

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**DEVELOPMENT BANK OF THE
PHILIPPINES,**
Petitioner,

-versus-

**G.R. No. 108031
March 1, 1995**

**NATIONAL LABOR RELATIONS
COMMISSION and LEONOR A. ANG,**
Respondents.

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DECISION

BELLOSILLO, J.:

Is declaration of bankruptcy or judicial liquidation required before the worker's preference may be invoked under Art. 110 of the Labor Code?

On 21 March 1977 private respondent Leonor A. Ang started employment as Executive Secretary with Tropical Philippines

Wood Industries, Inc. (TPWII), a corporation engaged in the manufacture and sale of veneer, plywood and sawdust panel boards. In 1982 she was promoted to the position of Personal Officer.

In September 1983 petitioner Development Bank of the Philippines, as mortgagee of TPWII, foreclosed TPWII continued its business operations interrupted only by brief shutdowns for the purpose of servicing its plant facilities and equipment. In January 1986 petitioner took possession of the foreclosed properties. As a consequence private respondent was on 15 April 1986 verbally terminated from the service.

On 14 December 1987 aggrieved by the termination of her employment, private respondent filed with the Labor Arbiter a complaint for separation pay, 13th month pay, vacation and sick leave pay, salaries and allowances against TPWII, its General Manager, and petitioner.

After hearing the Labor Arbiter found TPWII primarily liable to private respondent but only for her separation pay and vacation and sick leave pay because her claims for unpaid wages and 13th month pay were her claims for unpaid wages and 13th month pay were later paid after the complaint was filed.^[1] The General Manager was absolved of any liability. But with respect to petitioner, it was held subsidiarily liable in the event the company failed to satisfy the judgment. The Labor Arbiter rationalized that the right of an employee to be paid benefits due him from the properties of his employer is superior to the right of the latter's mortgagee, citing this Court's resolution in *PNB vs. Delta Motor Workers Union*.^[2]

On 16 November 1992 public respondent National Labor Relations Commission affirmed the ruling of the Labor Arbiter.^[3]

The issue now before us is whether public respondent committed grave abuse of discretion in holding that Art. 110 of the Labor Code, as amended, which refers to worker preference in case of bankruptcy or liquidation of an employer's business,

is applicable to the present case notwithstanding the absence of any formal declaration of bankruptcy or judicial liquidation of TPWII.

Petitioner argues that the decision of public respondent runs counter to the consistent rulings of this Court in a long line of cases emphasizing that the applicant of Art. 110 of the Labor Code is contingent upon the institution of bankruptcy or judicial liquidation proceedings against the employer.

We hold that public respondent gravely abused its discretion in affirming the decision of the Labor Arbiter. Art. 110 should not be treated apart from other laws but applied in conjunction with the pertinent provisions of the Civil Code and the Insolvency Law to the extent that piece-meal distribution of the assets of the debtor is avoided. Art. 110, then prevailing, provides:

Art. 110. Worker preference in case of bankruptcy. — In the event of bankruptcy or liquidation of an employer's business, his workers shall enjoy first preference as regards wages due them for services rendered during the period prior to the bankruptcy or liquidation, any provision to the contrary notwithstanding. Unpaid wages shall be paid in full before other creditors may establish any claim to a share in the assets of the employer.

Complementing Art. 110, Sec. 10, Rule VIII, Book III, of the Revised Rules and Regulations Implementing the Labor Code provides:

Sec. 10. Payment of wages in case of bankruptcy. — Unpaid wages earned by the employees before the declaration of bankruptcy or judicial liquidation of the employer's business shall be given first preference and shall be paid in full before other creditors may establish any claim to a share in the assets of the employer.

We interpreted this provision in *Development Bank of the Philippines vs. Santos*^[4] to mean that —

A declaration of bankruptcy or a judicial liquidation must be present before the worker's preference may be enforced. Thus, Article 110 of the Labor Code and its implementing rule cannot be invoked by the respondents in this case absent a formal declaration of bankruptcy or a liquidation order. (Emphasis supplied).

