

## THIRD DIVISION

[ G.R. No. 236271, April 03, 2019 ]

**RO-ANN VETERINARY MANUFACTURING INC., RONILO DELA CRUZ AND RAFAELITO LAGAT, JR., PETITIONERS, VS. FERNANDO A. BINGBING, AND GILBERT C. VILLASEÑOR, RESPONDENTS.**

### DECISION

**A. REYES, JR., J.:**

#### **Nature of the Petitions**

Challenged before the Court *via* a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules are the Resolutions<sup>[2]</sup> dated July 14, 2017<sup>[3]</sup> and December 21, 2017<sup>[4]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 144805, which dismissed, for being moot and academic, the petition for *certiorari*<sup>[5]</sup> filed under Rule 65 assailing the Decision<sup>[6]</sup> of the National Labor Relations Commission (NLRC) in NLRC Case No. SRABV-10-00084-14.

#### **The Antecedent Facts**

Fernando A. Bingbing and Gilbert C. Villaseñor (respondents) were employed by Ro-Ann Veterinary Manufacturing, Inc. (petitioner corporation) as technical sales representatives. Respondent Bingbing was hired in 2013 through petitioner Rafaelito Lagat, Jr. (petitioner Lagat), petitioner corporation's Sales Team Leader in the Bicol region who does business under the name and style "RJ2L Enterprise." Similarly, respondent Villaseñor was employed by the petitioner corporation as early as 2008. As sales representatives, respondents were tasked with the sale and delivery of veterinary products, along with the collection of payments from customers and the remittance of the same to the petitioner corporation.<sup>[7]</sup>

Sometime around March 1, 2014, respondents were told by a number of their clients that respondent corporation released an advisory<sup>[8]</sup> informing them that the two were no longer connected with the company. Respondents immediately contacted petitioner Lagat, their team leader, who admitted and confirmed that he sent the subject advisories upon instruction of petitioner corporation.<sup>[9]</sup>

Petitioners contend that respondents were involved in unexplained withdrawals of items from the company amounting to a sum of P84,521.57. It was, likewise, alleged that respondents failed to comply with their duty to remit customer payments and were also moonlighting. Furthermore, petitioners claim that after confronting respondents about these infractions, the latter stopped reporting for work.<sup>[10]</sup>

Respondents, on the other hand, argued that when petitioner Lagat confirmed the

text, the same operated as an express termination of their employment with petitioner corporation. They argued that said termination was illegal and without basis.<sup>[11]</sup>

Thereafter, respondents submitted their grievance to the Department of Labor and Employment (DOLE), in accordance with the Department's Single Entry Approach, hoping to reach a settlement, but to no avail. Thus, on October 1, 2014, respondents filed with the NLRC Arbitration Branch their respective complaints<sup>[12]</sup> against herein petitioners for illegal dismissal, non-payment of salaries, service incentive leave pay, 13<sup>th</sup> month pay, separation pay, and claims for damages and attorney's fees.

After receiving the parties' pleadings, the Labor Arbiter (LA) rendered a Decision<sup>[13]</sup> dated March 27, 2015 declaring respondents as illegally dismissed, *to wit*:

WHEREFORE, premises considered, judgment is hereby rendered declaring [respondents] as illegally dismissed from their employment. Consequently, [petitioner corporation] Ro-Ann Veterinary Manufacturing, Inc. is hereby ordered to pay [respondents] the total amount of FOUR HUNDRED NINETY THREE THOUSAND TWO HUNDRED SEVENTY SIX PESOS and 64/100 (P493.276.64), representing the latter's separation pay, backwages, salary differentials, 13<sup>th</sup> month pay and ten percent (10%) attorney's fees, as computed above.

All other claims and charges are hereby dismissed, for lack of factual and/or legal basis.

SO ORDERED.<sup>[14]</sup>

Petitioners sought recourse with the NLRC through an appeal, but the same was dismissed through the latter's Decision<sup>[15]</sup> dated September 30, 2015. The decision affirmed the findings of the LA, but deleted the monetary award in favor of respondent Bingbing because the latter's position paper was not appended to the records of the case. The dispositive portion of said decision reads as follows:

WHEREFORE, premises considered, [petitioners] Appeal is DISMISSED for lack of merit.

