 1978; Luzon Stevedoring Corp. vs. Court of Industrial Relations, 61 SCRA 154, November 22, 1974; and Feati University Faculty Club (PAFLU) vs. Feati University, 58 SCRA 395, August 15, 1974.
[26] Presidential Decree No. 442, signed into law on May 1, 1974, took effect on November 1, 1974.
[27] Id., Article 279.
[28] This Herrera-Veloso law took effect on March 21, 1989. See also Perpetual Help Credit Cooperative, Inc. vs. Faburada, 366 SCRA 693, October 8, 2001.
[29] Industrial Timber Corporation-Stanply Operations vs. NLRC, 323 Phil. 753, 759, February 14, 1996. See also Litonjua Group of Companies vs. Vigan, 360 SCRA 194, June 28, 2001.
[30] Indophil Acrylic Manufacturing Corp. vs. NLRC, 226 SCRA 723, September 27, 1993. See also Jo Cinema Corporation vs. Abellana, 360 SCRA 194, June 28, 2001.
[31] Imperial Textile Mills, Inc. vs. NLRC, 217 SCRA 237, January 19, 1993.
[32] §3, Article XIII, 1987 Constitution. See also ATCI Overseas Corporation vs. CA, 362 SCRA 571, August 9, 2001.
[33] 215 SCRA 501, 509–510, November 6, 1992.
[34] 224 SCRA 410, 423, July 5, 1993.
[35] 367 Phil. 259, 267, May 31, 1999.
[36] 317 SCRA 1, 11, October 19, 1999.
[37] 362 SCRA 242, July 31, 2001.
[38] Supra.
[39] Tomas Lao Construction vs. NLRC, 344 Phil. 268, 282, September 5, 1997.
[40] CA Decision, p. 13; rollo, p. 32.

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