Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ELIZABETH M. GAGUI,
Petitioner,

- versus -

SIMEON DEJERO and TEODORO R. PERMEJO,
Respondents.

G.R. No. 196036

Present:

SERENO, *CJ*, Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ.*

Promulgated:

OCT 23 2013

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DECISION

SERENO, *CJ:*

This is a Rule 45 Petition[1] dated 30 March 2011 assailing the Decision[2] and Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 104292, which affirmed the Decision[4] of the National Labor Relations Commission (NLRC) in NLRC Case No. OCW-RAB-IV-4-392-96-RI, finding petitioner Elizabeth M. Gagui solidarily liable with the placement agency, PRO Agency Manila, Inc., to pay respondents all the money claims awarded by virtue of their illegal dismissal.

The antecedent facts are as follows:

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[1] *Rollo,* pp. 3-18.
[2] Id. at 20-32; CA Decision dated 15 November 2010 penned by Associate Justice Ruben C. Ayson and concurred in by Associate Justices Amelita G. Tolentino and Normandie B. Pizarro.
[3] Id. at 34-38; CA Resolution dated 25 February 2011.
[4] Id. at 93-96; NLRC Decision dated 29 November 2007, penned by Presiding Commissioner Gerardo C. Nograles and concurred in by Commissioners Perlita B. Velasco and Romeo L. Go.

On 14 December 1993, respondents Simeon Dejero and Teodoro Permejo filed separate Complaints[5] for illegal dismissal, nonpayment of salaries and overtime pay, refund of transportation expenses, damages, and attorney's fees against PRO Agency Manila, Inc., and Abdul Rahman Al Mahwes.

After due proceedings, on 7 May 1997, Labor Arbiter Pedro Ramos rendered a Decision,[6] the dispositive portion of which reads:

> WHEREFORE, ALL FOREGOING CONSIDERED, judgment is hereby rendered ordering respondents Pro Agency Manila, Inc., and Abdul Rahman Al Mahwes to jointly and severally pay complainants, as follows:
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> a) US$4,130.00 each complainant or a total of US$8,260.00, their unpaid salaries from July 31, 1992 up to September 1993, less cash advances of total of SR11,000.00, or its Peso equivalent at the time of payment;
> b) US$1,032.00 each complainant for two (2) hours overtime pay for fourteen (14) months of services rendered or a total of US$2,065.00 or its Peso equivalent at the time of payment;
> c) US$2,950.00 each complainant or a total of US$5,900.00 or its Peso equivalent at the time of payment, representing the unexpired portion of their contract;
> d) Refund of plane ticket of complainants Teodoro Parejo and Simeon Dejero from Saudi Arabia to the Philippines, in the amount of ₱15,642.90 and ₱16,932.00 respectively;
> e) Refund of excessive collection of placement fees in the amount of ₱4,000.00 each complainant, or a total of ₱8,000.00;
> f) Moral and exemplary damages in the amount of ₱10,000.00 each complainant, or a total of ₱20,000.00;
> g) Attorney's fees in the amount of ₱48,750.00.
>
> SO ORDERED.

Pursuant to this Decision, Labor Arbiter Ramos issued a Writ of Execution[7] on 10 October 1997. When the writ was returned unsatisfied,[8] an Alias Writ of Execution was issued, but was also returned unsatisfied.[9]

On 30 October 2002, respondents filed a Motion to Implead Respondent Pro Agency Manila, Inc.'s Corporate Officers and Directors as Judgment Debtors.[10] It included petitioner as the Vice-President/Stockholder/Director of PRO Agency, Manila, Inc.

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[5] Id. at 39-40; NLRC Case No. OCW-RAB-IV-4-392-96-RI.
[6] Id. at 48-56.
[7] Id. at 57-59.
[8] Id. at 60; Sheriff's Return dated 4 November 1997, signed by Acting Sheriff Loysaga P. Macatangga.
[9] Id. at 22. CA Decision, p. 3.
[10] Id. at 61-63.

After due hearing, Executive Labor Arbiter Voltaire A. Balitaan issued an Order[11] on 25 April 2003 granting respondents' motion, to wit:

> WHEREFORE, the motion to implead is hereby granted insofar as Merlita G. Lapuz and Elizabeth M. Gagui as parties-respondents and accordingly held liable to complainant jointly and solidarily with the original party-respondent adjudged liable under the Decision of May 7, 1998. Let 2nd Alias Writ of Execution be issued for the enforcement of the Decision consistent with the foregoing tenor.
>
> SO ORDERED.

