Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

CASILDA D. TAN and/or C&L Lending Investor, Petitioners,	**G.R. No. 212111**
	Present:
- versus -	**PERALTA,** *C.J., Chairperson,* **CAGUIOA, REYES, J. JR., LAZARO-JAVIER,** *and* **LOPEZ,** *JJ.*
LUZVILLA B. DAGPIN, Respondent.	**Promulgated:** JAN 15 2020

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DECISION

LAZARO-JAVIER, ***J.*:**

Antecedents

By Decision[1] dated September 12, 2003, the Labor Arbiter declared petitioners Casilda D. Tan and/or C & L Lending Investor liable for illegal dismissal of respondent Luzvilla B. Dagpin, with separation pay, backwages, service incentive leave pay, 13th month pay, moral and exemplary damages, and attorney's fees.

By Resolution dated July 29, 2004, the National Labor Relations Commission (NLRC) dismissed petitioners' appeal for non-perfection for

1 Penned by Labor Arbiter Celenito N. Daing (Decision dated September 12, 2003), *rollo*, pp. 115-127.

failure to attach the required certification of non-forum shopping. It also denied petitioners' subsequent motion for reconsideration.[2]

Petitioners then filed before the Court of Appeals a petition for certiorari docketed as CA-G.R. SP No. 00038.[3] On January 11, 2005, the Court of Appeals issued a temporary restraining order (TRO) against the enforcement of the labor arbiter's Decision dated September 12, 2003.[4]

Meantime, Entry of Judgment[5] dated January 17, 2005 was issued on the NLRC Resolution dated July 29, 2004. On March 29, 2005, respondent filed with the Executive Labor Arbiter (ELA) a Motion to Admit Computation and Issuance of Writ of Execution[6] where she computed her separation pay, backwages, and other claims up to the finality of judgment on January 10, 2005 in the total sum of P1,080,566.66. Petitioners opposed.[7]

On May 17, 2005, after the TRO issued by the Court of Appeals expired, the ELA ordered the release of petitioners' cash bond of P449,665.90 in partial satisfaction of the judgment.[8]

In yet another Order[9] dated May 19, 2005, the ELA also granted respondent's Motion to Admit Computation and Issuance of Writ of Execution. The ELA awarded respondent a total of P1,005,146.83. After deducting the amount of P449,665.90 representing the cash bond earlier released and paid to respondent, the ELA ordered the issuance of a writ of execution on the remaining amount of P555,480.93. The writ was fully enforced and satisfied as of October 12, 2005.[10]

Back to CA-G.R. SP No. 00038, the Court of Appeals, by Decision[11] dated October 18, 2007, dismissed the petition for certiorari, for lack of merit.

Petitioners further sought relief from the Court through a Petition for Review on Certiorari docketed as G.R. 182268. The Court denied the same under Resolution dated June 23, 2008, which became final and executory on August 21, 2008.[12]

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2 *Id.* at 50, 128-128-A.
3 *Id.* at 78.
4 *Id.*
5 *Id.* at 51, 128-128-A.
6 *Id.* at 129-134.
7 *Id.* at 51-52.
8 *Id.* at 79.
9 Penned by Executive Labor Arbiter Rhett Julius J. Plagata, *Id.* at 135-137.
10 *Id.* at 12-13, 79
11 *Id.* at 99-112.
12 *Id.* at 94-95.

Respondent, thereafter, on November 3, 2008, filed another Motion for Approval of Computation and Issuance of Writ of Execution;[13] and later, on November 12, 2008, a Manifestation[14] seeking additional increments to her monetary award. She claimed that her backwages and separation pay should be computed up to August 21, 2008 when the Court's resolution on the issue of illegal dismissal became final and executory. Petitioners again opposed.

When the aforesaid motion was heard on December 16, 2008, respondent appeared, sans her counsel Atty. Lawrence Carin who advised her to engage the services of Atty. Kenneth P. Rosal only for the incident at hand. Atty. Carin was allegedly attending to some personal matters in Dumaguete City aside from the fact that he had "suspended" himself from the practice of law because of his failure to comply with the Mandatory Continuing Legal Education (MCLE) requirements. Complying with Atty. Carin's instruction, respondent engaged Atty. Kenneth P. Rosal to represent her in the subsequent hearing on the motion. Atty. Rosal, in turn, entered his appearance as counsel for respondent.[15]

Ruling of the ELA

By Order[16] dated February 19, 2009, the ELA denied respondent's Motion for Approval of Computation and Issuance of Writ of Execution. The ELA emphasized that since respondent had already enforced and received full payment of the monetary award she was entitled to up until January 10, 2005, she was already estopped from claiming, thereafter, the so-called increments to such monetary award.

