Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

JOSE DEL PILAR, EMELBA BALIWAG, RENATO BAUYON, LOIDA DOTONG, VICTORIANA EJE, NENITA LASIN, PADILLA REGONDOLA, MAURO RODRIGUEZ, and MA. SALOME SANTOYO,
Petitioners,

- *versus* -

BATANGAS II ELECTRIC COOPERATIVE, INC. (BATELEC II),
Respondent.

G.R. No. 160090

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BATANGAS II ELECTRIC COOPERATIVE, INC. (BATELEC II),
Petitioner,

- *versus* -

JOSE DEL PILAR, EMELBA BALIWAG, RENATO BAUYON, LOIDA DOTONG, VICTORIANA EJE, NENITA LASIN, EVELYN MENDOZA, ARTHUR MERCADO, PADILLA REGONDOLA, MAURO RODRIGUEZ, and MA. SALOME SANTOYO,
Respondents.

G.R. No. 160121

Present:

PERLAS-BERNABE, *J.*,
Chairperson,
REYES, A. JR.,
HERNANDO,
INTING, and
DELOS SANTOS, *JJ.*

Promulgated:

19 FEB 2020

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DECISION

HERNANDO, *J.*:

Before this Court are two (2) consolidated Petitions for Review on *Certiorari* under Rule 45 of the 1997 Rules of Civil Procedure. Jose Del Pilar, Emelba Baliwag, Renato Bauyon, Loida Dotong, Victoriana Eje, Nenita Lasin, Padilla Regondola, Mauro Rodriguez, and Ma. Salome Santoyo (hereinafter collectively referred to as Complainants) filed the Petition docketed as G.R. No. 160090, while the Petition in G.R. No. 160121 was filed by Batangas II Electric Cooperative, Inc. (BATELEC II).

Complainants were employees of BATELEC II occupying various positions. They held rallies to denounce the alleged corrupt, anomalous and irregular activities of some BATELEC II officials. They were dismissed for participating in an illegal strike, prompting the nine complainants and eight other employees, namely: Edgardo Cabrera, Bibiana Carig, Lamberto Katimbang, Evelyn Mendoza, Arthur Mercado, Jaime Suarez, Imelda Villana and Gloria Villapando to file a case for illegal dismissal against BATELEC II. On October 15, 1993, Labor Arbiter Pedro C. Ramos rendered a Decision[1] in favor of the complainants, the dispositive portion of which reads:

> WHEREFORE, judgment is hereby rendered finding the dismissal of complainants EMELBA BALIWAG, RENATO BAUYON, EDGARDO CABRERA, BIBIANA CARIG, JOSE DEL PILAR, LOIDA DOTONG, VICTORIANA EJE, LAMBERTO KATIMBANG, NENITA LASIN, EVELYN MENDOZA, ARTHUR MERCADO, PADILLA RECONDOLA, MAURO RODRIGUEZ, MA. SALOME SANTOYO, JAIME SUAREZ, IMELDA VILLENA and GLORIA VILLAPANDO as illegal.
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> Respondents Batangas II Electric Cooperative, Inc. (BATELEC II), Democrito Manalo, Franklin Castillo, and George Din are hereby ordered to:
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> 1. Immediately REINSTATE the complainants to their former positions under the same terms and conditions obtaining at the time of their illegal dismissal, either physically or in the payroll, at the option of the respondents, as provided by the "Herrera Law", without loss of seniority rights and other privileges;
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> 2. Jointly and severally PAY complainants the following sums, to wit:
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> a. FULL BACKWAGES, inclusive of allowances and other benefits or their monetary equivalent, but not to exceed three (3) years, without deduction of earnings elsewhere,

[1] CA *rollo*, pp. 81-108.

partially computed from the time their compensation was withheld from them on December 1, 1992 up to November 30, 1993, in the amount of One Million Eight Thousand Six Hundred Seventy[-]Four Pesos (₱1,008,674.00);

b. MORAL DAMAGES in the sum of One Hundred Thousand (₱100,0000.00) Pesos each or a total of One Million Seven Hundred Thousand Pesos (₱1,700,000.00);

c. EXEMPLARY DAMAGES in the sum of One Hundred Thousand (₱100,000.00) Pesos each, or a total of One Million Seven Hundred Thousand (₱1,700,000.00); and

d. ATTORNEY'S FEES equivalent to ten (10%) percent of the total monetary award or in the sum of Four Hundred Forty Thousand Eight Hundred Sixty-Seven Pesos (₱440,867.00).