On 10 June 2003, a 2nd Alias Writ of Execution was issued,[12] which resulted in the garnishment of petitioner's bank deposit in the amount of ₱85,430.48.[13] However, since the judgment remained unsatisfied, respondents sought the issuance of a third alias writ of execution on 26 February 2004.[14]

On 15 December 2004, Executive Labor Arbiter Lita V. Aglibut issued an Order[15] granting respondents' motion for a third alias writ. Accordingly, the 3rd Alias Writ of Execution[16] was issued on 6 June 2005, resulting in the levying of two parcels of lot owned by petitioner located in San Fernando, Pampanga.[17]

On 14 September 2005, petitioner filed a Motion to Quash 3rd Alias Writ of Execution;[18] and on 29 June 2006, a Supplemental Motion to Quash Alias Writ of Execution.[19] In these motions, petitioner alleged that apart from not being made aware that she was impleaded as one of the parties to the case,[20] the dispositive portion of the 7 May 1997 Decision *(1997 Decision)* did not hold her liable in any form whatsoever.[21] More importantly, impleading her for the purpose of execution was tantamount to modifying a decision that had long become final and executory.[22]

On 26 June 2006, Executive Labor Arbiter Lita V. Aglibut issued an Order[23] denying petitioner's motions on the following grounds: (1) records disclosed that despite having been given sufficient notices to be able to

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[11] Id. at 64-65.
[12] Id. at 66-67; cited in paragraph 1.
[13] Id.; cited in paragraph 2.
[14] Id.
[15] Id. at 68-69.
[16] Id. at 125-127.
[17] Id. at 70-71. Sheriff's Report dated 16 September 2007, issued by Amelito D. Twano and Jacobo C. Abril.
[18] Id. at 75-76.
[19] Id. at 77-79.
[20] Id. at 75.
[21] Id.
[22] Id. at 78.
[23] Id. at 80-85.

register an opposition, petitioner refused to do so, effectively waiving her right to be heard;[24] and (2) under Section 10 of Republic Act No. 8042 (R.A. 8042) or the Migrant Workers and Overseas Filipinos Act of 1995, corporate officers may be held jointly and severally liable with the placement agency for the judgment award.[25]

Aggrieved, petitioner appealed to the NLRC, which rendered a Decision[26] in the following wise:

> WHEREFORE, premises considered, the appeal of the respondent Elizabeth M. Gagui is hereby DENIED for lack of merit. Accordingly, the Order of Labor Arbiter Lita V. Aglibut dated June 26, 2006 is AFFIRMED.
>
> SO ORDERED.

The NLRC ruled that "in so far as overseas migrant workers are concerned, it is R.A. 8042 itself that describes the nature of the liability of the corporation and its officers and directors. x x x [I]t is not essential that the individual officers and directors be impleaded as party respondents to the case instituted by the worker. A finding of liability on the part of the corporation will necessarily mean the liability of the corporate officers or directors."[27]

Upon appellate review, the CA affirmed the NLRC in a Decision[28] promulgated on 15 November 2010:

> From the foregoing, the Court finds no reason to hold the NLRC guilty of grave abuse of discretion amounting to lack or excess of jurisdiction in affirming the Order of Executive Labor Arbiter Aglibut which held petitioner solidarily liable with PRO Agency Manila, Inc. and Abdul Rahman Al Mahwes as adjudged in the May 7, 1997 Decision of Labor Arbiter Pedro Ramos.
>
> **WHEREFORE,** the Petition is **DENIED.**
>
> **SO ORDERED.** (Emphasis in the original)

The CA stated that there was "no need for petitioner to be impleaded x x x because by express provision of the law, she is made solidarily liable with PRO Agency Manila, Inc., for any and all money claims filed by private respondents."[29] The CA further said that this is not a case in which

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[24] Id. at 84.
[25] Id. at 85.
[26] Id. at 93-96.
[27] Id. at 95.
[28] Id. at 20-32.
[29] Id. at 29.

the liability of the corporate officer must be established because an allegation of malice must be proven. The general rule is that corporate officers, directors and stockholders are not liable, except when they are made liable for their corporate act by a specific provision of law, such as R.A. 8042.[30]

On 8 and 15 December 2010, petitioner filed two Motions for Reconsideration, but both were denied in a Resolution[31] issued by the CA on 25 February 2011.

Hence, this Petition for Review filed on 30 March 2011.

On 1 August 2011, respondents filed their Comment,[32] alleging that the petition had been filed 15 days after the prescriptive period of appeal under Section 2, Rule 45 of the Rules of Court.

On 14 February 2012, petitioner filed a Reply,[33] countering that she has a fresh period of 15 days from 16 March 2011 (the date she received the Resolution of the CA) or up to 31 March 2011 to file the Petition.

