



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

BANI RURAL BANK, INC., ENOC  
THEATER I AND II and/or  
RAFAEL DE GUZMAN,  
Petitioners,

G.R. No. 170904

Present:

CARPIO, *J. Chairperson*,  
BRION,  
DEL CASTILLO,  
PEREZ, and  
PERLAS-BERNABE, *JJ.*

- versus -

Promulgated:

TERESA DE GUZMAN, EDGAR C.  
TAN and TERESA G. TAN,  
Respondents.

NOV 13 2013 *H.M. Cabalag*

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DECISION

BRION, *J.*:

We pass upon the petition for review on *certiorari*<sup>1</sup> under Rule 45 of the Rules of Court filed by petitioners Bani Rural Bank, Inc., ENOC Theater I and II, and Rafael de Guzman. They assail the decision<sup>2</sup> dated September 1, 2005 and the resolution<sup>3</sup> dated December 14, 2005 of the Court of Appeals (CA) in CA-G.R. SP No. 70085. The assailed CA rulings, in turn, affirmed the computation of the backwages due respondents Teresa de Guzman and Edgar C. Tan<sup>4</sup> made by the National Labor Relations Commission (NLRC).

<sup>1</sup> Rollo, pp. 9-30.  
<sup>2</sup> Id. at 36-46; penned by Associate Justice Celia C. Librea-Leagogo, and concurred in by Associate Justices Andres B. Reyes, Jr. and Lucas P. Bersamin.  
<sup>3</sup> Id. at 33-34.  
<sup>4</sup> In the consolidated cases of *Teresa de Guzman Tan v. Bani Rural Bank, Inc. And/or Rafael de Guzman*, docketed as NLRC CN. SUB-RAB-01-07-7-0136-93 CA No. L-001403, and *Edgar C. Tan and Teresa G. Tan v. ENOC Theatre I and II and/or Rafael de Guzman*, docketed as NLRC CN. SUB-RAB-01-07-7-0137-93 CA No. L-001405.

### The Facts

The respondents were employees of Bani Rural Bank, Inc. and ENOC Theatre I and II who filed a complaint for illegal dismissal against the petitioners. The complaint was initially dismissed by Labor Arbiter Roque B. de Guzman on March 15, 1994. On appeal, the National Labor Relations Commission (NLRC) reversed Labor Arbiter De Guzman's findings, and ruled that the respondents had been illegally dismissed. In a **resolution<sup>5</sup> dated March 17, 1995**, the NLRC ordered the petitioners to:

... [R]einstatement the two complainants to their former positions, without loss of seniority rights and other benefits and privileges, with backwages from the time of their dismissal (constructive) until their actual reinstatement, less earnings elsewhere.<sup>6</sup>

The parties did not file any motion for reconsideration or appeal. The March 17, 1995 resolution of the NLRC became final and executory and the computation of the awards was remanded to the labor arbiter for execution purposes.

#### The first computation of the monetary award under the March 17, 1995 resolution of the NLRC

The computation of the respondents' backwages, **under the terms of the March 17, 1995 NLRC resolution**, was remanded to Labor Arbiter Rolando D. Gambito. *First*, Labor Arbiter Gambito deducted the earnings derived by the respondents either from Bani Rural Bank, Inc. or ENOC Theatre I and II. *Second*, Labor Arbiter Gambito fixed the period of backwages from the respondents' illegal dismissal until **August 25, 1995, or the date when the respondents allegedly manifested that they no longer wanted to be reinstated.**<sup>7</sup>

The respondents appealed Labor Arbiter Gambito's computation with the NLRC. In a **decision<sup>8</sup> dated July 31, 1998**, the NLRC modified the terms of the March 17, 1995 resolution insofar as it clarified the phrase "less earnings elsewhere." The NLRC additionally awarded the payment of separation pay, in lieu of reinstatement, under the following terms:

The decision of this Commission is hereby MODIFIED to the extent that: (1) the phrase "earnings elsewhere" in its dispositive portion

<sup>5</sup> *Rollo*, pp. 71-87; penned by Commissioner Ireneo Bernardo, and concurred in by Presiding Commissioner Lourdes C. Javier and Commissioner Joaquin A. Tanodra.