For lack of evidence, the claim for actual damages and expenses of litigation are denied.

SO ORDERED. [2]

A writ of execution was issued on October 29, 1993. Complainants were reinstated in the payroll and were also paid backwages, allowances and other benefits from December 1, 1992 to March 31, 1995. BATELEC II however filed a Manifestation with Motion on March 31, 1995 before the Labor Arbiter stating that reinstatement has become impossible because of a major reorganization and streamlining that it had undergone, which resulted in the abolition of some positions pertaining to complainants. BATELEC II offered to pay one (1) month salary for every year of service. On September 29, 1995, the Labor Arbiter ordered BATELEC II to pay the complainants their separation pay. The dispositive portion of the Decision[3] reads:

WHEREFORE, in view of all the foregoing considerations, judgment is hereby rendered declaring "impossibility" in the physical reinstatement of all complainants and in lieu thereof they are awarded the payment of separation pay in the total sum of One Million Five Hundred Sixty-Eight Thousand Seven Hundred Forty-Four Pesos (₱1,568,744.00); plus One Hundred Fifty-Six Thousand Eight Hundred Seventy-Four and 40/100 (₱156,874.40) as attorney's fees.

Motions to cite respondents in contempt and to pay their salaries and other benefits from April 1, 1995 up to present are DENIED for lack of merit.

SO ORDERED. [4]

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[2] *Id.* at 107-108.
[3] *Id.* at 58-80.
[4] *Id.* at 80.

On April 25, 1996, the National Labor Relations Commission (NLRC) issued a Resolution[5] denying the appeal of complainants for lack of merit. Complainants filed a Motion for Reconsideration and it was partially granted in a July 23, 1996 Resolution[6] by the NLRC, which further ordered the payment of Five Thousand Pesos (₱5,000.00) each to all complainants by way of indemnity. The NLRC found that the complainants were arbitrarily dismissed for an authorized cause which warranted the payment of indemnity.

Complainants filed a Petition for *Certiorari* before the Court of Appeals (CA). During the pendency of the case, Edgardo Cabrera, Lamberto Katimbang, Gloria Villapando, Imelda Villena, Bibiana Carig and Jaime Suarez entered into an amicable settlement with BATELEC II. Hence, their complaints were dismissed. On May 26, 2000, the CA rendered its Decision[7] ordering BATELEC II to pay complainants separation pay equivalent to one (1) month salary for every year of service and full backwages from April 1, 1995 up to the finality of its Decision. In granting full backwages, the appellate court relied on *Serrano v. National Labor Relations Commission*[8] (*Serrano*) which mandates the payment of fine and backwages for failure of the employer to observe the procedure for termination of employment. The dispositive portion reads:

> WHEREFORE, the assailed Resolution of the National Labor Relations Commission is affirmed with the MODIFICATION that respondent BATELEC II is ordered to pay petitioners separation pay equivalent to one (1) month for every year of service, whichever is higher, and, in lieu of the fine of ₱5,000.00 for every employee, full backwages from April 1, 1995, or the time when their employments were terminated up to the time of the finality of this decision. For this purpose, this case is REMANDED to the Labor Arbiter for computation of the separation pay and backwages. Insofar as the six (6) petitioners are concerned who have executed their respective quitclaims and waivers, their petition is DISMISSED.
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> SO ORDERED. [9]

BATELEC II elevated the case to this Court and challenged the award of full backwages. In a Resolution[10] dated June 20, 2001, this Court upheld the ruling of the CA and ruled that the award of backwages is proper, regardless of whether or not there was physical or legal impossibility of reinstatement, BATELEC II having failed to observe the procedure for termination of employment as set forth in Article 283 of the Labor Code.

