

## FIRST DIVISION

[ G.R. No. 168382, June 06, 2011 ]

**AIRLINE PILOTS ASSOCIATION OF THE PHILIPPINES,  
PETITIONER, VS. PHILIPPINE AIRLINES, INC., RESPONDENT.**

### DECISION

**DEL CASTILLO, J.:**

A judgment that has attained finality is immutable and could thus no longer be modified.

By this Petition for Review on *Certiorari*,<sup>[1]</sup> petitioner Airline Pilots Association of the Philippines (ALPAP) assails the Decision<sup>[2]</sup> dated December 22, 2004 and Resolution<sup>[3]</sup> dated May 30, 2005 of the Court of Appeals (CA) in CA-G.R. SP No. 79686, which found no grave abuse of discretion on the part of Department of Labor and Employment (DOLE) Secretary Patricia A. Sto. Tomas (Sto. Tomas) and Acting Secretary Manuel G. Imson (Imson) in issuing their respective letters dated July 30, 2003<sup>[4]</sup> and July 4, 2003,<sup>[5]</sup> in connection with ALPAP's motions<sup>[6]</sup> filed in NCMB NCR NS 12-514-97.

#### ***Factual Antecedents***

The present controversy stemmed from a labor dispute between respondent Philippine Airlines, Inc. (PAL) and ALPAP, the legitimate labor organization and exclusive bargaining agent of all commercial pilots of PAL. Claiming that PAL committed unfair labor practice, ALPAP filed on December 9, 1997, a notice of strike<sup>[7]</sup> against respondent PAL with the DOLE, docketed as NCMB NCR NS 12-514-97. Upon PAL's petition and considering that its continued operation is impressed with public interest, the DOLE Secretary assumed jurisdiction over the labor dispute per Order<sup>[8]</sup> dated December 23, 1997, the dispositive portion of which reads:

WHEREFORE, this Office hereby assumes jurisdiction over the labor dispute at the Philippine Airlines, Inc. pursuant to Article 263 (g) of the Labor Code, as amended.

Accordingly, all strikes and lockouts at the Philippine Airlines, Inc., whether actual or impending, are hereby strictly prohibited. The parties are also enjoined from committing any act that may exacerbate the situation.

The parties are further directed to submit their respective position papers within ten (10) days from receipt of this Order.

SO ORDERED.<sup>[9]</sup>

In a subsequent Order dated May 25, 1998,<sup>[10]</sup> the DOLE Secretary reiterated the prohibition contained in the December 23, 1997 Order. Despite such reminder to the parties, however, ALPAP went on strike on June 5, 1998. This constrained the DOLE, through then Secretary Cresenciano B. Trajano, to issue a return-to-work order<sup>[11]</sup> on June 7, 1998. However, it was only on June 26, 1998 when ALPAP officers and members reported back to work as shown in a logbook<sup>[12]</sup> signed by each of them. As a consequence, PAL refused to accept the returning pilots for their failure to comply immediately with the return-to-work order.

On June 29, 1998, ALPAP filed with the Labor Arbiter a complaint for illegal lockout<sup>[13]</sup> against PAL, docketed as NLRC NCR Case No. 00-06-05253-98. ALPAP contended that its counsel received a copy of the return-to-work order only on June 25, 1998, which justified their non-compliance therewith until June 26, 1998. It thus prayed that PAL be ordered to accept unconditionally all officers and members of ALPAP without any loss of pay and seniority and to pay whatever salaries and benefits due them pursuant to existing contracts of employment.

On PAL's motion, the Labor Arbiter consolidated the illegal lockout case with NCMB NCR NS 12-514-97 (strike case) pending before the DOLE Secretary since the controversy presented in the lockout case is an offshoot of the labor dispute over which the DOLE Secretary has assumed jurisdiction and because the factual allegations in both cases are interrelated.<sup>[14]</sup> In a Resolution dated January 18, 1999,<sup>[15]</sup> the NLRC sustained the consolidation of the illegal lockout case with the strike case, opining that the DOLE Secretary has the authority to resolve all incidents attendant to his return-to-work order.

