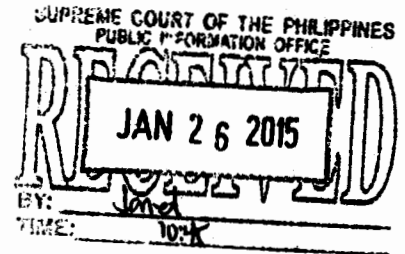




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **December 3, 2014**, which reads as follows:

“G.R. No. 199546 (KEPHILCO Malaya Employees Union [KMEU] and Leonilo C. Burgos vs. KEPCO Philippines Corporation [KEPHILCO], Lee Gilgo Joong, Oil Chan Yoow and Jae Pyo Chol). – This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court which seeks to nullify and set aside the Decision² dated August 26, 2011 and Resolution³ dated November 25, 2011 of the Court of Appeals (CA) in CA-G.R. SP No. 109656 and direct the Labor Arbiter (LA) to issue a writ of execution of this Court’s Decision⁴ dated June 29, 2007 in G.R. No. 171927 entitled **“KEPHILCO Malaya Employees Union and Leonilo Burgos v. KEPCO Philippines Corporation.”**

Facts of the Case

On January 16, 1996, Leonilo C. Burgos (Burgos) was employed by KEPCO Philippines Corporation (KEPHILCO) as first class turbine operator with a monthly salary of ₱38,758.00. During a general meeting of KEPHILCO Malaya Employees Union (KMEU), Burgos, a member of KMEU, uttered a controversial statement against the company. KEPHILCO ordered an administrative investigation, the results of which became the basis of the filing of an administrative charge against Burgos.⁵

On July 1, 2003, KEPHILCO dismissed Burgos from employment after he was found guilty of violating Sections 7.33⁶ and 7.34⁷ of its Code of Employee Discipline.⁸

¹ Rollo, pp. 3-17.

² Penned by Associate Justice Ramon M. Bato, Jr., with Associate Justices Juan Q. Enriquez, Jr. and Florito S. Macalino, concurring; id. at 20-27.

³ Id. at 29-30.

⁴ Id. at 62-71.

⁵ Id. at 21, 63.

⁶ Sec. 7.33. Initiating and[/]or engaging in any kind of activity (collective and[/]or individual) which causes damage and/or prejudice to the Company, its officer and employees (*i.e.* instigation).

⁷ Sec. 7.34. Sending and/or disseminating letters or communications which tends [sic] to discredit or cause damage to the Company, its officers or its employees.

⁸ Rollo, pp. 63-64.

On August 29, 2003, KMEU and Burgos (petitioners) filed a complaint against KEPHILCO with the National Labor Relations Commission (NLRC) for illegal dismissal, unfair labor practice and damages docketed as NLRC-NCR Case No. 08-10165-03. In a Decision dated March 31, 2004, the LA dismissed the complaint but ordered KEPHILCO to pay Burgos ₱271,306.00 as separation pay.⁹

Both parties appealed to the NLRC. On April 28, 2005, the NLRC reversed the decision of the LA and ordered the reinstatement of Burgos when it disposed the case in this wise:

WHEREFORE, the assailed decision of 31 March 2004 is REVERSED and SET ASIDE. Accordingly, the respondent company is hereby ordered to **immediately reinstate** complainant-appellant LEONILLO C. BURGOS to his former position without loss of seniority rights and other benefits and to pay him full backwages from the time his salary was illegally withheld from him up to the date of his actual reinstatement, which is computed as of the date of the promulgation of this Resolution in the total amount of NINE HUNDRED FIFTEEN THOUSAND THREE HUNDRED THIRTY[-]FOUR and 77/100 (P915,334.77) PESOS plus ten (10%) percent of the total monetary award in the amount of NINETY[-]ONE THOUSAND FIVE HUNDRED THIRTY[-]THREE AND 48/100 (P91,533.48) PESOS as and by way of attorney's fees.

For lack of factual or legal basis, all other claims are dismissed.

SO ORDERED.¹⁰ (Emphasis ours)

KEPHILCO assailed the adverse NLRC decision *via* a petition for *certiorari* under Rule 65 of the Rules of Court before the CA. On January 13, 2005, the CA resolved to grant the petition and, accordingly, affirmed the decision of the LA.¹¹

The petitioners moved for reconsideration but it was denied.¹² Undaunted, they filed a petition for *certiorari* before this Court docketed as G.R. No. 171927.¹³

Pending resolution on the petition, or on June 22, 2007, the parties entered into an amicable settlement through a Compromise Agreement¹⁴ wherein it was provided that KEPHILCO agreed to pay Burgos ₱2.7 Million as complete settlement of all the latter's claims against the company while the petitioners shall cause the withdrawal of the petition for *certiorari*. It was further provided that the compromise amount of ₱2.7 Million shall only

⁹ Id. at 64-65.
¹⁰ Id. at 21-22.
¹¹ Id. at 22.
¹² Id.
¹³ Id.
¹⁴ Id. at 79-81A.

be released to Burgos after he has furnished KEPHILCO the following: a) Motion to Withdraw Petition for *Certiorari*, signed by him, the KMEU and their counsel, Atty. Ernesto Arellano (Atty. Arellano); and b) the notarized Release, Waiver and Quitclaim signed by Burgos and his counsel, Atty. Arellano.¹⁵ In line with the said settlement, Burgos executed a Release, Waiver and Quitclaim¹⁶ in favor of KEPHILCO.