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[5] *Id.* at 109-121; penned by Commissioner Ireneo B. Bernardo and concurred in by Presiding Commissioner Lourdes C. Javier and Commissioner Joaquin A. Tanodra.
[6] *Id.* at 122-126.
[7] *Id.* at 155-169; penned by Associate Justice Portia Aliño-Hormachuelos and concurred in by Associate Justices Ma. Alicia Austria-Martinez (now retired Supreme Court Justice) and Elvi John S. Asuncion.
[8] 380 Phil. 416 (2000).
[9] CA *rollo*, pp. 168-169.
[10] *Id.* at 193-197.

An Entry of Judgment[11] was issued declaring its finality as of September 13, 2001.

Only nine complainants, now petitioners in G.R. No. 160090, remained and they filed a Motion to Approve Computation in the amount of ₱20,791,837.00.[12] BATELEC II argued that the impossibility of complainants' reinstatement took effect on March 31, 1995, hence, no computation can be had beginning on that date. BATELEC II insisted that the directive to pay separation pay is final with respect to complainants.[13]

In an Order[14] dated December 10, 2001, Acting Executive Labor Arbiter Voltaire A. Balitaan approved the computation of complainants' separation by way of retirement benefits as well as backwages.[15] He ruled that complainants are entitled to full backwages from where it was cut off on April 1, 1995 on top of separation pay up to the time of the finality of the Decision on September 13, 2001, which was legally the effectivity date of their separation from service. He further stated that full backwages included other benefits which complainants should have received had they not been dismissed.

BATELEC II appealed to the NLRC. It refuted the computation submitted by complainants regarding the backwages. It also questioned the very award of backwages because said amount is only awarded to illegally dismissed employees and not to those whose former positions had already been abolished and reinstatement is no longer possible. In a Resolution[16] dated March 22, 2002, the NLRC partially granted the appeal and ruled that in computing for backwages, the base pay is the basic pay plus allowances, like 13th month pay and excluding all other benefits. The dispositive portion of the Resolution reads:

> WHEREFORE, premises considered, the Appeal is hereby partially GRANTED. The Order appealed is hereby SUSTAINED subject to the MODIFICATION that Complainants-Appellees' awarded claims for separation pay equivalent to one (1) month pay for every year of service from the date of their hiring up to April 1, 1995, the date of the legal abolition of their respective positions, and for full backwages from April 1, 1995, the date of the termination of their employment, up to the date of the promulgation of the judgment, should be computed based only on their basic pay and regular allowance, i.e., thirteenth (13th) month pay.

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[11] *Rollo* (G.R. No. 160090), p. 106.
[12] CA *rollo*, pp. 128-130. *See* Order dated December 10, 2001.
[13] *Id.* at 130.
[14] *Id.* at 128-130.
[15] *Id.* at 130.
[16] *Id.* at 44-56; penned by Commissioner Tito F. Genilo and concurred in by Presiding Commissioner Raul T. Aquino. Commissioner Vicente S. E. Veloso III dissented.

> In this connection, the Examination and Computation Unit of this Commission is hereby directed to compute the total amount complainants-appellees are entitled to pursuant to this Resolution.
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> SO ORDERED. [17]

Triple motions for reconsideration were filed by all parties challenging the above Resolution. The NLRC, in a Resolution[18] dated June 14, 2002, directed complainants to pay their lawyer attorney's fees equivalent to 10% of the monetary awards, thus:

> WHEREFORE, premises considered, the Motions for Reconsideration of Complainants-Appellees and Respondent-Appellants, respectively, are dismissed for lack of merit and the Motion for Reconsideration of Movants Edna L. Loyola and Franco L. Loyola are partially GRANTED. Accordingly, the Decision sought to be reconsidered is hereby SUSTAINED subject to the modification that Complainants-Appellees are DIRECTED to pay Movant Edna V. Concepcion attorney's fees equivalent to ten percent (10%) of their monetary awards subject to deduction of Atty. Concepcion's attorney's fees already collected from them (Receipts, Checks and Statements of Accounts, Annexes "A", etc, their Manifestation and Motion), upon their collection of such monetary awards; and Movant Franco L. Loyola his attorney's fees of ₱70,000.00 to be taken from the total award.
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> SO ORDERED. [19]

Undeterred, BATELEC II elevated the case to the CA raising as issue the payment of full backwages and its coverage.