ISSUES

From the foregoing, we reduce the issues to the following:

1. Whether or not this petition was filed on time; and

2. Whether or not petitioner may be held jointly and severally liable with PRO Agency Manila, Inc. in accordance with Section 10 of R.A. 8042, despite not having been impleaded in the Complaint and named in the Decision.

THE COURT'S RULING

Petitioner has a fresh period of 15 days within which to file this petition, in accordance with the Neypes rule.

We first address the procedural issue of this case.

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[30] Id. at 30.
[31] Id. at 34-38.
[32] Id. at 227-230.
[33] Id. at 245-250.

In a misleading attempt to discredit this petition, respondents insist that by opting to file a Motion for Reconsideration instead of directly appealing the CA Decision, petitioner effectively lost her right to appeal. Hence, she should have sought an extension of time to file her appeal from the denial of her motion.

This contention, however, deserves scant consideration. We agree with petitioner that starting from the date she received the Resolution denying her Motion for Reconsideration, she had a "fresh period" of 15 days within which to appeal to this Court. The matter has already been settled in *Neypes v. Court of Appeals,*[34] as follows:

> To standardize the appeal periods provided in the Rules and to afford litigants fair opportunity to appeal their cases, the Court deems it practical to allow a fresh period of 15 days within which to file the notice of appeal in the Regional Trial Court, counted from receipt of the order dismissing a motion for a new trial or motion for reconsideration.
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> Henceforth, this "fresh period rule" shall also apply to Rule 40 governing appeals from the Municipal Trial Courts to the Regional Trial Courts; Rule 42 on petitions for review from the Regional Trial Courts to the Court of Appeals; Rule 43 on appeals from quasi-judicial agencies to the Court of Appeals and Rule 45 governing appeals by *certiorari* to the Supreme Court. The new rule aims to regiment or make the appeal period uniform, to be counted from receipt of the order denying the motion for new trial, motion for reconsideration (whether full or partial) or any final order or resolution.

Since petitioner received the CA Resolution denying her two Motions for Reconsideration only on 16 March 2011, she had another 15 days within which to file her Petition, or until 31 March 2011. This Petition, filed on 30 March 2011, fell within the prescribed 15-day period.

Petitioner may not be held jointly and severally liable, absent a finding that she was remiss in directing the affairs of the agency.

As to the merits of the case, petitioner argues that while it is true that R.A. 8042 and the Corporation Code provide for solidary liability, this liability must be so stated in the decision sought to be implemented.[35] Absent this express statement, a corporate officer may not be impleaded and made to personally answer for the liability of the corporation.[36] Moreover, the 1997 Decision had already been final and executory for five years and,

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[34] 506 Phil. 613, 626-627 (2005).
[35] *Rollo,* p. 12.
[36] Id.

as such, can no longer be modified.[37] If at all, respondents are clearly guilty of laches for waiting for five years before taking action against petitioner.[38]

In disposing the issue, the CA cited Section 10 of R.A. 8042, stating that there was "no need for petitioner to be impleaded x x x because by express provision of the law, she is made solidarily liable with PRO Agency Manila, Inc., for any and all money claims filed by private respondents."[39]

We reverse the CA.

At the outset, we have declared that "R.A. 8042 is a police power measure intended to regulate the recruitment and deployment of OFWs. It aims to curb, if not eliminate, the injustices and abuses suffered by numerous OFWs seeking to work abroad."[40]

The pertinent portion of Section 10, R.A. 8042 reads as follows:

> SEC. 10. MONEY CLAIMS. - Notwithstanding any provision of law to the contrary, the Labor Arbiters of the National Labor Relations Commission (NLRC) shall have the original and exclusive jurisdiction to hear and decide, within ninety (90) calendar days after filing of the complaint, the claims arising out of an employer-employee relationship or by virtue of any law or contract involving Filipino workers for overseas deployment including claims for actual, moral, exemplary and other forms of damages.
>
> **The liability of the principal/employer and the recruitment/placement agency for any and all claims under this section shall be joint and several. This provision shall be incorporated in the contract for overseas employment and shall be a condition precedent for its approval.** The performance bond to be filed by the recruitment/placement agency, as provided by law, shall be answerable for all money claims or damages that may be awarded to the workers. If the recruitment/placement agency is a juridical being, the corporate officers and directors and partners as the case may be, shall themselves be jointly and solidarily liable with the corporation or partnership for the aforesaid claims and damages. (Emphasis supplied)

In *Sto. Tomas v. Salac,*[41] we had the opportunity to pass upon the constitutionality of this provision. We have thus maintained:

> The key issue that Gumabay, et al. present is whether or not the 2nd paragraph of Section 10, R.A. 8042, which holds the corporate

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[37] Id. at 14.
[38] Id. at 14-16.
[39] Id. at 29.
[40] *Sto. Tomas v. Salac,* G.R. No. 152642, 13 November 2012, 685 SCRA 245, 262.
[41] Id. at 261-262.

