

TENTH DIVISION

[CA-G.R. SP No. 129029, November 28, 2014]

**EASTERN HAWAII LEISURE COMPANY LIMITED,^[1] PETITIONER,
VS. NATIONAL LABOR RELATIONS COMMISSION, LABOR
ARBITER PATRICIO LIBO-ON, OFFICE OF THE SHERIFF NLRC
AND JOHN AGUYAOY, RESPONDENTS.**

DECISION

VELOSO, J.:

The Case

Assailed by Eastern Hawaii Leisure Company Limited and Kim Wong in this Petition for Certiorari^[2] that was filed under Rule 65 of the 1997 Rules of Civil Procedure, is the Order^[3] of Labor Arbiter Patricio P. Libo-on dated January 7, 2013 in NLRC NCR-00-04-06632-09, entitled "*John C. Aguyaoy, Complainant -versus- Eastern Hawaii Leisure Co. Ltd./Kim Wong, Respondents*", the dispositive portion of which reads:

"WHEREFORE, premises considered, let an Alias Writ of Execution be issued against the respondent.

SO ORDERED".^[4]

The Facts

Private respondent John Aguyaoy was employed by petitioner company as its liason officer on March 1, 2007.^[5]

Claiming that he was illegally dismissed on July 9, 2009 by petitioner's Office Manager, Ms. Rowena Chan, private respondent filed, on April 30, 2009, a complaint for actual illegal dismissal, underpayment of salary, non-payment of Service Incentive Leave, Moral and Exemplary damages, and Attorney's fees against petitioner Eastern Hawaii. Impleaded as co-respondent was **Kim Wong**, the company "Owner/Manager/President".

After "Summons to (then) respondents (was) properly served, both parties were directed to submit their respective position papers".^[6] Also, the case was scheduled for mandatory conference. While private respondent appeared in said conferences, nobody appeared for petitioner company and Mr. Kim Wong.^[7] And while private

respondent submitted his position paper, both petitioner and Mr. Kim Wong failed to submit one.

On December 23, 2009, Labor Arbiter Corazon C. Borbolla, to whom the case was assigned, rendered her decision.^[8] In resolving the “two issues” of “whether or not (petitioner) was illegally dismissed and whether or not (he) is entitled to his money claims”,^[9] the Arbiter held:

“As the respondents failed to submit their position paper to rebut complainant's charge and money claims, this Office is constrained to resolve the two issues in the affirmative.

Under Article 279 of the Labor Code, as amended, an employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full back wages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. (Robert C. Casol and Nagsama-Purefoods-Pulo v. Purefoods Corp., G.R. No. 166550, 18 November 2005)

However, since reinstatement is no longer feasible, complainant is entitled to separation pay of one (1) month salary for every year of service, in lieu of reinstatement.

BACKWAGES: From 10 July 2009 to 23 December 2009

Salary x No. of mos.
P10,000 x 5.46 = **P54,600.00**

SEPARATION PAY: (1 mo. salary for every year of service from 01 March 2007 to 23 December 2009)

Salary x No. of years
P10,000 x 3 years = **P30,000.00**

Due to the respondents' failure to show proof of payment of complainant's claims, he shall be entitled to the same **from 01 March 2007 to 23 December 2009.**^[10] (emphasis supplied)

The petitioner did not appeal therefrom. And while the private respondent partially appealed from said decision, the same was however dismissed for non-perfection by the NLRC on 27 April 2010.^[11]

On August 20, 2010, the NLRC issued an Entry of Judgment certifying that the decision had become final and executory.^[12]

On November 12, 2010, the Labor Arbiter issued a Writ of Execution, viz.:

"WRIT OF EXECUTION

TO: MR. MANOLITO G. MANUEL
Sheriff
NLRC NCR

GREETINGS:

WHEREAS, on 23 December 2009, this Office rendered a decision in the above-entitled case, the dispositive portion of which reads:

'WHEREFORE, in the light of the foregoing, complainant is found to have been illegally dismissed is [sic]. Respondents EASTERN HAWAII LEISURE CO., LTD. and KIM WONG are hereby ordered to pay complainant jointly and severally the total amount of P84,600.00 as computed in the body of this decision.

All other claims are hereby dismissed for lack of merit.

SO ORDERED.'