On June 20, 2003, the appellate court rendered a Decision[20] affirming with modification the ruling of the NLRC in that the base figure to be used in the computation of full backwages shall include only their basic salaries up to September 13, 2001, the date of finality of the Supreme Court's Decision. The appellate court ratiocinated, thus:

> It is more sensible to consider that the backwages contemplated as a penalty where termination is legal, should be confined to the employee's salary, not allowances and other benefits. This is because Art. 279 of the Labor Code, which provides for full backwages, inclusive of allowances and other benefits, explicitly refers to an employee who is unjustly or illegally dismissed from work. Jurisprudence is not clear on the coverage or scope of backwages when the termination is not illegal. A clarification is, therefore, in order.

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[17] *Id.* at 56.
[18] *Id.* at 28-41.
[19] *Id.* at 40.
[20] *Rollo* (G.R. No. 160090), pp. 12-42; penned by Associate Justice Ruben T. Reyes (now retired Supreme Court Associate Justice) and concurred in by Associate Justices Elvi John Asuncion and Lucas P. Bersamin (now retired Supreme Court Chief Justice).

> To our mind, making a distinction between the two dissimilar situations and providing corresponding appropriate sanctions for each is essential to a fair dispensation of justice.
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> In the case at bar, private respondents were not illegally dismissed from work; their positions were validly abolished due to redundancy and installation of computers. Their dismissal was merely defective for lack of requisite notice. Hence, backwages were awarded to private respondents not as a consequence of illegal dismissal, but as penalty for petitioner's non-compliance with the one-month notice requirement.
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> Accordingly, We hold that their case should be treated differently from that contemplated in Article 279. The base figure for computing private respondents' full backwages deserves to be smaller and at most should only include their salaries.[21]

Dissatisfied with the CA ruling, both parties separately filed their Petitions for Review on *Certiorari*. On January 14, 2004, this Court resolved to consolidate the two cases.[22]

Complainants claim that the CA gravely erred in entertaining the appeal, more so because not only did it disturb the computation of the Labor Arbiter, it also revived controversies already adjudicated upon. Complainants maintain that an entry of judgment had already been issued by this Court where the merits of the case had already been discussed. Complainants add that instead of an appeal to the CA, BATELEC II should have filed a petition for injunction with the NLRC questioning the computation of the award pursuant to Rule XI, Section 1 of the New Rules of Procedure of the NLRC. Complainants also point out that BATELEC II failed to post an appeal bond. Complainants also challenge the base figure for the computation of backwages in that it excluded allowances and other benefits. Complainants proffer that since Article 279 of the Labor Code provides for full backwages, inclusive of allowances in the case of an employee who is unjustly dismissed from work, the same treatment should be given to an employee who is dismissed for an authorized cause.

BATELEC II insists that it had fully complied with the 30-day notice rule under Article 283 of the Labor Code. BATELEC II asserts that complainants were aware of their impending retrenchment on account of redundancy when BATELEC II filed a manifestation and motion to the effect and complainants were accorded due process when they filed their opposition thereto. BATELEC II avers that the difference in the factual settings of this case and *Serrano*[23] did not make it legally feasible to apply the latter's doctrine.

We shall tackle the procedural issue first.

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[21] *Id.* at 26-28.
[22] *Id.* at 120.
[23] *Serrano v. National Labor Relations Commission*, supra note 8.

The final and executory decision referred to by complainants pertain to the May 26, 2000 Decision[24] of the CA, which had been affirmed by this Court on June 20, 2001. A corresponding Entry of Judgment was issued on September 13, 2001 as to this adjudication. We reproduce the dispositive portion of the final Decision, for brevity:

> WHEREFORE, the assailed Resolution of the National Labor Relations Commission is affirmed with the MODIFICATION that respondent BATELEC II is ordered to pay petitioners separation pay equivalent to one (1) month [or one (1) month pay] for every year of service, whichever is higher, and, in lieu of the fine of ₱5,000.00 for every employee, full backwages from April 1, 1995, or the time when their employments were terminated up to the time of the finality of this decision. For this purpose, this case is REMANDED to the Labor Arbiter for computation of the separation pay and backwages. Insofar as the six (6) petitioners are concerned who have executed their respective quitclaims and waivers, their petition is DISMISSED.[25]

By redefining the scope of backwages which only included their salaries, complainants claim that the CA varied the terms of the original judgment. Ascertaining the scope of backwages involves a recomputation thereof.