<sup>6</sup> *Id.* at 87.

<sup>7</sup> *Id.* at 88-98; order dated December 16, 1997.

<sup>8</sup> *Id.* at 101-112; penned by Presiding Commissioner Lourdes Javier.

shall exclude the complainants' salaries from the Rural Bank of Mangantarem; and (2) in lieu of reinstatement, the respondents are hereby ordered to pay the complainants separation pay equivalent to one month salary for every year of service computed from the start of their employment up to the date of the finality of the decision.<sup>9</sup>

The NLRC justified **the award of separation pay on account of the strained relations** between the parties. In doing so, the NLRC ruled:

Insofar as the second issue is concerned, it should be noted: (1) that in his report dated November 8, 1995, the NLRC Sheriff stated that on October 5, 1995, he went to the Sub-Arbitration Branch to serve the writ of execution upon the complainants; that they did not appear, but instead, sent a representative named Samuel de la Cruz who informed him that they were interested, not on being reinstated, but only in the monetary award; (2) that in a letter dated October 9, 1995, the complainants authorized one Samuel de la Cruz to get a copy of the writ of execution; and (3) that during the pre-execution conference, the respondents' counsel manifested that the respondents were requiring the complainants to report for work "on Monday" and, in turn, the complainants' counsel manifested that the complainants were asking to be reinstated. The proceedings already protracted as it is-would be delayed further if this case were to be remanded to the Labor Arbiter for a hearing to ascertain the correctness of the above-mentioned sheriff's report. Besides, **if both parties were really interested in the complainants' being reinstated, as their counsels stated during the pre-execution conference, the said reinstatement should already have been effected. Since neither party has actually done anything to implement the complainants' reinstatement, it would appear that the relations between them have been strained to such an extent as to make the resumption of the employer-employee relationship unpalatable to both of them.** Under the circumstances, separation pay may be awarded in lieu of reinstatement.<sup>10</sup>

The respondents filed a motion for reconsideration on whether the award of backwages was still included in the judgment. The NLRC dismissed the motion for having been filed out of time.

On January 29, 1999, **the July 31, 1998 decision of the NLRC lapsed to finality and became executory.**

**The second computation of the monetary awards  
under the July 31, 1998 decision of the NLRC**

The recomputation of the monetary awards of the respondents' backwages and separation pay, according to the decision dated July 31, 1998 and the modified terms of the March 17, 1995 resolution of the NLRC, was referred to Labor Arbiter Gambito. In the course of the recomputation, the

<sup>9</sup> Id. at 111.

<sup>10</sup> Id. at 109-110; emphasis ours, citations omitted.

petitioners filed before Labor Arbiter Gambito a *Motion to Quash Writ of Execution and Suspend Further Execution*; they reiterated their position that the respondents' backwages should be computed only up to August 25, 1995, citing the alleged manifestation made by the respondents, through Samuel de la Cruz, as their basis.

In an order<sup>11</sup> dated July 12, 2000, Labor Arbiter Gambito computed the respondents' backwages only up to August 25, 1995.

### **The NLRC's Ruling**

The respondents appealed the July 12, 2000 order of Labor Arbiter Gambito to the NLRC, which reversed Labor Arbiter Gambito's order. In its decision<sup>12</sup> dated September 28, 2001, the NLRC ruled that the computation of the respondents' backwages should be until ***January 29, 1999, which was the date when the July 31, 1998 decision*** attained finality:

WHEREFORE, the Order of Labor Arbiter Rolando D. Gambito dated July 12, 2000 is SET ASIDE. In lieu thereof, judgment is hereby rendered by ordering respondents to pay complainants backwages up to January 29, 1999 as above discussed.<sup>13</sup>

The NLRC emphasized that the issue relating to the computation of the respondents' backwages had been settled in its July 31, 1998 decision. In a resolution dated January 23, 2002, the NLRC denied the motion for reconsideration filed by the petitioners.

