

THIRD DIVISION

[G.R. NO. 158971, August 25, 2005]

MARIANO Y. SIY, IN HIS PERSONAL CAPACITY, AS WELL AS IN HIS CAPACITY AS OWNER OF PHILIPPINE AGRI TRADING CENTER, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND ELENA EMBANG, RESPONDENTS.

R E S O L U T I O N

CORONA, J.:

For resolution is private respondent Elena Embang's motion to cite Atty. Frederico P. Quevedo, counsel of petitioner Mariano Y. Siy, in contempt of court for delaying this case and impeding the execution of the judgment rendered herein, in violation of Canon 12^[1] and Rule 12.04^[2] of the Code of Professional Responsibility.

This case originated from a complaint for illegal dismissal and non-payment of holiday pay and holiday premium pay filed by Embang against petitioner and Philippine Agri Trading Center. The labor arbiter ruled in favor of Embang. The dispositive portion of his September 29, 2000 decision^[3] read:

WHEREFORE, judgment is hereby rendered declaring [Embang] to be a regular employee of the PHIL-AGRI TRADING CENTER and ordering the latter to reinstate her to her former position and pay her backwages from the date of her dismissal on February 18, 2000 until her reinstatement which computed as of today amounts to P37,771.50 (P5881 x 6.5 months) plus 1/12 thereof or the amount of P3,147.62 as corresponding 13th month pay for the period.

An additional award of 5% of the total award is also rendered since [,] compelled to litigate [,] [Embang] had to engage the services of counsel.

All other claims are DISMISSED for lack of merit.

SO ORDERED.

On March 8, 2002, the Third Division of the National Labor Relations Commission (NLRC) denied petitioner's appeal and affirmed the decision of the labor arbiter with modification. Thus:

WHEREFORE, premises considered, the appeal is DENIED for lack of merit and the Decision dated September 29, 2000 is hereby AFFIRMED with MODIFICATION in [that Mariano Y. Siy] should be made jointly and severally liable together with Phil. Agri Trading Center and that [Embang] is entitled only [to] the ten (10%) percent of his awarded 13th month pay as attorney's fees.

SO ORDERED.^[4]

After the NLRC refused to reconsider its March 8, 2002 resolution, petitioner elevated the case to the Court of Appeals (CA) by way of a petition for *certiorari*. Finding the petition to be without merit, the appellate court dismissed the same.^[5] The motion for reconsideration filed by petitioner was likewise denied.^[6]

Undaunted, petitioner filed a petition for review on *certiorari* before this Court questioning the CA's decision (dismissing his petition) and resolution (denying his motion for reconsideration). Since we found no reversible error on the part of the appellate court, we denied the petition in our September 22, 2003 resolution. Petitioner sought a reconsideration of our resolution but we resolved to deny the same with finality. Thereafter, entry of judgment was made on December 30, 2003.

In accordance with the rules of procedure of the NLRC, Embang's counsel filed a motion for the issuance of a writ of execution dated February 16, 2004 before the labor arbiter. Subsequently, Atty. Quevedo entered his appearance for the petitioner and filed a comment to the motion for writ of execution.^[7] He alleged that Embang rejected the various offers of reinstatement extended to her by petitioner; hence, she should be entitled to backwages only up to September 29, 2000, the date of the promulgation of the labor arbiter's decision.

This was followed by a protracted exchange of pleadings and motions between the parties.^[8] Finding that his office was never informed by petitioner and Philippine Agri Trading Center of any intention on their part to reinstate Embang to her former position, the labor arbiter issued an order dated July 30, 2004^[9] granting the February 16, 2004 motion and directing that a writ of execution be issued.

Atty. Quevedo refused to be deterred. He filed an appeal with the NLRC on August 12, 2004. He insisted that the labor arbiter committed grave abuse of discretion in failing to specify in his order that the backwages should be computed until September 29, 2000 only and that no backwages should accrue thereafter because of Embang's refusal to be reinstated.

Embang's counsel moved to dismiss the appeal. He contended that the appeal was not perfected because petitioner and Philippine Agri Trading Center did not post the required cash or surety bond. Pending the resolution of the appeal, Embang filed the instant motion to cite Atty. Quevedo in contempt of court.

By way of comment, Atty. Quevedo maintains that he did not delay the execution of the decision but only sought the consideration of Embang's refusal to be reinstated in any writ of execution that may be issued. He claims that such refusal on Embang's part constituted a supervening event that justified the filing of an appeal[⊥] - notwithstanding the finality of the decision. He also asserts that an appeal was the proper remedy to question the July 30, 2004 order of the labor arbiter.

Meanwhile, the Third Division of the NLRC issued a resolution^[10] on February 28, 2005 resolving not to give due course to the appeal and to remand the case to the regional arbitration branch for further proceedings. The NLRC held that the July 30, 2004 order was not appealable. Despite the denial of the appeal, however, Atty.

Quevedo filed a motion for clarification/partial reconsideration of the NLRC's February 28, 2005 resolution.

For his obstinacy in refusing to respect a final and executory judgment, we hold Atty. Quevedo in contempt of court.

Contempt of court is disobedience to the court by acting in opposition to its authority, justice and dignity. It signifies not only a willful disregard or disobedience of the court's orders but also conduct tending to bring the authority of the court and the administration of law into disrepute or, in some manner, to impede the due administration of justice.^[11] Under the Rules of Court, contempt is classified into either direct or indirect contempt. Direct contempt is committed in the presence of or so near a court or judge as to obstruct or interrupt the proceedings before the same.^[12] Indirect contempt is one not committed in the presence of a court.^[13] It is an act done at a distance which tends to belittle, degrade, obstruct or embarrass the court and justice.^[14]

Atty. Quevedo should be sanctioned for indirect contempt. Indirect contempt is committed by a person who commits the following acts, among others: disobedience or resistance to a lawful writ, process, order or judgment of a court;^[15] any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt;^[16] and any improper conduct tending, directly or indirectly, to impede, obstruct or degrade the administration of justice.^[17]

We denied with finality the petitioner's petition for review on *certiorari* almost two years ago. But the decision of the labor arbiter (affirmed with modification by the NLRC and upheld by the CA and this Court) remains unsatisfied up to now because of Atty. Quevedo's sly maneuvers on behalf of his client.

Once a case is decided with finality, the controversy is settled and the matter is laid to rest. The prevailing party is entitled to enjoy the fruits of his victory while the other party is obliged to respect the court's verdict and to comply with it. We reiterate our pronouncement in *Sacdalan v. Court of Appeals*:^[18]

...well-settled is the principle that a decision that has acquired finality becomes immutable and unalterable and may no longer be modified in any respect even if the modification is meant to correct erroneous conclusions of fact or law and whether it will be made by the court that rendered it or by the highest court of the land.

The reason for this is that litigation must end and terminate sometime and somewhere, and it is essential to an effective and efficient administration of justice that, once a judgment has become final, the winning party be not deprived of the fruits of the verdict. Courts must guard against any scheme calculated to bring about that result and must frown upon any attempt to prolong the controversies.

The only exceptions to the general rule are the correction of clerical errors, the so-called *nunc pro tunc* entries which cause no prejudice to any party, void judgments, and whenever circumstances transpire *after* the finality of the decision rendering its execution unjust and inequitable.