The rationale is that to hold Art. 110 to be applicable also to extrajudicial proceedings would be putting the worker in a better position than the State which could only assert its own prior preference in case of a judicial proceeding.^[5] Art. 110, which was amended by R.A. 6715 effective 21 March 1989, now reads:

Art. 110. Worker preference in case of bankruptcy. — In the event of bankruptcy or liquidation of an employer's business, his workers shall enjoy first preference as regards their unpaid wages and other monetary claims, any provision of law to the contrary notwithstanding. Such unpaid wages and monetary claims shall be paid in full before the claims of the Government and other creditors may be paid.

Obviously, the amendment expanded the concept of "worker preference" to cover not only unpaid wages but also other monetary claims to which even claims of the Government must be deemed subordinate. The Rules and Regulations Implementing R.A. 6715, approved 24 May 1989, also amended the corresponding implementing rule, and now reads:

Sec. 10. Payment of wages and other monetary claims in case of bankruptcy. — In case of bankruptcy or liquidation of the employer's business, the unpaid wages and other monetary claims of the employees shall be given first preference and shall be paid in full before the claims of government and other creditors may be paid.

Although the terms "declaration" (of bankruptcy) or "judicial" (liquidation) have been notably eliminated, still in *Development Bank of the Philippines vs. NLRC*,^[6] this Court did not alter its original position that the right to preference given to workers under Art. 110 cannot exist in any effective way prior to the time

of its presentation in distribution proceedings. In effect, we reiterated our previous interpretation in *Development Bank of the Philippines vs. Santos* where we said:

It (worker preference) will find application when, in proceedings such as insolvency, such unpaid wages shall be paid in full before the 'claims of the Government and other creditor' may be paid. But, for an orderly settlement of a debtor's assets, all creditors must be convened, their claims ascertained and inventoried, and thereafter the preferences determined in the course of judicial proceedings which have for their object the subjection of the property of the debtor to the payment of his debts or other lawful litigations. Thereby, an orderly determination of preference of creditors' claims is assured (*Philippine Savings Bank vs. Lantin*, No. 33929, September 2, 1983, 124 SCRA 476); the adjudication made will be binding on all parties-in-interest since those proceedings are proceedings in rem; and the legal scheme of classification, concurrence and preference of credits in the Civil Code, the Insolvency Law, and the Labor Code is preserved in harmony.^[7]

In ruling, as we did, in *Development Bank of the Philippines vs. Santos*, we took into account the following pronouncements:

In the event of insolvency, a principal objective should be to effect an equitable distribution of the insolvent's property among his creditors. To accomplish this there must first be some proceeding where notice to all of the insolvent's creditors may be given and where the claims of preferred creditors may be binding adjudicated. (*De Barretto vs. Villanueva*, No. L-14938, December 29, 1962, 6 SCRA 928). The rationale therefore has been expressed in the recent case of *DBP vs. Secretary of Labor* (G.R. No. 79351, 28 November 1989), which we quote:

A preference of credit bestows upon the preferred creditor and advantage of having his credit satisfied first ahead of other claims which may be established against the debtor.

Logically, it becomes material only when the properties and assets of the debtors are insufficient to pay his debts in full; for if the debtor is amply able to pay his various creditors in full, how can the necessity exist to determine which of his creditors shall be paid first or whether they shall be paid out of the proceeds of the sale (of) the debtor's specific property. Indubitably, the preferential right of credit attains significance only after the properties of the debtor have been inventoried and liquidated, and the claims held by his various creditors have been established (Kuenzle & Streiff (Ltd.) vs. Villanueva, 41 Phil 611 [1916]; Barretto vs. Villanueva, G.R. No. 14938, 29 December 1962, 6 SCRA 928; Philippine Savings Bank vs. Lantin, G.R. No. 33929, 2 September 1983, 124 SCRA 476).

In the present case, there is as yet no declaration of bankruptcy nor judicial liquidation of TPWII. Hence, it would be premature to enforce the worker's preference.

