

THIRD DIVISION

[G.R. No. 156208, December 02, 2009]

NPC DRIVERS AND MECHANICS ASSOCIATION (NPC DAMA), REPRESENTED BY ITS PRESIDENT ROGER S. SAN JUAN, SR., NPC EMPLOYEES & WORKERS UNION (NEWU) - NORTHERN LUZON REGIONAL CENTER, REPRESENTED BY ITS REGIONAL PRESIDENT JIMMY D. SALMAN, IN THEIR OWN INDIVIDUAL CAPACITIES AND IN BEHALF OF THE MEMBERS OF THE ASSOCIATIONS AND ALL AFFECTED OFFICERS AND EMPLOYEES OF NATIONAL POWER CORPORATION (NPC), ZOL D. MEDINA, NARCISO M. MAGANTE, VICENTE B. CIRIO, JR., NECITAS B. CAMAMA, IN THEIR INDIVIDUAL CAPACITIES AS EMPLOYEES OF NATIONAL POWER CORPORATION, PETITIONERS, VS. THE NATIONAL POWER CORPORATION (NPC), NATIONAL POWER BOARD OF DIRECTORS (NPB), JOSE ISIDRO N. CAMACHO AS CHAIRMAN OF THE NATIONAL POWER BOARD OF DIRECTORS (NPB), ROLANDO S. QUILALA, AS PRESIDENT - OFFICER-IN-CHARGE/CEO OF NATIONAL POWER CORPORATION AND MEMBER OF NATIONAL POWER BOARD, AND VINCENT S. PEREZ, JR., EMILIA T. BONCODIN, MARIUS P. CORPUS, RUBEN S. REINOSO, JR., GREGORY L. DOMINGO AND NIEVES L. OSORIO, RESPONDENTS.

R E S O L U T I O N

CHICO-NAZARIO, J.:

Under consideration are the following:

1. Petitioners' Manifestation with Urgent Motion dated 9 February 2009;
2. Power Sector Assets and Liabilities Management Corporation's (PSALM's) Manifestation dated 24 February 2009;
3. National Power Corporation's (NPC's) Compliance dated 9 March 2009;
4. Petitioners' Counter-Manifestation dated 13 March 2009;
5. Petitioners' Comment/Manifestation and Urgent Motion dated 23 March 2009;
6. PSALM's Submission dated 20 April 2009;
7. NPC's Consolidated Comment dated 26 May 2009; and
8. Petitioners' Reply to NPC's Consolidated Comment dated 5 June 2009.

In Our decision dated 26 September 2006, we declared void and without legal effect National Power Board (NPB) Resolutions No. 2002-124^[1] and No. 2002-125,^[2] both dated 18 November 2002, which directed, *inter alia*, the termination from the service of all employees of the National Power Corporation (NPC) on 31 January 2003 in line with the restructuring of the NPC, and thereafter enjoined the implementation of said resolutions by granting the petition for injunction.^[3]

The dispositive portion of the decision reads:

WHEREFORE, premises considered, National Power Board Resolutions No. 2002-124 and No. 2002-125 are hereby declared VOID and WITHOUT LEGAL EFFECT. The Petition for Injunction is hereby GRANTED and respondents are hereby ENJOINED from implementing said NPB Resolutions No. 2002-124 and No. 2002-125.^[4]

In a resolution dated 24 January 2007, for lack of merit, we denied with finality the motion for reconsideration of respondent NPC.^[5]

In a resolution dated 17 September 2008, the Court resolved to:

(1) PARTIALLY GRANT the Motion for Clarification and/or Amplification of petitioners by affirming that, as a logical and necessary consequence of our Decision dated 26 September 2006 declaring null and without effect NPB Resolutions No. 2002-124 and No. 2002-125 and enjoining the implementation of the same, petitioners have the right to reinstatement, or separation pay in lieu of reinstatement, pursuant to a validly approved Separation Program; plus backwages, wage adjustments, and other benefits accruing from 31 January 2003 to the date of their reinstatement or payment of separation pay; but deducting therefrom the amount of separation benefits which they previously received under the null NPB Resolutions;

(2) PARTIALLY GRANT the Motion for Approval of Charging (Attorney's) Lien of Atty. Aldon and Atty. Orocio and ORDER the entry in the records of this case of their ten percent (10%) charging lien on the amounts recoverable by petitioners from respondent NPC by virtue of our Decision dated 26 September 2006; and

(3) ORDER that Entry of Judgment be finally made in due course in the case at bar.^[6]

In a letter dated 29 September 2008, Attys. Victoriano V. Orocio (Orocio) and Cornelio P. Aldon (Aldon) requested that Entry of Judgment be made in the instant case and a resolution implementing the same be issued immediately.^[7]

