

## THIRD DIVISION

[ G.R. No. 197003, February 11, 2013 ]

**NERIE C. SERRANO, PETITIONER, VS. AMBASSADOR HOTEL, INC.  
AND YOLANDA CHAN, RESPONDENTS.**

### D E C I S I O N

**VELASCO JR., J.:**

Before Us is a Petition for Review on Certiorari under Rule 45 assailing and seeking to set aside the Decision<sup>[1]</sup> and Resolution<sup>[2]</sup> dated March 26, 2010 and May 19, 2011, respectively, of the Court of Appeals (CA) in CA-G.R. SP No. 100612, affirming with modification the May 24, 2007 Resolution<sup>[3]</sup> of the National Labor Relations Commission (NLRC ), Third Division, in NLRC Case No. 040480-04 (NCR Case No. 00-04-04580-03).

Records yield the following facts:

Petitioner Nerie C. Serrano (Serrano) was hired by respondent Ambassador Hotel, Inc. (AHI) in 1969 as an accountant<sup>[4]</sup> when the hotel was still under construction. When hotel operations began in 1971, AHI installed Serrano as the head of the accounting department.<sup>[5]</sup> In 1972, Serrano was tasked to assist in the canvass and purchase of merchandise, as well as handle the random checking of foodstuff and bar stock inventories, as additional duties.<sup>[6]</sup>

Sometime in 1998, an intra-corporate controversy erupted within AHI. At the time, respondent Yolanda Chan (Chan), then the general cashier of AHI, brought to the attention of AHI's President, her father Simeon Nicolas Chan (Simeon), the alleged commission by Serrano of acts of misappropriation.<sup>[7]</sup> Thereafter, the AHI board met and passed several resolutions, namely: (1) Resolution No. 6, Series of 1998, dismissing Simeon as the President and declaring all executive positions vacant and abolished; (2) Resolution No. 7, Series of 1998, designating Chan as the new president of AHI; and (3) Resolution No. 10, Series of 1998, dismissing Serrano for insubordination and loss of trust and confidence.<sup>[8]</sup>

Simeon, however, refused to honor the foregoing resolutions and instead barred Yolanda Chan from entering the hotel premises.<sup>[9]</sup> Chan, in turn, invoked her right as a stockholder of AHI and demanded to be given the right to inspect the books and records of the hotel. Upon the order of Simeon, Serrano resisted Chan's demand,<sup>[10]</sup> prompting the latter to file a case before the Securities and Exchange Commission (SEC). Chan's right to inspect the books was sustained by the SEC and finally by this Court in G.R. No. 156574, entitled *Nerie Serrano v. Yolanda Chan*, on March 17, 2003.<sup>[11]</sup> In the meantime, the Regional Trial Court of Manila, Branch 46, issued a Decision sustaining the legality of AHI's Board Resolutions.<sup>[12]</sup>

On April 10, 2001, Chan assumed the presidency of, and brought her own staff to work in AHI. Soon after, she issued Memo No. YCC-2001-2002 dated April 16, 2001, directing Serrano to prepare a detailed account report of AHI's assets, to turn over all of AHI's cash and bank accounts to Chan, and to stop dealing and/or transacting for and in behalf of the hotel.<sup>[13]</sup> Other than the preparation of the account report, Serrano alleged that she was not given any job assignment but was told to report directly and daily to Chan. Due to this new working arrangement, Serrano, so she claimed, was forced to file her retirement on July 31, 2001, 30 days before its effectivity. Thereafter, she prepared all the necessary accounting documents for a smooth turnover.<sup>[14]</sup>

On August 7, 2001, Serrano received a letter from Chan stating that the former can no longer avail of her retirement pay from AHI, since she had already received a lump sum amount of PhP 137,205.07, and has been receiving monthly pensions, from the Social Security System (SSS) for retiring in May 2000.<sup>[15]</sup> Serrano claimed that she was not paid her 13<sup>th</sup> month pay for the years 1999, 2000, and 2001.<sup>[16]</sup> Even her salary from March 1, 2000 up to August 31, 2001, she added, was not paid, together with allowances from May 16, 2000 to February 28, 2001, service charge from

August 2000 to April 2001, and service incentive leave pay for the year 2001.<sup>[17]</sup>

It is upon the foregoing factual backdrop that Serrano had filed a complaint against AHI and/or Chan for the nonpayment of salaries, 13<sup>th</sup> month pay, separation pay, retirement benefits, and damages before the labor arbiter.<sup>[18]</sup>

