

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
EN BANC**

**CONCHITA S. HAUTEA, in Substitution
of JOSE H. HAUTEA (*Deceased*),
*Petitioner,***

-versus-

**G.R. No. 96149
February 16, 1994**

**NATIONAL LABOR RELATIONS
COMMISSION, ASSET PRIVATIZATION
TRUST AND PHILIPPINE NATIONAL
BANK,**

Respondents.

X-----X

DECISION

NOCON, J.:

Petitioner entreats this Court to nullify the Decision dated August 13, 1990 of respondent National Labor Relations Commission (NLRC) in Injunction cases Nos. 1457 and 1469, entitled "Asset Privatization Trust/Philippine National Bank v. Jose Hautea and Rodolfo G. Layoc, Executive Labor Arbiter, Arbitration Branch, Region IV, NLRC, Iloilo City."

The questioned decision annulled the decision dated March 12, 1987 of the Labor Arbiter in RAB Case No. VI-0007-87 which ordered

Calinog-Lambunao Sugar Mill, Inc. (CLSMI) to pay Jose H. Hautea separation pay/retirement benefits, moral damages and attorney's fees amounting to P276,000.00, insofar as said Labor Arbiter's decision affected Philippine National Bank (PNB). The questioned decision of the NLRC also ordered the writ of execution issued on April 23, 1987 and the order of the Labor Arbiter dated May 22, 1987 vacated and set aside and the levy on the properties of PNB lifted.

Petitioner imputes grave abuse of discretion on the part of public respondent in annulling the decision of the labor arbiter insofar as it affected PNB on the grounds that PNB, though impleaded as party-respondent was never properly served with summons and that no execution can be maintained against the properties foreclosed by PNB pursuant to the case of Development Bank of the Philippines v. NLRC.^[1]

The facts show that on January, 1967, Jose Hautea was hired by the Calinog-Lambunao Sugarmill, Inc. (CLSMI). In December, 1984, he retired from his employment with CLSMI. On December 2, 1986, the PNB extrajudicially foreclosed the real and personal mortgaged to it by CLSMI and at the auction sale it was the sole bidder.

On January 12, 1987, Jose Hautea filed with the public respondent a complaint for separation pay/retirement benefits against CLSMI and/or PNB. On January 29, 1987, the complaint was amended to include damages and attorney's fees. The respondents CLSMI and/or PNB were furnished with copies of the complaint and amended complaint through CLSMI at its offices at Calinog, Iloilo. All notices of hearing were likewise sent to CLSMI at its offices. For failure to appear during the scheduled hearings, CLSMI and PNB were declared in default.

On February 27, 1987, the properties of CLSMI foreclosed by PNB were transferred and assigned in favor of the Government of the Republic of the Philippines thru the Asset Privatization Trust (APT), by virtue of Proclamation No. 50, as amended, and the Deed of Transfer.

On March 12, 1987, the Labor Arbiter rendered a decision in favor of Jose Hautea and against CLSMI and PNB. On April 1, 1987, copy of

the decision was sent to CLSMI and PNB at the offices of CLSMI in Calinog, Iloilo.

On April 20, 1987, Jose Hautea filed a motion for execution. Acting on the motion, the Labor Arbiter issued on April 23, 1987 the necessary writ of execution. Sheriff Adorico Dadivas levied on the property of CLSMI worth more or less P1,500,000.00 which APT/PNB acquired through foreclosure of mortgage.

On May 5, 1987, the APT filed a third party claim with the Labor Arbiter, and later joined PNB in a petition for relief with application for preliminary injunction originally filed with the Labor Arbiter and later elevated to the NLRC (4th Division) at Cebu City.

On July 31, 1987, Jose Hautea died and he was substituted by his wife, Conchita S. Hautea, petitioner herein.

In a Decision^[2] dated August 13, 1990, respondent NLRC found for APT and PNB. The dispositive portion of the decision reads:

"WHEREFORE, in view of all the foregoing, the petition to annul the decision in RAB CASE No. VI-0007-87 insofar as it affects petitioner Philippine National Bank is GRANTED and the decision in said case is MODIFIED accordingly. The Writ of Execution issued on April 23, 1987 and the Order of the Labor Arbiter dated May 22, 1987 are VACATED and SET ASIDE. The levy on the properties of petitioner pursuant to the Writ of Execution is lifted.

"SO ORDERED."^[3]

On September 21, 1990, Conchita S. Hautea filed a motion for reconsideration which was denied on October 29, 1990.

Aggrieved, petitioner comes to us and raises the following issues:

"I. WHETHER OR NOT THE RESPONDENT NATIONAL LABOR RELATIONS COMMISSION ERRED IN APPLYING STRICTLY THE PROVISION OF THE RULES OF COURT ON THE SERVICE OF SUMMONS TO THE DETRIMENT OF THE

INTEREST OF EXPEDITIOUS LABOR JUSTICE,
PRACTICABILITY AND CONVENIENCE.