The petitioners disagreed with the NLRC's ruling and filed a petition for *certiorari* with the CA, raising the following issues:

- (A) THE COMMISSION ACTED WITHOUT JURISDICTION AND WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT REVERSED AND SET ASIDE THE ORDER OF LABOR ARBITER ROLANDO D. GAMBITO DATED JULY 12, 2000 AND ORDERED THE COMPUTATION OF PRIVATE RESPONDENTS' BACKWAGES TO COVER THE PERIOD AFTER AUGUST 25, 1995, OR UNTIL JANUARY 29, 1999, THE DATE OF FINALITY OF THE SECOND RESOLUTION OF THE COMMISSION.
- (B) THE COMMISSION ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION

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<sup>11</sup> Id. at 119-122.

<sup>12</sup> Id. at 123-131

<sup>13</sup> Id. at 130.

FOR DENYING PETITIONERS' MOTION FOR RECONSIDERATION.<sup>14</sup>**The CA Rulings**

The CA found the petition to be without merit. It held that *certiorari* was not the proper remedy since no error of jurisdiction was raised or no grave abuse of discretion was committed by the NLRC. The CA stated that:

The extraordinary remedy of *certiorari* is proper if the tribunal, board or officer exercising judicial or quasi-judicial functions acted without or in grave abuse of discretion amounting to lack or excess of jurisdiction and there is no appeal or any plain, speedy, and adequate remedy in law. When a court, tribunal or officer has jurisdiction over the person and the subject matter of dispute, the decision on all other questions arising in the case is an exercise of that jurisdiction. Consequently, all errors committed in the exercise of said jurisdiction are merely errors of judgment. Under prevailing procedural rules and jurisprudence, errors of judgment are not proper subjects of a special civil action for *certiorari*.<sup>15</sup>

Thus, the CA echoed the NLRC's conclusions:

As explained in the assailed Decision, what is controlling for purposes of the backwages is the NLRC's Resolution dated 17 March 1995 which decreed that private respondents are entitled to backwages from the time of their dismissal (constructive) until their actual reinstatement; and considering that the award of reinstatement was set aside by the NLRC in its final and executory Decision dated 31 July 1998 which ordered the payment of separation pay in lieu of reinstatement to be computed up to the finality on 29 January 1999 of said Decision dated 31 July 1998, then the computation of the backwages should also end on said date, which is 29 January 1999.<sup>16</sup>

Citing the case of *Chronicle Securities Corp. v. NLRC*,<sup>17</sup> the CA held that backwages are granted to an employee or worker who had been illegally dismissed from employment. If reinstatement is no longer possible, the backwages shall be computed from the time of the illegal termination up to the finality of the decision.

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<sup>14</sup> Id. at 57.

<sup>15</sup> Id. at 44; italics supplied.

<sup>16</sup> Id. at 43.

<sup>17</sup> 486 Phil. 560, 569-570 (2004).

### **The Present Petition**

The petitioners argue that the following reversible errors were committed by the CA, namely:

(1) In ruling that no grave abuse of discretion was committed by the NLRC when it issued the September 28, 2001 decision, the January 23, 2002 resolution and the July 31, 1998 decision, which modified the final and executory resolution dated March 17, 1995 of the NLRC computing the backwages only until the reinstatement of the respondents;

(2) When it manifestly overlooked or misappreciated relevant facts, *i.e.*, Labor Arbiter Gambito's computation did conform to the NLRC's March 17, 1995 resolution considering the manifestation of Samuel that the respondents no longer wanted to be reinstated, in response to the order of execution dated August 25, 1995; and

(3) When it declared that only errors of judgment, and not jurisdiction, were committed by the NLRC.

In their Comment,<sup>18</sup> the respondents contend that the computation of the backwages until January 29, 1999 was consistent with the tenor of the decision dated July 31, 1998 and the modified March 17, 1995 resolution of the NLRC.