The decision of the Labor Arbiter is AFFIRMED with MODIFICATION. The monetary award of [respondent] Bingbing is hereby DELETED.

SO ORDERED.<sup>[16]</sup>

Petitioners and respondent Bingbing immediately moved for reconsideration, but only the latter's motion was granted, thus, effectively reinstating the LA's March 27, 2015 Decision.<sup>[17]</sup> On the part of petitioners, the NLRC found no merit in their Motion for Reconsideration (MR) and denied it in a Resolution<sup>[18]</sup> dated January 25, 2016, the dispositive portion of which states:

ACCORDINGLY, the instant Motion for Reconsideration is hereby DENIED for lack of merit.

No further Motion for Reconsideration shall be entertained.

SO ORDERED.<sup>[19]</sup>

Aggrieved, petitioners elevated the case to the CA on March 28, 2016 *via* a Petition for *Certiorari*<sup>[20]</sup> under Rule 65 of the Rules of Court.

In the meantime, while the petition for *certiorari* was pending before the CA, the LA, on August 8, 2016, issued a Writ of Execution<sup>[21]</sup> against the petitioner corporation. The writ demanded the full satisfaction of the March 27, 2015 judgment award while further requiring the satisfaction of an additional monetary award of P270,608.24 representing respondents' separation pay and backwages recomputed up until the decision's date of finality.<sup>[22]</sup>

Petitioners vehemently opposed the grant of additional monetary awards contained in the Writ of Execution and filed a Petition pursuant to Rule XII<sup>[23]</sup> of the 2011 NLRC Rules of Procedure assailing the same. They argued that the grant of additional monetary awards had no factual or legal basis and prayed that the implementation of the writ be enjoined and subsequently annulled.<sup>[24]</sup> The petition was ultimately denied by the NLRC in a Decision<sup>[25]</sup> dated October 28, 2016.

Consequently, the Writ of Execution was finally enforced and the judgment award, along with the additional monetary award, was collected from petitioner corporation's bank deposit with garnishee Metrobank and the cash bond which was filed with the NLRC upon appeal.<sup>[26]</sup>

On March 21, 2017, the CA, acting on the still pending petition for *certiorari*, issued a Resolution<sup>[27]</sup> referring the case to its Philippine Mediation Center (PMC) unit. Thereafter, on June 14, 2017, respondents filed an Ex-Parte Manifestation<sup>[28]</sup> contending that the mediation process had become moot and academic due to petitioners' payment and full satisfaction of the judgment award. Thus, on June 21, 2017, the PMC unit of the CA issued a Report<sup>[29]</sup> which terminated the mediation process.

On the basis of the Mediator's Report and private respondent's ex-parte manifestation, the CA issued a Resolution<sup>[30]</sup> dated July 14, 2017 which considered the petition for *certiorari* as withdrawn, thereby closing and terminating petitioners' case. The CA disposed of the case as follows:

The Court RESOLVES to NOTE the *Mediator's Report* dated June 21, 2017 with attached *Ex-Parte Manifestation* stating that petitioners have already paid the monetary awards of respondents and the instant case had already been considered closed and terminated as of May 17, 2017 as evidenced by the *Order* issued by the NLRC.

IN VIEW OF THE FOREGOING, **the petition is hereby considered WITHDRAWN and the case is deemed CLOSED AND TERMINATED.**

SO ORDERED.<sup>[31]</sup> (Emphasis supplied)

Petitioners filed a motion for reconsideration, but the same was denied by the CA in its Resolution<sup>[32]</sup> dated December 21, 2017. Hence, the filing of the present petition for review on *certiorari*.

### Issues and Arguments

For resolution is the sole issue of whether the CA committed a reversible error in ordering the withdrawal of the petition for *certiorari* due to the satisfaction of the judgment award in compliance with the Writ of Execution issued by the LA *a quo*.

