

SECOND DIVISION

[G.R. No. 194169, December 04, 2013]

**ROMEO R. ARAULLO, PETITIONER, VS. OFFICE OF THE
OMBUDSMAN, HON. MERCEDITAS N. GUTIERREZ, HON. GERARDO
C. NOGRALES, HON. ROMEO L. GO, HON. PERLITA B. VELASCO,
AND HON. ARDEN S. ANNI, RESPONDENTS.**

D E C I S I O N

DEL CASTILLO, J.:

A public officer who acts pursuant to the dictates of law and within the limits of allowable discretion can hardly be considered guilty of misconduct.

This Petition for *Certiorari*^[1] seeks to set aside the undated Decision^[2] of the Office of the Ombudsman (Ombudsman) in Case No. OMB-C-A-09-0437-H, entitled "*Romeo R. Araullo, Complainant, versus Gerardo C. Nograles, Romeo L. Go, Perlita B. Velasco, and Arden S. Anni, Respondents.*"

Factual Antecedents

Relative to National Labor Relations Commission (NLRC), National Capital Region (NCR) NLRC NCR Case No. 00-01-00581-2001 (the labor case) entitled "*Romeo R. Araullo, Complainant, versus Club Filipino, Inc., Respondent,*" which is a case for illegal dismissal with a prayer for the recovery of salaries, benefits, and damages filed by herein petitioner Romeo R. Araullo against his former employer Club Filipino, Inc. (Club Filipino) with the Quezon City NCR Office of the NLRC, judgment^[3] was rendered by the Court of Appeals (CA), to wit:

WHEREFORE, the instant petition is GRANTED. The Decisions of the NLRC and the Labor Arbiter are vacated and set aside. Petitioner Araullo's dismissal is hereby declared illegal. Accordingly, the respondent Club Filipino is hereby ordered to reinstate Araullo to his former position without loss of seniority rights and to pay petitioner full [backwages], inclusive of allowances, including 13th month pay, as well as other monetary benefits, computed from the time his compensation was withheld from him to the time of his reinstatement. Should reinstatement be no longer possible the respondent Club Filipino should instead pay Araullo separation pay equivalent to one month a day [sic] for every year of service, with the fraction of at least six (6) months be [sic] considered as one whole year.

SO ORDERED.^[4]

The above CA judgment became final and executory after it was affirmed by this Court via a Decision^[5] dated November 29, 2006 in G.R. No. 167723. Thus, the

labor case was remanded to the NLRC for computation of petitioner's actual entitlements.

The Labor Arbiter handling the case, Fedriel Panganiban (Arbiter Panganiban) directed the NLRC Computation and Examination Unit to compute the liabilities of Club Filipino, after which the said office submitted a written computation^[6] granting petitioner the following:

Backwages	P1,494,000.00
13th Month Pay	124,500.00
Sick Leave/Vacation Leave	143,652.25
Separation Pay	<u>576,000.00</u>
Total	P2,338,152.25 ^[7]

On December 13, 2007, Arbiter Panganiban issued an Order^[8] voluntarily inhibiting himself from handling the labor case "to obviate any suspicion of partiality." The Order reads in part:

It was explained to the parties that after the submission of the comment, an order will be issued by this Arbitration Branch, however, even before the expiration of the ten[-]day period in which the respondent is to submit the comment, complainant's counsel bombarded this office with constant follow-ups insisting for the issuance of the writ of execution. Complainant's counsel even hinted that he will be filing a case before the Ombudsman if the writ of execution will not be issued.^[9]

Club Filipino appealed Arbiter Panganiban's Order of inhibition with the NLRC. Meanwhile, the labor case was raffled to herein respondent Labor Arbiter Arden S. Anni (Arbiter Anni) on January 4, 2008.

On January 8, 2008, petitioner filed a 4th Ex-Parte Manifestation With Very Urgent Prayer For Issuance Of Writ Of Execution.^[10] On January 21, 2008, Club Filipino filed a Motion to Recompute dated January 10, 2008.^[11]

On January 31, 2008, Arbiter Anni issued an Order^[12] holding in abeyance any action on petitioner's motion for execution and other related motions until Club Filipino's appeal with the NLRC relative to Arbiter Panganiban's inhibition is resolved.

In a May 15, 2008 Decision^[13] which became final and executory, the NLRC dismissed Club Filipino's appeal relative to Arbiter Panganiban's voluntary inhibition, and ordered that the records of the labor case be immediately forwarded to the branch of origin for continuation of the execution proceedings.

