



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

**C.I.C.M. MISSION SEMINARIES
 (MARYHURST, MARYHEIGHTS,
 MARYSHORE AND MARYHILL)
 SCHOOL OF THEOLOGY, INC.,
 FR. ROMEO NIMEZ, CICM,**
 Petitioners,

G.R. No. 220506

Present:

CARPIO, *J.*, Chairperson,
 PERALTA,
 MENDOZA, and
 LEONEN, and
 JARDELEZA, * *JJ.*

- versus -

MARIA VERONICA C. PEREZ,
 Respondent.

Promulgated:

18 JAN 2017

X ----- *[Signature]* X

DECISION

MENDOZA, J.:

In this petition for review on *certiorari*¹ under Rule 45 of the Rules of Court, petitioner C.I.C.M. Mission Seminaries (Maryhurst, Maryheights, Maryshore and Maryhill) School of Theology, Inc., and Fr. Romeo Nimez, CICM (*petitioners*), seek the review of the May 27, 2015 Decision² and September 7, 2015 Resolution³ of the Court of Appeals (*CA*) in CA-G.R. SP. No. 137132.

In the assailed rulings, the CA dismissed the petitioners' petition for *certiorari* filed under Rule 65 of the Rules of Court questioning the September 8, 2014 Resolution of the National Labor Relations Commission (*NLRC*) in LER Case No. 07-205-14, which affirmed the July 10, 2014

* Per Special Order No. 2416 dated January 4, 2017.

¹ *Rollo*, pp. 8-25.

² *Id.* at 26-39. Penned by Associate Justice Marlene Gonzales-Sison, with Associate Justices Remedios A. Salazar-Fernando and Ramon A. Cruz, concurring.

³ *Id.* at 40-41. Penned by Associate Justice Marlene Gonzales-Sison, with Associate Justices Remedios A. Salazar-Fernando and Ramon A. Cruz, concurring.

Order of the Labor Arbiter (*LA*) in NLRC Case No. NCR-12-14242-07, issued in favor of Maria Veronica C. Perez (*respondent*).

The Antecedents

This controversy is an offshoot of an illegal dismissal case filed by the respondent against the petitioners. In its June 16, 2008 Decision, the LA recognized respondent's right to receive from the petitioners backwages and separation pay in lieu of reinstatement. Thus, it ordered the petitioners to pay respondent the aggregate amount of ₱286,670.58. The LA decision was affirmed by the NLRC, by the CA and by this Court in G.R. No. 200490.

The decision became final and executory on October 4, 2012, as evidenced by the Entry of Judgment. Consequently, respondent moved for the issuance of a writ of execution. The petitioners opposed and moved for the issuance of a certificate of satisfaction of judgment, alleging that their obligation had been satisfied by the release of the cash bond in the amount of ₱272,337.05 to respondent.

In its July 10, 2014 Order, the LA ruled that the cash bond posted by the petitioners was insufficient to satisfy their obligation. Thus, it ordered the issuance of a writ of execution, to wit:

After evaluation, this Office deems it proper to grant [respondent's] Motion for Issuance of Writ of Execution. The fact that [petitioner CICM's] cash bond has been released to respondent in the amount of P272,337.05 does not mean full satisfaction of the award as petitioner CICM insists.

The Decision dated 16 June 200[8] which was affirmed by the Commission, the Court of Appeals and the Supreme Court specifically states that [respondent] is entitled to backwages and separation pay until the finality of the Decision. Further, the Resolution of the Court of Appeals dated February 2, 2012 stressed the need to recompute the monetary award specifically with regard to the payment of backwages, separation pay and attorney's fees, so as to update the total monetary award to which respondent is entitled in accordance with prevailing laws and jurisprudence.

This Office therefore ordered the recomputation of complainant's award of additional backwages from 07 June 2008 until 04 October 2012, the finality of the Supreme Court decision, and additional separation pay also until 04 October 2012. The total award therefore is ₱1,847,088.89. From this amount should be deducted the amount respondent received at ₱272,337.05. Thus, the additional backwages and separation pay due is ₱1,575,751.84. Since there is no more legal hindrance in the enforcement of the judgment; this Office orders the issuance of the writ of execution.⁴

⁴ The date of the LA's Decision should be 2008 not 2003.

Undaunted, the petitioners elevated an appeal before the NLRC. Nevertheless, in its September 8, 2014 Decision, the NLRC affirmed the ruling of the LA.

Aggrieved, the petitioners filed a petition for *certiorari* with the CA.

Meanwhile, the LA issued an undated writ of execution addressed to the Sheriff, who, in turn, implemented it by garnishing upon CICM's bank deposit with BPI Family Savings Bank. CICM moved for the urgent quashal of the said writ and for the garnishment to be lifted.

On January 14, 2015, the LA issued an order lifting the notice of garnishment made on CICM's bank accounts. Nonetheless, on April 13, 2015, the LA still ordered the issuance of a writ of execution to enforce the balance of the judgment award. The dispositive portion reads:

WHEREFORE, premises considered, the Urgent Motion to Quash Writ of Execution is granted. The Writ of Execution dated 3 October 2014 is hereby ordered quashed effective immediately. The Motion to Lift Garnishment of CICM Missionaries, Inc.'s account with BPI Family Savings Bank will be lifted upon release of its bond covered by BPI Check No. 0000704053 in the amount of P266,670.58 (O.R. No. 6742637) to [respondent].