On June 29, 2007, the Second Division of this Court rendered the Decision¹⁷ on the petition for *certiorari* in G.R. No. 171927 which disposed the case in this wise:

WHEREFORE, the petition is **GRANTED**. The January 13, 2006 Decision and the March 3, 2006 Resolution of the Court of Appeals are **REVERSED** and **SET ASIDE**.

The April 28, 2005 Resolution of the National Labor Relations Commission is **REINSTATED**, with modification in the computation of the total monetary benefits to reflect the current appropriate amount less the compensation actually received during reinstatement pending appeal.

SO ORDERED.¹⁸

On July 5, 2007, the petitioners filed a motion to withdraw¹⁹ the petition for *certiorari* in G.R. No. 171927 and prayed that the Compromise Agreement and the Release, Waiver and Quitclaim be approved.

Subsequently, the petitioners received a copy of the Decision dated June 29, 2007 on July 13, 2007 while KEPHILCO received its copy on July 19, 2007.

On July 27, 2007, KEPHILCO filed a Manifestation and Motion²⁰ for the Court to approve the (1) Compromise Agreement, (2) Release, Waiver and Quitclaim, and (3) Motion to Withdraw, and for the Court to consider G.R. No. 171927 closed and terminated.²¹

On August 6, 2007, the Decision dated June 29, 2007 in G.R. No. 71927 became final and executory as per this Court's Entry of Judgment.²²

In the Resolution dated September 10, 2007,²³ this Court "noted without action" both the petitioners' motion to withdraw dated June 25, 2007 and KEPHILCO's manifestation and motion dated July 4, 2007.

¹⁵ Id. at 80.

¹⁶ Id. at 82-83.

¹⁷ Id. at 62-71.

¹⁸ Id. at 69.

¹⁹ Id. at 72-74.

²⁰ Id. at 75-78.

²¹ Id. at 76.

²² Id. at 90-91.

²³ Court Second Division Resolution in G.R. No. 171927 entitled "*Kephilco Malaya Employees Union and Leonilo Burgos v. Kepco Philippines Corporation*"; id. at 84.

On September 25, 2007, the petitioners filed a motion²⁴ to the LA regarding the **issuance of a writ of execution** of the Decision dated June 29, 2007 in G.R. No. 171927 because they found out (1) that KEPHILCO committed fraud and malice when it withheld the amount of ₱1,011,151.90 from the total claims of Burgos amounting to ₱3,711,151.90 that will be remitted as taxes to the Bureau of Internal Revenue (BIR), and (2) that KEPHILCO did not remit ₱1,011,151.90 to the BIR as there was no receipt presented to them to prove such tax payment.²⁵

KEPHILCO filed an Opposition²⁶ to the motion contending that Burgos already waived all his rights and claims against it when the Compromise Agreement was entered into and when he executed the Release, Waiver and Quitclaim in its favor.

Unfortunately, the LA deferred to act on the motion to withdraw of the petitioners in the Order²⁷ dated July 31, 2008 which pertinently reads:

Insofar as the merits of the main case is concerned, the Supreme Court has already ruled in favor of complainant Leonilo Burgos. However, when the Supreme Court noted without action the petitioner's (complainant's) motion to withdraw and respondent's manifestation and motion regarding the Compromise Agreement and Release, Waiver and Quitclaim, We are inclined to believe that the motion to withdraw was neither denied nor approved.

We feel that, it is beyond the jurisdiction of this office to [preempt] the Supreme Court of the decision on the matter.

Hence, the better discretion is for the parties to elevate and clarify the matter with the Supreme Court.

WHEREFORE, premises considered, we hold in abeyance the resolution of complainant's Motion for Execution pending the final action and/or resolution of the Supreme Court of complainants' Motion to Withdraw and respondent's manifestation and motion.

SO ORDERED.²⁸

The petitioners appealed to the NLRC but it was denied in the Resolution²⁹ dated February 27, 2009 on the ground that no appeal can be taken from interlocutory orders.

²⁴ Id. at 86-89.

²⁵ Id. at 88.

²⁶ Id. at 130-132.

²⁷ Issued by LA Geobel A. Bartolabac; id. at 57-60.

²⁸ Id. at 59-60.

²⁹ Id. at 50-52.

The petitioners moved for reconsideration³⁰ but the NLRC likewise denied it in its Resolution³¹ dated April 21, 2009.