The additional ratiocination of public respondent that "under Article 110 of the Labor Code complainant enjoys a preference of credit over the properties of TPWII being held in possession by DBP," is a dismal misconception of the nature of preference of credit, a subject matter which we have already discussed in clear and simple terms and even distinguished from a lien in *Development Bank of the Philippines vs. NLRC*^[8] —

A preference applies only to claims which do not attach to specific properties. A lien creates a charge on a particular property. The right of first preference as regards unpaid wages recognized by Article 110 does not constitute a lien on the property of the insolvent debtor in favor of workers. It is but a preference of credit in their favor, a preference in application. It is a method adopted to determine and specify the order in which credits should be paid in the final distribution of the proceeds of the insolvent's assets. It is a right to a first preference in the discharge of the funds of the judgment debtor. In the words of *Republic vs. Peralta*, supra: 'Article 110 of the Labor Code does not purport to create a lien in favor of workers

or employees for unpaid wages either upon all of the properties or upon any particular property owned by their employer. Claims for unpaid wages do not therefore fall at all within the category of specially preferred claims established under Articles 2241 and 2242 of the Civil Code, except to the extent that such claims for unpaid wages are already covered by Article 2241, number 6: 'claims for laborers' wages, on the goods manufactured or the work done;' or by Article 2242, number 3: 'claims of laborers and other workers engaged in the construction, reconstruction or repair of buildings, canals and other works, upon said buildings, canals and other works . . . To the extent that claims for unpaid wages fall outside the scope of Article 2241, number 6, and 2242, number 3, they would come within the ambit of the category of ordinary preferred credits under Article 2244.

The DBP anchors its claims on a mortgage credit. A mortgage directly and immediately subjects the property upon which it is imposed, whoever the possessor may be, to the fulfillment of the obligation for whose security it was constituted (Article 2176, Civil Code). It creates a real right which is enforceable against the whole world. It is a lien on an identified immovable property, which a preference is not. A recorded mortgage credit is a special preferred credit under Article 2242 (5) of the Civil Code on classification of credits. The preference given by Article 110, when not falling within Article 2241 (6) and Article 2242 (3) of the Civil Code and not attached to any specific property, is an ordinary preferred credit although its impact is to move it from second priority in the order of preference established by Article 2244 of the Civil Code.

The present controversy could have been easily settled by public respondent had it referred to ample jurisprudence which already provides the solution. *Stare decisis et non quieta movere*. Once a case is decided by this Court as the final arbiter of any justiciable controversy one way, then another case involving exactly the same point at issue should be decided in the same manner. Public respondent had no choice on the matter. It could not have ruled any other way. This Court having spoken in a string of cases against public precedents.^[9] Any further disregard, if not defiance, of our

rulings will be considered a ground to hold public respondent in contempt.

WHEREFORE, the petition is **GRANTED**. The decision of public respondent National Labor Relations Commission affirming the decision of the Labor Arbiter insofar as it held petitioner Development Bank of the Philippines liable for the monetary claims of private respondent Leonor A. Ang is **SET ASIDE**. The temporary restraining order we issued on 8 February 1993 10 enjoining the execution of the decision of public respondent against petitioner is made **PERMANENT**.

SO ORDERED.

Davide, Jr., Quiason and Kapunan, JJ., concur.

[1] Rollo, pp. 45-46.

[2] G.R. Nos. 75161-62, 3 April 1987.

[3] Rollo, p. 38.

[4] G.R. Nos. 78261-61, 8 March 1989, 171 SCRA 138.

[5] Republic vs. Peralta, G.R. No. 56568, 20 May 1987, 150 SCRA 37.

[6] G. R. Nos. 82763-64, 19 March 1990, 183 SCRA 328.

