

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**CHRISTIAN LITERATURE CRUSADE,
*Petitioner,***

-versus-

**G.R. No. 79106
April 10, 1989**

**NATIONAL LABOR RELATIONS
COMMISSION and LOIDA DEL
ROSARIO,**

Respondents.

X-----X

D E C I S I O N

MEDIALDEA, J.:

This is a Petition for *Certiorari* with Preliminary Injunction seeking to Nullify the Writ of Execution dated June 2, 1987, issued by the Labor Arbiter in NLRC-NCR-Case No. RBIV-9706-77, entitled "Loida del Rosario vs. Christian Literature Crusade."

The antecedent facts are as follows:

Sometime in January, 1975, private respondent Loida del Rosario (hereinafter referred to as del Rosario) was hired by petitioner Christian Literature Crusade (hereinafter referred to as Crusade) as a bookkeeper. Later, on October 4, 1976, an application for clearance to

terminate the services of del Rosario on the ground of incompetence was filed by Crusade with the Ministry of Labor and Employment. The application was opposed by del Rosario. On November 20, 1976, del Rosario was placed under preventive suspension.

On March 31, 1982, the Labor Arbiter rendered a decision, the dispositive portion of which reads (pp. 31-32, Rollo):

“WHEREFORE, premises considered, judgment is hereby rendered denying the application for clearance filed by Christian Literature Crusade and it (applicant) is ordered to reinstate Loida del Rosario to her former position/or substantially equivalent position, with backwages for a period of three (3) years without deductions from possible earnings elsewhere, and without loss of seniority rights and other privileges formerly appertaining to her.

“SO ORDERED.”

On August 9, 1982, a writ of execution was issued by the Labor Arbiter upon motion of del Rosario, there being no appeal (pp. 33-34, Rollo). On August 27, 1982, the award of backwages in the amount of THIRTEEN THOUSAND SIX HUNDRED EIGHTY PESOS (P13,680.00) computed on the basis of del Rosario’s P380.00 monthly salary was satisfied. However, on the issue of reinstatement, the Sheriff stated in his return that del Rosario was not reinstated in view of the “Manifestation and Motion to Hold in Abeyance the Execution of the Decision Per Reinstatement of the Complainant Loida del Rosario,” filed by Crusade on August 31, 1982.

On February 2, 1983, del Rosario filed an “Ex-Parte Motion for the Issuance of an Alias Writ of Execution” praying therein for reinstatement with payment of allowances and 13th month pay from 1976, the date of her dismissal, up to January, 1983, amounting to P20,072.00.

On February 28, 1983, an Alias Writ of Execution was issued by the Labor Arbiter for del Rosario’s reinstatement.

On April 13, 1983, a Manifestation and Motion was again filed by del Rosario alleging that the computation of her backwages should include the allowances and 13th month pay. On June 7, 1983, the Labor Arbiter resolved the question in this wise (p. 37, Rollo):

“It might be noted that the Decision of Hon. Lacandola S. Leño states that complainant should be paid backwages for a period of three (3) years without deductions from possible earnings elsewhere and without loss of seniority rights and other privileges formerly appertaining to her.

“The basis of the computation of the backwages of the complainant is the amount appearing in the complaint which is P380.00 a month that was in 1976 which is her latest salary. It might be noted that the prevailing minimum wage during this time is P260.00 plus P110.00 monthly allowance, and without loss of seniority rights and other privileges formerly appertaining to her.

“The computation, we believe is correct and the Motion for Recomputation of the Backwages filed by the complainant is hereby denied and let an Alias Writ of Execution for the reinstatement of the complainant be issued.”

On June 9, 1983, the Labor Arbiter issued a second Alias Writ of Execution for the purpose of reinstatement of del Rosario, which was not satisfied.

The motions for recomputation of her backwages having been denied, del Rosario appealed to the National Labor Relations Commission (hereinafter referred to as NLRC) regarding the interpretation of the March 31, 1982 decision of the Labor Arbiter. On August 29, 1986, the NLRC rendered a decision, the dispositive portion of which reads (pp. 38-39, Rollo):

“WHEREFORE, with the above modification, the appealed Order is Affirmed. Accordingly, let this case be remanded to the Labor Arbiter of origin for execution of the reinstatement aspect of the 31 March 1982 Decision and likewise of the award hereto indicated after proper computation.

“SO ORDERED.”