Finding that AHI failed to discharge the burden to prove that Serrano had been paid her salaries and other monetary benefits<sup>[19]</sup> inclusive of her retirement pay,<sup>[20]</sup> Labor Arbiter Fatima Jambaro-Franco ruled for Serrano. By a Decision dated April 28, 2004, the labor arbiter awarded Serrano the total amount of PhP 1,323,693.36 representing her retirement benefits and other monetary awards,<sup>[21]</sup> viz:

**WHEREFORE**, premises considered, judgment is hereby rendered ordering the respondents **Ambassador Hotel, Inc.** and/or **Yolanda Chan** to jointly and severally pay complainant Nerie C. Serrano the amount of **ONE MILLION THREE HUNDRED TWENTY THREE THOUSAND SIX HUNDRED NINETY THREE PESOS & 36/100 (P1,323,693.36)** representing her retirement benefits and other monetary award as earlier computed plus attorney's fees.

On appeal, the NLRC modified the labor arbiter's Decision by deleting the award representing Serrano's retirement pay, thereby reducing the award to only PhP 324,680.40. The NLRC gave credence to respondents' claim that the SSS had already paid Serrano her retirement pay so that she is no longer entitled to receive the same monetary benefit awarded by the labor arbiter.<sup>[22]</sup> The dispositive portion of the NLRC Decision provided, thus:

PREMISES CONSIDERED, the Decision of May 7, 2004 is hereby MODIFIED by deletion of the award representing retirement pay. Respondents are directed to pay complainant the following:

13 <sup>th</sup> month pay	
1999	
2000	
2001	P98,388.00
Unpaid salary	
3/1/01 - 8/31//01 = 6 months	
P32,796 x -	
6 mos.	<u>196,776.00</u>
	P295,164.00
10% -	
attorney's fees	<u>29,516.40</u>
	- P324,680.40 <sup>[23]</sup>

Petitioner Serrano and respondents AHI and Chan interposed separate petitions for certiorari assailing the NLRC Decision, after their respective motions for reconsideration were denied.<sup>[24]</sup> At the CA, Serrano's petition docketed as CA-G.R. SP No. 100569, entitled *Nerie Serrano v. National Labor Relations Commission (Third Division), Ambassador Hotel, Inc. and Yolanda Chan*, was raffled to the CA's Special Eighth (8<sup>th</sup>) Division, while that of respondents AHI and Chan's, docketed as CA-G.R. SP No. 100612, entitled *Ambassador Hotel, Inc. and Yolanda Chan in her capacity as President of Ambassador Hotel, Inc. v. NLRC and Nerie C. Serrano*, went to the CA's Special Fourth (4<sup>th</sup>) Division.

On November 4, 2008 in CA-G.R. SP No. 100569, **the appellate court's Special 8<sup>th</sup> Division issued a Decision<sup>[25]</sup> reversing the NLRC's Decision and reinstating and affirming the labor arbiter's Decision.** The CA Special 8<sup>th</sup> Division declared the deletion of the retirement pay award by the NLRC erroneous, the retirement pay under Article 287 of the Labor Code, as amended, being separate from the retirement benefits claimable by a qualified employee under the Social Security Law. It explained that respondents Chan and AHI failed to prove that Serrano already received all her salaries and benefits.<sup>[26]</sup> Thus, the CA Special 8th Division disposed:

WHEREFORE, the decision of the NLRC is hereby **REVERSED** and that of the Labor Arbiter dated 28 April 2004 is **REINSTATED and AFFIRMED.**  
<sup>[27]</sup>

In its August 24, 2009 Resolution,<sup>[28]</sup> the former CA Special 8<sup>th</sup> Division denied respondents' motion for reconsideration. Hence, respondents Chan and AHI filed

before this Court a Petition for Review on Certiorari dated October 15, 2009, docketed as G.R. No. 189313, praying that the November 4, 2008 and August 24, 2009 Decision and Resolution of the CA Special 8<sup>th</sup> Division be annulled and set aside.<sup>[29]</sup>

In a Resolution dated December 16, 2009,<sup>[30]</sup> this Court dismissed respondents' petition stating that:

Acting on the petition for review on certiorari assailing the Decision dated 04 November 2008 and Resolution dated 24 August 2009 of the Court of Appeals in CA-G.R. SP No. 100569, the Court resolves to **DENY** the petition for failure to sufficiently show that the appellate court committed any reversible error in the challenged decision and resolution as to warrant the exercise by this Court of its discretionary appellate jurisdiction.<sup>[31]</sup>

In its March 17, 2010 Resolution,<sup>32</sup> the Court denied with finality respondents Chan and AHI's motion for reconsideration.<sup>[33]</sup> On May 14, 2010, the Resolution of this Court in G.R. No. 189313 became final and executory,<sup>[34]</sup> thereby effectively **reinstating with finality the Decision of the labor arbiter.**

Meanwhile, in their petition for certiorari under consideration by the appellate court's Special 4<sup>th</sup> Division, respondents AHI and Chan argued against Serrano's entitlement to any monetary award and, thus, faulted the NLRC for granting her the reduced amount of PhP 324,680.40.

Sustaining for the most part the respondents' arguments, **the CA Special 4<sup>th</sup> Division issued the presently assailed Decision dated March 26, 2010, which affirms with modification the NLRC Decision** by deleting the award of unpaid salaries and thereby further reducing the monetary award to PhP 27,376.80. The CA Special 4<sup>th</sup> Division tagged Serrano's unilateral computation of her salaries and benefits as self-serving. To the CA Special 4<sup>th</sup> Division, the NLRC should have considered the Bureau of Internal Revenue documents and payslips presented by respondents AHI and Chan, which proved that Serrano's monthly salary was only PhP 12,444, and not PhP 32,796.<sup>[35]</sup> As for the claimed unpaid salaries from March 1, 2001 to August 1, 2001, the CA Special 4<sup>th</sup> Division was of the position that there is no dispute that Serrano already retired in 2000 and she failed to prove her allegation that she rendered services for AHI thereafter. Hence, the appellate court found that NLRC's grant of unpaid salary is erroneous.<sup>36</sup> The *fallo* of the CA Special 4<sup>th</sup> Division assailed Decision declared, thus:

**WHEREFORE**, premises considered, the NLRC's Decision dated May 24, 2007 is hereby **MODIFIED** in that Ambassador Hotel is directed to pay private respondent the following:

a.) 13<sup>th</sup> month pay: x x x

b.) Attorney's fees equivalent to 10% of the judgment award in the amount of P2,488.80.

The award of unpaid salaries representing six months, from 3/1/01 to 8/31/01 at P32,796.00 or a total of P196,776.00 is hereby deleted for lack of merit.<sup>[37]</sup>

Petitioner's motion for reconsideration having been denied, she now comes to this Court via the instant petition praying, in the main, that the Decision in CA-G.R. SP No. 100612 of the Special 4<sup>th</sup> Division be declared without legal effect for effectively contradicting a final and executory Decision of this Court in G.R. No. 189313.

The petition is meritorious.

This Court's December 16, 2009<sup>[38]</sup> Resolution and March 17, 2010 Resolution<sup>[39]</sup> denying the motion for reconsideration with finality in G.R. No. 189313 should have immediately written *finis* to the controversy between the parties regarding the benefits of petitioner Serrano. The appellate court's Special 4<sup>th</sup> Division ought to have immediately dismissed respondents' certiorari petition docketed as CA-G.R. SP No. 100612 in view of this Court's final pronouncements in G.R. No. 189313. The principle of "bar by prior judgment," one of the two concepts embraced in the doctrine of *res judicata*, the other being labeled as "conclusiveness of judgment," demands such action. Section 47(b), Rule 39 of the Rules of Court on the effect of a former judgment is clear:

SEC. 47. *Effect of final judgments or final orders.* – The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

x x x x

(b) x x x **[T]he judgment or final order is, with respect to the matter directly adjudged** or as to any other matter that could have been raised in relation thereto, **conclusive between the parties** and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity x x x. (Emphasis supplied.)

By the doctrine of *res judicata*, "a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits on all points and matters determined in the former suit."<sup>[40]</sup> To apply this doctrine in the form of a "bar by prior judgment," there must be identity of parties, subject matter, and causes of action as between the first case where the first judgment was rendered and the second case that is sought to be barred.<sup>[41]</sup> All these requisites are present in the case at bar:

*First*, the parties in both G.R. No. 189313 and CA-G.R. SP No. 100612, which is the subject of Our present review, are petitioner Serrano and respondents Chan and