[7] Invoked as a leading authority in Development Bank of the Philippines vs. NLRC, G.R. No. 86932, 27 June 1990, 186 SCRA 841; Development Bank of the Philippines vs. NLRC, G.R. Nos. 100264-81, 29 January 1993, 218 SCRA 183; Development Bank of the Philippines vs. NLRC, G.R. No. 86227, 19 January 1994, 229 SCRA 350, and other cases.

[8] See Note 6, pp. 337-338.

[9] Pines City Educational Center vs. NLRC, G.R. No. 96779, 10 November 1993, 227 SCRA 655.

[10] Rollo, pp. 67-68.

SEPARATE OPINIONS

PADILLA, J ., dissenting:

I am constrained to record my dissent from the ponencia prepared by Mr. Justice Bellosillo. I have no difficulty in going along with the

proposition that ruling pronounced by the majority in litigations reaching the Supreme Court should be followed by lower courts and other agencies and instrumentalities of the government. But my silence in the wake of the reiterations made by the majority opinion in this case could be misconstrued as a relaxation or softening of my views on the matter of workers' absolute preference in the payment of their wages and monetary claims for benefits. It is only for this reason that I reiterate perhaps with greater vigor, my views on this subject in the hope that, in the not too distant future, my humble views could merit acceptance by the Court. After all, these views are anchored on the worth and dignity of the human person such that pay or compensation for his toil should really be a topmost priority in our scale of values.

In *DBP vs. NLRC, et al.*, G.R. Nos. 82763-64, 183 SCRA 328, I said in my dissenting opinion:

“The majority, in my considered opinion, has failed to fully take into account the radical change introduced by Republic Act 6715 into the system of priorities or preferences among credits or creditors ordained by the Civil Code.

Under the provisions of the Civil Code, specifically, Articles 2241 and 2242, jointly with Articles 2246 to 2249, a two-tier order of preference of credits is established. The first tier includes only taxes, duties and fees on specific movable or immovable property. All other special preferred credits stand on a second tier.^[1]

Under the system of preferences in the Civil Code, only enjoy absolute preference, i.e., they exclude the credits of the lower order until such taxes are fully satisfied out of the proceeds of the sale of the property subject of the preference, and taxes can even exhaust such proceeds. All other special preferred credits enjoy no priority among themselves but must be paid or satisfied pro rata. To make the prorating fully effective, the preferred creditors enumerated in Nos. 2 to 13 of Article 2241 and Nos. 2 to 10 of Article 2242 must be convened and the import of their claims ascertained in some proceeding where the claims of all may be bindingly adjudicated.

With the amendment of Article 110 of the Labor Code by Republic Act 6715, a three-tier order of preference is established wherein unpaid wages and other monetary claims of workers enjoy absolute preference over all other claims, including those of the Government, in cases where a debtor-employer is unable to pay in full all his obligations. The absolute preference given to monetary claims of workers, to which claims of the Government, i.e. taxes, are now subordinated, manifests the clear and deliberate intent of our lawmaker to put flesh and blood into the expressed Constitutional policy of protecting the rights of workers and promoting their welfare.^[2]

I thus take exception to the proposition that a prior formal declaration of insolvency or bankruptcy or a judicial liquidation of the employer's business is a condition sine qua non to the operation of the preference accorded to workers under Article 110 of the Labor Code, for the following specific reasons:

First, the majority reads into the aforesaid law and implementing rule a qualification that is not there. Nowhere is it stated in the present law and its new implementing rule that a prior declaration of bankruptcy or judicial liquidation is a condition sine qua non to the operation of Article 110. In fact, it will be noted that the phrase declaration of bankruptcy or judicial liquidation of the employer's business, which formerly appeared in Section 10, Rule VIII, Book III of the Revised Rules and Regulations Implementing the Labor Code has been deleted in the new implementing rule. What is to me even more obvious and, therefore, significant in the present law and implementing new rule is the unconditional and unqualified grant of priority to workers monetary claims over and above all other claims as against all the assets of an employer incapable of fully paying his obligations.

