

## FIRST DIVISION

[ G.R. No. 161596, February 20, 2013 ]

**ROBERTO BORDOMEO, JAYME SARMIENTO AND GREGORIO BARREDO, PETITIONERS, VS. COURT OF APPEALS, HON. SECRETARY OF LABOR, AND INTERNATIONAL PHARMACEUTICALS, INC., RESPONDENTS.**

### D E C I S I O N

**BERSAMIN, J.:**

As an extraordinary remedy, *certiorari* cannot replace or supplant an adequate remedy in the ordinary course of law, like an appeal in due course. It is the inadequacy of a remedy in the ordinary course of law that determines whether *certiorari* can be a proper alternative remedy.

#### The Case

The petitioners implore the Court to reverse and set aside the Decision<sup>[1]</sup> of the Court of Appeals (CA) promulgated on May 30, 2003 in C.A.-G.R. SP No. 65970 entitled *Roberto Bordomeo, Anecito Gupta, Jaime Sarmiento and Virgilio Saragena v. Honorable Secretary of Labor and Employment and International Pharmaceuticals, Inc.*, dismissing their petition for *certiorari* by which they had assailed the Order<sup>[2]</sup> issued on July 4, 2001 by Secretary Patricia A. Sto. Tomas of the Department of Labor and Employment (DOLE), to wit:

**WHEREFORE**, the Order of this Office dated March 27, 1998 STANDS and having become final and having been fully executed, completely CLOSED and TERMINATED this case.

No further motion shall be entertained.

**SO ORDERED.**<sup>[3]</sup>

and the CA's resolution promulgated on October 30, 2003, denying their motion for reconsideration.

In effect, the Court is being called upon again to review the March 27, 1998 order issued by the DOLE Secretary in response to the petitioners' demand for the execution in full of the final orders of the DOLE issued on December 26, 1990 and December 5, 1991 arising from the labor dispute in International Pharmaceuticals, Inc. (IPI).

#### Antecedents

In 1989, the IPI Employees Union-Associated Labor Union (Union), representing the workers, had a bargaining deadlock with the IPI management. This deadlock resulted in the Union staging a strike and IPI ordering a lockout.

On December 26, 1990, after assuming jurisdiction over the dispute, DOLE Secretary Ruben D. Torres rendered the following Decision,<sup>[4]</sup> to wit:

WHEREFORE, PREMISES CONSIDERED, decision is hereby rendered as follows:

1. finding the IPI Employees Union-ALU as the exclusive bargaining agent of all rank and file employees of ALU including sales personnel;
2. dismissing, for lack of merit, the charges of contempt filed by the Union against the IPI officials and reiterating our strict directive for a restoration of the status quo ante the strike as hereinbefore discussed;
3. dismissing the Union's complaint against the Company for unfair labor practice through refusal to bargain;
4. dismissing the IPI petition to declare the strike of the Union as illegal; and
5. directing the IPI Employees Union-ALU and the International Pharmaceuticals, Inc. to enter into their new CBA, incorporating therein the dispositions hereinbefore stated. All other provisions in the old CBA not otherwise touched upon in these proceedings are, likewise, to be incorporated in the new CBA.

SO ORDERED.<sup>[5]</sup>

Resolving the parties' ensuing respective motions for reconsideration or clarification,<sup>[6]</sup> Secretary Torres rendered on December 5, 1991 another ruling,<sup>[7]</sup> disposing thus:

WHEREFORE, in the light of the forgoing considerations, judgment is hereby rendered:

1. Dismissing the motions for reconsideration filed by the International Pharmaceutical, Inc. and the Workers Trade Alliance Unions (WATU) for lack of merit;
2. Ordering the International Pharmaceutical Inc. to reinstate to their former positions with full backwages reckoned from 8 December 1989 until actually reinstated without loss of seniority rights and other benefits the "affected workers" herein-below listed:

1. Reynaldo C. Menor

24. Carmelita Ygot

- |                             |   |
|-----------------------------|---|
| 2. Geronimo Banquirino      | S. 25. Gregorio Barredo   |
| 3. Rogelio Saberon          | 26. Dario Abella  |
| 4. Estefanio G. Maderazo    | 27. Artemio Pepito  |
| 5. Herbert G. Veloso        | 28. Anselmo Tareman   |
| 6. Rogelio G. Enricoso      | 29. Merope Lozada   |
| 7. Colito Virtudazo         | 30. Agapito Mayorga   |
| 8. Gilbert Encontro         | 31. Narciso M. Leyson   |
| 9. Bebiano Pancho           | 32. Ananias Dinolan   |
| 10. Merlina Gomez           | 33. Cristy L. Caybot  |
| 11. Lourdes Mergal          | 34. Johnnelito S. Corilla   |
| 12. Anecito Gupta           | 35. Noli Silo   |
| 13. Prescillano O. Naquines | 36. Danilo Palioto  |
| 14. Alejandro O. Rodriguez  | 37. Winnie dela Cruz  |
| 15. Godofredo Delposo       | 38. Edgar Montecillo  |
| 16. Jovito Jayme            | 39. Pompio Senador  |
| 17. Emma L. Lana            | 40. Ernesto Palomar   |
| 18. Koannia M. Tangub       | 41. Reynante Germiniano   |
| 19. Violeta Pancho          | 42. Pelagio Arnaiz  |
| 20. Roberto Bordomeo        | 43. Ireneo Russiana   |
| 21. Mancera Vevincio        | 44. Benjamin Gellangco, Jr.   |
| 22. Caesar Sigfredo         | 45. Nestor Ouano (listed in paragraphs 1 & 9 of the IPI Employees Union-ALU's Supplemental Memorandum dated 6 March 1991) |
| 23. Trazona Roldan          |   |

3. Ordering the International Pharmaceutical Inc. to reinstate to their former positions the following employees, namely:

- a. Alexander Aboganda
- b. Pacifico Pestano
- c. Carlito Torregano
- d. Clemencia Pestano
- e. Elisea Cabatingan

(listed in paragraph 3 of the IPI Employees Union-ALU's Supplemental Memorandum dated 6 March 1991).

No further motions of the same nature shall be entertained.<sup>[8]</sup>

IPI assailed the issuances of Secretary Torres directly in this Court through a petition for *certiorari* (G.R. No. 103330), but the Court dismissed its petition on October 14, 1992 on the ground that no grave abuse of discretion had attended the issuance of the assailed decisions.<sup>[9]</sup> Considering that IPI did not seek the reconsideration of the dismissal of its petition, the entry of judgment issued in due course on January 19, 1994.<sup>[10]</sup>

With the finality of the December 26, 1990 and December 5, 1991 orders of the DOLE Secretary, the Union, represented by the Seno, Mendoza and Associates Law

Office, moved in the National Conciliation and Mediation Board in DOLE, Region VII on June 8, 1994 for their execution.<sup>[11]</sup>

On November 21, 1994, one Atty. Audie C. Arnado, who had meanwhile entered his appearance on October 4, 1994 as the counsel of 15 out of the 50 employees named in the December 5, 1991 judgment of Secretary Torres, likewise filed a so-called Urgent Motion for Execution.<sup>[12]</sup>

After conducting conferences and requiring the parties to submit their position papers, Regional Director Alan M. Macaraya of DOLE Region VII issued a Notice of Computation/Execution on April 12, 1995,<sup>[13]</sup> the relevant portion of which stated:

To speed-up the settlement of the issue, the undersigned on 7 February 1995 issued an order directing the parties to submit within ten (10) calendar days from receipt of the Order, their respective Computations. To date, only the computation from complainants including those that were not specifically mentioned in the Supreme Court decision were submitted and received by this office.