On July 29, 2008, Arbiter Anni issued a Writ of Execution^[14] ordering the collection of the P2,338,152.25 award as computed by the NLRC Computation and Examination Unit, as well as execution fees in the amount of P23,380.00.

Club Filipino moved to quash the Writ of Execution,^[15] claiming that Arbiter Anni

improvidently issued the writ without resolving the pending incidents and issues and in violation of the NLRC rules of procedure – in that it was issued without the required order approving the computation and without giving notice of such approval to the parties.^[16] The motion to quash was set for hearing on August 20, 2008.

Even before Club Filipino's motion to quash could be heard on its scheduled hearing date, Arbiter Anni in an August 12, 2008 Order^[17] quashed the Writ of Execution, enjoined the sheriff from conducting further execution, and lifted all notices of garnishment issued to the banks. Then, on August 14, 2008, he issued another Order voluntarily inhibiting himself from further proceedings in the labor case, on the ground that his "sense of impartiality may be questioned by any of the parties because of (his) rapport with Atty. Roberto 'Obet' De Leon, President of Club Filipino, and respondent's counsel, Atty. Ernesto P. Tabao x x x, who are both (his) fraternity brothers in San Beda College of Law."^[18]

On August 22, 2008, petitioner filed with the NLRC a Very Urgent Petition to Set Aside the Order of Labor Arbiter Arden S. Anni dated 12 August 2008^[19] claiming that the assailed Order defied the NLRC's directive to continue with the execution of the case; that execution of the judgment is ministerial, and the quashing of the writ constitutes an evasion of a positive duty; that Arbiter Anni's inhibition was calculated to favor Club Filipino and his fraternity brothers; that Club Filipino's motion to quash was a mere scrap of paper because petitioner's counsel was not furnished with a copy thereof; and that the Writ of Execution has been duly implemented and completely satisfied. However, the Petition was denied for lack of merit in an October 29, 2008 Resolution^[20] issued by the First Division of the NLRC, composed of the herein respondent Commissioners – Presiding Commissioner Gerardo C. Nograles and Commissioners Romeo L. Go, and Perlita B. Velasco. The following was decreed:

WHEREFORE, the petition to set aside the quashal order dated August 12, 2008 is hereby DENIED for lack of merit and the Motion for the Issuance of Preliminary Injunction and/or Temporary Restraining Order is DISMISSED for being MOOT and academic. Let the entire records be immediately forwarded to the Arbitration Branch of origin for the purpose aforementioned.

SO ORDERED.^[21]

In the above-quoted October 29, 2008 Resolution, the respondent Commissioners noted that in Arbiter Panganiban's December 13, 2007 Order,^[22] he committed that after the parties shall have submitted their comments to the NLRC Computation and Examination Unit's written computation, he will issue the corresponding order, either approving or disapproving the computation; however, the matter was overtaken by his voluntary inhibition from the case. And when Arbiter Anni took over, he improvidently issued the Writ of Execution without first approving or disapproving the NLRC Computation and Examination Unit's computation or resolving Club Filipino's subsequent January 10, 2008 Motion to Recompute, thus circumventing Rule XI, Section 4 of the 2005 NLRC Revised Rules of Procedure^[23] (NLRC Rules). The logical step, then, was to first resolve the pending issues and incidents in accordance with the NLRC Rules; a remand of the case to the Labor Arbiter was thus

in order.

Petitioner moved to reconsider, but in a March 18, 2009 Resolution,^[24] the respondent Commissioners resolved to deny his motion for reconsideration.

Ruling of the Ombudsman

On July 28, 2009, petitioner filed a Complaint^[25] before the Ombudsman against the respondent Commissioners and Arbiter Anni, for violation of Section 3(e)^[26] of Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act, and Article 206 of the Revised Penal Code.^[27] The criminal aspect was docketed as OMB-C-C-09-0410-H; it was later dismissed by the Ombudsman via an undated Resolution.^[28] On the other hand, the administrative case – docketed as OMB-C-A-09-0437-H – was based on a charge of grave misconduct.

Petitioner charged that Arbiter Anni entertained Club Filipino's motion to quash despite the fact that only he – and not his counsel – was furnished with a copy thereof; that he hastily resolved to quash the Writ of Execution and lift the notices of garnishment even before the scheduled date of hearing of Club Filipino's motion to quash; and that after quashing the Writ of Execution, he voluntarily inhibited himself from further proceeding with the labor case to "wash his hands" of the improper quashal of the Writ of Execution. Petitioner accused Arbiter Anni of conspiring with his fraternity brothers in Club Filipino to delay the execution of the decision in the labor case, thus giving unwarranted benefits and advantage to them. On the other hand, petitioner accused the respondent Commissioners of gross misconduct for improperly affirming and "legitimizing", through their October 29, 2008 Resolution, Arbiter Anni's order quashing the Writ of Execution.

