

FIRST DIVISION

[G.R. No. 204803, September 12, 2018]

SALVADOR P. ALMAGRO, BASILIO M. CRUZ, FRANCISCO M. JULIANO, ARTURO L. NOVENARIO AND THE HEIRS OF DEMOSTHENES V. CAÑETE, PETITIONERS, VS. PHILIPPINE AIRLINES, INC., LUCIO TAN AND JOSE ANTONIO GARCIA, RESPONDENTS.

D E C I S I O N

JARDELEZA, J.:

This is a petition for review on *certiorari*^[1] under Rule 45 of the Rules of Court filed by petitioners Salvador P. Almagro (Almagro), Basilio M. Cruz (Cruz), Francisco M. Juliano (Juliano), Arturo L. Novenario (Novenario) and the heirs of Demosthenes V. Cañete (Cañete) (collectively, petitioners), seeking to nullify the Court of Appeals' (CA) December 7, 2012 Amended Decision^[2] in CA-G.R. SP No. 111466. The CA reversed its earlier Decision^[3] dated January 31, 2012 where it issued *certiorari* in favor of petitioners against the May 15, 2009^[4] Decision and August 7, 2009^[5] Resolution of the National Labor Relations Commission (NLRC) in NLRC LAC No. 10-003508-08. In its Amended Decision, the CA found no grave abuse of discretion on the part of the NLRC in affirming the July 16, 2008^[6] Decision of Labor Arbiter Donato G. Quinto, Jr. (Labor Arbiter) dismissing petitioners' complaint for illegal dismissal and monetary claims against Philippine Airlines, Inc. (PAL).

This case arose out of the labor dispute in the 1990's between PAL, a domestic corporation organized under the laws of the Republic of the Philippines operating as a common carrier transporting passengers and cargo through aircraft, and Airline Pilots Association of the Philippines (ALPAP), the legitimate labor organization and exclusive bargaining agent of all PAL's commercial pilots.^[7]

On December 9, 1997, ALPAP filed a notice of strike before the National Conciliation and Mediation Board on grounds of unfair labor practice and union-busting by PAL (strike case). The Department of Labor and Employment (DOLE) Secretary (Secretary) assumed jurisdiction over the labor dispute on December 23, 1997.^[8] Despite the assumption of jurisdiction by the Secretary, ALPAP declared and commenced a strike on June 5, 1998. After failed conciliation efforts, the Secretary issued a return-to-work order^[9] (return-to-work order) on June 7, 1998 addressed to all striking officers and members of ALPAP. The strike, however, continued until June 26, 1998 when ALPAP's officers and members attempted to report for work.^[10] The employees who attempted to return to work signed PAL's logbook for "Return to Work Returnees/Compliance" (PAL security logbook) on June 26, 1998.^[11] PAL, however, refused to accept these returning employees on the ground that the deadline imposed by the return-to-work order on June 9, 1998 had already lapsed.

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This refusal of PAL to accept ALPAP's officers and members back to work prompted ALPAP to file an illegal lockout case against PAL with the NLRC on June 29, 1998.^[13] With the Secretary still exercising jurisdiction over the dispute, the illegal lockout case was consolidated with the strike case in the DOLE. In a Resolution^[14] dated June 1, 1999, the Secretary: (1) declared the loss of employment status of all officers and members who participated in the strike in defiance of the return-to-work order; and (2) dismissed the illegal lockout case against PAL. This Resolution was questioned by ALPAP but eventually upheld by this Court in G.R. No. 152306, in a Resolution^[15] dated April 10, 2002.

On January 13, 2003, ALPAP filed a motion with the Secretary to determine who among its officers and members should be reinstated or deemed to have lost their employment with PAL for their actual participation in the strike.^[16] ALPAP claimed that PAL dismissed all its members indiscriminately, including those who did not participate in the strike. The Secretary denied the motion on the ground that G.R. No. 152306 has determined with finality that "the erring pilots have lost their employment status" and "because these pilots have filed cases to contest such loss before another forum."^[17] When the case was brought up before the CA via Rule 65, the CA found no grave abuse of discretion on the part of the Secretary. In G.R. No. 168382 titled *Airline Pilots Association of the Philippines v. Philippine Airlines, Inc.*^[18] (*Airline Pilots*), this Court affirmed the CA's finding and further declared that there is no necessity to conduct a proceeding to identify the participants in the illegal strike. The records of the case reveal the names of the pilots who returned only after June 9, 1998 or the deadline imposed in the return-to-work order.^[19]