After the petitioners filed their Reply,<sup>19</sup> the Court resolved to give due course to the petition; in compliance with our directive, the parties submitted their respective memoranda repeating the arguments in the pleadings earlier filed.<sup>20</sup>

### **The Issue**

As presented, the issue boils down to whether the respondents' backwages had been correctly computed under the decision dated September 28, 2001 of the NLRC, as confirmed by the CA, in light of the circumstance that there were two final NLRC decisions affecting the computation of the backwages.

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<sup>18</sup> *Rollo*, pp. 150-157.

<sup>19</sup> *Id.*, at 168-174.

<sup>20</sup> *Id.* at 176-177; Court Resolution dated November 22, 2006.

## The Court's Ruling

**We find the petition unmeritorious.**

### Preliminary considerations

In *Session Delights Ice Cream and Fast Foods v. Court of Appeals (Sixth Division)*,<sup>21</sup> we held that a decision in an illegal dismissal case consists essentially of two components:

The *first* is that part of the decision that cannot now be disputed because it has been confirmed with finality. This is the finding of the illegality of the dismissal and the awards of separation pay in lieu of reinstatement, backwages[.]

The *second* part is the computation of the awards made.<sup>22</sup>

The first part of the decision stems from the March 17, 1995 NLRC resolution finding an illegal dismissal and defining the legal consequences of this dismissal. The second part involves the computation of the monetary award of backwages and the respondents' reinstatement. Under the terms of the March 17, 1995 resolution, the respondents' backwages were to be computed from the time of the illegal dismissal up to their reinstatement.

In the first computation of the backwages, Labor Arbiter Gambito confronted the following circumstances and the Sheriff's Report dated November 8, 1995:<sup>23</sup> first, how to interpret the phrase "less earnings elsewhere" as stated in the dispositive portion of the March 17, 1995 resolution of the NLRC; second, the effect of the alleged manifestation (dated October 9, 1995) of Samuel that the respondents were only interested in the monetary award, not in their reinstatement; and third, the effect of the respondents' counsel's statement during the pre-execution proceedings that the respondents simply wanted to be reinstated.

The records indicate that the respondents denied Samuel's statement and asked for reinstatement through their counsel. Nevertheless, Labor Arbiter Gambito relied on Samuel's statement and fixed the computation date of the respondents' backwages to be up to and until August 25, 1995 or the date the order of execution was issued for the NLRC's March 17, 1995 decision. As stated in his July 12, 2000 order,<sup>24</sup> Labor Arbiter Gambito

<sup>21</sup> G.R. No. 172149, February 8, 2010, 612 SCRA 10.

<sup>22</sup> Id. at 21; italics supplied.

<sup>23</sup> *Rollo*, p. 109.

<sup>24</sup> Id. at 119-122.

found it fair and just that in the execution of the NLRC's decision, the computation of the respondents' backwages should "stop at that time when it was put on record by them [respondents] that they had no desire to return to work."<sup>25</sup>

The NLRC disregarded Labor Arbiter Gambito's first computation. In the dispositive portion of its July 31, 1998 decision, the NLRC modified the final March 17, 1995 resolution. The first part of this decision – the original ruling of illegal dismissal – was left untouched while the second part of the decision – the monetary award and its computation – was altered to conform with the strained relations between the parties that became manifest during the execution phase of the March 17, 1995 resolution.

The effect of the modification of the March 17, 1995 resolution of the NLRC was **two-fold: one**, the reinstatement aspect of the March 17, 1995 resolution was **expressly** substituted by an order of payment of separation pay; and **two**, the July 31, 1998 decision of the NLRC now provided for two monetary awards (backwages and separation pay). The July 31, 1998 decision of the NLRC became final since neither parties appealed.

### **Immutability of Judgment**

That there is already a final and executory March 17, 1995 resolution finding that respondents have been illegally dismissed, and awarding backwages and reinstatement, is not disputed. That there, too, is the existence of another final and executory July 31, 1998 decision modifying the reinstatement aspect of the March 17, 1995 resolution, by awarding separation pay, is likewise beyond dispute.