Proceedings before the NLRC

On April 13, 2009, Atty. Rosal filed respondent's appeal memorandum but the NLRC dismissed it under Resolution[17] dated August 27, 2009 for having been filed out of time. The NLRC ruled that the ten (10)-day appeal period must be reckoned from the time respondent received the ELA's February 19, 2009 Order on March 19, 2009 and not from Atty. Rosal's purported receipt on March 30, 2009 of copy of the Order handed him by respondent. For Atty. Rosal was not respondent's counsel of record while Atty. Carin was no longer respondent's counsel when the aforesaid

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13 *Id.* at 88-93.

14 *Id.* at 96-97.

15 *Id.* at 305-318, Respondent's Comments to the Petition for Review on Certiorari dated October 24, 2014.

16 Penned by Executive Labor Arbiter Rhett Julius J. Plagata in NLRC Case No. Sub-RAB-09-06-10033-03, *Id.* at 76-82.

17 Penned by Presiding Commissioner Salic B. Dumarpa, and concurred in by Commissioners Proculo T. Sarmen and Dominador B. Medroso, Jr., *Id.* at 83-85.

Order was served. Consequently, respondent, who received it on March 19, 2009, had until March 29, 2009 to perfect her appeal. Since respondent filed her appeal memorandum only on April 13, 2009 or fifteen (15) days late, the Order dated February 19, 2009 had already become final and executory.

In her motion for reconsideration, respondent explained that the ELA Order dated February 19, 2009, albeit addressed to "L. Dagpin c/o Atty. Kenneth P. Rosal" was directly delivered to her on March 19, 2009, not to her counsel. Since Atty. Carin could not prepare her appeal as he had "suspended" himself from the practice of law and was attending an IBP Convention in Bacolod City from March 26 to 29, 2009, he instructed her to refer the case to Atty. Rosal who, unfortunately, was also attending the convention. Thus, she was able to give the Order to Atty. Rosal only on March 30, 2009 and the latter was able to file the appeal only on April 13, 2009.[18]

By Resolution[19] dated October 30, 2009, the NLRC denied reconsideration. Respondent, thus, filed a petition for certiorari before the Court of Appeals, asserting that the ten (10)-day appeal period should be reckoned not from her receipt of the ELA Order, but from the date of her counsel's receipt.[20]

Ruling of the Court of Appeals

In its Decision[21] dated September 24, 2013, the Court of Appeals reversed. It ruled that the service of the February 19, 2009 Order on respondent herself, instead of her counsel, was not the legal service contemplated by law. The NLRC, therefore, gravely abused its discretion when it dismissed the appeal for non-perfection, albeit there was no proper service of said notice/order. For this reason and on consideration of compassionate justice, respondent's Appeal Memorandum filed on April 13, 2009 may still be considered filed within the reglementary period.

On the merits, the Court of Appeals decreed that a recomputation of the monetary consequences of illegal dismissal does not violate the principle of immutability of final judgments for it does not affect the illegal dismissal ruling itself. Since petitioners pursued the review of the case up to the Supreme Court, the backwages and separation pay should be computed until August 21, 2008 when the Supreme Court's resolution in respondent's favor became final. This is regardless of the fact that respondent had already secured a writ of execution from the executive labor arbiter who computed

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18 *Id.* at 86-87.
19 *Id.* at 86-87.
20 *Id.* at 144-159.
21 *Id.* at 50-57.

her monetary awards only up until the dismissal of petitioners' appeal to the NLRC became final on January 10, 2005. The Court of Appeals, thus, ordered the labor arbiter to recompute the monetary awards due respondent and to deduct therefrom the amount of P1,005,146.83 which respondent had already received sometime in 2004. It further imposed a twelve percent (12%) legal interest on the remaining monetary awards from finality of judgment on August 21, 2008 until fully paid.

Petitioners' motion for reconsideration[22] was denied through Resolution[23] dated March 26, 2014.

The Present Petition

Petitioners now seek affirmative relief from the Court and pray for reversal of the Court of Appeals' dispositions. They essentially argue: The Court of Appeals erred in applying compassionate justice in allowing respondent's appeal to the NLRC despite the fact that it was filed beyond the ten (10)-day reglementary period. Too, a recomputation and payment of respondent's accrued benefits violates the principle of immutability of final judgment. Since respondent had already executed in full the NLRC Resolution dated July 29, 2004 which became final and executory on January 10, 2005, she is no longer entitled to additional benefits up until the finality of this Court's Resolution (in G.R. No. 182268) on August 21, 2008.

In her Comment[24] respondent posits that the Court of Appeals correctly applied compassionate justice in considering her appeal to have been timely filed before the NLRC. Also, a recomputation of her accrued benefits does not violate the principle of immutability of judgment. Thus, the Court of Appeals properly awarded her additional benefits up until the finality of the Court's Resolution on August 21, 2008.

The Core Issues

(1) Did the Court of Appeals err when it ruled that respondent's appeal to the NLRC was timely filed?

