Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ILAW BUKLOD NG MANGGAGAWA (IBM) NESTLE PHILIPPINES, INC. CHAPTER (ICE CREAM AND CHILLED PRODUCTS DIVISION), ITS OFFICERS, MEMBERS BONIFACIO T. FLORENDO, EMILIANO B. PALANAS and GENEROSO P. LAXAMANA,
Petitioners,

- *versus* –

NESTLE PHILIPPINES, INC.,
Respondent.

G.R. No. 198675

Present:

VELASCO, JR., *J.*, *Chairperson*,
PERALTA,
VILLARAMA, JR.,
PEREZ,* and
JARDELEZA, *JJ.*

Promulgated:

September 23, 2015

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DECISION

PERALTA, *J.*:

Assailed in the instant petition for review on *certiorari* under Rule 45 of the Rules of Court are the Resolutions[1] of the Court of Appeals (CA), dated June 30, 2011[2] and September 28, 2011,[3] respectively, in CA-G.R. SP No. 118459. The June 30, 2011 Resolution dismissed herein petitioners' petition for review, while the September 28, 2011 Resolution denied petitioners' Motion for Reconsideration.

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* Designated Acting Member in lieu of Associate Justice Bienvenido L. Reyes, per Special Order No. 2112 dated July 16, 2015.

1 Penned by Associate Justice Amelita G. Tolentino, with Associate Justices Normandie B. Pizarro and Rodil V. Zalameda, concurring.

2 Annex "B" to Petition, *rollo*, pp. 112-116.

3 Annex "G" to Petition, *id.* at 139-143.

The factual and procedural antecedents of the case are as follows:

On January 13, 1997, herein petitioner union staged a strike against herein respondent company's Ice Cream and Chilled Products Division, citing, as grounds, respondent's alleged violation of the collective bargaining agreement (CBA), dismissal of union officers and members, discrimination and other unfair labor practice (ULP) acts.

As a consequence, respondent filed with the National Labor Relations Commission (NLRC) a Petition for Injunction with Prayer for Issuance of Temporary Restraining Order, Free Ingress and Egress Order, and Deputization Order.

On January 20, 1997, a temporary restraining order was issued by the NLRC. Thereafter, on February 7, 1997, the NLRC issued a preliminary injunction.

On February 26, 1997, respondent filed a Petition to Declare Strike Illegal.

Subsequently, on April 2, 1997, then Department of Labor and Employment (DOLE) Acting Secretary, issued an Order assuming jurisdiction over the strike and certifying the same to the NLRC.

On June 2, 1997, petitioner union filed a petition for *certiorari* with this Court, questioning the above order of the Acting DOLE Secretary.

However, after a series of conciliation meetings and discussions between the parties, they agreed to resolve their differences and came up with a compromise which was embodied in a Memorandum of Agreement (MOA) dated August 4, 1998, pertinent portions of which are as follows:

> x x x x
>
> 1. The COMPANY [herein respondent] shall cause the dismissal of all criminal cases against dismissed employees arising out of or as consequences of the strike that started on January 13, 1997.
>
> Future illegal acts of the UNION [herein petitioner] shall not be covered by this agreement.

> 2. The UNION shall unqualifiedly withdraw its Petition for Certiorari pending with the Supreme Court.
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> 3. The COMPANY and the UNION shall jointly file a motion to withdraw any and all actions pending with the NLRC including the Certified Case, arising out of or as consequences of the strike that started on Jan. 13, 1997.
>
> 4. As a consequence of the strike leading to the execution of this Memorandum of Agreement, the UNION shall cease and desist from picketing any office or factory of the COMPANY as well as any government agency or office of the Courts. It shall likewise remove streamers, barricades and structures that it had put up around the COMPANY's Aurora Plant in Quezon City upon the execution of this Agreement and shall forever cease and desist from re-establishing the same.
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> 5. The COMPANY shall issue the corresponding Certificates of Past Employment to all dismissed employees.
>
> 6. The COMPANY shall continue to recognize the UNION as the certified bargaining agent of all rank-and-file daily-paid employees of its Ice Cream and Chilled Products Division up to the life of the existing Collective Bargaining Agreement.
>
> 7. The UNION shall <u>immediately</u> elect a new set of officers who will replace its dismissed officers. The newly-elected officers shall exclusively come from the UNION membeship who are active employees of the COMPANY. The UNION shall inform the COMPANY of the said newly-elected officers.
>
> 8. The COMPANY shall pay dismissed employees their accrued benefits (i.e. Unpaid wages, proportionate 13th and 14th months pay and vacation leave (VL) commutation), if any, up to the date of their actual work in accordance with the existing CBA and COMPANY programs and policies and consistent with the COMPANY's existing guidelines. Their respective accountabilities shall be deducted from the said accrued benefits and that the payment of the same shall furthermore be subject to the execution and submission to the COMPANY by the dismissed employees of the corresponding individual releases and quitclaims.
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> 9.The COMPANY and the UNION agree that this Agreement shall constitute a final resolution of all issues related to or arising from the strike that started on January 13, 1997, including the dismissal of a total of one-hundred thirty (132) (sic) UNION officers and members, who are all represented by Atty. Potenciano A. Flores, Jr., as herein provided.
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> x x x x[4]