> It has [long] 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.[26] (Citation omitted)

With respect to the appeal bond, we quote the ratiocination of the NLRC:

> First, the putting-up of a cash bond was not required in perfecting the instituted Appeal, for the order appealed from is not an original decision of the Labor Arbiter affecting the whole spectrum of the instant case. It is only an order involving a mere incident, an isolated segment of that entire extent of the case at bar. It simply concerns a computation aspect of that whole realm. It merely resolves, at the execution stage of the proceedings, the issue of whether or not the benefits, such as medical and dental benefits, Pag-ibig benefits, SSS benefits, sick leave benefits, vacation benefits, retirement benefits, Phil-Health benefits, bonus/fourteenth (14th) month pay, rice allowances and uniform allowances should, aside from the basic pay and regular allowances, be integrated [in] the base pay for use in computing Complainants-Appellees'

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[24] CA *rollo*, pp. 155-169.
[25] *Id.* at 168-169.
[26] *C.I.C.M. Mission Seminaries v. Perez*, 803 Phil. 596, 607 (2017), citing *Session Delights Ice Cream and Fast Foods v. Court of Appeals*, 625 Phil. 612, 629 (2010).

separation pay and full backwages, awarded in the Decision dated 26 May 2000 of the Court of Appeals, as sustained by the Decision dated June 20, 2001 of the Supreme Court. Otherwise stated, the law and the NLRC Rules on the matter [do] not require the posting of a bond in "Orders" of this nature.

The foregoing viewpoint is a liberal construction of Article 223 of the Labor Code requiring bond in appeals involving monetary awards in view of the presence of controversies surrounding the computation of Complainant-Appellants monetary awards for separation pay and full backwages which require resolution on the merits.

As aptly held by the Supreme Court in the case of Manila Mandarin Employees Union v. NLRC, 264 SCRA 320, 19 November 1996:

> At any rate, the Court has invariably ruled that Article 223 of the Labor Code requiring bond in appeals involving monetary awards, must be liberally construed, in line with the desired objective of resolving controversies on their merits.

Secondly, granting *ex-gratia argumenti* that Respondents-Appellants were required to put up a bond to perfect their Appeal, their failure to do so was a legal technicality which we could, as we did, ignore to serve the [ends] of substantial justice.

It bears to stress that if the wrong computation prevails, BATELEC II will pay Complainants-Appellees the fantastic amount of ₱20,791,839.00 (their Computation, p. 977, Records). As a consequence, they will end up becoming the owner of BATELEC II and/or BATELEC II will close up for the huge amount is far more than its total capitalization. Worse, the whole number of its employees, as compared to the few number of Complainants-Appellees, only nine (9) in all, will certainly be economically dislocated. Thus, to prevent unjust enrichment of Complainants-Appellees at the expense of BATELEC II, the "goose that lays the golden eggs", and its whole workforce, all due to the unquenchable monetary hunger of Complainants-Appellees, this Commission has to entertain the instituted Appeal regardless of whether or not the corresponding appeal bond was posted.

The following provision of Article 221 grants us justification to this urgent assumption of jurisdiction:

> Technical rules not binding and prior resort to amicable settlement. - In any proceeding before the Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process. In any proceeding before the Commission or any Labor Arbiter, the parties may be represented by legal counsel but it shall be the duty of the

> Chairman, any Presiding Commissioner or Commissioner or any Labor Arbiter to exercise complete control of the proceedings at all stages.
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> x x x x
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> Thirdly, the final and executory decision does not fix the exact amount of the awarded separation pay and full backwages. It leaves the same still to be computed with the right to due process being afforded to both parties in the process. Since the right amount has not yet been judicially fixed with finality, it is most unfair that Respondents-Appellants should be required to post a bond to perfect their appeal questioning, in the exercise of their right to due process. Complainants-appellees' computation in the fantastic amount of ₱20,791,837.00, since they do not yet know the right amount of the bond.[27]

