

SEVENTEENTH DIVISION

[CA-G.R. SP NO. 129453, May 21, 2014]

GREGORIO GELITO, ALEX[*] REYES, NARCISO TAN AND ERNAN MALALUAN, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, HON. ELIAS H. SALINAS, IN HIS CAPACITY AS LABOR ARBITER, AND MONDE M.Y. SAN CORPORATION, RESPONDENTS.

DECISION

BATO, JR., J.:

Before this Court is a petition for certiorari^[1] filed under Rule 65 of the Rules of Court, assailing the following issuances of the National Labor Relations Commission (NLRC) in NLRC LER Case No. 10-216-12: 1) 07 December 2012 Resolution^[2] which denied petitioners' Motion to Dismiss; 2) 31 January 2013 Resolution^[3] which denied their Motion for Reconsideration; and 3) 27 February 2013 Decision^[4] which gave due course to private respondent's petition questioning the computation of petitioners' backwages.

Claiming that they were illegally dismissed, petitioners Gregorio Gelito, Alex Reyes, Narciso Tan and Ernan Malaluan filed a Complaint for illegal dismissal against private respondent Monde M.Y. San Corporation. Their complaint was however dismissed by the Labor Arbiter on 25 November 2008. Said dismissal was affirmed by the NLRC in its Decision dated 20 July 2009.

Undeterred, petitioners filed a petition for certiorari with this Court. By a Decision dated 09 November 2010, this Court's Special Seventeenth (17th) Division reversed the NLRC's Decision. The dispositive portion of said decision reads:

"WHEREFORE, in view of the foregoing premises, judgment is hereby rendered, by us GRANTING the instant petition. The Resolution issued by the Second Division of the National Labor Relations Commission dated July 20, 2009 and September 29, 2009 in NLRC NCR 05-07586-08 are hereby REVERSED and SET ASIDE. Petitioners are hereby awarded full backwages and other allowances, without qualifications and diminutions, computed from the time when they were illegally dismissed up to the time when they are actually reinstated. Let this case be remanded to the Labor Arbiter for proper computation of the full backwages due respondents, in accordance with Article 279 of the Labor Code, as expeditiously as possible.

SO ORDERED."^[5]

Both parties filed their respective motions for reconsideration which were resolved by this Court's Special 17th Division via a Resolution^[6] dated 18 May 2011, as

follows:

"WHEREFORE, in view of the foregoing premises, the Motion for Partial Reconsideration filed by the petitioners is hereby PARTIALLY GRANTED. The petitioners are hereby declared illegally dismissed and private respondent Monde M.Y. San Corporation is thereby directed to reinstate them to their former positions without loss of seniority rights and other privileges. Petitioners, in addition to full backwages and other allowances, are hereby awarded other benefits to which they are entitled to, or their monetary equivalent, computed from the time when they were illegally dismissed up to the time when they are actually reinstated. Petitioners are further awarded attorney's fees equivalent to ten percent (10%) of the total monetary award. All other dispositions in our said November 9, 2010 Decision are hereby AFFIRMED. Consequently, the motion for reconsideration filed by the private respondent in this case is hereby DENIED.

SO ORDERED."^[7]

Private respondent sought relief before the Supreme Court but the latter found no reversible error on the part of this Court's Special 17th Division, per its Minute Resolution promulgated on 22 August 2011. Private respondent's Motion for Reconsideration thereto was likewise denied by the Supreme Court in a Resolution dated 19 October 2011. The latter Resolution became final and executory on 20 December 2011.

On 16 February 2012, petitioners filed a Motion for Computation of Award before the NLRC. After the parties were directed to file their comment to the computation of the monetary awards done by the Examination and Computation Unit of the NLRC, the Labor Arbiter approved said computation in an Order^[8] dated 15 August 2012, viz.:

"Consequently, let a writ of execution issue directing the Sheriff to collect from the respondent the following monetary awards due to the complainants, to wit:

1. GREGORIO P1,186,247.98
GELITO
2. ALEXANDER P1,186,247.98
REYES
3. NARCISO P1,031,809.98
TAN
4. ERNAN P 996,165.74
MALALUAN

PLUS 10%
ATTORNEY'S P 442,917.17
FEES

TOTAL AWARD P4,843,388.85

WHEREFORE, premises considered, let a writ of execution issue to collect the sum of P4,843,338.85 from the respondent MY San Corporation by way of enforcing the May 18, 2011 Resolution of the Court of Appeals.

SO ORDERED.”^[9]

Claiming that the computation of petitioners’ backwages included items which should not have been included, private respondent filed with the NLRC a petition^[10] pursuant to Rule XII^[11] of the 2011 NLRC Rules of Procedure, to modify the 15 August 2012 Order of the Labor Arbiter. The petition was captioned as “Petition with Application for the Issuance of Writ of Preliminary Injunction.”