As a rule, "a final judgment may no longer be altered, amended or modified, even if the alteration, amendment or modification is meant to correct what is perceived to be an erroneous conclusion of fact or law and regardless of what court, be it the highest Court of the land, rendered it. Any attempt on the part of the x x x entities charged with the execution of a final judgment to insert, change or add matters not clearly *contemplated* in the dispositive portion violates the rule on immutability of judgments."<sup>26</sup> An exception to this rule is the existence of supervening events<sup>27</sup> which refer to facts transpiring after judgment has become final and executory or to new circumstances that developed after the judgment acquired finality, including matters that the parties were not aware of prior to or during the trial as they were not yet in existence at that time.<sup>28</sup>

<sup>25</sup> Id. at 120.

<sup>26</sup> *Session Delights Ice Cream and Fast Foods v. Court of Appeals (Sixth Division)*, *supra* note 21, at 19-20; citation omitted, italics supplied.

<sup>27</sup> *Natalia Realty, Inc. v. Court of Appeals*, 440 Phil. 1, 23 (2002).

<sup>28</sup> *Ibid.*

Under the circumstances of this case, the existence of the strained relations between the petitioners and the respondents was a supervening event that justified the NLRC's modification of its final March 17, 1995 resolution. The NLRC, in its July 31, 1998 decision, based its conclusion that strained relations existed on the conduct of the parties during the first execution proceedings before Labor Arbiter Gambito. The NLRC considered the delay in the respondents' reinstatement and the parties' conflicting claims on whether the respondents wanted to be reinstated.<sup>29</sup> The NLRC also observed that during the intervening period from the first computation (which was done in 1995) to the appeal and resolution of the correctness of the first computation (subject of the NLRC's July 31, 1998 decision), neither party actually did anything to implement the respondents' reinstatement. The NLRC considered these actions as indicative of the strained relations between the parties so that neither of them actually wanted to implement the reinstatement decree in the March 17, 1995 resolution. The NLRC concluded that the award of reinstatement was no longer possible; thus, it awarded separation pay, in lieu of reinstatement. Unless exceptional reasons are presented, these above findings and conclusion can no longer be disturbed after they lapsed to finality.

#### *Appeal of a labor case under Rule 45*

A review of the CA's decision in a labor case, brought to the Court via Rule 45 of the Rules of Court, is limited to a review of errors of law imputed to the CA. In *Montoya v. Transmed Manila Corporation*,<sup>30</sup> we laid down the basic approach in reviews of Rule 45 decisions of the CA in labor cases, as follows:

In a Rule 45 review, we consider the **correctness of the assailed CA decision**, in contrast with the review for jurisdictional error that we undertake under Rule 65. Furthermore, Rule 45 limits us to the review of **questions of law** raised against the assailed CA decision. In ruling for legal correctness, we have to view the CA decision in the same context that the petition for *certiorari* it ruled upon was presented to it; **we have to examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, not on the basis of whether the NLRC decision on the merits of the case was correct.** In other words, we have to be keenly aware that the CA undertook a Rule 65 review, not a review on appeal, of the NLRC decision challenged before it. This is the approach that should be basic in a Rule 45 review of a CA ruling in a labor case. **In question form, the question to ask is: Did the CA correctly determine whether the NLRC committed grave abuse of discretion in ruling on the case?**

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<sup>29</sup> *Rollo*, p. 129.

<sup>30</sup> G.R. No. 183329, August 27, 2009, 597 SCRA 334, 342-343; emphases supplied, citations omitted.

This manner of review was reiterated in *Holy Child Catholic School v. Hon. Patricia Sto. Tomas, etc., et al.*,<sup>31</sup> where the Court limited its review under Rule 45 of the CA's decision in a labor case to the determination of whether the CA correctly resolved the presence or absence of grave abuse of discretion in the decision of the Secretary of Labor, and not on the basis of whether the latter's decision on the merits of the case was strictly correct.