Both Decisions in G.R. No. 152306 and *Airline Pilots* attained finality. Petitioners, who were former senior pilots of PAL, were among those refused by PAL to return on June 26, 1998. They instituted the consolidated complaints of illegal dismissal and monetary claims against PAL, Lucio Tan, and Jose Antonio Garcia, subject of this controversy: (1) NLRC-NCR Case No. 00-07-05400-98 filed by Almagro on July 3, 1998; and (2) NLRC-NCR Case No. 00-11-08918-98 filed by Cruz, Juliano, Novenario, and Cañete on November 4, 1998.^[20]

On August 25, 2000, the Labor Arbiter rendered a Decision^[21] in petitioners' favor. However, on January 10, 2002, the NLRC set aside the Decision of the Labor Arbiter for want of jurisdiction, declaring that the rehabilitation of PAL is a supervening event that divested the Labor Arbiter and the NLRC of jurisdiction over the case. The NLRC also issued an order staying all claims against PAL. This Court upheld the NLRC's ruling owing to the pendency of PAL's rehabilitation and the stay order issued in its favor.^[22]

After PAL's rehabilitation was declared a success by the Securities and Exchange Commission on September 28, 2007, petitioners moved for the resumption of the consolidated cases before the Labor Arbiter. Subsequently, proceedings ensued and both parties submitted the same evidence previously submitted before the same Labor Arbiter.^[23]

In his July 16, 2008 Decision, the Labor Arbiter dismissed the consolidated

complaints. The Labor Arbiter stressed that petitioners were among the hundreds of ALPAP members who signified their intention to return to work by signing the PAL security logbook only on June 26, 1998; this is an admission that they, indeed, participated in the illegal strike staged by ALPAP. Further, despite the opportunity given to them, petitioners did not dispute that they were the persons depicted in the photographs submitted by PAL. He thus gave credence to the affidavit of Candido Tamayo, the Senior Field Agent of PAL's Security and Fraud Prevention Department at that time, who testified that he took the photographs that captured some of the petitioners participating in the strike.^[24] Because of petitioners' participation in the illegal strike and their willful defiance of the return-to-work order, petitioners lost their employment status in PAL.^[25]

The NLRC affirmed the Labor Arbiter's Decision. It ruled that petitioners acted in a concerted effort with the union, despite being on official leave. The NLRC also gave probative value to the photographs taken by Candido Tamayo.^[26] The declaration of the illegality of the strike involved "the consequence of loss of employment [of] all members, who in one way or another supported the strike."^[27]

When the case was brought up before the CA via petition for *certiorari* under Rule 65 of the Rules of Court, the CA initially issued *certiorari* in favor of petitioners. The CA found that petitioners proved that they were on official leave of absence when (1) ALPAP staged the strike on June 5, 1998; and (2) when the strikers were ordered to return to work.^[28] On the other hand, PAL failed to adduce evidence that petitioners were among the strikers on that date. Their signatures on the logbook cannot be deemed to be admissions of their involvement in the strike because these are not clear and unequivocal statements. The CA also noted that the return-to-work order partakes of a penal law as it imposes the ultimate penalty of dismissal. As such, the return-to-work order should be interpreted as to include only those who participated in the June 5, 1998 strike.^[29] For want of substantial basis in fact and in law, the CA set aside the NLRC's Decision and awarded full backwages and monetary claims to petitioners.^[30]

Upon PAL's motion for reconsideration,^[31] the CA promulgated its Amended Decision^[32] reversing its earlier ruling.^[33] It took judicial notice of this Court's ruling in G.R. No. 152306 and *Airline Pilots*, and declared that the signatures in the PAL security logbook of the pilots who attempted to belatedly comply with the Secretary's return-to-work order on June 26, 1998 sufficiently established that they are the strikers who defied the return-to-work order.^[34] In addition to the incident on June 26, 1998, petitioners' common actions and behavior before and during the strike revealed their intent to paralyze the operations of PAL.^[35] As early as December 1997, the Secretary already assumed jurisdiction over the dispute and proscribed any activity that would exacerbate the situation, yet petitioners still opted to take their respective leaves prior to the brewing strike.^[36] Noteworthy also was the fact that some of the petitioners were seen at the strike area even after the return-to-work order was issued.^[37] Thus, the CA found that the Labor Arbiter and the NLRC did not commit grave abuse of discretion in dismissing the case.