Let a Writ of Execution be issued against [petitioners] to enforce the balance of the judgment award.⁵

On May 27, 2015, the CA dismissed the petition filed by the petitioners. The petitioners moved for reconsideration. In its September 7, 2015 Resolution, the CA denied their motion.

Hence, this petition.

The petitioners, therefore, ask this Court to determine "what should be the legal basis for the computation of the backwages and separation pay of an illegally dismissed employee in a case where reinstatement was not ordered despite appeals made by said employee which [delayed] the final resolution of the issue on reinstatement."⁶

The petitioners challenge the affirmation by the CA and NLRC of the July 10, 2014 Order of the LA, which recomputed respondent's award of additional backwages and separation pay until October 4, 2012, the finality of this Court's decision in G.R. No. 200490. They argue that the computation of backwages and separation pay of respondent should be only

⁵ See Petition, *Rollo*, p. 13.

⁶ *Id.* at 14.

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up to June 16, 2008, the date when the LA rendered her decision in the main case and which was also the date when reinstatement was refused. They contend that although the cases cited by the CA - *Surima v. NLRC*,⁷ *Gaco v. NLRC*,⁸ *Oscar Ledesma and Company v. NLRC*,⁹ *Labor v. NLRC*,¹⁰ *Rasonable v. NLRC*¹¹ and *Bustamante v. NLRC*,¹² commonly held that the computation of the separation pay and backwages shall be up to the time of finality of this Court's decision, the same were not applicable to their case. They point varying factual antecedents and claim that in the cases mentioned, the employers were the ones who appealed, thereby delaying the resolution of the illegal dismissal cases before the LA. Thus, the increase in the awards should necessarily be shouldered by the employer. This circumstance, however, is not present in this case. In other words, they posit that if the employer caused the delay in satisfying the judgment award, the computation should be up to the finality of the case. If it were the employee's fault, as in this case, the computation should only run until the time actual reinstatement is no longer possible nor practicable.¹³

In her *Comment*,¹⁴ respondent argued that the recomputation of the total monetary award should be until October 4, 2012 (the date when the main case became final); and that her appeal of the main case should not prejudice her as she had the right to file the same.

In their *Reply*,¹⁵ the petitioners contended that the computation made by the LA in the main case, which has become final and executory, could no longer be disturbed following the doctrine of immutability of judgment.

The Court's Ruling

The Court finds no merit in the petition.

To begin with, the petitioners failed to append the required affidavit of service. The rule is, such affidavit is essential to due process and the orderly administration of justice even if it is used merely as proof that service has been made on the other party.¹⁶ The utter disregard of this requirement as held in a catena of cases cannot be justified by harking to substantial justice and the policy of liberal construction of the Rules. Indeed, technical rules of

⁷ 353 Phil. 461 (1998).

⁸ 300 Phil. 261(1994).

⁹ 316 Phil. 80 (1995).

¹⁰ 318 Phil. 219 (1995).

¹¹ 324 Phil. 191 (1996).

¹² 325 Phil. 415 (1996).

¹³ *Rollo*, p. 21.

¹⁴ *Id.* at 60-74.

¹⁵ *Id.* at 106-109.

¹⁶ *Ang Biat Huan Sons Industries, Inc. v. Court of Appeals*, 547 Phil. 588, 569 (2007).

procedure are not meant to frustrate the ends of justice. Rather, they serve to effect the proper and orderly disposition of cases and, thus, effectively prevent the clogging of court dockets.¹⁷ Thus, in *Ferrer v. Villanueva*,¹⁸ the Court held that petitioner's failure to append the proof of service to his petition for *certiorari* was a fatal defect.

Hence, the denial of this case is in order.

For the guidance of the bench and the bar, however, the Court opts to also delve into the merits of the case.

As a precept, the Court's duty in a Rule 45 petition, assailing the decision of the CA in a labor case elevated to it through a Rule 65 petition, is limited only to the determination of whether the CA committed an error in judgment in declaring the absence or existence, as the case may be, of grave abuse of discretion on the part of the NLRC.¹⁹

As a consequence, the Court shall examine only whether the CA erred in not finding grave abuse of discretion when the NLRC affirmed the LA's findings that the separation pay in lieu of reinstatement as well as backwages due to respondent should be recomputed until the finality of the Court's decision in G.R. No. 200490, despite the fact that the delay in the resolution of the said case was brought about by respondent herself.

On this point, the Court rules in the negative.

Grave abuse of discretion, which has been defined as a capricious and whimsical exercise of judgment so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law,²⁰ requires proof that the CA committed errors such that its decision was not made in contemplation of law. The burden of proof rests upon the party who asserts.²¹

The petitioners, however, failed to carry out such burden.