> directors, officers, and partners of recruitment and placement agencies jointly and solidarily liable for money claims and damages that may be adjudged against the latter agencies, is unconstitutional.
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> x x x x
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> **But the Court has already held, pending adjudication of this case, that the liability of corporate directors and officers is not automatic. To make them jointly and solidarily liable with their company, there must be a finding that they were remiss in directing the affairs of that company, such as sponsoring or tolerating the conduct of illegal activities.** In the case of Becmen and White Falcon, while there is evidence that these companies were at fault in not investigating the cause of Jasmin's death, there is no mention of any evidence in the case against them that intervenors Gumabay, et al., Becmen's corporate officers and directors, were personally involved in their company's particular actions or omissions in Jasmin's case. (Emphasis supplied)

Hence, for petitioner to be found jointly and solidarily liable, there must be a separate finding that she was remiss in directing the affairs of the agency, resulting in the illegal dismissal of respondents. Examination of the records would reveal that there was no finding of neglect on the part of the petitioner in directing the affairs of the agency. In fact, respondents made no mention of any instance when petitioner allegedly failed to manage the agency in accordance with law, thereby contributing to their illegal dismissal.

Moreover, petitioner is correct in saying that impleading her for the purpose of execution is tantamount to modifying a decision that had long become final and executory.[42] The *fallo* of the 1997 Decision by the NLRC only held "respondents Pro Agency Manila Inc., and Abdul Rahman Al Mahwes to jointly and severally pay complainants x x x."[43] By holding her liable despite not being ordained as such by the decision, both the CA and NLRC violated the doctrine on immutability of judgments.

In *PH Credit Corporation v. Court of Appeals*,[44] we stressed that "respondent's [petitioner's] obligation is based on the judgment rendered by the trial court. The dispositive portion or the *fallo* is its decisive resolution and is thus the subject of execution. x x x. Hence the execution must conform with that which is ordained or decreed in the dispositive portion of the decision."

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[42] *Rollo*, p. 78.
[43] Id. at 55.
[44] 421 Phil. 821, 833 (2001), citing *Magat v. Judge Pimentel Jr.*, 399 Phil. 728, 735 (2000); *Olac v. CA*, G.R. No. 84256, 2 September 1992, 213 SCRA 321.

In *INIMACO v. NLRC,*[45] we also held thus:

> None of the parties in the case before the Labor Arbiter appealed the Decision dated March 10, 1987, hence the same became final and executory. It was, therefore, removed from the jurisdiction of the Labor Arbiter or the NLRC to further alter or amend it. Thus, the proceedings held for the purpose of amending or altering the dispositive portion of the said decision are null and void for lack of jurisdiction. Also, the *Alias* Writ of Execution is null and void because it varied the tenor of the judgment in that it sought to enforce the final judgment against "Antonio Gonzales/Industrial Management Development Corp. (INIMACO) *and/or* Filipinas Carbon and Mining Corp. and Gerardo Sicat," which makes the liability solidary.

In other words, "[o]nce a decision or order becomes final and executory, it is removed from the power or jurisdiction of the court which rendered it to further alter or amend it. It thereby becomes immutable and unalterable and any amendment or alteration which substantially affects a final and executory judgment is null and void for lack of jurisdiction, including the entire proceedings held for that purpose. An order of execution which varies the tenor of the judgment or exceeds the terms thereof is a nullity."[46]

While labor laws should be construed liberally in favor of labor, we must be able to balance this with the equally important right of petitioner to due process. Because the 1997 Decision of Labor Arbiter Ramos was not appealed, it became final and executory and was therefore removed from his jurisdiction. Modifying the tenor of the judgment via a motion impleading petitioner and filed only in 2002 runs contrary to settled jurisprudence, rendering such action a nullity.

WHEREFORE, the Petition for Review on *Certiorari* is hereby **GRANTED.** The assailed Decision dated 15 November 2010 and Resolution dated 25 February 2011 of the Court of Appeals in CA-G.R. SP No. 104292 are hereby **REVERSED.**

SO ORDERED.

MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

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[45] 387 Phil. 659, 667 (2000).
[46] Id. citing *Schering Employees' Labor Union v. NLRC*, 357 Phil. 238 (1998); *Arcenas v. Court of Appeals*, 360 Phil. 122 (1998); *Philippine Bank of Communications v. Court of Appeals*, 344 Phil. 777 (1997).

WE CONCUR:

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice