SUPREME COURT
FIRST DIVISION

EDUARDO CLAPAROLS, ROMULO AGSAM and/or CLAPAROLS STEEL AND NAIL PLANT,
***Petitioners*,**

-versus-

G.R. No. L-30822
July 31, 1975

COURT OF INDUSTRIAL RELATIONS, ALLIED WORKERS' ASSOCIATION and/or DEMETRIO GARLITOS, ALFREDO ONGSUCO, JORGE SEMILLANO, SALVADOR DOROTEO, ROSENDO ESPINOSA, LUDOVICO BALOPENOS, ASER AMANCIO, MAXIMO QUIOYO, GAUDENCIO QUIOYO, and IGNACIO QUIOYO,
***Respondents*.**
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D E C I S I O N

MAKASIAR, *J.*:

A Petition for *Certiorari* to set aside the order of respondent Court of Industrial Relations dated May 30, 1969 directing petitioners to pay back wages and bonuses to private respondents as well as its

resolution of July 5, 1969 denying the motion for reconsideration of said order in Case No. 32-ULP-Iloilo entitled "Allied Workers' Association, et. al., versus Eduardo Claparols, et. al.

It appears that on August 6, 1957, a complaint for unfair labor practice was filed by herein private respondent Allied Workers' Association, respondent Demetrio Garlitos and ten (10) respondent workers against herein petitioners on account of the dismissal of respondent workers from petitioner Claparols Steel and Nail Plant.

On September 16, 1963, respondent Court rendered its decision finding "Mr. Claparols guilty of union busting and" of having "dismissed said complainants because of their union activities," and ordering respondents "(1) To cease and desist from committing unfair labor practices against their employees and laborers; (2) To reinstate said complainants to their former or equivalent jobs, as soon as possible, with back wages from the date of their dismissal up to their actual reinstatement" (p. 12, Decision; p. 27, rec.).

A motion to reconsider the above decision was filed by herein petitioners, which respondent Court, sitting en banc, denied in a resolution dated January 27, 1964.

On March 30, 1964, counsel for herein respondent workers (complainants in the ULP case) filed a motion for execution of respondent Court's September 16, 1963 decision.

On May 14, 1964, respondent Court, in its order of September 16, 1963, granted execution and directed herein petitioners.

> "To reinstate the above complainants to their former or equivalent jobs within five (5) days after receipt of a copy of this order. In order to implement the award of back wages, the Chief of the Examining Division or any of his assistants is hereby directed to proceed to the office of the respondents at Matab-ang, Talisay, Negros Occidental, and examine its payrolls and other pertinent records and compute the back wages of the complainants in accordance with the decision dated September 16, 1963, and, upon termination, to submit his report as soon as

possible for further disposition" (p. 7, Brief for Respondents, p. 113, rec.).

Which was reiterated by respondent Court in a subsequent order dated November 10, 1964 (pp. 7-8, Brief for Respondents, p. 113, rec.).

On December 14, 1964, respondent workers were accompanied by the Chief of Police of Talisay, Negros Occidental to the compound of herein petitioner company to report for reinstatement per order of the court. Respondent workers were, however, refused reinstatement by company accountant Francisco Cusi for he had no order from plant owner Eduardo Claparols nor from his lawyer Atty. Plaridel Katalbas, to reinstate respondent workers.

Again, on December 15, 1964, respondent workers were accompanied by a police officer to the company compound, but then, they were again refused reinstatement by Cusi on the same ground.

On January 15, 1965, the CIR Chief Examiner submitted his report containing three computations, to wit:

> "The first computation covers the period February 1, 1957 to October 31, 1964. The second is up to and including December 7, 1962, when the corporation stopped operations, while the third is only up to June 30, 1957 when the Claparols Steel and Nail Plant ceased to operate" (Annex B, Petition for Review on *Certiorari*, p. 14, Brief for appellees, p. 113, rec.).

With the explanation that:

> "6. Since the records of the Claparols Steel Corporation show that it was established on July 1, 1957 succeeding the Claparols Steel and Nail Plant which ceased operations on June 30, 1957, and that the Claparols Steel Corporation stopped operations on December 7, 1962, three (3) computations are presented herein for the consideration of this Honorable Court" (p. 2, Report of Examiner, p. 29, rec.)

On January 23, 1965, petitioners filed an opposition alleging that under the circumstances presently engulfing the company, petitioner Claparols could not personally reinstate respondent workers; that assuming the workers are entitled to back wages, the same should only be limited to three months pursuant to the court ruling in the case of Sta. Cecilia Sawmills vs. CIR (L-19273-74, February 20, 1964); and that since Claparols Steel Corporation ceased to operate on December 7, 1962, re-employment of respondent workers cannot go beyond December 7, 1962.

A reply to petitioner's opposition was filed by respondent workers, alleging among others, that Claparols Steel and Nail Plant and Claparols Steel and Nail Corporation are one and the same corporation controlled by petitioner Claparols, with the latter corporation succeeding the former.

On November 28, 1966, after conducting a series of hearings on the report of the examiner, respondent Court issued an order, the dispositive portion of which reads:

> "WHEREFORE, the Report of the Examiner filed on January 15, 1965, is hereby approved subject to the foregoing findings and dispositions. Consequently, the Corporation Auditing Examiner is directed to recompute the back wages of complainants Demetrio Garlitos and Alfredo Ongsuco on the basis of P200.00 and P270.00 a month, respectively; to compute those of complainant Ignacio Quioyo as aforesaid; to compute the deductible earnings of complainants Ongsuco, Jorge Semillano and Garlitos, as found in the body of this order; and to compute the bonuses of each and every complainant, except Honorato Quioyo. Thereafter, as soon as possible, the Examiner should submit a report in compliance herewith of the Court's further disposition" (p. 24, Brief for Respondents, p. 113, rec.)

On December 7, 1966, a motion for reconsideration was filed by petitioner, assailing respondent Court's ruling that (1) the ruling in the case of Sta. Cecilia Sawmills Inc. CIR, et. al. does not apply in the case at bar; and (2) that bonus should be included in the recoverable wages.

On December 14, 1966, a counter-opposition was filed by private respondents alleging that petitioners' motion for reconsideration was pro forma, it not making express reference to the testimony or documentary evidence or to the provision of law alleged to be contrary to such findings or conclusions of respondent Court.

On February 8, 1967, respondent Court of Industrial Relations dismissed petitioners' motion for reconsideration for being pro forma.

Whereupon, petitioners filed a petition for *certiorari* with this COURT in G.R. No. L-27272 to set aside the November 28, 1966 order of respondent Court, as well as its February 8, 1967 resolution. Petitioners assigned therein as errors of law the very same assignment of errors it raises in the present case, to wit:

> "I
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> "THE RESPONDENT COURT ERRED AND/OR ACTED WITH GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OF JURISDICTION, IN HOLDING IN THE ORDER UNDER REVIEW THAT BONUSES SHOULD BE PAID TO THE RESPONDENT WORKERS DESPITE THE FACT THAT THE SAME WAS NOT ADJUDICATED IN ITS ORIGINAL DECISION.
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> "II
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> "THE RESPONDENT COURT ERRED AND/OR ACTED WITH GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OF JURISDICTION, IN NOT APPLYING THE DOCTRINE LAID DOWN BY THIS HONORABLE TRIBUNAL IN THE CASE OF 'STA. CECILIA SAWMILLS, INC. VS. C.I.R., ET. AL.,' G.R. No. L-19273-74, PROMULGATED ON FEBRUARY 29, 1964" (pp. 10-11, rec.)

On April 27, 1967, the Supreme Court denied petitioners' petition for *certiorari* (p. 77, rec. of L-27272), which was reiterated on May 19, 1967 (p. 27, Respondent's Brief, p. 113, rec.; p. 81, rec. of L-27272).