"II. WHETHER OR NOT THE RESPONDENT NATIONAL LABOR RELATIONS COMMISSION ERRED IN HOLDING THAT JOSE H. HAUTEA CANNOT LIKEWISE CLAIM COVERAGE UNDER SECTION 27 OF PROCLAMATION NO. 50 BECAUSE AS SPECIFICALLY PROVIDED UNDER SECTION 27 OF SAID PROCLAMATION WORK RELATED BENEFITS WILL ONLY BE EXTENDED TO EMPLOYEES OF COMPANIES WHO ARE OR WILL BE TERMINATED FROM EMPLOYMENT BY REASON OF SALE OR DISPOSITION OF THE COMPANIES' ASSETS."^[4]

In setting aside the decision of the Labor Arbiter, public respondent held that PNB was not properly served with summons, hence, it cannot be held liable for the claim of Jose H. Hautea. The question of validity of the service of summons of PNB is, however, immaterial. An examination of the dispositive portion of the Labor Arbiter's decision shows that PNB has not been adjudged to pay the judgment debt, to wit:

"WHEREFORE, premises considered, respondent Calinog-Lambunao Sugarmill, Inc. is hereby ordered to pay herein complainant the amount of P126,000.00 as separation pay, P125,000.00 as moral damages and P25,000.00 as attorney's fees.

"SO ORDERED."^[5]

Although PNB was impleaded as party respondent, it was not held liable for the claim of Jose H. Hautea. Correctly so, because it was not the employer of Hautea. It was dragged into the case because it has in its possession, property of the employer CLSMI which it had acquired through foreclosure of mortgage. Thus, as pointed out by the Solicitor General, its liability attached through the levy on the property which it had foreclosed. In this regard, the validity of the decision of the public respondent nullifying the decision of the Labor Arbiter based on the jurisdictional defect of lack of service of summons need not be discussed.

The second issue raises the question of whether the public respondent erred in not holding that Jose H. Hautea can claim coverage under Section 27 of Proclamation No. 50, which provides:

"Sec. 27. Automatic Termination of Employer-Employee Relations. Upon the sale or other disposition of the ownership and/or controlling interest of the government in a corporation held by the Trust, or all or substantially all of the assets of such corporation, the employer-employee relations between the government and other officers and the personnel of such corporations shall terminate by operation of law. None of such officers or employees shall retain any vested right to future employment in the privatized or disposed corporation, and the new owners or controlling interest holders thereof shall have full and absolute discretion to retain or dismiss said officers and employees and to hire the replacement or replacements of any one or all of them as the pleasure and confidence of such owners or controlling interest holders may dictate.

"Nothing in this section shall, however, be construed to deprive said officers and employees of their vested entitlements in accrued or due compensation and other benefits incident to their employment or attaching to termination under applicable employment contracts, collective bargaining agreements, and applicable legislation."

Clearly evident is that the foregoing provision speaks of entitlement to employment benefits of officers and employees of government corporations whose employment is terminated when the corporations are transferred to the Asset Privatization Trust. It does not support petitioner's submission that the award of employment benefits in her husband's favor can be satisfied from the properties of the corporation subject to a lien superior to that of the workers' preference of credit. Nevertheless, the question whether Jose H. Hautea is entitled to the benefits he had claimed is now beyond question. The judgment ordering CLSMI to pay him separation pay had become final and the only problem at hand is the enforcement of said judgment.

Thus, the relevant issue in this case is whether said judgment can be enforced against APT/PNB as mortgagee of the foreclosed properties of CLSMI.

Article 110 of the Labor Code, prior to its amendment by Republic Act No. 6715 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 wages due them for services rendered during the period prior to the bankruptcy or liquidation, any provision of law 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."

As amended by Republic Act 6715, Article 110 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."

In the 1990 *Development Bank of the Philippines v. NLRC* case (supra) involving the former employees of Lirag Textile Mills, Inc., this Court, En Banc, noted that the amendment expands worker preference to cover not only unpaid wages but also other monetary claims to which even claims of the Government must be deemed subordinate. Despite the elimination of the terms "declaration" of bankruptcy or "judicial" liquidation, this Court opined that liquidation proceedings have not been done away with. In the event of insolvency, there must be some proceedings where notice to all of the insolvent's creditors may be given and where the claims of preferred creditors may be bindingly adjudicated.