Through then DOLE Secretary Bienvenido E. Laguesma, a Resolution<sup>[16]</sup> dated June 1, 1999 was rendered in NCMB NCR NS 12-514-97, declaring the strike conducted by ALPAP on June 5, 1998 illegal and pronouncing the loss of employment status of its officers and members who participated in the strike in defiance of the June 7, 1998 return-to-work order. The decretal portion of the Resolution reads:

WHEREFORE, PREMISES CONSIDERED, this Office hereby:

- a. x x x;
- b. DECLARES the strike conducted by ALPAP on June 5, 1998 and thereafter as illegal for being procedurally infirm and in open defiance of the return-to-work order of June 7, 1998 and, consequently, the strikers are deemed to have lost their employment status; and
- c. DISMISSES the complaint for illegal lockout for lack of merit.

SO ORDERED.<sup>[17]</sup>

In a Resolution<sup>[18]</sup> dated July 23, 1999, ALPAP's motion for reconsideration was denied. Thus, ALPAP filed a Petition for *Certiorari*<sup>[19]</sup> with the CA assailing both the June 1, 1999 and July 23, 1999 DOLE Resolutions. The case was docketed as CA-G.R. SP No. 54880.

Meanwhile, several ALPAP members filed separate individual complaints for illegal dismissal and non-payment of monetary benefits against PAL with the Labor Arbiters of the NLRC, questioning their termination as a result of the strike staged by other ALPAP members on June 5, 1998.<sup>[20]</sup> While these cases were pending, the CA, in CA-G.R. SP No. 54880, affirmed and upheld the June 1, 1999 and July 23, 1999 DOLE Resolutions in its Decision<sup>[21]</sup> dated August 22, 2001. ALPAP then sought a review of the CA Decision, thereby elevating the matter to this Court docketed as G.R. No. 152306. On April 10, 2002, this Court dismissed ALPAP's petition for failure to show that the CA committed grave abuse of discretion or a reversible error.<sup>[22]</sup> This Court's Resolution attained finality on August 29, 2002.<sup>[23]</sup>

### ***Proceedings before the DOLE Secretary***

On January 13, 2003, ALPAP filed before the Office of the DOLE

Secretary a Motion<sup>[24]</sup> in NCMB NCR NS 12-514-97, requesting the said office to conduct an appropriate legal proceeding 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 conducted in June 1998. ALPAP contended that there is a need to conduct a proceeding in order to determine who actually participated in the illegal strike since not only the striking workers were dismissed by PAL but all of ALPAP's officers and members, even though some were on official leave or abroad at the time of the strike. It also alleged that there were some who joined the strike and returned to work but were asked to sign new contracts of employment, which abrogated their earned seniority. Also, there were those who initially defied the return-to-work order but immediately complied with the same after proper receipt thereof by ALPAP's counsel. However, PAL still refused to allow them to enter its premises. According to ALPAP, such measure, as to meet the requirements of due process, is essential because it must be first established that a union officer or member has participated in the strike or has committed illegal acts before they could be dismissed from employment. In other words, a fair determination of who must suffer the consequences of the illegal strike is indispensable since a significant number of ALPAP members did not at all participate in the strike. The motion also made reference to the favorable recommendation rendered by the Freedom of Association Committee of the International Labour Organization (ILO) in ILO Case No. 2195 which requested the Philippine Government "to initiate discussions in order to consider the possible reinstatement in their previous employment of all ALPAP's workers who were dismissed following the strike staged in June 1998."<sup>[25]</sup> A Supplemental Motion<sup>[26]</sup> was afterwards filed by ALPAP on January 28, 2003, this time asking the DOLE Secretary to resolve all issues relating to the entitlement to employment benefits by the officers and members of

ALPAP, whether terminated or not.

In its Comment<sup>[27]</sup> to ALPAP's motions, PAL argued that the motions cannot legally prosper since the DOLE Secretary has no authority to reopen or review a final judgment of the Supreme Court relative to NCMB NCR NS 12-514-97; that the requested proceeding is no longer necessary as the CA or this Court did not order the remand of the case to the DOLE Secretary for such determination; that the NLRC rather than the DOLE Secretary has jurisdiction over the motions as said motions partake of a complaint for illegal dismissal with monetary claims; and that all money claims are deemed suspended in view of the fact that PAL is under receivership.