Grave abuse of discretion, amounting to lack or excess of jurisdiction, has been defined as the capricious and whimsical exercise of judgment amounting to or equivalent to lack of jurisdiction.<sup>32</sup> There is grave abuse of discretion when the power is exercised in an arbitrary or despotic manner by reason of "passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law."<sup>33</sup>

With this standard in mind, we find no reversible error committed by the CA when it found no grave abuse of discretion in the NLRC's ruling. We find the computation of backwages and separation pay in the September 28, 2001 decision of the NLRC consistent with the provisions of law and jurisprudence. The computation conforms to the terms of the March 17, 1995 resolution (on illegal dismissal and payment of backwages) and the July 31, 1998 decision (on the computation of the backwages and the payment of separation pay).

Article 279 of the Labor Code, as amended,<sup>34</sup> provides backwages and reinstatement as basic awards and consequences of illegal dismissal:

Article 279. Security of Tenure. – x x x An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

"By jurisprudence derived from this provision, separation pay may [also] be awarded to an illegally dismissed employee in lieu of reinstatement."<sup>35</sup> Section 4(b), Rule I of the Rules Implementing Book VI of

<sup>31</sup> G.R. No. 179146, July 23, 2013.

<sup>32</sup> *Don Orestes Romualdez Electric Coop., Inc. v. NLRC*, 377 Phil. 268, 273 (1999).

<sup>33</sup> *Ibid.*

<sup>34</sup> Republic Act No. 6715 or An Act to Extend Protection to Labor, Strengthen the Constitutional Rights of Workers to Self-Organization, Collective Bargaining and Peaceful Concerted Activities, Foster Industrial Peace and Harmony, Promote the Preferential Use of Voluntary Modes of Settling Labor Disputes, and Reorganize the National Labor Relations Commission, Amending for These Purposes Certain Provisions of Presidential Decree No. 442, as amended, Otherwise Known as the Labor Code of the Philippines, Appropriating Funds Therefore and For Other Purposes.

<sup>35</sup> *Session Delights Ice Cream and Fast Foods v. Court Appeals (Sixth Division)*, *supra* note 21 at 25 citing *Mt. Carmel College v. Resuena*, G.R. No. 173076, October 10, 2007, 533 SCRA 518, 541.

the Labor Code provides the following instances when the award of separation pay, in lieu of reinstatement to an illegally dismissed employee, is proper: (a) when reinstatement is no longer possible, in cases where the dismissed employee's position is no longer available; (b) **the continued relationship between the employer and the employee is no longer viable due to the strained relations between them;** and (c) **when the dismissed employee opted not to be reinstated, or the payment of separation benefits would be for the best interest of the parties involved.**<sup>36</sup> In these instances, separation pay is the alternative remedy to reinstatement in addition to the award of backwages.<sup>37</sup> **The payment of separation pay and reinstatement are exclusive remedies.** The payment of separation pay replaces the legal consequences of reinstatement to an employee who was illegally dismissed.<sup>38</sup>

For clarity, the bases for computing separation pay and backwages are different. Our ruling in *Macasero v. Southern Industrial Gases Philippines*<sup>39</sup> provides us with the manner these awards should be computed:

[U]nder Article 279 of the Labor Code and as held in a catena of cases, an employee who is dismissed without just cause and without due process is entitled to backwages and **reinstatement or payment of separation pay in lieu thereof:**

**Thus, an illegally dismissed employee is entitled to two reliefs: backwages and reinstatement.** The two reliefs provided are separate and distinct. In instances where reinstatement is no longer feasible because of strained relations between the employee and the employer, separation pay is granted. **In effect, an illegally dismissed employee is entitled to either reinstatement, if viable, or separation pay if reinstatement is no longer viable, and backwages.**

The normal consequences of respondents' illegal dismissal, then, are reinstatement without loss of seniority rights, and payment of backwages computed from the time compensation was withheld up to the date of actual reinstatement. Where reinstatement is no longer viable as an option, separation pay equivalent to one (1) month salary for every year of service should be awarded as an alternative. The payment of separation pay is in addition to payment of backwages.<sup>40</sup>

<sup>36</sup> Ibid.