The decision of the CA is based on long standing jurisprudence that in the event the aspect of reinstatement is disputed, backwages, including separation pay, shall be computed from the time of dismissal until the

¹⁷ *Ferrer v. Villanueva*, 557 Phil. 643, 648 (2007).

¹⁸ *Id.*

¹⁹ *Brown Madonna Press Inc. v. Casas*, G.R. No. 200898, June 15, 2015, 757 SCRA 525, 536.

²⁰ *United Coconut Planters Bank v. Looyuko*, 560 Phil. 581, 591-592 (2007).

²¹ In *Acabal v. Acabal*, 494 Phil. 528, 541 (2005), this Court has reiterated that [b]asic is the rule in evidence that the burden of proof lies upon him who asserts it, not upon him who denies, since, by the nature of things, he who denies a fact cannot produce any proof of it.

finality of the decision ordering the separation pay. In *Gaco v. NLRC*,²² it was ruled that with respect to the payment of backwages and separation pay in lieu of reinstatement of an illegally dismissed employee, the period shall be reckoned from the time compensation was withheld up to the finality of this Court's decision. This was reiterated in *Surima v. NLRC*²³ and *Session Delights Ice Cream and Fast Foods v. CA*.²⁴

The reason for this was explained in *Bani Rural Bank, Inc. v. De Guzman*.²⁵ When there is an order of separation pay (in lieu of reinstatement or when the reinstatement aspect is waived or subsequently ordered in light of a supervening event making the award of reinstatement no longer possible), the employment relationship is terminated only upon the finality of the decision ordering the separation pay. The finality of the decision cuts-off the employment relationship and represents the final settlement of the rights and obligations of the parties against each other. Hence, backwages no longer accumulate upon the finality of the decision ordering the payment of separation pay because the employee is no longer entitled to any compensation from the employer by reason of the severance of his employment. One cannot, therefore, attribute patent error on the part of the CA when it merely affirmed the NLRC's conclusion, which was clearly based on jurisprudence.

Plainly, it does not matter if the delay caused by an appeal was brought about by the employer or by the employee. The rule is, if the LA's decision, which granted separation pay in lieu of reinstatement, is appealed by any party, the employer-employee relationship subsists and until such time when decision becomes final and executory, the employee is entitled to all the monetary awards awarded by the LA.

In this case, respondent remained an employee of the petitioners pending her partial appeal. Her employment was only severed when this Court, in G.R. No. 200490, affirmed with finality the rulings of the CA and the labor tribunals declaring her right to separation pay instead of actual reinstatement. Accordingly, she is entitled to have her backwages and separation pay computed until October 4, 2012, the date when the judgment of this Court became final and executory, as certified by the Clerk of Court, per the Entry of Judgment in G.R. No. 200490.

²² *Supra* note 8.

²³ 353 Phil. 461 (1998).

²⁴ 625 Phil. 612 (2010).

²⁵ 721 Phil. 84 (2013).

The Court would not have expected the CA and the NLRC to rule contrary to the above pronouncements. If it were otherwise, all employees who are similarly situated will be forced to relinquish early on their fight for reinstatement, a remedy, which the law prefers over severance of employment relation. Furthermore, to favor the petitioners' position is nothing short of a derogation of the State's policy to protect the rights of workers and their welfare under Article II, Section 8 of the 1987 Constitution.²⁶

The petitioners, nonetheless, claim that it was not their fault why the amounts due ballooned to the present level. They are mistaken. Suffice it to state that had they not illegally dismissed respondent, they will not be where they are today. They took the risk and must suffer the consequences.

Finally, the Court disagrees with the petitioners' assertion that a recomputation would violate the doctrine of immutability of judgment. It has been settled that no essential change is made by a recomputation as this step is a necessary consequence that flows from the nature of the illegality of dismissal declared in that decision. By the nature of an illegal dismissal case, the reliefs continue to add on until full satisfaction thereof. The recomputation of the awards stemming from an illegal dismissal case does not constitute an alteration or amendment of the final decision being implemented. The illegal dismissal ruling stands; only the computation of the monetary consequences of the dismissal is affected and this is not a violation of the principle of immutability of final judgments.²⁷

WHEREFORE, the petition is **DENIED**. The Temporary Restraining Order issued by this Court on February 3, 2016 is hereby **LIFTED**.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

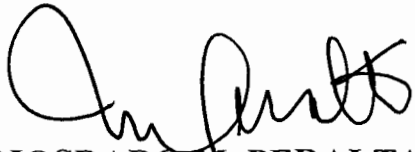
²⁶ The Constitution, Section 18. The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.

²⁷ *Session Delights Ice Cream and Fast Foods v. CA*, 625 Phil. 612, 629 (2010).

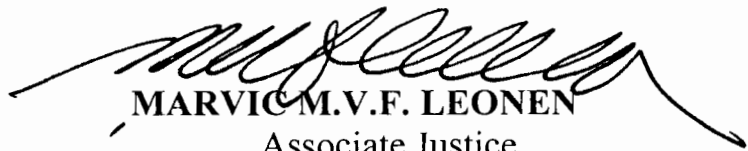
WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

I attest 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.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division



CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.



MARIA LOURDES P. A. SERENO
Chief Justice