In their Counter-Affidavit,^[29] the respondent Commissioners set up the defense that they acted lawfully and regularly in the performance of their functions relative to petitioner's labor case – specifically the quashing of the Writ of Execution, which was issued improvidently by Arbiter Anni; that if they allowed the execution to proceed, Club Filipino's right to due process would have been violated, and this would have opened the door to further appeals or proceedings. They added that they did not act with partiality, malice or with deliberate intent to cause damage to petitioner, nor is there evidence to show that they acted in such manner; on the contrary, they acted with caution, prudence, good faith, and with due regard for the rules of procedure of the NLRC. They maintained that the presumption of regularity should apply to them, and they should be afforded a wide latitude of discretion, as government officers possessing the knowledge, expertise, and experience in labor matters. They note particularly petitioner's repeated threats to file an administrative case if the labor case is not decided in his favor, from Arbiter Panganiban's December 13, 2007 Order which revealed petitioner's counsel's threat to file an administrative case if the Writ of Execution is not granted, to the insinuation that if petitioner's Very Urgent Petition to Set Aside the Order of Labor Arbiter Arden S. Anni dated 12 August 2008 is denied, a complaint with the Ombudsman would be instituted.

For his part, Arbiter Anni in his Counter-Affidavit^[30] avowed that there is no plot or conspiracy to delay the execution of the final judgment in the labor case; that he

was not influenced by his fraternity brothers in Club Filipino; that he was compelled to quash the Writ of Execution on account of pending incidents that had to be resolved first, in conformity with Rule XI, Section 4 of the NLRC Rules; that when the writ was quashed, garnishment had not been effected; that he scheduled the hearing on the motion to quash on August 20, 2008 only because the motion could not be accommodated in his official calendar – thus, in issuing his August 12, 2008 Order quashing the Writ of Execution, he did not violate petitioner's right to due process; that it was necessary to quash the Writ of Execution as it did not conform to Rule XI, Section 4 of the NLRC Rules; that in inhibiting himself from the case, he had no intention to delay the execution of the judgment therein; and that petitioner should not be allowed to obtain execution and satisfaction of the judgment at the expense and in violation of the rights of Club Filipino.

In a Consolidated Reply-Affidavit,^[31] petitioner reiterated that he should have been heard on the motion to quash before the Writ of Execution was withdrawn; that Arbiter Anni's August 12, 2008 Order quashing the writ was patently void as the motion to quash was still scheduled to be heard on August 20, 2008; that in issuing the Writ of Execution on July 29, 2008 ordering the collection of the amount of P2,338,152.25, Arbiter Anni is deemed to have approved the said computation of the NLRC Computation and Examination Unit; that because the Writ of Execution was validly issued and the order quashing it is void, the respondent Commissioners are guilty of misconduct in sustaining the said order, and caused undue injury to the petitioner as a result of the delay in the execution and unwarranted benefits given by the respondents to Club Filipino; and that Arbiter Anni is guilty of evident partiality, causing undue injury to petitioner and delay in the labor case, as well as giving unwarranted benefits and advantage to his fraternity brothers in Club Filipino.

Meanwhile, it appears that the labor case was assigned to Arbiter Fe S. Cellan (Arbiter Cellan), who proceeded with the execution. In a September 14, 2009 Order, Arbiter Cellan corrected the computed award, thus:

WHEREFORE, in view of the foregoing, the Motion to Recompute is denied. However, the computation of the backwages and separation pay should be corrected and should be limited until 03 October 2007 and the outstanding account of complainant in the amount of P186,545.81 should be deducted therefrom.

SO ORDERED.^[32]

It likewise appears that a recomputation was made, and the award due to petitioner was reduced to P2,117,002.35; that in an October 8, 2009 Order, Arbiter Cellan approved the new computation and ordered the issuance of a Writ of Execution; and that on December 10, 2010, petitioner received in full the amount of the judgment award.^[33]

Meanwhile, in OMB-C-A-09-0437-H, the assailed undated Decision was issued, decreeing as follows:

WHEREFORE, the charge of Grave Misconduct against the respondents is hereby dismissed.

SO ORDERED.^[34]