

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**ROGELIO INCIONG, ROMULO R.
LICUANAN, CONSTANTE C. LEE,
BIENVENIDO S. BAUTISTA, ROMEO R.
RIANO, EDUARDO M. SUMAWAY,
JOSE LOPEZ, ALBERTO AGA,
EDUARDO S. MANGALIMAN,
ERNESTO ROSALES, and 140 Others,
*Petitioners,***

-versus-

**G.R. No. 88943
May 21, 1990**

**NATIONAL LABOR RELATIONS
COMMISSION, PROCTER AND
GAMBLE PHILIPPINES (PMC)
AND/OR THE PRESIDENT/GENERAL
MANAGER,**

Respondents.

X-----X

DECISION

GRÍÑO-AQUINO, J.:

The issue raised by the petition in this case is whether, in view of the employer's failure to file a supersedeas bond, the petitioners-workers

are entitled to execution pending appeal of the Labor Arbiter's decision ordering their reinstatement in the company.

The petitioners were regular and permanent employees of Procter and Gamble Philippines, which is engaged in the manufacture of soap, toothpaste, and other household products.

In 1982, Procter & Gamble-PMC formulated a Special Early Retirement Program (SERP) and a Special Separation Package (SSP), for its employees, as an economic recessionary measure to trim its existing organization, maintain the company's business viability, and ensure its competitiveness through increased productivity (p. 63, Rollo).

On October 7, 1982, the Union President, Ricardo Q. Estonilo, wrote a letter to the company, requesting management to dialogue with the Union concerning the company's move to implement the SSP and SERP programs. In the later part of 1982 through 1984, on the ground of redundancy, the company terminated the services of many employees, including the ten original complainants, giving them SSP and SERP benefits which they accepted.

However, problems arose because after dismissing the petitioners, the company allegedly later hired new employees at lower rates of pay, in violation of the petitioners' right to security of tenure. On September 22, 1986, four years after they had received their special retirement benefits, petitioners filed a complaint for illegal dismissal and asked for reinstatement with backwages and other benefits, as well as damages and attorney's fees. (*NLRC Case No. 9-3763-86*)

On October 27, 1986, one hundred forty (140) "retired" workers joined as additional complainants. On July 11, 1988, these additional complainants filed a Special Power of Attorney dated September 17, 1986, authorizing the ten (10) above-named petitioners to represent them in the case. The company questioned such authorization.

In its answer, respondent contended that complainants have no cause of action against it considering that the redundancy program was justified under the facts and the law; that the claim or demand set forth in the complaint has been paid, waived, abandoned or otherwise

extinguished; and that the respondent exercised due diligence and care and acted with due regard for all circumstances.

On December 15, 1988, Labor Arbiter Felipe Pati rendered judgment for the complainants and against the respondent company —

“1. Declaring respondent Procter & Gamble-PMC to have terminated the employment of complainants without just and valid cause and, consequently it is hereby directed to reinstate complainants to their former positions, without loss of seniority rights and other privileges appertaining thereto, as well as to pay them full backwages and other benefits computed and adjusted at applicable rates of pay, from the dates they were retrenched up to the date of actual reinstatement. From the total backwages and accompanying benefits, however, shall be deducted the separation benefits received by complainants proportionately;”

“2. Ordering respondents to pay attorney’s fees in the sum equivalent to ten per cent (10%) of the total amount due the complainants; and”

“3. Dismissing complainants’ claim for damages for insufficiency of evidence.” (*pp. 43-44, Rollo.*)

On January 6, 1989, the company appealed to the NLRC.

On January 26, 1989, petitioners asked for immediate execution of the decision pending appeal because the company had not filed an appeal bond. On January 30, 1989, the petitioners also filed a motion for computation of the amounts due them under the Labor Arbiter’s decision. The motion was opposed by the company.

On April 11, 1989, they filed a motion for execution, and on April 17, 1989, a supplementary motion for execution.

On June 7, 1989, the NLRC denied the motion for execution. Petitioners’ motion for reconsideration was also denied.

Hence this petition for certiorari.

Book V, Rule XVI, Section 11, Omnibus Rules Implementing the Labor Code, provides:

“Sec. 11. Appeal fee and bond — The interested party appealing any decision, order or award of the lower body or agency shall pay a filing fee of twenty-five pesos (P25.00) with the body or agency of origin except deadlock in negotiation cases wherein the minimum appeal fee shall be P50.00.

“To stay the execution of the decision, order or award, the appealing party shall post an appeal bond to be determined and approved by the Commissioner or Labor Arbiter, Med-Arbiter, Regional Director, or Director of the Bureau of origin, as the case may be.” (*Emphasis supplied*)

The petitioners’ interpretation of the second paragraph of Section 11 is that unless the appealing party posts an appeal bond, the execution of the appealed decision shall follow as a matter of course.

The NLRC, on the other hand, contends that since it denied petitioners’ motion for execution pending appeal, the appellant need not file an appeal bond to stay execution of the appealed decision for the simple reason that there is no order of execution to be stayed.

“There appears to be a wrong notion on the applicability of the 2nd paragraph, supra [of Section 11]. We cannot share the movant’s posture that under the quoted 2nd paragraph herein appellants are required to file an appeal bond to be determined by the Commission to perfect their appeal and 60 for failure to comply, the decision of the Labor Arbiter of December 15, 1988 became final and executory. The arguments of the movants appear misplaced. The cited paragraph indubitably refers to stay of execution of an order, decision or award not to perfection of an appeal.

“Rule VIII of the Revised Rules of the NLRC speaks of the payment of an appeal fee not an appeal bond. Rule XI, execution, of the NLRC Revised Rules directs the filing of a

supersedeas bond to stay execution in specified cases. One is not to be confounded with the other.” (pp 20-21, Rollo.)

The NLRC’S interpretation of paragraph 2, Section 11 of the Omnibus Rules is correct. It accords with Art. 223 of the Labor Code which provides:

“Art. 223. Appeal – Decisions, awards, or orders of the Labor Arbiter are final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards, or orders. Such appeal may be entertained only on any of the following grounds:

“(a) If there is prima facie evidence of abuse of discretion on the part of the Labor Arbiter;

“(b) If the decision, order or award was secured through fraud or coercion, including graft and corruption;

“(c) If made purely on questions of law; and

“(d) If serious errors in the findings of facts are raised which would cause grave or irreparable damage or injury to the appellant.”

A sensu contrario, decisions, awards, or orders of the labor arbiter that have been appealed to the Commission on time are not yet final and executory.

The decision of the Labor Arbiter in this case was rendered on December 18, 1988, or three (3) months before Article 223 of the Labor Code was amended by Republic Act 6715 (which became law on March 21, 1989), providing that a decision of the Labor Arbiter ordering the reinstatement of a dismissed or separated employee shall be immediately executory insofar as the reinstatement aspect is concerned, and the posting of an appeal bond by the employer shall not stay such execution. Since this new law contains no provision giving it retroactive effect (Art. 4, Civil Code), the amendment may not be applied to this case.

WHEREFORE, finding no grave abuse of discretion in the resolution of the NLRC denying the petitioners' motion for immediate execution of the appealed decision of the Labor Arbiter in NLRC Case No. 9-3763-86, the petition for certiorari is dismissed, with costs against the petitioners.

SO ORDERED.

Narvasa, Cruz and Medialdea, JJ., concur.
Gancayco, J., is on leave.

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