On May 3, 1967, private respondents moved to have the workers' back wages properly recomputed. A motion to the same end was reiterated by private respondents on June 14, 1967.

On July 13, 1967, respondent Court directed a recomputation of the back wages of respondent workers in accordance with its order dated November 28, 1966. The said order in part reads:

> "WHEREFORE, the Chief Auditing Examiner of the Court or any of his assistants, is hereby directed to recompute the back wages of the workers involved in this case in accordance with the Order of November 28, 1966, within 20 days from receipt of a copy of this Order" (p. 28, Brief for Respondents, p. 113, rec.)

Then on March 21, 1968, the Chief Examiner came out with his report, the disputed portion of which (regarding bonuses) reads:

> "x x x
>
> "4. The yearly bonuses of the employees and laborers of respondent corporation are given on the following basis:
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> "Basic Additional:
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> "a. For every dependent - 1% of monthly salary
>
> "b. For every dependent in elementary grade - 2% of monthly salary
>
> "c. For every dependent in high school - 3% of monthly salary
>
> "d. For every dependent in college - 5% of monthly salary
>
> x x x
>
> "7. The computed bonuses after deducting the earnings elsewhere of Messrs. Ongsuco, Garlitos and Semillano, are as follows:

	"**Name**	**Bonuses**
1.	Alfredo Ongsuco	P1,620.00
2.	Demetrio Garlitos	1,200.00
3.	Ignacio Quioyo	455.23
4.	Aser Abancio	461.00
5.	Ludovico Belopeños	752.05
6.	Salvador Doroteo	714.70
7.	Rosendo Espinosa	1,075.40
8.	Gaudencio Quioyo	1,167.92
9.	Jorge Semillano	1,212.08
10.	Maximo Quioyo	449.41
	Total	P9,107.79"
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(Pp. 30-31, Respondent's Brief, p. 113, rec.).

On April 16, 1968, petitioners filed their opposition to the report of the Examiner dated March 21, 1968 on grounds already rejected by respondent Court in its order dated November 28, 1966, and by the Supreme Court also in its ruling in G.R. No. L-27272.

On May 4, 1968, a rejoinder to petitioners' opposition was filed by private respondents, alleging among others "that the grounds of petitioners' opposition were the same grounds raised by them before and passed upon by respondent Court and this Honorable Tribunal; that this order of November 28, 1966 which passed upon these issues became final and executory on June 3, 1967 from the Honorable Supreme Court. (Order of respondent Court dated July 13, 1967)." [P. 32, Brief for Respondents, p. 113, rec.].

On July 26, 1968, private respondents filed their motion for approval of the Report of the Examiner submitted on March 21, 1968, alleging, among others, that petitioners, in their opposition, did not actually dispute the data elicited by the Chief Examiner but rather harped on grounds which, as already stated, had already been turned down by the Supreme Court.

On October 19, 1968, herein private respondents filed their "Constancia", submitting the case for resolution of respondent Court of Industrial Relations.

On May 30, 1969, respondent Court issued an order, subject of the present appeal, the dispositive portion of which reads:

> "WHEREFORE, there being no proof offered to substantiate respondent Eduardo Claparols' opposition, the Examiner's Report should be, and it is hereby, APPROVED. Consequently, pursuant to the decision dated September 16, 1963, respondent (petitioners herein) are hereby directed to pay the respective back wages and bonuses of the complainants (respondents herein)." (p 35, Brief for Respondents; p. 113, rec.; Emphasis supplied).

On June 7, 1969, petitioners filed a motion for reconsideration on practically the same grounds previously raised by them.