In this petition, petitioners assail the findings of the administrative agencies and the CA. They posit that this Court may review the factual findings of the administrative

agencies and the appellate court when: (1) the findings are grounded on speculation, surmises, and conjectures; (2) the inference made is manifestly mistaken, absurd, or impossible; (3) there is grave abuse of discretion; and (4) the judgment is based on a misapprehension of facts.^[38]

First, petitioners question the CA's conclusion that they participated in the illegal strike based on their signatures on the logbook.^[39] They claim that their signatures are not admissions that they were strikers because they only signed the logbook along with the ALPAP striking pilots in the hopes that they would be allowed to regain their employment.^[40] Moreover, they signed the logbook at the time they were already dismissed by PAL on June 9, 1998.^[41]

Second, petitioners argue that the CA erred in finding that they defied the return-to-work order. According to petitioners, the return-to-work order was addressed only to striking officers and members of ALPAP, and was not even served on petitioners.^[42] They further argue that they are not strikers because it was "legally impossible for [them] to have engaged in a strike considering the established and admitted fact that they were all on approved official leaves during the material period."^[43] They were not expected or suffered to work during the period of their vacation leaves, and this kind of stoppage of work was with PAL's consent.^[44] In fact, the records establish that each of the petitioners reported for duty immediately after the expiration of their respective leaves.^[45]

Third, petitioners maintain that the conclusions reached by the NLRC and the Labor Arbiter (that petitioners acted collectively with ALPAP) are based on mere conjectures and surmises bereft of any evidentiary support. Petitioners did not sign the logbook to signify that they were strikers.^[46] Both tribunals gave undue importance to the photographs presented by PAL, the integrity of which is not only highly suspect,^[47] but some did not contain a time stamp as opposed to the photograph of strikers holding placards.^[48] Meanwhile, petitioners Cañete and Juliano were not even shown to be at the strike at any time.^[49]

Fourth, petitioners claim they are not bound by the ruling in *Airline Pilots* whether by *res judicata* or *stare decisis*.^[50] They were not parties thereto because ALPAP initiated the case. In the absence of a special authority issued by petitioners, ALPAP has no legal standing whatsoever to prosecute petitioners' illegal dismissal complaint. The ruling in *Airline Pilots* therefore finds no application to petitioners who neither took part in the strike nor agreed to be represented by ALPAP.^[51] Further, in *Airline Pilots*, the defense of being on official leave at the time of the strike was not appreciated because it was belatedly raised.^[52] Moreover, the difference between the evidence presented in this case and in *Airline Pilots* constitutes a "powerful countervailing consideration" that bars the application of the doctrine *stare decisis*.^[53] The tribunals glossed over the fact that petitioners immediately reported for work upon the expiration of their leaves, only to be informed that they had already been dismissed on June 9, 1998.^[54]

In its comment,^[55] PAL opposes the petition on the following grounds: (1) the petition is defective in form as to petitioner Almagro since it lacks a valid

certification of non-forum shopping—the verification and certification was not executed by Almagro but by his supposed attorney-in-fact;^[56] (2) the petition raises factual issues beyond the province of a Rule 45 petition;^[57] (3) the CA's Amended Decision, in affirming the rulings of both the NLRB and the Labor Arbiter, is supported by facts established by evidence and by law and jurisprudence;^[58] and (4) in refusing to accept those who offered to return to work only on June 26, 1998, PAL acted in accordance with law.^[59]

In resolving the issue of whether the CA committed error in finding that the NLRB committed no grave abuse of discretion, we find that the determinative issue is whether petitioners are bound by the findings in *Airline Pilots* that the signatories in the PAL security logbook on June 26, 1998 participated in the strike and defied the Secretary's return-to-work order.

We deny the petition.

I

We first identify the boundaries by which we decide this case. In labor cases brought up *via* a Rule 45 petition challenging the CA's decision in a special civil action under Rule 65, this Court's power of review is limited to the determination of whether the CA correctly resolved the presence or absence of grave abuse of discretion on the part of the NLRB. We said in *Montoya v. Transmed Manila Corporation*:^[60]

In a Rule 45 review, we consider the **correctness of the assailed CA decision**, in contrast with the review for jurisdictional error that we undertake under Rule 65. Furthermore, Rule 45 limits us to the review of **questions of law** raised against the assailed CA decision. In ruling for legal correctness, we have to view the CA decision in the same context that the petition for *certiorari* it ruled upon was presented to it; **we have to examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRB decision before it, not on the basis of whether the NLRB decision on the merits of the case was correct.** In other words, we have to be keenly aware that the CA undertook a Rule 65 review, not a review on appeal, of the NLRB decision challenged before it. This is the approach that should be basic in a Rule 45 review of a CA ruling in a labor case. **In question form, the question to ask is: Did the CA correctly determine whether the NLRB committed grave abuse of discretion in ruling on the case?**^[61] (Citations omitted; emphasis in the original.)

We thus go back to the basic precepts governing a Rule 65 petition. A special civil action for *certiorari* under Rule 65 does not concern errors of judgment; its province is confined to issues of jurisdiction or grave abuse of discretion. Grave abuse of discretion, as distinguished from mere errors of judgment, connotes judgment exercised in a capricious and whimsical manner that is tantamount to lack of jurisdiction. To be considered "grave," discretion must be exercised in a despotic