<sup>37</sup> *Bombase v. NLRC*, 315 Phil. 551, 556 (1995).

<sup>38</sup> *Nissan North EDSA, Balintawak, Quezon City v. Serrano, Jr.*, G.R. No. 162538, June 4, 2009, 588 SCRA 238, 248.

<sup>39</sup> G.R. No. 178524, January 30, 2009, 577 SCRA 500.

<sup>40</sup> Id. at 506-507; emphases, italics and underscores ours.

The computation of separation pay is based on the length of the employee's service; and the computation of backwages is based on the actual period when the employee was unlawfully prevented from working.<sup>41</sup>

**The basis of computation of backwages**

The computation of backwages depends on the final awards adjudged as a consequence of illegal dismissal, in that:

*First*, when reinstatement is ordered, the general concept under Article 279 of the Labor Code, as amended, computes the backwages from the time of dismissal until the employee's reinstatement. The computation of backwages (and similar benefits considered part of the backwages) can even continue beyond the decision of the labor arbiter or NLRC and ends only when the employee is actually reinstated.<sup>42</sup>

*Second*, when separation pay is ordered in lieu of reinstatement (in the event that this aspect of the case is disputed) or reinstatement is waived by the employee (in the event that the payment of separation pay, in lieu, is not disputed), backwages is computed from the time of dismissal until the finality of the decision **ordering separation pay.**

*Third*, when separation pay is ordered after the finality of the decision ordering the reinstatement by reason of a supervening event that makes the award of reinstatement no longer possible (as in the case), backwages is computed from the time of dismissal until the finality of the decision **ordering separation pay.**

The above computation of backwages, when separation pay is ordered, has been the Court's consistent ruling. In *Session Delights Ice Cream and Fast Foods v. Court Appeals (Sixth Division)*, we explained that the finality of the decision becomes the reckoning point because in allowing separation pay, the **final** decision effectively declares that the employment relationship ended so that separation pay and backwages are to be computed up to that point.<sup>43</sup>

We may also view the proper computation of backwages (whether based on reinstatement or an order of separation pay) in terms of the life of the employment relationship itself.

<sup>41</sup> *Lim v. National Labor Relations Commission*, 253 Phil. 318, 328 (1989).

<sup>42</sup> *Javellana, Jr. v. Belen*, G.R. No. 181913, March 5, 2010, 614 SCRA 342, 350-351.

<sup>43</sup> *Supra* note 21 at 26.

When reinstatement is ordered, the employment relationship continues. Once the illegally dismissed employee is reinstated, any compensation and benefits thereafter received stem from the employee's continued employment. In this instance, backwages are computed only up until the reinstatement of the employee since after the reinstatement, the employee begins to receive compensation from his resumed employment.

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 since the employee is no longer entitled to any compensation from the employer by reason of the severance of his employment.

**The computation of the respondents' backwages**

As the records show, the contending parties did not dispute the NLRC's order of separation pay that replaced the award of reinstatement on the ground of the supervening event arising from the newly-discovered strained relations between the parties. The parties allowed the NLRC's July 31, 1998 decision to lapse into finality and recognized, by their active participation in the second computation of the awards, the validity and binding effect on them of the terms of the July 31, 1998 decision.

Under these circumstances, while there was no express modification on the period for computing backwages stated in the dispositive portion of the July 31, 1998 decision of the NLRC, it is nevertheless clear that the award of reinstatement under the March 17, 1995 resolution (to which the respondents' backwages was initially supposed to have been computed) was substituted by an award of separation pay. As earlier stated, the awards of reinstatement and separation pay are exclusive remedies; the change of awards (from reinstatement to separation pay) under the NLRC's July 31, 1998 not only modified the awards granted, but also changed the manner the respondents' backwages is to be computed. The respondents' backwages can no longer be computed up to the point of reinstatement as there is no longer any award of reinstatement to speak of.