On 27 October 2008, an Entry of Judgment was made in the case stating, among other things, that the judgment herein has become final and executory on 10 October 2008 and has been recorded in the Book of Entries of Judgments.^[8]

On 14 November 2008, petitioners filed an Urgent Motion for Execution. They ask that the motion be granted by:

(1) Directing/Ordering the Office of the Clerk and Ex-Officio Sheriff of the Regional Trial Court of Quezon City as being the appropriate forum for the computation of the actual amounts due to the petitioners as well as the total amount of the charging lien of Atty. Cornelio P. Aldon and Atty. Victoriano V. Orocio, to determine and find out the names and number of all NPC personnel/employees terminated and/or separated as a result of or pursuant to the nullified NPB Board Resolution(s) No. 2002-124 and 2002-125, and the amounts due to each of them by way of separation pay, backwages, wage adjustments and other benefits in accordance with applicable jurisprudence on illegal dismissal cases, as well as interests due from the time the decision became final and executory, including the totality of the said amounts for the purpose of determining the 10% charging lien of Attorneys Aldon and Orocio, by summoning and issuing proper subpoenas to the Vice-Pres., Human Resources and to the Senior Department Manager for Finance of the NPC and directing the said responsible NPC officials to make and submit such list and computations under oath;

(2) Directing/Ordering the said Office of the Clerk of Court and Ex-Officio Sheriff of the Regional Trial Court of Quezon City after and on the basis of the said list and computations submitted by said NPC officials, to issue the corresponding writ of execution; and

(3) Directing said Office to undertake any and all actions necessary to implement and execute the decision and resolution in this case thru said writ of execution and, thereafter, to submit a report thereon to this Court.^[9]

Finding petitioners' Motion for Urgent Execution meritorious, we granted the same per resolution dated 10 December 2008, and issued the following order:

1. The Chairman and Members of the National Power Board and the President of the National Power Corporation (NPC) to cause the preparation of a list, under oath, of (a) the names of all NPC personnel/employees terminated and/or separated as a result of or pursuant to the nullified NPB Board Resolutions No. 2002-124 and No. 2002-125, and (b) the amounts due to each of them by way of separation pay, backwages, wage adjustments and other benefits in accordance with applicable jurisprudence on illegal dismissal cases, as well as interests due from the time the decision became final and executory. From the totality of the amounts due to the illegally dismissed NPC personnel/employees, the same officers are directed to compute the 10% charging lien thereon of Atty. Cornelio P. Aldon (Aldon) and Atty. Victoriano V. Orocio (Orocio) pursuant to the Resolution dated 17 September 2008 of this Court;
2. The Chairman and Members of the National Power Board and the President of the NPC to pay or cause to be paid immediately the amounts due to the petitioners and all other illegally dismissed NPC personnel/employees, as well as the amount of charging lien to

Atty. Aldon and Atty. Orocio, in accordance with the list and computations prepared under oath pursuant to paragraph 1 hereof; and

3. The Chairman and Members of the National Power Board and the President of the NPC to respectively submit proof of their compliance of the orders of this Court as stated in paragraphs 1 and 2 hereof within thirty (30) days from receipt of this Resolution.^[10]

In their Manifestation with Urgent Omnibus Motions dated 9 February 2009, petitioners asked the Court to: (1) cite the Chairman and the Members of the National Power Board and the President of the NPC in contempt for their willful failure to comply with paragraphs 1 and 2 of the Resolution dated 10 December 2008 which is a mockery of the Court's Order and gross disrespect of its authority; (2) appoint the Clerk of Court and Ex-Oficio Sheriff of the Regional Trial Court (RTC) of Quezon City, together with his/her deputies, to enforce by execution the Court's resolution dated 10 December 2008 by garnishing/levying upon the assets of NPC, including but not limited to the assets of Power Sector Assets and Liabilities Management Corporation (PSALM), based on the list and computations submitted and attested to by the responsible NPC officials hereafter to be summoned; (3) immediately summon the concerned and responsible NPC officials, namely: Mr. Eduardo P. Elroy, Vice-President, Human Resources, Mr. Paquito F. Garcia, Sr., Department Manager, Human Resources & Administration and Ms. Wilma V. Ortega, Manager, Compensation and Benefits Management Division (CBMD), Human Resources Department, NPC, to attest jointly and severally under oath as to the existence of a 212-page list^[11] containing the names of NPC personnel/employees terminated and/or separated from the service as a result of the nullified NPB Board Resolutions No. 2002-124 and No. 2002-125 with the amounts due to them and the charging lien due Attys. Orocio and Aldon, and to submit under oath jointly and severally the certified true copies thereof to the Court.^[12]