The foregoing disquisition was affirmed by the CA. However, we do not subscribe to the NLRC's interpretation of the rule on appeal bond, specifically that which dispenses with the requirement of an appeal bond if "the order appealed from is not an original decision of the Labor Arbiter affecting the whole spectrum of the instant case."[28]

In *Toyota Alabang, Inc. v. Games*,[29] this Court was emphatic in declaring that Article 223 of the Labor Code and Section 6, Rule VI of the 2011 NLRC Rules of Procedure "do not limit the appeal bond requirement only to certain kinds of rulings of the [Labor Arbiter]. Rather, these rules generally state that in case the ruling of the [Labor Arbiter] involves a monetary award, an employer's appeal may be perfected only upon the posting of a bond. Therefore, absent any qualifying terms, so long as the decision of the [Labor Arbiter] involves a monetary award, as in this case, that ruling can only be appealed after the employer posts a bond."[30]

However, we agree that this procedural rule may be relaxed in the interest of substantial justice. First, the case was already in its execution stage. BATELEC II had already posted an appeal bond when it appealed the case for the first time on its merit. The purpose of an appeal bond, which is to ensure, during the period of appeal, against any occurrence that would defeat or diminish recovery by the aggrieved employees under the judgment if subsequently affirmed,[31] has in fact been satisfied. The winning party was already secured of payment by the losing party, or in default thereof, by the surety company. Second, at the time when an appeal was made from the March 22, 2002 NLRC Resolution, the final award, upon which the bond should be based, has not yet been settled. In the fairly recent case of *Sara Lee Philippines, Inc. v. Macatlang*,[32] the Court decreed that the NLRC may

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[27] CA *rollo*, pp. 32-35.
[28] *Id.* at 32.
[29] 766 Phil. 816 (2015).
[30] *Id.* at 832.
[31] *U-bix Corporation v. Hollero*, 763 Phil. 668, 682-683 (2015).
[32] 735 Phil. 71, 96 (2014).

dispense with the posting of the bond when the judgment award is: (1) not stated or (2) based on a patently erroneous computation.

Complainants invoke injunction as the proper remedy from the Order of the Labor Arbiter on the computation of award to the NLRC.

Article 225(e) of the Labor Code empowers the NLRC "[t]o enjoin or restrain any actual or threatened commission of any or all prohibited or unlawful acts or to require the performance of a particular act in any labor dispute which, if not restrained or performed forthwith, may cause grave or irreparable damage to any party or render ineffectual any decision in favor of such party," while Sec. 1, Rule X of the 2011 NLRC Rules of Procedure, as amended, pertinently provides as follows:

> Section 1. Injunction in Ordinary Labor Dispute. - A preliminary injunction or a restraining order may be granted by the Commission through its divisions pursuant to the provisions of paragraph (e) of Article 218 [now 225] of the Labor Code, as amended, when it is established on the basis of the sworn allegations in the petition that the acts complained of, involving or arising from any labor dispute before the Commission, which, if not restrained or performed forthwith, may cause grave or irreparable damage to any party or render ineffectual any decision in favor of such party.

In *Philippine Airlines v. National Labor Relations Commission*,[33] the Court expounded on the NLRC's power to issue an injunction, *viz.*:

> Generally, injunction is a preservative remedy for the protection of one's substantive rights or interest. It is not a cause of action in itself but merely a provisional remedy, an adjunct to a main suit. It is resorted to only when there is a pressing necessity to avoid injurious consequences which cannot be remedied under any standard of compensation. The application of the injunctive writ rests upon the existence of an emergency or of a special reason before the main case be regularly heard. The essential conditions for granting such temporary injunctive relief are that the complaint alleges facts which appear to be sufficient to constitute a proper basis for injunction and that on the entire showing from the contending parties, the injunction is reasonably necessary to protect the legal rights of the plaintiff pending the litigation. Injunction is also a special equitable relief granted only in cases where there is no plain, adequate and complete remedy at law.[34]

On the other hand, Article 223 provides that decisions, awards, or orders of the Labor Arbiter are final and executory unless appealed to the NLRC. The NLRC has exclusive appellate jurisdiction over all cases decided by labor arbiters as provided in Article 217(b) of the Labor Code. From the finding of illegal dismissal up to the execution of the monetary award, the jurisdiction of the NLRC is appellate in nature. "Article 218(e) of

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[33] 351 Phil. 172 (1998), citing *Del Rosario v. Court of Appeals*, 325 Phil. 424 (1996); *Gilchrist v. Cuddy*, 29 Phil. 542 (1915) and *Devesa v. Arbes*, 13 Phil. 273 (1909).