On June 30, 1969, respondents filed an opposition to petitioners' motion for reconsideration, with the following allegations:

> "1. The issues raised, namely, whether bonuses should be included in the award for back wages had already been resolved by respondent court in its orders dated November 28, 1966, and December 7, 1966, and in the Resolution of the Honorable Supreme Court in G.R. No. L-27272 dated April 26, 1967 and May 19, 1967, and the same is already a settled and final issue.
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> "2. Petitioners' motion for reconsideration is merely a rehash of previous arguments, effete and unrejuvenated, pro forma, and intended merely to delay the proceedings."

As correctly contended by private respondents, the present petition is barred by Our resolutions of April 26, 1967 and May 19, 1967 in G.R. No. L-27272 (Eduardo Claparols, et. al. vs. CIR, et. al.) [pp. 77-83, rec. of L-27272], dismissing said case, wherein said petitioners invoked the applicability of the doctrine in Sta. Cecilia Sawmills, Inc. vs. CIR, et. al. (L-19273-74, Feb. 29, 1964, 10 SCRA 433) and

impugned the illegality of the order of respondent Court dated November 28, 1966 directing the computation and payment of the bonuses, aside from back wages on the ground that these bonuses were not included in the decision of September 16, 1963, which had long become final.

The aforesaid resolutions in G.R. No. L-27272 constitute the law of the instant case, wherein herein petitioners raised again practically the same issues invoked in the above mentioned case. The denial of the petition in G.R. No. L-27272 suffices to warrant the denial of the present petition; and We need not go any further.

However, without lending a sympathetic ear to the obvious desire of herein petitioners of this Court to re-examine — which would be an exercise in futility — the final ruling in G.R. No. L-27272, which as above-stated is the law of the instant case, but solely to remind herein petitioners, We reiterate the governing principles.

WE uniformly held that "a bonus is not a demandable and enforceable obligation, except when it is made part of the wage or salary compensation" (Philippine Education Co. vs. CIR and the Union of Philippine Co. Employees [NLU], 92 Phil. 381; Ansay, et. al. vs. National Development Co., et. al., 107 Phil. 998, 999; Emphasis supplied).

In Atok Big Wedge Mining Co. vs. Atok Big Wedge Mutual Benefit Association (92 Phil. 754), this Court, thru Justice Labrador, held:

> "Whether or not bonus forms part of wages depends upon the condition or circumstance for its payment. If it is an additional compensation WHICH THE EMPLOYER PROMISED AND AGREED to give without any condition imposed for its payment then it is part of the wage." (Emphasis supplied).

In Altomonte vs. Philippine American Drug Co. (106 Phil. 137), the Supreme Court held that an employee is not entitled to bonus where there is no showing that it had been granted by the employer to its employees periodically or regularly as to become part of their wages or salaries. The clear implication is that bonus is recoverable as part

of the wage or salary where the employer regularly or periodically gives it to employees.

American jurisprudence equally regards bonuses as part of compensation or recoverable wages.

Thus, it was held that "it follows that in determining the regular rate of pay, a bonus which in fact constitutes PART OF AN EMPLOYEE'S compensation, rather than a true gift or gratuity, has to be taken into consideration." (48 Am. Jur. 2d, Labor and Labor Relations, No. 1555, citing the cases of Triple "AAA" Co. vs. Wirtz and Haber vs. Americana Corporation; Emphasis supplied). It was further held that "the regular rate includes incentive bonuses paid to the employees in addition to the guaranteed base rates regardless of any contract provision to the contrary and even though such bonuses could not be determined or paid until such time after the payday" (48 Am. Jur. 2d, Labor and Labor Relations, No. 1555, citing the case of Walling vs. Harnischfeger Corp., 325 US 427, 89 L Ed 1711, 65 S Ct. 1246; Emphasis supplied).