WHEREAS, respondents were notified of the above decision through registered notices, which they failed to claim as certified by Ms. Fe P. Gaoiran, Records Unit of the Office of the Postmaster Central Post Office Manila;

WHEREAS, complainant filed a Partial Appeal, which was dismissed by the Seventh Division of this Commission on 27 April 2010;

WHEREAS, on 01 September 2010, complainant filed a Motion for the Issuance of a Writ of Execution;

WHEREAS, a pre-execution conference was held on 22 September 2010, which was not attended by the respondents despite due notice as certified by the Post Office of Manila.

NOW THEREFORE, you are hereby commanded together with the complainant to proceed to the premises of respondents **EASTERN HAWAII LEISURE CO., LTD. and KIM WONG at Century Park Hotel, P. Ocampo Street, Malate, Manila** or anywhere within the Philippine jurisdiction and there and then to collect the sum of **EIGHTY-FOUR THOUSAND SIX HUNDRED PESOS (P84,600)** plus the P800.00 execution fee.

You are further directed to turn over the said amounts with the NLRC

Cashier for proper disposition.

In case you fail to collect the said amounts in cash, you are further ordered to cause the satisfaction thereof from the movable goods or chattels or in the absence thereof from the immovable properties of respondents not exempt from execution.

Return this Writ of Execution within 180 days from receipt, together with the corresponding report of the proceedings taken thereon.

SO ORDERED.

Quezon City, Philippines, November 12, 2010.

(SGD.)

CORAZON C. BORBOLLA

Labor Arbiter"^[13]

(emphasis supplied)

Served upon petitioner, it filed, on December 20, 2010 a Motion to Quash Writ of Execution. The petitioner argued that it never received summons and decision of the Labor Arbiter "as the same was addressed to a **non-existent** person named KIM WONG who is neither connected with the company nor is an officer or director or employee or stockholder of the company".^[14]

Opposed by private respondent,^[15] Labor Arbiter Borbolla issued, on September 12, 2011 an Order, *viz.*:

"This treats of Respondents' Motion to Quash the Writ of Execution issued on 12 November 2010.

Respondents anchor their Motion to Quash on the grounds of lack of due notice and that individual respondent Kim Wong is not at all connected with respondent company.

The Sheriff's Report, dated 15 June 2011, shows that the issued Writ has remained **unsatisfied** that its **life span has already lapsed**. (emphasis Ours)

WHEREFORE, in the light of the foregoing, the instant Motion to Quash Writ of Execution has been rendered moot and academic.

SO ORDERED."^[16] (emphasis supplied)

On September 23, 2011, private respondent filed a Motion for Issuance of Alias Writ of Execution.^[17]

On the same day, September 23, 2011, Labor Arbiter Borbolla issued an Alias Writ of Execution.^[18]

On November 8, 2011, the petitioner filed a Motion to Quash Alias Writ of Execution and/or Motion for Nullification of Proceedings With Motion For Inhibition.^[19]

On November 23, 2011, Labor Arbiter Borbolla issued an Order granting petitioner's motion for inhibition.^[20]

On October 18, 2011, the private respondent filed a Motion for Issuance of 3rd Alias Writ of Execution.^[21]

On January 7, 2013, Labor Arbiter Patricio P. Libo-on issued an Order, viz.:

"For resolution is the Motion for Issuance of 3rd Alias Writ of Execution filed by the complainant against respondent Eastern Hawaii Leisure Co. Ltd./Mr. Kim Wong.

After a careful review of the records of the case, this Office finds merit in the 'Motion' under consideration. Respondent opposes the grant of this motion on the ground that there was no proper service of notice and summons on respondent. In the meantime, before this case was re-raffled to this Office 'for execution', Writs have been issued by the then handling Labor Arbiter. On account of these things, this Office makes the following disposition:

First – Jurisdiction over the case is lost after the case became final and executory. After a case becomes final and executory, the Court exercising jurisdiction over the case, loses the same and have nothing more to do but perform its ministerial function of 'enforcing' the judgment.

Second – It is the submission of the respondent that this Office never acquired jurisdiction over the respondent. This Office is not the proper forum to raise this issue. This should have been raised on appeal with the Commission.

WHEREFORE, premises considered, let an Alias Writ of Execution be issued against the respondent.

SO ORDERED."^[22]

Hence, this petition, which argues:

"Public respondent Libo-on likewise acted without jurisdiction and/or gravely abused its discretion amounting to lack or excess of jurisdiction when it ruled that the said issues should have been brought or raised with the Commission by way of appeal. Again, we beg to disagree.