Petitioners filed a Motion to Dismiss^[12] private respondent’s petition. They argued that the petition’s verification and certification against non-forum shopping^[13] was signed by Keng Sun Mar, private respondent’s General Manager, who is not a real party in interest and not duly authorized by a board resolution. Moreover, they alleged that the petition’s verification is fatally defective since King Sun Mar did not certify under oath that the contents of the petition are true and correct of his own personal knowledge or based on authentic documents, but merely certified that it is “of my own knowledge.”

In the assailed 07 December 2012 Resolution,^[14] the NLRC denied petitioners’ motion to dismiss. The NLRC ruled that the private respondent’s petition substantially complied with the NLRC Rules of Procedure.

Petitioners’ motion for reconsideration was likewise denied by the NLRC in its Resolution^[15] promulgated on 31 January 2013.

Considering that no temporary restraining order was issued by the NLRC while private respondent’s petition questioning the computation of petitioners’ backwages was pending before it, the Labor Arbiter issued a Writ of Execution^[16] on 20 November 2012, to enforce the Court of Appeals’ 18 May 2011 Resolution. Pursuant to the above writ, the NLRC Sheriff garnished private respondent’s funds in Metrobank amounting to Php4,891,268.85 and deposited it to the NLRC Cashier on 12 December 2012. By an Order dated 07 January 2013, the Labor Arbiter granted petitioners’ motion to release the garnished amount. Petitioners received their respective monetary awards on 11 January 2013.

Thus, when the NLRC promulgated its Decision^[17] on 27 February 2013 giving due course to the private respondent’s “Petition with Application for the Issuance of Writ of Preliminary Injunction,” petitioners had already received their monetary awards. In its 27 February 2013 Decision, the NLRC ruled that the computation of petitioners’ backwages and other benefits should be at the rate at the time of their dismissal, without taking into account any salary increase, much less CBA benefits. The dispositive portion of said Decision reads:

“WHEREFORE, premises considered, the assailed Order dated 15 August 2012, including any writ of execution issued pursuant to said Order, is hereby NULLIFIED and SET ASIDE for lack of any legal basis. The Labor Arbiter is ordered to recompute the awards of private respondents in accordance with the foregoing dispositions and correspondingly issue the writ of execution.

SO ORDERED.”^[18]

Aggrieved, petitioners filed the instant petition for certiorari, raising the following issues for our resolution:

“I. RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DENIED PETITIONERS’ (RESPONDENTS, A QUO) MOTION TO DISMISS BY RESOLVING THE MOTION BASED ONLY ON ONE GROUND DESPITE THE FACT THAT TWO GROUNDS WERE RAISED IN THE MOTION

II. RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN THE NLRC DENIED PRITITIONERS’ (sic), (RESPONDENTS A QUO) MOTION FOR RECONSIDERATION OF THE RESOLUTION DENYING THE MOTION TO DISMISS INVOKING THE SECOND GROUND RAISED IN THE MOTION TO DISMISS TO THE EFFECT THAT THE VERIFICATION IS FATALY DEFECTIVE FOR FAILURE TO COMPLY WITH THE REQUIREMENTS FOR VERIFICATION AS PROVIDED IN THE RULES OF COURT DESPITE THE FACT THAT IT WAS NOT PASSED UPON IN THE RESOLUTION OF THE MOTION TO DISMISS.

III. RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTINGTO (sic) LACK OF OR IN EXCESS OF JURISDICTION IN GRANTING PRIVATE RESPONDENT’S PETITION DESPITE THE FACT THAT THE ISSUE HAS ALREADY BEEN RENDERED MOOT AND ACADEMIC WHEN THE AWARD GRANTED IN FAVOR OF PETITIONERS’ (RESPONDENTS, A QUO) PURSUANT TO THE COMPUTATION PREPARED AND SUBMITTED BY THE FISCAL EXAMINER OF THE NLRC AND DULY APPROVED BY RESPONDENT ARBITER WAS FULLY SATISFIED THRU THE IMPLEMENTATION OF THE WRIT OF EXECUTION.”^[19]

As defined by jurisprudence, grave abuse of discretion means such capricious and arbitrary exercise of judgment as is equivalent, in the eyes of the law, to lack of jurisdiction.^[20] There is grave abuse of discretion where the power is exercised in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility amounting to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.^[21] Through time, the meaning of grave abuse of discretion has been expanded to include any action done contrary to the constitution, the law or jurisprudence.^[22]

Premised on the foregoing, we find no grave abuse of discretion on the part of the NLRC.

Anent the first ground, petitioners insist that the verification and certification against forum shopping signed by Keng Sun Mar, private respondent’s General Manager, should not have been considered by the NLRC. Private respondent, on the other hand, argues that the NLRC correctly denied petitioners’ motion to dismiss since the Supreme Court, in a number of cases, has allowed petitions with verifications signed by officers of the corporation even if they were not named as parties and even if there were no board resolutions authorizing them to sign verifications on behalf of the corporation.