We also emphasize that the payment of backwages and separation pay cannot be computed from the time the respondents allegedly expressed their wish to be paid separation pay. In the first place, the records show that the alleged manifestation by the respondents, through Samuel, was actually a



mere expression of interest.<sup>44</sup> More importantly, the alleged manifestation was disregarded in the NLRC's July 31, 1998 decision where the NLRC declared that the award of separation pay was due to the supervening event arising from the strained relations (not a waiver of reinstatement) that justified the modification of the NLRC's final March 17, 1995 resolution on the award of reinstatement. Simply put, insofar as the computation of the respondents' backwages, we are guided by the award, modified to separation pay, under the NLRC's July 31, 1998 decision.

Thus, the computation of the respondents' backwages must be from the time of the illegal dismissal from employment until the finality of the decision ordering the payment of separation pay. It is only when the NLRC rendered its July 31, 1998 decision ordering the payment of separation pay (which both parties no longer questioned and which thereafter became final) that the issue of the respondents' employment with the petitioners was decided with finality, effectively terminating it. The respondents' backwages, therefore, must be computed from the time of their illegal dismissal until January 29, 1999, the date of finality of the NLRC's July 31, 1998 Decision.

As a final point, the CA's ruling must be modified to include legal interest commencing from the finality of the NLRC's July 31, 1998 decision. The CA failed to consider that the NLRC's July 31, 1998 decision, once final, becomes a judgment for money from which another consequence flows – the payment of interest in case of delay.<sup>45</sup> Under the circumstances, the payment of legal interest of six percent (6%) upon the finality of the judgment is proper. It is not barred by the principle of immutability of judgment as it is compensatory interest arising from the final judgment.<sup>46</sup>

**WHEREFORE**, premises considered, we **DENY** the petition and thus effectively **AFFIRM with MODIFICATION** the decision dated September 1, 2005 and the resolution dated December 14, 2005 of the Court of Appeals in CA-G.R. SP No. 70085. The petitioners Bani Rural Bank, Inc., Enoc Theatre I and II and/or Rafael de Guzman, are **ORDERED** to **PAY** respondents Teresa de Guzman, Edgar C. Tan and Teresa G. Tan the following:

- (a) Backwages computed from the date the petitioners illegally dismissed the respondents up to January 29, 1999, the date of the finality of the decision dated July 31, 1998 of the National Labor Relations Commission in NLRC CN. SUB-RAB-01-07-

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<sup>44</sup> *Rollo*, p. 109.

<sup>45</sup> *Session Delights Ice Cream and Fast Foods v. Court Appeals (Sixth Division)*, *supra* note 21, at 23, 26.

<sup>46</sup> *Gonzales v. Solid Cement Corporation*, G.R. No. 198423, October 20, 2012, 684 SCRA 344. See BSP Circular No. 799, Series of 2013.

7-0136-93 CA No. L-001403 and NLRC CN. SUB-RAB-01-07-7-0137-93 CA No. L-001405;

- (b) Separation pay computed from respondents' first day of employment up to January 29, 1999 at the rate of one (1) month pay per year of service; and
- (c) Legal interest of six percent (6%) *per annum* of the total monetary awards computed from January 29, 1999 until their full satisfaction.

The labor arbiter is hereby **ORDERED** to make another recomputation according to the above directives.

**SO ORDERED.**

  
**ARTURO D. BRION**  
 Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
 Associate Justice  
 Chairperson

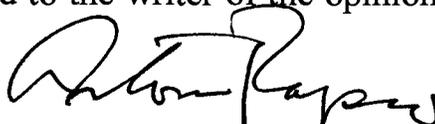
  
**MARIANO C. DEL CASTILLO**  
 Associate Justice

  
**JOSE PORTUGAL PEREZ**  
 Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
 Associate Justice

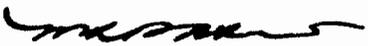
**ATTESTATION**

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

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified 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