

## SECOND DIVISION

[ G.R. No. 180699, October 13, 2010 ]

**BANK OF THE PHILIPPINE ISLANDS, PETITIONER, VS. LABOR ARBITER RODERICK JOSEPH CALANZA, SHERIFF ENRICO Y. PAREDES, AMELIA ENRIQUEZ, AND REMO L. SIA, RESPONDENTS.**

### D E C I S I O N

**NACHURA, J.:**

This is a Petition for Indirect Contempt filed by petitioner Bank of the Philippine Islands (BPI) against respondents Labor Arbiter Roderick Joseph Calanza (LA Calanza), Sheriff Enrico Y. Paredes (Sheriff Paredes), Amelia Enriquez (Enriquez), and Remo L. Sia (Sia).

The case stemmed from the following facts:

Enriquez and Sia were the branch manager and the assistant branch manager, respectively, of Bacolod-Singcang Branch of petitioner. On September 3, 2003, they were dismissed from employment on grounds of breach of trust and confidence and dishonesty. The following day, they filed separate complaints for illegal dismissal against petitioner before the National Labor Relations Commission (NLRC), Regional Arbitration Branch No. VI, Bacolod City.<sup>[1]</sup>

After the submission of their respective position papers, Executive LA Danilo C. Acosta rendered a decision on March 29, 2004, finding that Enriquez and Sia had been illegally dismissed from employment. The dispositive portion of LA Acosta's decision reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. DECLARING that complainants were illegally dismissed by respondents;
2. ORDERING respondents to reinstate complainants to their former position without loss of seniority rights and to pay them their corresponding full back wages inclusive of allowances and other benefits as computed, in the sum of Pesos: **ONE MILLION ONE HUNDRED SEVENTY-THREE THOUSAND, FOUR HUNDRED THIRTY-FOUR AND 50/100 ONLY (P1,173,434.50).**<sup>[2]</sup>

Pursuant to the aforesaid decision, Enriquez and Sia were reinstated in petitioner's payroll.<sup>[3]</sup>

Petitioner appealed to the NLRC. The NLRC ruled that petitioner had just cause to terminate Enriquez and Sia. Hence, it reversed and set aside the LA decision and, although it dismissed the complaint, it ordered petitioner to give the dismissed employees financial assistance equivalent to one-half month's pay for every year of service.<sup>[4]</sup> In view of this decision, petitioner stopped the payroll reinstatement.<sup>[5]</sup>

Enriquez and Sia elevated the matter to the Court of Appeals (CA), but failed to obtain a favorable decision. On November 30, 2005, the appellate court affirmed *in toto* the NLRC decision. The case eventually reached this Court and was docketed as G.R. No. 172812.

During the pendency of the petition before this Court, Enriquez and Sia filed a Motion for Partial Execution<sup>[6]</sup> of the LA decision dated March 29, 2004. Citing *Roquero v. Philippine Airlines*,<sup>[7]</sup> they claimed that the reinstatement aspect of the LA decision was immediately executory during the entire period that the case was on appeal.

In an Order<sup>[8]</sup> dated October 13, 2007, LA Calanza granted Enriquez and Sia's motion despite the opposition of petitioner. He opined that so long as there is no finality yet of the decision reversing a ruling of the lower tribunal (in this case, the LA) awarding reinstatement, the same should be enforced. Considering that the case was then pending before this Court, he sustained Enriquez and Sia's claim, applying the cases of *Roquero* and *Air Philippines Corporation v. Zamora*.<sup>[9]</sup> The corresponding writ of execution was subsequently issued.<sup>[10]</sup> Upon service of the writ, Sheriff Paredes served on petitioner a notice of sale of a parcel of land owned by petitioner to satisfy its obligation.<sup>[11]</sup>

Aggrieved, petitioner immediately filed an Urgent Petition for Injunction with prayer for the issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction with the NLRC, Fourth Division, Cebu City. On November 26, 2007, the NLRC issued a TRO.<sup>[12]</sup>

Disappointed with the conduct of LA Calanza, Sheriff Paredes, Enriquez, and Sia, and in view of the pendency of G.R. No. 172812, entitled *Enriquez v. Bank of the Philippine Islands*,<sup>[13]</sup> before this Court, petitioner instituted the present petition for indirect contempt. Petitioner avers that LA Calanza's Order granting Enriquez and Sia's motion for partial writ of execution preempts the decision of this Court and eventually results in the payment of Enriquez and Sia's claims which may be contrary to this Court's conclusion. Petitioner adds that respondents obstinately persist in applying jurisprudence which is clearly inapplicable. Finally, petitioner argues that the execution proceedings were done with undue haste that petitioner was not given an opportunity to submit evidence in its defense to stop the execution. These, according to petitioner, clearly indicate utter disrespect to the Court and are grounds to cite respondents in indirect contempt.

Meanwhile, on February 12, 2008, this Court rendered a Decision in G.R. No. 172812, denying the petition filed by Enriquez and Sia, thereby sustaining the NLRC and the CA's conclusion that Enriquez and Sia were validly dismissed from employment by petitioner.

In a decision<sup>[14]</sup> dated June 30, 2008, the NLRC, Fourth Division, Cebu City, granted BPI's petition for injunction, the dispositive portion of which is quoted below:

WHEREFORE, premises considered, the instant petition is hereby GRANTED. The Order dated 12 October 2007 issued by public respondent Labor Arbiter granting the Writ of Execution is declared NULL and VOID. The Writ of Execution issued in pursuance to said Order is likewise declared NULL and VOID. Public respondent Labor Arbiter Roderick Joseph B. Calanza, and any person acting for and in his behalf, is DIRECTED to take no further action in pursuance of the aforementioned Order and Writ of Execution.

The Writ of Preliminary Injunction issued by this Commission dated 12 December 2007 is hereby MADE PERMANENT.

SO ORDERED.<sup>[15]</sup>

On October 27, 2008, LA Calanza issued an Order<sup>[16]</sup> considering the case closed and terminated based on Enriquez and Sia's manifestation and motion to dismiss in view of the satisfaction and full payment of their claims.

Hence, the only issue that is left unsettled is whether or not respondents are guilty of indirect contempt.

Indirect contempt of court is governed by Section 3, Rule 71 of the Rules of Court, which provides:

*SEC. 3. Indirect contempt to be punished after charge and hearing.*-After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

(a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;

(b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;

(c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under section 1 of this Rule;