[34] *Philippine Airlines v. National Labor Relations Commission*, *id.* at 181.

the Labor Code does not provide blanket authority to the NLRC or any of its divisions to issue writs of injunction, considering that Section 1 of Rule XI of the New Rules of Procedure of the NLRC makes injunction only an ancillary remedy in ordinary labor disputes."[35]

Moreover, there is no showing of any urgency or irreparable injury which the complainants might suffer. They are already assured of adequate compensation. "[A]n injunction, as an extraordinary remedy, is not favored in labor law considering that it generally has not proved to be an effective means of settling labor disputes. It has been the policy of the State to encourage the parties to use the non-judicial process of negotiation and compromise, mediation and arbitration."[36]

We now resolve the substantive issue.

Two successive terminations transpired in this case. First, complainants were unlawfully terminated in 1992 which led to the order for their reinstatement and payment of backwages and damages. Complainants were then reinstated to payroll from December 1, 1992 to March 31, 1995. During this time, they were likewise paid their backwages and damages. The employment relationship between complainants and BATELEC II had resumed. On March 31, 1995 and during the execution stage, BATELEC II filed a Manifestation with Motion stating that reinstatement of the illegally dismissed employees was no longer feasible due to reorganization which abolished the positions pertaining to complainants. It is in the second termination where the controversy lies.

BATELEC II stated in its Manifestation with Motion that it could no longer reinstate complainants because of a reorganization which resulted in the abolition of positions pertaining to complainants. Instead, BATELEC II offered to pay separation pay. The NLRC and the CA, as affirmed by this Court, treated BATELEC II's refusal to reinstate as retrenchment, a form of authorized dismissal. Article 283 of the Labor Code requires the employer to serve a written notice on the workers and the Department of Labor and Employment (DOLE) at least one (1) month before the intended date of retrenchment. In case of retrenchment, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher.

The retrenchment of complainants was found to be *bona fide* but the required notices were evidently lacking. BATELEC II contends that it had substantially complied with the notice requirement because complainants were given an ample opportunity to controvert the retrenchment before the Labor Arbiter. BATELEC II equates this to substantial compliance.

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[35] *Philippine Airlines v. National Labor Relations Commission, id.* at 185, citing *Pondoc v. National Labor Relations Commission*, 331 Phil. 134, 142 (1996).

[36] *Philippine Airlines v. National Labor Relations Commission, id.* at 187, citing 48 Am. Jur. 2d, 2071, p. 437, cited in Azucena, *The Labor Code*, Vol. 2 (1996 ed.), pp. 430 and 35.

The purpose of a written notice under Article 283 of the Labor Code is to give employees time to prepare for the eventual loss of their jobs as well as to give the DOLE the opportunity to ascertain the veracity of the alleged cause of termination.[37] In this case, there was no actual notice of termination. BATELEC II merely assumed that complainants knew about the retrenchment when they actively participated in the proceedings before the Labor Arbiter who tackled the validity of the reorganization. The offer to pay separation pay is not sufficient to replace the formal requirement of written notice. At the time the reorganization took place, complainants were reinstated on payroll so they were deemed employees of BATELEC II. Thus, there was no reason why BATELEC II could not have served them notice of retrenchment before actually dismissing them.

