

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

ANGELITO CABATULAN,
Petitioner,

-versus-

**G.R. No. 147142
February 14, 2005**

**HON. MUSIB M. BUAT, Presiding
Commissioner, OSCAR M.
ABELLA and LEON G. GONZAGA,
JR. (both Commissioners),
NATIONAL LABOR RELATIONS
COMMISSION (Fifth Division),
Cagayan de Oro City, J.C.
TRUCKING, JULIO COSMIANO,
and CECILIA COSMIANO,
*Respondents.***

X-----X

DECISION

CALLEJO, SR., J.:

Before us is a Petition for Review under Rule 45 of the Rules of Court assailing the Decision^[1] and the Resolution of the Court of Appeals (CA) in CA-G.R. SP No. 52576 which reinstated the May 28, 1997 Resolution^[2] of the National Labor Relations Commission (NLRC) in NLRC No. RAB-11-06-00481-93.

The Antecedents

The respondent spouses Julio and Cecilia Cosmiano were engaged in the trucking business under the business name "J.C. Trucking," with principal office at Comawas District, Mangagoy, Bislig, Surigao del Sur. They rented out heavy equipment such as dump trucks, bucket loaders, fork loaders and log haulers.

On March 16, 1987, the respondent spouses employed Angelito Cabatulan, a close relative of Julio, as operations manager and purchasing officer of J.C. Trucking. On April 8, 1993, the respondent spouses and their children went on a world tour and entrusted the business operations of J.C. Trucking to Cabatulan.

On May 11, 1993, an altercation ensued between Cabatulan and Isidro Alaan, a member of the Philippine National Police of Tago, Surigao del Sur, because of a disagreement in the purchase of some spare parts. Alaan served as Julio's security aide, then a Sangguniang Panlalawigan Board Member. At about 1:30 p.m. of the same day, Cabatulan was informed that Vincent Cosmiano, respondent Julio Cosmiano's brother, wanted to see him. Before proceeding to the meeting place, Cabatulan passed by the premises of J.C. Trucking but was refused admission by Alaan who was armed with an armalite rifle. Vincent Cosmiano advised Cabatulan not to report for work in the meantime and await the arrival of the respondent spouses. Cabatulan agreed and immediately went home.

On May 25, 1993, Cabatulan reported for work, knowing that the respondent spouses would be arriving from their trip that day. Cabatulan was summoned to the Cosmiano residence the next day, and was told that his services were no longer needed in the business. On May 27, 1993, Cabatulan was given a pre-drafted voluntary resignation letter which he refused to sign. The following day, respondent Julio Cosmiano offered him ₱5,000.00 should he agree to sign the resignation letter. Cabatulan adamantly refused to sign the same.

On June 11, 1993, Cabatulan filed a complaint for illegal dismissal, underpayment of wages, unpaid wages, proportionate 13th month pay, and attorney's fees against the respondent spouses Cosmiano.

By way of defense, the respondent spouses alleged that, upon their arrival from abroad, the other employees petitioned for Cabatulan's dismissal as the latter was abusive. They also learned that Cabatulan maintained a scandalous and adulterous relationship with their comptroller, Anelie P. Manzano, and that he attempted to make sexual advances to Jusalita Batong, the wife of their driver. The respondent spouses maintained that the complainant abandoned his job on May 11, 1993, after he had a disagreement with Alaan over the purchase of certain spare parts for their loader.

Alaan maintained, in both his sworn statement^[3] and testimony, that his altercation with Cabatulan stemmed from the latter's purchase of a fuel pump in Davao instead of Monark Engineering where they usually acquired their materials because of its convenient location within the company's compound and its relatively cheaper prices.