This Court emphasized therein that DBP's lien on Lirag's properties, being a mortgage credit, is a special preferred credit under Article

2241 of the Civil Code while the workers' preference is an ordinary preferred credit, to wit:

"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 to first priority in the order of preference established by Article 2244 of the Civil Code (Republic vs. Peralta, supra)."^[6]

In the 1993 Development Bank of the Philippines v. NLRC case^[7] involving claims for separation pay of employees of Republic Hardwood, Inc., the Third Division of this Court also emphasized that DBP's lien on Republic Hardwood, Inc.'s mortgage credit is a special preferred credit under Article 2242 of the Civil Code while the worker's preference is an ordinary preferred credit under Article 2244. While the decision had expressed that under the new Article 110 of the Labor Code, even mortgage credits are subordinate to worker's claims, the statement, however, was merely an obiter. Furthermore, RA 6715 amending Article 110 took effect only on March 21, 1989. The amendment cannot, therefore, be retroactively applied to, nor can it affect, the mortgage credit which was secured by the petitioner several years prior to its effectivity. In the 1990 Development Bank of the Philippines v. NLRC case, this Court enunciated the prospective application of the law, to wit:

"Even if Article 110 and its Implementing Rule, as amended, should be interpreted to mean 'absolute preference,' the same should be given only prospective effect in line with the cardinal rule that laws shall have no retroactive effect, unless the contrary is provided (Article 4, Civil Code). Thereby, any infringement on the constitutional guarantee on non-

impairment of the obligation of contracts (Section 10, Article III, 1987 Constitution) is also avoided. In point of fact, DBP's mortgage credit antedated by several years the amendatory law, RA No. 6715. To give Article 110 retroactive effect would be to wipe out the mortgage in DBP's favor and expose it to risk which it sought to protect itself against by requiring a collateral in the form of real property."^[8]

Considering that in the case at bar, PNB had extrajudicially foreclosed the properties of CLSMI on December 2, 1986, it is evident that the mortgage credit of PNB also antedated by several years the amendatory law, RA No. 6715 which became effective on March 21, 1989.

WHEREFORE, in view of the foregoing reasons, the questioned decision of public respondent National Labor Relations Commission is hereby **AFFIRMED**.

SO ORDERED.

Narvasa, C.J., Feliciano, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Vitug and Kapunan, JJ., concur.

Kapunan, J., took no part.

[1] G. R. Nos. 82-763-64, 183 SCRA 328 (1990).

[2] Penned by Presiding Commissioner Ernesto G. Ladrido III and Commissioners Irene E. Ceniza and Bernabe S. Batuhan.

[3] Rollo, pp. 26-27.

[4] Rollo, pp. 9-10.

[5] Ibid., p. 24.

[6] 1990 DBP v. NLRC (supra) at p. 338.

[7] G. R. No. 100264-81, 218 SCRA 183 (1993).

[8] 1990 DBP v. NLRC (supra) at p. 539.

SEPARATE OPINIONS

CRUZ, J ., dissenting:

I dissent for the reasons given in my dissents in Republic v. Peralta, 150 SCRA 37, and Development Bank of the Philippines v. NLRC, 183 SCRA 328, where I submitted, as I still do, that the Labor Code gives absolute preference to the worker's claims pursuant to the social justice policy.

Puno, J ., dissents.

PADILLA, J ., dissenting:

The majority opinion would deny the right of petitioner Conchita S. Hautea to enjoy her husband's earned benefits from his employer by ruling that petitioner has no right to CSLMI's assets superior to the preferred credit of private respondents. The majority has opted to follow the Court's 1990 DBP ruling^[1] and refuses to recognize the absolute preference of workers' claims to unpaid wages and monetary benefits, established by Republic Act No. 6715 in amending Article 110 of the Labor Code.

I, therefore, reiterates my dissenting opinion delivered in said DBP case. For reasons stated in said dissent, the workers' claims should not have been relegated then; it should not again be relegated now because —

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 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:

"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 wages and other monetary claims, any provisions 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 paid." (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 workers first preference would plainly violate that letter, intent and spirit of the law and the Constitution.

3. That Republic Act No. 6715 which amended Article 110 of the Labor Code cannot be applied retroactively provides no argument, in my opinion, for denying the execution of the judgment in favor of petitioner Hautea.

It should be stressed that Jose Hautea retired from his employment with CLSMI in December 1984 after almost twenty (20) years of service. Hautea, therefore, from the time he retired, acquired the right to receive retirement benefits and separation pay from CLSMI. This was two (2) years before PNB foreclosed the properties of CLSMI. It does not appear that it was through Hautea's fault that he failed to receive the benefits before PNB foreclosed on CLSMI's properties. On the contrary, the filing of the complaint for separation pay/retirement benefits with the labor arbiter on 12 January 1987

indicates that it was CLSMI which failed or refused to pay the retirement benefits after more than two (2) years. Thus, even without the benefit of the amendment to Article 110 introduced by Republic Act No. 6715, the claim of petitioner Hautea would still enjoy preference. The amendment of Article 110 giving the claims of workers absolute preference only reinforces the argument that Hautea should be allowed to claim against the Asset Privatization Trust (APT).

I, therefore, vote to **GRANT** petitioner Hautea's claim for her husband's unpaid benefits earned during his employment with CLSMI.

PADILLA, J., dissenting: (Footnote)

[1] Development Bank of the Philippines vs. NLRC, G. R. Nos. 82763-64, 19 March 1990, 183 SCRA 328.