The modification referred to states (p. 38, Rollo):

“The term ‘without loss of other privileges formerly appertaining to her’ refers to other benefits that may have accrued to her had she not been dismissed. Obviously, this includes the decretal allowances, service incentive leave pay and 13th month pay as sought for in the motion. It appearing, however, that the amount of P380.00 set forth in the complaint and taken as the basis in the determination of complainant’s backwages already covers her monthly allowance, the same should therefore be excluded in this award. And for purposes of quantifying the other two (2) remaining claims, the computation must be reckoned from 20 November 1976, the date of her termination, until 20 November 1979, or for a period of three (3) years as directed in the subject decision.”

On February 9, 1987, del Rosario filed a Partial Motion for Reconsideration before the NLRC arguing that the latter erred in “holding that the amount of P380.00 covers the allowance and that her monthly rate was P260.00 and prayed for payment of additional backwages based on a computation of P380.00 monthly rate with corresponding privileges and benefits on the basis of said monthly rate.

Later, a Motion for the Issuance of a Writ of Execution was filed anew by del Rosario, alleging that based on her computation, she is entitled to backwages including living allowance and 13th month pay in the total amount P80,329.15 from September 1, 1982 to March 15, 1987 and prayed for the payment of the same and reinstatement.

On June 2, 1987, the Labor Arbiter issued a Writ of Execution, the dispositive portion of which reads (p. 44, Rollo):

“NOW, THEREFORE, you are hereby commanded to go to respondent Christian Literature Crusade’s premises at 104 Karuhatan, Valenzuela, Bulacan and reinstate Loida del Rosario to her former position or a substantially equivalent position,

without loss of seniority rights and other privileges formerly appertaining to her and collect the amount of EIGHTY FOUR THOUSAND SIX HUNDRED EIGHTY ONE PESOS and NINETY SIX CENTAVOS (P84,681.96) representing her backwages and other benefits aside from the 3 years deductible backwages as originally ordered and already satisfied, commencing from the period when the Sheriff was unable to effect reinstatement per decision dated August 29, 1986, as per official computation of the Research and Information Unit (attached as Annex "A" of this Writ) and thereafter turn over said amount to this office for further disposition.

"In case you fail to collect said amount in cash, you are directed to cause the satisfaction of the same from the movable goods and immovable properties of respondent not exempt from execution.

"You are further directed to return this Writ within fifteen (15) days from compliance thereof together with your corresponding report.

"You may collect legal fees from the respondent."

On July 16, 1987, the Motion to Quash Writ of Execution was denied.

Hence, the present petition.

Crusade alleged that on June 17, 1987, the Deputy Sheriff garnished its bank deposits amounting to more than P8,000.00. On August 3, 1987, We issued a temporary restraining order enjoining the NLRC, thru Labor Arbiter Edgardo M. Madriaga, from releasing the garnished amounts of money to del Rosario. However, in her comment, del Rosario alleged that the amount of P7,771.88 has been released to her before the issuance of the temporary restraining order.

The main issue is whether or not del Rosario is entitled to additional backwages from September 1, 1982 to March, 15, 1987.

Crusade alleges that the questioned writ of execution is null and void for the following reasons: (1) it does not conform to, but is even violative of the decisions dated March 31, 1982 and August 29, 1986 which decisions merely awarded del Rosario "backwages for a period of three (3) years without deductions from possible earnings elsewhere, without loss of seniority rights and other privileges formerly appertaining to her; (2) del Rosario's backwages totalling P13,680.00 had already been fully paid in 1982; and (3) it commands collection from Crusade of P84,681.96 representing del Rosario's backwages from September 1, 1982 until March 15, 1987. Unless the subject writ of execution is declared null and void, NLRC would be allowed to award backwages to del Rosario for more than the three (3) years maximum, or seven (7) years and nine (9) months to be more precise, or without any limit for that matter.

On the other hand, del Rosario argues that the challenged writ of execution is based on the obstinate refusal of Crusade to reinstate her and not on the decisions dated March 31, 1982 and August 29, 1986. The power of the NLRC and/or the Labor Arbiter to grant or extend backwages for refusal of the employer enjoined to reinstate terminated workers is recognized in this jurisdiction in the case of TUPAS Local Chapter No. 979 vs. NLRC (G.R. Nos. 60532-33, November 5, 1985, 139 SCRA 478).

The petition is impressed with merit.