On October 22, 1996, the Labor Arbiter rendered a decision in favor of Cabatulan. The *fallo* of the decision reads:

IN VIEW OF ALL THE FOREGOING, judgment is hereby rendered:

- (1.) Declaring the termination of complainant illegal;
- (2.) Ordering respondents J.C. Trucking/Spouses Julio and Cecilia Cosmiano to jointly and severally pay the complainant the following:
 1. backwages for three years less whatever income received by the complainant during the period.....P126,000.00
 2. separation pay at one month pay for every year of service..... 35,700.00
 3. unpaid wages from May 11 to 26, 1993..... 1,750.00

4. 13 th month pay for 1991, 1992 and 1993 (prop.).....	4,985.18
5. moral damages.....	100,000.00
	₱ 268,435.18
	=====
6. 10% attorney's fees.....	26,843.52
TOTAL AWARD	₱ 295,278.70
	=====

The computation of this Office Fiscal Examiner Mrs. Grace Dolly P. Guanzon is hereby attached as part of the record.

(3.) Dismissing all other money claims for lack of merit.

SO ORDERED.^[4]

On appeal by the respondent spouses, the NLRC issued a Resolution on May 28, 1997 affirming, with modification, the decision of the Labor Arbiter. The NLRC ruled that Cabatulan was illegally dismissed, and that his failure to report to work after the May 11, 1993 incident was a gesture of respect to the advice of Vincent Cosmiano, to preclude any further physical confrontation with Alaan. According to the NLRC, Cabatulan heeded the advice, considering that Vincent Cosmiano was the brother of his employer and exercised moral ascendancy over him. Thus, the NLRC concluded that the complainant had no intention to abandon his job, particularly since he personally saw respondent Julio Cosmiano as soon as the latter arrived from his trip abroad on May 25, 1993. However, the NLRC reduced the monetary awards in favor of Cabatulan to ₱168,435.18, deleted the awards for moral damages, and reduced the award for attorney's fees. The decretal portion of the May 28, 1997 Resolution reads:

WHEREFORE, the appealed decision is Affirmed, subject to the modification that the portion thereof granting moral damages to complainant Angelito Cabatulan is deleted for lack of legal

and factual bases. The monetary award in favor of complainant is therefore fixed in the amount of ₱168,435.18 while the award of attorney's fees is correspondingly reduced to ₱16,843.52.

SO ORDERED.^[5]

Cabatulan did not file any motion for the reconsideration of the May 28, 1997 Resolution of the NLRC. Upon the respondent spouses' filing of a motion for reconsideration thereof, the NLRC granted the same in a Resolution dated December 12, 1997. The award for backwages and accrued salaries was deleted, and in lieu thereof, Cabatulan was awarded separation pay and indemnity. The decretal portion of the resolution reads:

WHEREFORE, the resolution the Commission rendered on May 28, 1997 is further modified in accordance with the foregoing disposition and the complaint for illegal dismissal dismissed for lack of merit. Accordingly, the awards for backwages and payment of accrued salaries from May 11 to 26, 1993 are deleted for lack of bases. However, the award for separation pay which is sustained is fixed in the equivalent of one-half (1/2) month pay for every year of service or in the sum of ₱17,850.00 in favor of complainant as a measure of social justice. Respondents are, likewise, assessed to pay complainant an indemnity in the amount of ₱2,000.00 and in addition, the award for proportionate 13th month pay is also sustained. Finally, the award for moral damages and attorney's fees is deleted for lack of bases. This is without prejudice to the right of respondents to set off the monetary awards of any accountability by complainant preparatory to the execution stage after due proceedings.

SO ORDERED.^[6]

This time, Cabatulan filed a motion for reconsideration dated January 16, 1998 of the December 12, 1997 Resolution, and prayed that he be granted all the reliefs under the decision of the Labor Arbiter and the May 28, 1997 Resolution of the NLRC:

IN VIEW OF ALL THE FOREGOING, it is respectfully prayed of the Honorable Commission that the RESOLUTION dated December 12, 1997, (*sic*) be reconsidered and another be issued granting all the reliefs and remedies, as are consistent with the facts, evidence, the law and jurisprudence – as had been laid out in the POSITION PAPER of complainant and in the DECISION of October 22, 1996 by Labor Arbiter Antonio Villanueva and the RESOLUTION dated May 28, 1997 of this Honorable Court – with stress, however, that the reliefs and remedies should be consistent with the jurisprudence in the *Osmalik S. Bustamante vs. NLRC and Evergreen Farms and others* which are applicable on the matter of “moral damages” and “attorney’s fees.”^[7]