(2) Did the Court of Appeals err when it ruled that respondent is entitled to a recomputation of and consequently an increase in the monetary awards already given and paid her during the execution of the labor arbiter's decision?

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22 *Id.* at 58-68.
23 *Id.* at 70-75.
24 *Id.* at 305-318.

The Ruling

Respondent's appeal to the NLRC was timely filed.

Where a party appears by attorney in an action or proceeding in a court of record, all notices must be served on the attorney of record.[25] Service of the court's order on any person other than the counsel of record is not legally effective, nay, binding on the party; nor may it start the corresponding reglementary period for the subsequent procedural steps which may be taken by the attorney.[26] This rule is founded on considerations of fair play. A party engages a counsel precisely because he or she does not feel competent to deal with the intricacies of law and procedure. When the notice/order is directly served on the party, he or she would have to communicate with his or her attorney and turn over the notice/order to the latter, thereby shortening the remaining period for taking the proper steps to protect the party's interest.[27]

In the absence of a notice of withdrawal or substitution of counsel, the court will rightly assume that the counsel of record continues to represent his client and receipt of notice by the former is the reckoning point of the reglementary period.[28]

Here, respondent's counsel of record, Atty. Carin merely instructed respondent to refer the case to Atty. Rosal at the tail end of the proceedings before the labor arbiter since he could not then continue practicing law because he failed to comply with the MCLE requirements and he was then attending an IBP Convention in Bacolod City. There is no showing though that he filed a notice of withdrawal or that respondent herself declared that she was terminating Atty. Carin's services. Notices, decisions, and resolutions should have, therefore, been sent to Atty. Carin as respondent's counsel of record. But even assuming that Atty. Carin had indeed withdrawn his representation, notices, decisions, and resolutions should have at least been served on Atty. Rosal for the latter had also entered his appearance as respondent's counsel. The fact that copy of the ELA Order dated February 19, 2009 was addressed to "L/ Dagpin c/o Atty. Kenneth P. Rosal" clearly indicates that the NLRC acknowledged Atty. Rosal as respondent's new counsel.

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[25] Section 2 of Rule 13 of the Rules of Court provides:
SEC. 2. *Filing and service, defined.* — x x x
Service is the act of providing a party with a copy of the pleading or paper concerned. If any party has appeared by counsel, service upon him shall be made upon his counsel or one of them, unless service upon the party himself is ordered by the court.

[26] *Cervantes v. City Service Corporation and Valentin Prieto, Jr.*, 784 Phil. 694, 698 (2016).

[27] *Zoleta v. Hon. Drilon*, 248 Phil. 777, 783 (1988) citing *J.M. Javier Logging Corporation v. Mardo, et al.*, 133 Phil. 766, 769 (1968).

[28] *Manaya v. Alabang Country Club Incorporated*, 552 Phil. 226, 233 (2007).

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As it was, however, copy of the ELA Order dated February 19, 2009 was served not on Atty. Rosal but directly on respondent herself who received it on March 19, 2009. This is not the proper service contemplated by law. Consequently, the reglementary period for appeal was not deemed to have commenced from respondent's receipt of the ELA Order.

Even then, Atty. Rosal was deemed to have acknowledged it when, on the basis thereof, he computed the ten (10)-day period from March 30, 2009 to April 9, 2009 for purposes of filing respondent's memorandum of appeal. Since April 9, 2009 fell on a holiday (Day of Valor and Maundy Thursday), and April 10, 11, and 12, 2009 were also holidays (Good Friday, Black Saturday, and Easter Sunday, respectively), the filing of respondent's memorandum of appeal on April 13, 2009 was within the reglementary period, as correctly ruled by the Court of Appeals. Surely, respondent cannot be said to have been deprived of due process inasmuch as Atty. Rosal actually received the ELA Order and, accordingly, filed respondent's appeal memorandum to establish the merits of respondent's case.

In any event, time and again, this Court has relaxed the observance of procedural rules to advance substantial justice.[29] Legal technicalities may be excused when strict adherence thereto will impede the achievement of justice it seeks to serve.[30] Ultimately, what should guide judicial action is that a party is given the fullest opportunity to establish the merits of his or her action or defense rather than for him or her to lose life, honor, or property on mere technicalities.[31] After all, the NLRC is not bound by the technical niceties of law and procedure and the rules obtaining in the courts of law. It is mandated to use every and all reasonable means to ascertain the facts in each case speedily and objectively, without regard to technicalities of law or procedure, all in the interest of due process.[32]

Respondent is not entitled to recomputation of or increase of the monetary award already paid her.

The next question: May respondent seek a recomputation of the final and executory monetary award which she had already received in full in 2005?

We rule in the negative.

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[29] *Malixi v. Baltazar, November* 22, 2017, G.R. No. 208224, 846 SCRA 244, 260.