On 11 February 2009, Ora Limpao, Abdullah Ali, Mactar D. Amundia, Macawali D. Minalang, Aliola Cawi, Talib Manudi and Masiding Tanggo, through counsel Casan B. Macabanding, filed a Motion for Implementation of the Issued Writ of Execution. They informed the Court that demand letters have been sent to the National Power Board and to the NPC showing the computations of the amount due each of them. Despite this, no action has been taken thereon. They therefore ask that an order be issued directing the Sheriff of the RTC of Quezon and/or Sheriff of Lanao del Sur, 12th Judicial Region, Marawi City, to seize and attach cash and properties of the NPC and to apply the same to their claim of P16,120,706.00, and to deduct therefrom the attorney's lien of Attys. Aldon and Orocio.^[13]

On 17 February 2009, the NPC asked for additional 30 days to address the Court's resolution dated 10 December 2008^[14] which petitioners opposed.^[15]

On 25 February 2009, PSALM filed a Manifestation stating that petitioners did not furnish it a copy of their Manifestation with Urgent Omnibus Motions dated 9 February 2009 wherein they prayed that the Clerk of Court and Ex-Oficio Sheriff of the RTC of Quezon City be appointed to enforce the Court's Resolution dated 10 December 2008 by garnishment/levy upon the assets of NPC, including but not

limited to the assets of PSALM. Not being a party in the case, PSALM said it is not bound by the judgment rendered by the Court. It added that PSALM is mandated to privatize the transferred NPC generation assets, real estate and other disposable assets, and to apply the proceeds thereof to the payment of all existing and outstanding NPC financial obligations and stranded contract costs in an optimal manner. Nothing in the EPIRA^[16] allows garnishment and levy of PSALM's assets to satisfy a judgment against NPC. Petitioners are not employees of PSALM but of respondent NPC. PSALM cannot be made liable for the financial obligations of NPC to its employees for it is not one of those liabilities transferred to, and assumed by, PSALM at the effectivity of the EPIRA. It explains that since the privatization proceeds are earmarked specifically for the liquidation of NPC's financial obligations transferred to, and assumed by, PSALM, same are not within the reach of any execution and garnishment. The garnishment and/or levying of PSALM's assets and privatization proceeds will amount to diverting them for the purpose originally contemplated by the EPIRA. Such garnishment and/or levy will amount to a disbursement without proper appropriation as required by law. Finally, it argues that the present executory course of action taken by petitioners is a deviation from the Court's Resolution dated 17 September 2008 which leaves the computation of the actual amounts due them and the enforcement of payment thereof to the proper forum in appropriate proceedings for the Court is not a trier of facts.^[17]

In its Compliance^[18] dated 9 March 2009, NPC informed the Court that only the services of its top level employees were terminated on 31 January 2003 pursuant to the nullified NPB Resolutions No. 2002-124 and No. 2002-125 contrary to the submissions made by petitioner in its Manifestation and Omnibus Motions dated 9 February 2009. More specifically, it said only the services of sixteen (16) NPC employees occupying the positions of Senior Vice-President, Vice-President and Department Manager, were terminated on 31 January 2003, but were rehired on 1 February 2003 after receiving a full separation package pursuant to the EPIRA. It explained that any additional payment of separation pay, backwages and other benefits to these 16 employees would be iniquitous and would constitute unjust enrichment as they were never unemployed.

It further stated that NPB Resolutions No. 2002-124 and No. 2002-125 were nullified because they were signed by alternates. This infirmity, it explained, was rectified and effectively mooted with the issuance of NPB Resolution No. 2007-55^[19] dated 14 September 2007 which adopted, confirmed and approved the principles and guidelines enunciated in NPB Resolutions No. 2002-124 and No. 2002-125. It likewise pointed out that the validity of NPB Resolution No. 2007-55 has not yet been passed upon by the Court.

On 13 March 2009, petitioners filed a Counter-Manifestation^[20] to PSALM's Manifestation dated 24 February 2009 stating that a writ of execution may be issued against non-parties, including the PSALM, under, among others, the following situations: (1) one who is privy to the judgment debtor; (2) a successor-in-interest; and (3) under the principle of piercing the veil of corporate fiction. Petitioners explained that PSALM is privy to NPC because the former was principally organized to manage the orderly sale, disposition, and privatization of NPC generation assets, real estate and other disposable assets, and Independent Power Producers (IPP) contracts with the objective of liquidating all NPC financial obligations and stranded contract costs in an optimal manner. PSALM, also being a successor-in-interest of