Petitioners in the present case do not dispute that as a matter of tradition, the company has been doling out bonuses to employees. In fact, the company balance sheets for the years 1956 to 1962 contained bonus and pension computations which were never repudiated or questioned by petitioners. As such, bonus for a given year earmarked as a matter of tradition for distribution to employees has formed part of their recoverable wages from the company. Moreover, with greater reason, should recovery of bonuses as part of back wages be observed in the present case since the company, in the light of the very admission of company accountant Francisco Cusi, distributes bonuses to its employees even if the company has suffered losses. Specifically, petitioner company has done this in 1962 (t.s.n., p. 149, Sept. 20, 1965).

Since bonuses are part of back wages of private respondents, the order of May 30, 1969, directing the payment of their bonuses, did not amend the decision of September 16, 1963 of respondent Court directing payment of their wages, which has long become final and executory, in the same way that the previous order of May 14, 1964 granting execution of said decision of September 16, 1963 also

directed the computation of the wages to be paid to private respondents as decreed by the decision of September 16, 1963. All the orders of May 30, 1969, November 28, 1966 and May 14, 1964 merely implement the already final and executory decision of September 16, 1963.

Petitioners insist that We adopt the ruling in the Sta. Cecilia Sawmills case wherein the recoverable back wages were limited to only three (3) months: because as in the Sta. Cecilia Sawmills case, the Claparols Steel and Nail Plant ceased operations due to enormous business reverses.

Respondent Court's findings that indeed the Claparols Steel and Nail Plant, which ceased operation of June 30, 1957, vs. as SUCCEEDED by the Claparols Steel Corporation effective the next day, July 1, 1957 up to December 7, 1962, when the latter finally ceased to operate, were not disputed by petitioners. It is very clear that the latter corporation was a continuation and successor of the first entity, and its emergence was skillfully timed to avoid the financial liability that already attached to its predecessor, the Claparols Steel and Nail Plant. Both predecessors and successor were owned and controlled by petitioner Eduardo Claparols and there was no break in the succession and continuity of the same business. This "avoiding-the-liability" scheme is very patent, considering that 90% of the subscribed shares of stocks of the Claparols Steel Corporation (the second corporation) was owned by respondent (herein petitioner) Claparols himself, and all the assets of the dissolved Claparols Steel and Nail Plant were turned over to the emerging Claparols Steel Corporation.

It is very obvious that the second corporation seeks the protective shield of a corporate fiction whose veil in the present case could, and should, be pierced as it was deliberately and maliciously designed to evade its financial obligation to its employees.

It is well remembering that in Yutivo & Sons Hardware Company vs. Court of Tax Appeals (L-13203, Jan. 28, 1961, 1 SCRA 160), We held that when the notion of legal entity is used to defeat public convenience, justify wrong, protect fraud, or defend crime, the law

will regard the corporation as an association or persons, or, in the case of two corporations, will merge them into one.

In Liddel & Company, Inc. vs. Collector of Internal Revenue (L-9687, June 30, 1961, 2 SCRA 632), this Court likewise held that where a corporation is a dummy and serves no business purpose and is intended only as a blind, the corporate fiction may be ignored.

In Commissioner of Internal Revenue vs. Norton and Harrison Company (L-17618, Aug. 31, 1964, 11 SCRA 714), We ruled that where a corporation is merely an adjunct, business conduit or alter ego of another corporation, the fiction of separate and distinct corporate entities should be disregarded.

To the same uniform effect are the decisions in the cases of Republic vs. Razon (L-17462, May 29, 1967, 20 SCRA 234) and A.D. Santos, Inc. vs. Vasquez (L-23586, March 20, 1968, 22 SCRA 1156).

WE agree with respondent Court of Industrial Relations, therefore, that the amount of back wages recoverable by respondent workers from petitioners should be the amount accruing up to December 7, 1962 when the Claparols Steel Corporation ceased operations.

WHEREFORE, PETITION IS HEREBY DENIED WITH TREBLE COSTS AGAINST PETITIONERS TO BE PAID BY THEIR COUNSEL.

Castro, *J.*, *(Chairman)*, Esguerra, Muñoz Palma and Martin, *JJ.*, concur.
Teehankee, *J.*, is on leave.