On one hand, respondents argue that the withdrawal of the petition for *certiorari* pending before the CA was correct since the illegal dismissal case before the NLRC had been closed and terminated. Moreover, they insist that having received the judgment award, petitioners voluntarily settled the monetary claims. Thus, the petition pending before the CA had become moot and academic, justifying its withdrawal.<sup>[33]</sup>

On the other hand, petitioners chiefly argue that the payment of the judgment award by reason of the enforcement of the writ of execution issued by the LA should have no effect on the petition for *certiorari* filed before the CA. They contend that the payment of the monetary awards was done purely in compliance with the orders of the LA and should, by no means, be interpreted as a voluntary settlement of respondents' claims.<sup>[34]</sup> Simply put, petitioners insist that the CA committed a palpable mistake when it let the execution proceedings before the LA prejudice the petition for *certiorari* filed before it instead of resolving the same on the merits.<sup>[35]</sup>

### The Court's Ruling

Petitioners' contentions are meritorious hence, the petition is hereby granted.

Well-entrenched in jurisprudence is the rule that the proper mode of judicial review over decisions of the NLRC is *via* a Petition for *Certiorari* under Rule 65 of the Rules of Court filed before the CA. This remedy is a special original action focused on resolving the issue of whether a tribunal, board, or officer exercising judicial or quasi-judicial functions has acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction.<sup>[36]</sup>

Being a special original action, a petition for *certiorari* has an entirely different purpose from a regular appeal. While the latter is concerned with the correctness of the judgment of the NLRC on the merits, the former's primary concern is resolving whether the commission, in the exercise of its judgment, has acted whimsically, capriciously, or even arbitrarily. As further discussed by the Court in *Philippine National Bank v. Gregorio*,<sup>[37]</sup> the two actions are entirely distinct from one another, *to wit*:

A special civil action for *certiorari* under Rule 65 is **not** the same as an appeal. In an appeal, the appellate court reviews errors of judgment. On the other hand, a petition for *certiorari* under Rule 65 is not an appeal but a special civil action, where the reviewing court has jurisdiction only over errors of jurisdiction. **We have consistently emphasized that a special civil action for *certiorari* and an appeal are "mutually**

**exclusive and not alternative or successive."** A petition filed under Rule 65 cannot serve as a substitute for an appeal.

Thus, while we said in *St. Martin* that a special civil action under Rule 65 is proper to seek the review of an NLRC decision, **this remedy is, by no means, intended to be an alternative to an appeal. It is not a substitute for an appeal that was devised to circumvent the absence of a statutory basis for the remedy of appeal of NLRC's decisions. It is not a means to review the entire decision of the NLRC for reversible errors on questions of fact and law.**<sup>[38]</sup>  
(Citations omitted and emphasis supplied)

Definitely, a petition for *certiorari* under Rule 65 is an entirely independent action from the proceedings initiated with the court of origin. It is neither a part nor a continuation of the original suit.<sup>[39]</sup> Accordingly, being a separate and distinct action, the proceedings before the NLRC, even upon reaching finality, and even after execution, should not influence the petition for *certiorari* pending before the CA.

This "mutual and exclusive" nature of a petition for *certiorari* is readily apparent in Rule XI of the 2011 Revised Rules of Procedure of the NLRC, as amended.<sup>[40]</sup> For one, a reading of Sections 1 to 4 of said Rule underscores the legal precept that execution proceedings before the NLRC are not affected by a petition for *certiorari* duly filed with the CA. The relevant Sections state:

#### RULE XI EXECUTION PROCEEDINGS

SECTION 1. EXECUTION UPON FINALITY OF DECISION OR ORDER - a) **A writ of execution may be issued motu proprio or on motion, upon a decision or order that has become final and executory.**

b) **If an appeal has been duly perfected and finally resolved by the Commission, a motion for execution may be filed before the Labor Arbiter**, when the latter has possession of the case records or upon submission of certified true copies of the decisions or final order/s sought to be enforced including notice of decision or order and the entry of judgment, copy furnished the adverse party.

x x x x

SECTION 2. EXECUTION BY MOTION OR BY INDEPENDENT ACTION. - Pursuant to Art. 224 of the Labor Code, **a decision or order may be executed on motion within five (5) years from the date it becomes final and executory.** After the lapse of such period, the judgment shall become dormant, and may only be enforced by an independent action before the Regional Arbitration Branch of origin and within a period often (10) years from date of its finality.

SECTION 3. EFFECT OF PERFECTION OF APPEAL ON EXECUTION. - The perfection of an appeal shall **stay the execution of the decision of the Labor Arbiter** except execution for reinstatement pending appeal.