Upon the denial of the motion, per the Resolution of the NLRC, dated February 27, 1998, Cabatulan filed a petition for certiorari under Sections 1 and 4 of Rule 65 of the Rules of Court before the CA for the nullification of the NLRC’s Resolutions promulgated on December 12, 1997 and February 27, 1998, respectively.

In its comment on the petition, the Office of the Solicitor General recommended the reversal of the assailed resolutions of the NLRC.

On March 14, 2000, the CA rendered a decision granting the petition and maintaining the May 28, 1997 Resolution of the NLRC. The dispositive portion reads:

WHEREFORE, the foregoing considered, the petition is GRANTED. Respondent NLRC’s Resolutions dated 12 December 1997 and 27 February 1998 are nullified and set aside and its Resolution dated 28 May 1997 is reinstated.

SO ORDERED.^[8]

Cabatulan filed a motion for partial reconsideration of the decision, praying that he be awarded all the monetary awards and/or benefits under Article 279 of the Labor Code of the Philippines. The respondent spouses, on the other hand, filed a motion for reconsideration of the decision, contending that the dismissal of the petitioner was for a just cause and, as such, was valid.

On January 15, 2001, the CA denied both motions for lack of merit. The appellate court held that Cabatulan was not entitled to backwages under Article 279 of the Labor Code of the Philippines because he did not appeal the decision of the Labor Arbiter nor file a motion for the reconsideration of the May 28, 1997 Resolution of the NLRC.

Cabatulan, now the petitioner, filed the instant petition, raising the threshold issue of whether or not he is entitled to backwages and other monetary benefits under Article 279 of the Labor Code of the Philippines, notwithstanding his failure to file a motion for the reconsideration of the May 28, 1997 Resolution of the NLRC.

The petition is meritorious.

The petitioner asserts that he is entitled to the monetary awards given by the Labor Arbiter, conformably to Article 279 of the Labor Code of the Philippines. He posits that despite his failure to file a motion for reconsideration of the NLRC Resolution of May 28, 1997, he was not precluded from claiming the monetary benefits due him under Article 279 of the Labor Code in his January 16, 1998 motion for reconsideration.

On the other hand, the CA ruled that, for his failure to file the said motion for reconsideration, the petitioner was estopped from praying for the reinstatement of the awards under the decision of the Labor Arbiter. Besides, the CA ruled, in his petition for certiorari, that the petitioner only sought the nullification of the December 12, 1997 and February 27, 1998 Resolutions of the NLRC, excluding the Resolution of May 28, 1997:

In his motion for reconsideration, petitioner prays that our Decision be modified to make the monetary awards “consistent with the provisions of Article 279 of the Labor Code” and in accordance with the ruling in *Bustamante vs. NLRC* (G.R. No. 11651, November 28, 1996) and other cases. In particular, he now questions the Labor Arbiter’s award of “backwages less whatever income received by the complainant during the period,” maintaining that there should be no deduction from

said award because this practice has been outlawed by the Bustamante case above-cited.

As previously stated, petitioner did not appeal the monetary awards granted by the Labor Arbiter and neither did he move for reconsideration of the NLRC Resolution dated 28 May 1997 which affirmed the Labor Arbiter's finding of illegal dismissal but modifying the monetary award. He is now, therefore, estopped from questioning the awards made by the Labor Arbiter as well as the award made by the NLRC in its Resolution dated 28 May 1997. Furthermore, his petition for certiorari only sought the nullification of the Resolutions promulgated on December 12, 1997 and February 27, 1998 which we granted. The reinstatement of the NLRC's Resolution dated 28 May 1997 is the only logical relief that can be granted under the circumstances.^[9]