[30] *La Sallian Educational Innovators Foundation, Inc. v. Commissioner of Internal Revenue*, G.R. No. 202792, February 27, 2019.

[31] *Diamond Taxi v. Llamas, Jr.*, 729 Phil. 364, 380 (2014).

[32] *Malixi v. Mexicali Philippines, et al.*, 786 Phil. 672, 684-685 (2016).

Execution is the final stage of litigation, the end of the suit.[33] Our labor laws dictate that backwages must be computed from the time the employee was unjustly dismissed until his or her actual reinstatement or upon payment of his or her separation pay if reinstatement is no longer feasible.[34] Hence, insofar as accrued backwages and other benefits are concerned, the employer's obligation to the employee continues to accumulate until he actually implements the reinstatement aspect of the final judgment[35] or fully satisfies the monetary award in case reinstatement is no longer possible.

It is undisputed here that the NLRC Resolution dated July 29, 2004 which affirmed the fact of respondent's illegal dismissal and monetary award became final and executory on January 10, 2005. As soon as an entry of judgment thereon was issued on January 17, 2005, the corresponding writ of execution got implemented and satisfied in full.

But this notwithstanding, petitioners still opted to fight it out before the Court of Appeals and later, before the Court. As it was, petitioners also lost in both fora. The Court's Resolution dated June 23, 2008 dismissing the petition in G.R. No. 182268 became final and executory on August 21, 2008. Notably, there was no modification of the NLRC Resolution dated July 29, 2004 which had been earlier executed and satisfied in respondent's favor.

Although petitioners formally opposed respondent's claims all the way up to this Court, they, nonetheless, yielded to the execution of judgment sought by respondent way back in 2005 at the ELA's level. Inasmuch as petitioners had already satisfied the final monetary benefits awarded to respondent, the latter may not ask for another round of execution, lest, it violates the principle against unjust enrichment.

To emphasize, there is no additional increment which accrued to respondent by reason of the Court's Resolution dated June 23, 2008 which did not modify, let alone, alter the long executed judgment of the NLRC.

The Court of Appeals' application of ***Javellana, Jr. v. Belen***[36] and ***Session Delights Ice Cream & Fast Foods v. Hon. Court of Appeals***[37] to the present case for the purpose of allowing a recomputation of respondent's backwages and separation pay is misplaced. These two (2) cases are not on all fours with the present case. There was no prior execution in these two (2) cases, unlike here where the NLRC judgment in respondent's favor had

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33 *Mt. Carmel College v. Resuena, et al.*, 561 Phil. 620, 645 (2007) citing *Torres v. National Labor Relations Commission*, 386 Phil. 513, 520 (2000).
34 *Mt. Carmel College v. Resuena, et al.*, 561 Phil. 620, 644-645 (2007).
35 *Id.* at 645.
36 628 Phil. 241, (2010).
37 625 Phil. 612, (2010).

long been executed and satisfied way back in 2005. For her to seek supplemental execution based on the finality of the Court's Resolution dated June 23, 2009 is devoid of legal and factual basis. For there are no supplemental benefits to speak of owing to respondent arising from the aforesaid Resolution.

It is settled that a final judgment may no longer be altered, amended, or modified, even if the alteration, amendment or modification is meant to correct a perceived error in conclusions of fact and law and regardless of what court renders it.[38] More so when, as in this case, such final judgment had already been executed and fully satisfied.

Suffice it to state that respondent's receipt of the full separation pay and other benefits effectively severed the employer-employee relationship between her and petitioners. From that point up until the finality of the Court's Resolution dated June 23, 2008, respondent was no longer an employee of petitioners. Hence, she has no more right to demand further benefits as such.[39]

To repeat, granting a recomputation and, consequently, another round of execution would indubitably alter the original decision which had been completely satisfied, nay, unjust enrichment would certainly result.

ACCORDINGLY, the petition is **PARTIALLY GRANTED**. The Decision dated September 24, 2013 and Resolution dated March 26, 2014 in CA G.R. SP. No. 03459-MIN are **MODIFIED** and the Executive Labor Arbiter's Order dated February 19, 2009, **REINSTATED**.

SO ORDERED.

AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR :

DIOSDADO M. PERALTA
Chief Justice
Chairperson – First Division

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[38] *Mercury Drug Corporation, et al. v. Spouses Huang, et al.*, 817 Phil. 434, 445 (2017) citing *National Housing Authority v. Court of Appeals, et al.*, 731 Phil. 400, 405 (2014).

[39] *Sarona v. NLRC*, 679 Phil. 394, 423 (2012); *Triad Security & Allied Services, Inc., v. Ortega*, 517 Phil. 133, 149 (2006).

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

JOSE C. REYES, JR.
Associate Justice

MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

DIOSDADO M. PERALTA
Chief Justice