Pursuant to *Serrano* which the appellate court hesitantly applied, complainants were entitled to separation pay and backwages up to September 13, 2001. However, in the subsequent cases of *Agabon v. National Labor Relations Commission*[38] (*Agabon*) and *Jaka Food Processing Corporation v. Pacot*[39] (*Jaka*) the Court now orders payment of nominal damages for valid dismissals due to just or authorized cause but not compliant to statutory due process. In *De Jesus v. Aquino*,[40] *Agabon* was applied by the Court retroactively, thus:

> Although *Agabon*, being promulgated only on November 17, 2004, ought to be prospective, not retroactive, in its operation because its language did not expressly state that it would also operate retroactively, the Court has already deemed it to be the wise judicial course to let its abandonment of *Serrano* be retroactive as its means of giving effect to its recognition of the unfairness of declaring illegal or ineffectual dismissals for valid or authorized causes but not complying with statutory due process. Under *Agabon*, the new doctrine is that the failure of the employer to observe the requirements of due process in favor of the dismissed employee (that is, the two-written notices rule) should not invalidate or render ineffectual the dismissal for just or authorized cause. The *Agabon* Court plainly saw the likelihood of *Serrano* producing unfair but far-reaching consequences, such as, but not limited to, encouraging frivolous suits where even the most notorious violators of company policies would be rewarded by invoking due process; to having the constitutional policy of providing protection to labor be used as a sword to oppress the employers; and to compelling the employers to continue employing persons who were admittedly guilty of misfeasance or malfeasance and whose continued employment would be patently inimical to the interest of employers.

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[37] *PNCC Skyway Corporation v. Secretary of Labor & Employment*, 805 Phil. 155, 164 (2017), citing *Mobilia Products, Inc. v. Demecillo*, 597 Phil. 621, 631 (2009).
[38] 485 Phil. 248, 288 (2004).
[39] 494 Phil. 114, 120 (2005).
[40] 704 Phil. 77 (2013).

> Even so, the *Agabon* Court still deplored the employer's violation of the employee's right to statutory due process by directing the payment of indemnity in the form of nominal damages, the amount of which would be addressed to the sound discretion of the labor tribunal upon taking into account the relevant circumstances. Thus, the *Agabon* Court designed such form of damages as a deterrent to employers from committing in the future violations of the statutory due process rights of employees, and, at the same time, as at the very least a vindication or recognition of the fundamental right granted to the employees under the Labor Code and its implementing rules. x x x[41] (Citations omitted)

We see no reason why we should not apply *Jaka* retroactively in this case too, to wit:

> 1. First, *Jaka* extended the application of the *Agabon* doctrine to dismissals that were based on authorized causes but have been effected without observance of the notice requirements. Thus, similar to *Agabon*, the dismissals under such circumstances will also be regarded as valid while the employer shall likewise be required to pay an indemnity to the employee; and
>
> 2. Second, *Jaka* increased the amount of indemnity payable by the employer in cases where the dismissals are based on authorized causes but have been effected without observance of the notice requirements. It fixed the amount of indemnity in the mentioned scenario to ₱50,000.[42]

Pursuant to *Jaka*, we direct BATELEC II to pay only indemnity in the amount of ₱50,000.00 each to all complainants.

With the deletion of backwages, we find it unnecessary to discuss its scope.

Finally, complainants are entitled to legal interest. Pursuant to *Nacar v. Gallery Frames,*[43] the rate of legal interest shall be 6% per *annum* computed from the date of the promulgation of this judgment until fully paid.

WHEREFORE, the Petition in G.R. No. 160090 is **DENIED**, while the Petition in G.R. No. 160121 is **PARTIALLY GRANTED**. Batangas II Electric Cooperative Inc. is hereby **ORDERED** to pay indemnity in the amount of ₱50,000.00 each to Jose Del Pilar, Emelba Baliwag, Renato Bauyon, Loida Dotong, Victoriana Eje, Nenita Lasin, Padilla Regondola, Mauro Rodriguez and Ma. Salome Santoyo, with legal interest of 6% per *annum* computed from the date of the promulgation of this judgment until fully paid.

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[41] Id. at 96-97.
[42] *Veterans Federation of the Philippines v. Montenejo*, G.R. No. 184819, November 29, 2017, 847 SCRA 1, 25.
[43] 716 Phil. 267 (2013).

SO ORDERED.

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

ANDRES B. REYES, JR.
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

EDGARDO L. DELOS SANTOS
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.

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

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.

DIOSDADO M. PERALTA
Chief Justice