Upon verification of the Computation available at hand, management is hereby directed to pay the employees including those that were not specifically mentioned in the decision but are similarly situated, the aggregate amount of FORTY-THREE MILLION SIX HUNDRED FIFTY THOUSAND NINE HUNDRED FIVE AND 87/100 PESOS (P43,650,905.87) involving NINE HUNDRED SIXTY-TWO (962) employees, in the manner shown in the attached Computation forming part of this Order. This is without prejudice to the final Order of the Court to reinstate those covered employees.

This Order is to take effect immediately and failure to comply as instructed will cause the issuance of a WRIT OF EXECUTION.<sup>[14]</sup>

In effect, Regional Director Macaraya increased the number of the workers to be benefitted to 962 employees – classified into six groups – and allocated to each group a share in the P43,650,905.87 award,<sup>[15]</sup> as follows:

GROUP	NO. OF EMPLOYEES	TOTAL CLAIM
Those represented by Atty. Arnado	15	P4,162,361.50
Salesman	9	P6,241,535.44
For Union Members	179	P6,671,208.86
For Non-Union Members	33	P1,228,321.09
Employees who ratified the CBA	642	P23,982,340.14
Separated Employees	84	P1,365,136.84
TOTAL	962	P43,650,905.87

On May 24, 1995, Assistant Regional Director Jalilo dela Torre of DOLE Region VII issued a writ of execution for the amount of P4,162,361.50 (which covered monetary claims corresponding to the period from January 1, 1989 to March 15, 1995) in favor of the 15 employees represented by Atty. Arnado,<sup>[16]</sup> to be distributed thusly:<sup>[17]</sup>

1. Barredo, Gregorio	P278,700.10
2. Bordomeo, Roberto	P278,700.10
3. Cupta, Anecito	P278,700.10
4. Delposo, Godofredo	P278,700.10
5. Dinolan, Ananias	P278,700.10
6. Jayme, Jovito	P278,700.10
7. Lozada, Merope	P278,700.10
8. Mayorga, Agapito	P278,700.10
9. Mergal, Lourdes	P278,700.10
10. Pancho, Bebiano	P278,700.10
11. Pancho, Violeta	P278,700.10
12. Rodriguez, Alejandro	P278,700.10
13. Russiana, Ireneo	P263,685.10
14. Tangub, Joannis	P278,700.10
15. Trazona, Rolsan	P275,575.10
TOTAL	P4,162,361.50

On June 5, 1995, Assistant Regional Director dela Torre issued another Writ of Execution for the amount of P1,200,378.92 in favor of the second group of employees. Objecting to the reduced computation for them, however, the second group of employees filed a Motion Declaring the Writ of Execution dated June 5, 1995 null and void.

On July 11, 1995, IPI challenged the May 24, 1995 writ of execution issued in favor of the 15 employees by filing its Appeal and Prohibition with Prayer for Temporary Restraining Order in the Office of then DOLE Undersecretary Cresenciano Trajano.<sup>[18]</sup>

On December 22, 1995,<sup>[19]</sup> Acting DOLE Secretary Jose Brillantes, acting on IPI's appeal, recalled and quashed the May 24, 1995 writ of execution, and declared and considered the case closed and terminated.<sup>[20]</sup>

Aggrieved, the 15 employees sought the reconsideration of the December 22, 1995 Order of Acting DOLE Secretary Brillantes.

On August 27, 1996, DOLE Secretary Leonardo A. Quisumbing granted the Motion for Reconsideration,<sup>[21]</sup> and reinstated the May 24, 1995 writ of execution, subject to the deduction of the sum of P745,959.39 already paid pursuant to quitclaims from the award of P4,162,361.50.<sup>[22]</sup> Secretary Quisumbing declared the quitclaims executed by the employees on December 2, 3, and 17, 1993 without the assistance of the proper office of the DOLE unconscionable for having been entered into under circumstances showing vitiation of consent; and ruled that the execution of the quitclaims should not prevent the employees from recovering their monetary