It is a well-settled rule that the execution of judgment must conform to that which is ordained or decreed in the dispositive portion of the decision (*Laingo vs. Camilo*, G.R. No. L-35833, June 29, 1984, 130 SCRA 144; *National Steel Corporation vs. National Labor Relations Commission and Pelagio Remolado*, G.R. No. 74711, September 19, 1988). Where the writ of execution is not in harmony with and exceeds the judgment which gives it life, the writ has pro tanto no validity (*Mutual Security Insurance Corporation vs. Court of Appeals*, G.R. No. L-47018, September 11, 1987, 153 SCRA 678). This is so because once a judgment has become final and executory or partially executed as in this case, it may no longer be amended, modified or altered. What remains to be done is purely the ministerial enforcement or execution of the judgment.

In case of defiance or non-compliance with the writ of execution, as in this case, where Crusade paid del Rosario three (3) years backwages but failed and refused and still fails and refuses to reinstate her despite several writs of execution, the remedy is not for the grant in another writ of execution of continuing backwages up to the time of actual reinstatement. The grant of additional backwages to serve as damages or as penalty to Crusade for persistently refusing to reinstate del Rosario has no basis in the decision sought to be enforced and hence, it may not be resorted to in order to compel reinstatement. The remedy is provided in the case of *D.M. Consunji, Inc. vs. Pucan, et al.*, G.R. No. 71413, March 21, 1988, 159 SCRA 107, wherein an alias writ of execution was likewise issued directing payment of additional backwages after the prior award of backwages equivalent to five (5) years and seven (7) months had been fully satisfied. The Court, in nullifying the order for payment of additional sums, therein held:

“To ensure compliance with the court’s order, and realizing the stubborn refusal to reinstate him, petitioner (sic) should have resorted to more drastic remedies such as the filing of a motion to cite petitioner in contempt. In this way, prompt compliance could have resulted.”

Thus, del Rosario should have filed a motion to cite Crusade in contempt for refusing to reinstate her despite several writs of execution issued by the Labor Arbiter.

The case of *TUPAS Local Chapter No. 979 vs. NLRC*, supra, relied upon by del Rosario in support of her claim for continuing backwages, is inapplicable to the case at bar. It should be noted that the Court’s departure therein from the usual equivalent of the three years backwages generally awarded by this Court was still within its power to do, the reinstatement of the workers therein being by virtue of a return-to-work order, not by virtue of a final and executory judgment. In *Davao Free Workers Front vs. CIR*, G.R. No. L-29356, October 31, 1974, 60 SCRA 408, this Court, in departing from the general rule, merely upheld the trial court’s decision, which was not yet final and executory, awarding the employees therein unlawfully dismissed full backwages without qualification from dismissal to reinstatement. Likewise, in *National Shipyards and Steel Corporation vs. CIR*, G.R. No. L-32724, June 28, 1974, 57 SCRA 642, this Court

merely upheld the industrial court's questioned orders and resolutions in implementation of this Court's long final and executory decision in a previous case involving exactly the same subject matter. Said orders and resolutions provided for the employee's reinstatement with backwages until actually reinstated. In upholding the same, this Court said that the matter of reinstatement with backwages was long resolved and may no longer be reopened.

In the case at bar, what became final and executory is the decision of the Labor Arbiter granting reinstatement and only three (3) years backwages. Thus, as far as this case is concerned, the issue of whether or not del Rosario's backwages should be limited to three (3) years or continued indefinitely until actual reinstatement can no longer be raised or reopened. The lengthy discussion made by Crusade that the award of backwages up to the maximum of three (3) years is not without justification and the corresponding retort of del Rosario citing TUPAS, supra, where this Court granted backwages without qualification until reinstatement, are, therefore, irrelevant and beside the point.

ACCORDINGLY, the petition is hereby **GRANTED**. The writ of execution dated June 2, 1987 insofar as it granted additional backwages is hereby **SET ASIDE** and private respondent Loida del Rosario is hereby ordered to refund to petitioner Christian Literature Crusade the amount of P7,771.88. However, the writ **STANDS** insofar as it ordered petitioner to reinstate private respondent to her former position or a substantially equivalent position. Where reinstatement is no longer feasible, petitioner is ordered to pay separation pay as provided by law.

This decision is immediately executory.

SO ORDERED.

Narvasa, Cruz, Gancayco and Griño-Aquino, JJ., concur.