On January 24, 2003, the DOLE called the parties to a hearing to discuss and clarify the issues raised in ALPAP's motions.<sup>[28]</sup> In a letter dated July 4, 2003<sup>[29]</sup> addressed to ALPAP President, Capt. Ismael C. Lopus, Jr., then Acting DOLE Secretary, Imson, resolved ALPAP's motions in the following manner:

x x x x

After a careful consideration of the factual antecedents, applicable legal principles and the arguments of the parties, this Office concludes that NCMB-NCR-NS-12-514-97 has indeed been resolved with finality by the highest tribunal of the land, the Supreme Court. Being final and executory, this Office is bereft of authority to reopen an issue that has been passed upon by the Supreme Court.

It is important to note that in pages 18 to 19 of ALPAP's Memorandum, it admitted that individual complaints for illegal dismissal have been filed by the affected pilots before the NLRC. It is therefore an implied recognition on the part of the pilots that the remedy to their present dilemma could be found in the NLRC.

x x x x

Thus, to avoid multiplicity of suits, splitting causes of action and forum-shopping which are all obnoxious to an orderly administration of justice, it is but proper to respect the final and executory order of the Supreme Court in this case as well as the jurisdiction of the NLRC over the illegal dismissal cases. Since ALPAP and the pilots have opted to seek relief from the NLRC, this Office should respect the authority of that Commission to resolve the dispute in the normal course of law. This Office will no longer entertain any further initiatives to split the jurisdiction or to shop for a forum that shall only foment multiplicity of labor disputes. Parties should not jump from one forum to another. This Office will make sure of that.

By reason of the final ruling of the Honorable Supreme Court, the erring pilots have lost their employment status and second, because these pilots have filed cases to contest such loss before another forum, the Motion and Supplemental Motion of ALPAP as well as the arguments raised therein are merely **NOTED** by this Office.

ALPAP filed its motion for reconsideration<sup>[30]</sup> arguing that the issues raised in its motions have remained unresolved hence, it is the duty of DOLE to resolve the same it having assumed jurisdiction over the labor dispute. ALPAP also denied having engaged in forum shopping as the individual complainants who filed the cases before the NLRC are separate and distinct from ALPAP and that the causes of action therein are different. According to ALPAP, there was clear abdication of duty when then Acting Secretary Imson refused to properly act on the motions. In a letter dated July 30, 2003,<sup>[31]</sup> Secretary Sto. Tomas likewise merely noted ALPAP's motion for reconsideration, reiterating the DOLE's stand to abide by the final and executory judgment of the Supreme Court.

### ***Proceedings before the Court of Appeals***

ALPAP filed a petition for *certiorari*<sup>[32]</sup> with the CA, insisting that the assailed letters dated July 4, 2003 and July 30, 2003, which merely noted its motions, were issued in grave abuse of discretion.

In their Comment,<sup>[33]</sup> Sto. Tomas and Imson argued that the matter of who among ALPAP's members and officers participated in the strike was already raised and resolved by the CA and this Court. By filing the motions, ALPAP, in effect, initiated a termination case which is properly cognizable by the Labor Arbiter. And since several ALPAP members have already filed complaints for illegal dismissal and claims for salaries and benefits with the Labor Arbiter, ALPAP is thus engaging in forum-shopping when it filed the subject motions.

PAL, on the other hand, also claimed in its Comment<sup>[34]</sup> that ALPAP violated the principles governing forum shopping, *res judicata* and multiplicity of suits. It opined that when ALPAP questioned the loss of employment status of "all its officers and members and asked for their reinstatement" in its appeal to reverse the Decision of the DOLE Secretary in the consolidated strike and illegal lockout cases, the matter of who should be meted out the penalty of dismissal was already resolved with finality by this Court and could not anymore be modified.

The CA, in its Decision dated December 22, 2004,<sup>[35]</sup> dismissed the petition. It found no grave abuse of discretion on the part of Sto. Tomas and Imson in refusing to conduct the necessary proceedings to determine issues relating to ALPAP members' employment status and entitlement to employment benefits. The CA held that both these issues were among the issues taken up and resolved in the June 1, 1999 DOLE Resolution which was affirmed by the CA in CA-G.R. SP No. 54880 and subsequently determined with finality by this Court in G.R. No. 152306. Therefore, said issues could no longer be reviewed. The CA added that Sto. Tomas and Imson merely acted in deference to the NLRC's jurisdiction over the illegal dismissal cases filed by individual ALPAP members.

ALPAP moved for reconsideration which was denied for lack of merit in CA Resolution<sup>[36]</sup> dated May 30, 2005.

Hence, this petition.