Second, a proceeding in rem, by its nature, seeks to bar any other person who claims any interest in the property or right subject of the suit. To my mind, such a proceeding is not essential or necessary to enforce the workers preferential right over the assets of the insolvent debtor as against other creditors

of the lower tier, as Article 110 of the Labor Code itself bars the satisfaction of claims of other creditors, including the Government, until unpaid wages and monetary claims of the workers are first satisfied in full. Further, it appears that such a proceeding is essential only where the credits are concurring and enjoy no preference over one another, but not when the law accords to one of the credits absolute priority and undisputed supremacy. This submission finds support, by analogy, in the case of *De Barretto vs. Villanueva*, where the Court stated:

‘Thus it becomes evident that one preferred creditor’s third party claim to the proceeds of the foreclosure (as in the case now before us) is not the proceeding contemplated by law for the enforcement of preference under Article 2242, unless the claimants were enforcing credit for taxes that enjoy absolute priority. If none of the claim is for taxes, a dispute between two creditors will not enable the court to ascertain the prorata dividend corresponding to each, because the rights of other creditors likewise enjoying preference under Article 2242 cannot be ascertained.’^[3] (Emphasis ours)

In sum, it is to me clear that, whenever or not there be a judicial proceeding in rem, i.e., insolvency, bankruptcy or liquidation proceedings, the fact remains that Congress intends that the assets of the involvent debtor be held, first and above else, to satisfy in full the unpaid wages and monetary claims of its workers. Translated into the case at bar, a formal declaration of insolvency or bankruptcy or judicial liquidation of the employer’s business should not be a price imposed upon the workers to enable them to get their much needed and already adjudicated unpaid wages. This position, I believe, is only in keeping with a fundamental state policy enshrined in the Constitutional mandate to accord protection to labor. The legislative intent being clear and manifest, it is the duty of this Court, I submit, not to decimate but to give it breath and life.

ACCORDINGLY, I vote to DISMISS the DBP petition and to AFFIRM the resolution of the NLRC in favor of LAND.”

In *Conchita S. Hautea, etc. vs. NLRC, et al.*, G.R. No. 96149, 230 SCRA 119, I said in my dissenting opinion:

“1. The distinction made between a preference of credit and a lien does not, in my view, negate the clear intent of the law (Rep. Act No. 6715) in giving absolute preference to unpaid wages and other monetary claims of workers over and all other claims including those of the Government.

It should be recalled that Article 110 of the Labor Code as amended by Republic Act No. 6715 states:

‘Workers preference in case of bankruptcy. — In the event of bankruptcy or liquidation of an employer’s business, his workers shall enjoy first preference as regards their wages and other monetary claims, any provision of law to the contrary notwithstanding. Such unpaid wages and monetary claims shall be paid in full before claims of the government and other creditors may be unpaid.’
(Emphasis supplied)

It is to be noted that the law gives absolute preference to workers’ claims for unpaid wages and monetary benefits, subordinating even claims of the government. The clear legislative intent is to give life to Article II, Section 18 of the Constitution which protects the rights of workers and promotes their welfare.

2. Neither can the argument in the DBP case that a mortgage credit is a ‘special preferred credit’ under Article 2242(5) of the Civil Code be used to support the conclusion of the majority, for the law expressly and unqualifiedly states that workers’ claims are given first preference over all other claims, any provision of law to the contrary notwithstanding. This, to me, is the only logical interpretation that can be made from the letter, intent and spirit of the law and the Constitution. To give any claim other than those of worker first preference would plainly violate that letters, intent and spirit of the law and the Constitution.”

ACCORDINGLY, I vote to **DISMISS** the petition and to **AFFIRM** the decision of public respondent NLRC affirming the decision of the Labor Arbiter insofar as it hold petitioner DBP liable for the monetary claims of private respondent Leonor S. Ang.

PADILLA, J., dissenting:

[1] Republic vs. Peralta, 150 SCRA 37.

[2] Art. 11, Section 18 of the 1987 Constitution provides:

The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.

[3] De Barretto vs. Villanueva, 6 SCRA 928.