Aggrieved, the petitioners instituted a Petition for *Certiorari*³² to the CA anchored on the claim that the LA should enforce the Decision dated June 29, 2007 in G.R. No. 171927 as it has become final and executory.³³

However, in a Decision³⁴ dated August 26 2011, the CA denied the petition for *certiorari* for being an improper remedy to compel the LA to issue a writ of execution. The CA agreed with the LA's order in not acting on the motion. It explained that the petitioners remedy should have been a petition for mandamus and not a petition for *certiorari* under Rule 65 if they believe that the LA should grant their motion for the issuance of a writ of execution of the Decision in G.R. No. 171927. The CA further stated that even if the procedural infirmity is brushed aside, the grant or denial of the motion for execution of a final decision is intimately connected with the issue of the validity of their compromise agreement which it, concomitantly, did not pass upon not only for being the improper forum on the matter but also out of judicial courtesy.³⁵

The petitioners moved for reconsideration but it was denied.³⁶

Hence, this petition.

The issue is clearly focused on the effect of the compromise agreement entered into prior to the finality of the decision sought to be executed.

The petition is devoid of merit.

Article 2028 of the Civil Code provides:

Art. 2028. A compromise is a contract whereby the parties, by making reciprocal concessions, avoid a litigation or put an end to one already commenced.

It is well-settled that when a compromise agreement complies with the requisites and principles of contracts, it becomes a valid agreement which has the force of law between the parties. It has the effect and authority of *res judicata* once entered into, even without judicial approval.³⁷ Here, there is no tinge of doubt that the Compromise Agreement was freely entered into by

³⁰ Id. at 177-181.

³¹ Id. at 54-55.

³² Id. at 31-47.

³³ Id. at 38-39.

³⁴ Id. at 20-27.

³⁵ Id. at 26.

³⁶ Id. at 29-30.

³⁷ *Rep. of the Phils. v. Florendo, et al.*, 573 Phil. 112, 120 (2008).

the parties with the essential elements of consent, object and cause which were all present at the time of its constitution.

Also, “[r]ights may be waived through a compromise agreement, notwithstanding a **final judgment** that has already settled the rights of the contracting parties. To be binding, the compromise must be shown to have been voluntarily, freely and intelligently executed by the parties, who had full knowledge of the judgment. Furthermore, it must not be contrary to law, morals, good customs and public policy.”³⁸ The date of entry being the same as the date of finality of judgment.³⁹

In the present case, no final judgment has yet been rendered at the time when the Compromise Agreement was entered into by the parties on June 22, 2007. To recall, the Decision of the Second Division in G.R. No. 171927 was promulgated on June 29, 2007. Considering that the date of entry is also the date of finality, the said decision attained its finality on August 6, 2007.

Moreover, the execution of a valid compromise agreement would necessitate judicial approval pursuant to Article 2037 of the Civil Code which reads:

Art. 2037. A compromise has upon the parties the effect and authority of *res judicata*; but there shall be no execution except in compliance with a judicial compromise.

Nevertheless, this Court agrees with the LA’s order when the action on the petitioners’ motion to execute the Decision dated June 29, 2007 in G.R. No. 171927 was held in abeyance. Otherwise, it would preempt any action which this Court would take on the matter. Also, the basis of the NLRC in denying the appeal is considered proper. An interlocutory order cannot be remedied through an appeal but an action for *certiorari* under Rule 65 before the Regional Trial Court (it being a court of general jurisdiction and the action is incapable of pecuniary estimation) should grave abuse of discretion be imputed against the LA when he issued the order. Lastly, this Court agrees with the CA’s bases in denying the petition for *certiorari* that *mandamus* and not a *certiorari* petition is the appropriate remedy in enforcing a final and executory judgment of this Court; that rights may be waived through a compromise agreement even if there is already a final judgment, as earlier mentioned; and, that it is not the proper forum in resolving the matter. Should the undertaking contemplated by the parties in the Compromise Agreement be unfulfilled or not faithfully complied with, then any of the parties may seek its rescission through an appropriate action for such purpose in accordance with the tenets of justice, equity and fair play, and not a mere motion to revert or demand the execution of the

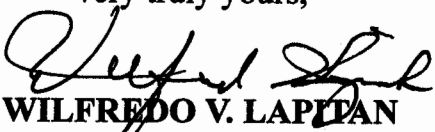
³⁸ *Magbanua v. Uy*, 497 Phil. 511, 515 (2005).

³⁹ *Phil. Veterans Bank v. Solid Homes, Inc.*, 607 Phil. 14, 21-22 (2009).

Decision of the Second Division in G.R. No. 171927.

WHEREFORE, in consideration of the foregoing premises, the Decision dated August 26, 2011 and Resolution dated November 25, 2011 of the Court of Appeals in CA-G.R. SP. No. 109656 are **AFFIRMED.**" (Jardeleza, J., on official leave; Mendoza, J., designated as acting member per Special Order No. 1896 dated November 28, 2014.)

Very truly yours,


WILFREDO V. LAPITAN
Division Clerk of Court
12/3/14

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