We agree with the ruling of the CA that as a rule, a party who did not appeal from a decision of a court cannot obtain affirmative relief other than that granted in the appealed decision.^[10] This applies also to decisions of administrative or quasi-judicial tribunals.^[11]

In this case, however, the petitioner cannot be faulted for not appealing the decision because the same was in his favor. While it is true that the petitioner failed to file a motion for reconsideration of the May 28, 1997 Resolution of the NLRC which reduced the monetary awards in his favor and fixed it at ₱168,435.18, and that he raised the issue of whether the monetary awards embodied in the decision of the Labor Arbiter should be affirmed only in his January 16, 1998 motion for reconsideration of the December 12, 1997 Resolution of the NLRC, these did not preclude him from praying that he be awarded the monetary benefits as provided for in Article 279 of the Labor Code of the Philippines in his January 16, 1998 motion for reconsideration. After all, the NLRC ruled in its May 28, 1997 Resolution that the petitioner was illegally dismissed by the respondent spouses; thus, it was mandated to award to the petitioner the monetary benefits due him under the law, in the light of its finding that the petitioner was unlawfully dismissed by the respondent spouses.

It bears stressing that the NLRC still had jurisdiction over the appeal of the petitioner herein and had the authority to see to it that its resolution conformed to the law. It is thus absurd for the NLRC, and for the CA for that matter, to rule that the petitioner was dismissed without a lawful or valid cause and yet declare that he is not entitled to monetary benefits as provided by the law. As gleaned from the petition for certiorari of the petitioner in the CA, he prayed that he be granted the monetary benefits under Article 279 of the Labor Code of the Philippines, considering that as found by the NLRC under its May 28, 1997 Resolution, he was dismissed without any valid or lawful cause. Where an ironhanded application of the rules will result in an unmistakable failure or miscarriage of justice, technicalities should be transgressed in order to resolve the case.^[12] This Court is, therefore, constrained to relax the rules to give way to the supreme and overriding interest of labor and justice.^[13]

Going now into the merits of the case, the petitioner contends that the appellate court's reinstatement of the NLRC's Resolution dated May 28, 1997, which found the petitioner's termination as illegal but awarded only the "backwages for three years less whatever income [received] by the complainant during the period and separation pay at one month pay for every year of service," was a reversible error. He posits that such ruling is not in accord with Article 279 of the Labor Code of the Philippines, as amended by Section 34 of Republic Act No. 6715, and the present controlling jurisprudence on the subject. The petitioner asserts that the decision of the Labor Arbiter limited his reliefs and subjected the same to deductions as to the supposed earnings he received elsewhere during the duration of the case.

We agree with the petitioner. Article 279 of the Labor Code of the Philippines, as amended by Section 34 of Rep. Act No. 6715, states that:

ART. 279. *Security of Tenure.* – In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. 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.

In the landmark case of *Bustamante vs. National Labor Relations Commission*,^[14] we held:

The Court deems it appropriate, however, to reconsider such earlier ruling on the computation of backwages as enunciated in said Pines City Educational Center case, by now holding that conformably with the evident legislative intent as expressed in Rep. Act No. 6715, above-quoted, backwages to be awarded to an illegally dismissed employee, should not, as a general rule, be diminished or reduced by the earnings derived by him elsewhere during the period of his illegal dismissal. The underlying reason for this ruling is that the employee, while litigating the legality (illegality) of his dismissal, must still earn a living to support himself and family, while full backwages have to be paid by the employer as part of the price or penalty he has to pay for illegally dismissing his employee. The clear legislative intent of the amendment in Rep. Act No. 6715 is to give more benefits to workers than was previously given them under the *Mercury Drug* rule or the “deduction of earnings elsewhere” rule. Thus, a closer adherence to the legislative policy behind Rep. Act No. 6715 points to “full backwages” as meaning exactly that, *i.e.*, without deducting from backwages the earnings derived elsewhere by the concerned employee during the period of his illegal dismissal. In other words, the provision calling for “full backwages” to illegally dismissed employees is clear, plain and free from ambiguity and, therefore, must be applied without attempted or strained interpretation. *Index animi sermo est.*^[15]

Indeed, jurisprudence is crystal-clear on the amount of backwages recoverable in cases of illegal dismissal. Employees who were illegally dismissed prior to the effectivity of Rep. Act No. 6715 on March 21, 1989 were granted backwages up to three (3) years without deduction or qualification, while those illegally dismissed after, were granted full backwages inclusive of allowances and other benefits or their monetary equivalent

from the time their actual compensation was withheld from them up to the time of their actual reinstatement.^[16]

Under the existing law, an employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights. It must be emphasized, though, that the Court has declared that there are specific circumstances obtaining where reinstatement is not a practicable remedy, as when the relations between the employer and employee have been so severely strained that it is no longer fitting to order reinstatement or when the employee decides not to be reinstated.^[17] It must be stressed that the petitioner was charged by the respondent spouses with qualified theft and was even coerced into withdrawing the labor case against them. No other conclusion may be deduced other than the categorical fact that antagonism already caused a severe strain in the relationship between the respondent spouses and petitioner. Separation pay is the amount that an employee receives at the time of his severance from the service and is designed to provide the employee with the wherewithal during the period that he is seeking another employment. The grant of separation pay does not impede an award for backwages as the latter represents the amount of earnings lost by reason of unjustified dismissal.^[18] A more equitable settlement, therefore, would be an award of separation pay equivalent to at least one month pay for every year of service in addition to his full backwages, allowances and other benefits.^[19]

WHEREFORE, premises considered, the petition is **PARTIALLY GRANTED**. The Decision of the Court of Appeals, affirming the Resolution of the NLRC dated May 28, 1997, is **AFFRIMED WITH MODIFICATIONS**. The respondent spouses Julio and Cecilia Cosmiano are **ORDERED** to pay to the petitioner separation pay equivalent to one month's salary for every year of service in lieu of reinstatement, plus full backwages, without deduction or qualification, counted from the date of his dismissal until the finality of this decision, and indemnity of ₱2,000.00. No costs.

SO ORDERED.

**PUNO, J., (Chairman), AUSTRIA-MARTINEZ, TINGA,
CHICO-NAZARIO, JJ., concur.**

- [1] Penned by Associate Justice Wenceslao I. Agnir, Jr. (retired), with Associate Justices Ma. Alicia Austria-Martinez (now an Associate Justice of the Supreme Court) and Oswaldo D. Agcaoili (retired), concurring.
- [2] Penned by Presiding Commissioner Musib M. Buat, with Commissioners Oscar N. Abella and Leon G. Gonzaga, Jr., concurring.
- [3] Records, pp. 122-123. (Vol. I)
- [4] Id. at 373.
- [5] Records, p. 85. (Vol. III)
- [6] Id. at 163.
- [7] Rollo, p. 102.
- [8] CA Rollo, p. 110.
- [9] Rollo, pp. 53-54.
- [10] Radiowealth Finance Company vs. Del Rosario, 335 SCRA 288 (2000).
- [11] Pison-Arceo Agricultural and Development Corporation vs. National Labor Relations Commission, 279 SCRA 312 (1997).
- [12] Fulgencio vs. National Labor Relations Commission, 411 SCRA 69 (2003).
- [13] Santiago Tamayo vs. Court of Appeals, et al., G.R. No. 147070, February 17, 2004.
- [14] 265 SCRA 61 (1996).
- [15] Boldface supplied.
- [16] Prudential Bank and Trust Company vs. Reyes, 352 SCRA 316 (2001).
- [17] Capili vs. National Labor Relations Commission, 270 SCRA 488 (1997).
- [18] Rasonable vs. National Labor Relations Commission, 253 SCRA 815 (1996).
- [19] ACD Investigation Security Agency, Inc. vs. Pablo D. Daquera, G.R. No. 147473, March 30, 2004.