On August 6, 1998, the parties filed a Joint Motion to Dismiss stating that they are no longer interested in pursuing the petition for injunction filed by respondent as a consequence of the settlement of their dispute.

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[4] See NLRC Resolution, *id.* at 60-61.

On October 12, 1998, the NLRC issued its Decision approving the parties' compromise agreement and granting their Joint Motion to Dismiss.

On January 25, 2010, or after a lapse of more than eleven (11) years from the time of execution of the subject MOA, petitioners filed with the NLRC a Motion for Writ of Execution contending that they have not been paid the amounts they are entitled to in accordance with the MOA.

Respondent filed its Opposition to the Motion for Writ of Execution contending that petitioners' remedy is already barred by prescription because, under the 2005 Revised Rules of the NLRC, a decision or order may be executed on motion within five (5) years from the date it becomes final and executory and that the same decision or order may only be enforced by independent action within a period of ten (10) years from the date of its finality.

On November 18, 2010, the NLRC promulgated its Resolution denying petitioners' application for the issuance of a writ of execution on the ground of prescription.

Petitioners filed a Motion for Reconsideration but the NLRC, in its Resolution dated February 14, 2011, dismissed it for lack of merit.

Petitioners then filed a petition for *certiorari* with the CA questioning the above Resolutions of the NLRC. The basic issue raised before the CA was whether or not petitioners' claim for payment is barred by prescription.

On June 30, 2011, the CA issued the first of its questioned Resolutions dismissing petitioners' *certiorari* petition on the ground that it is a wrong mode of appeal. The CA held that petitioners' appeal involves a pure question of law which should have been taken directly to this Court via a petition for review on *certiorari* under Rule 45 of the Rules of Court.

Petitioners filed a Motion for Reconsideration, but the CA denied it in its second questioned Resolution.

Hence, the instant petition for review on *certiorari* raising the following Assignment of Errors, to wit:

Reversible Error No. 1

The Court of Appeals erred in misappreciating the facts of the case.

Reversible Error No. 2

The Court of Appeals erred in sustaining that the Petitioners' demand to be paid has prescribed.[5]

Like petitioners' petition for *certiorari* filed with the CA, the main issue raised in the present petition is whether petitioners' claim is already barred by prescription.

Petitioners' basic contention is that respondent cannot invoke the defense of prescription because it is guilty of deliberately causing delay in paying petitioners' claims and that petitioners, on the other hand, are entitled to protection under the law because they had been vigilant in exercising their right as provided for under the subject MOA.

The Court is not persuaded.

There is no dispute that the compromise agreement between herein petitioner union, representing its officers and members, and respondent company was executed on August 4, 1998 and was subsequently approved via the NLRC Decision dated October 12, 1998. However, considering petitioners' allegation that the terms and conditions of the agreement have not been complied with by respondent, petitioners should have moved for the issuance of a writ of execution.

It is wrong for petitioners' counsel to argue that since the NLRC Decision approving the parties' compromise agreement was immediately executory, there was no need to file a motion for execution. It is settled that when a compromise agreement is given judicial approval, it becomes more than a contract binding upon the parties.[6] Having been sanctioned by the court, it is entered as a determination of a controversy and has the force and effect of a judgment.[7] It is immediately executory and not appealable, except for vices of consent or forgery.[8] **The non-fulfillment of its terms and conditions justifies the issuance of a writ of execution**; in such an instance, execution becomes a ministerial duty of the court.[9] Stated differently, a decision on a compromise agreement is final and executory.[10]

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5 *Rollo,* pp. 8-9.

6 *Magbanua v. Uy*, 497 Phil. 511, 519 (2005).

7 *Id.*

8 *Id.*

9 *Id.*

10 *Manila International Airport Authority v. ALA Industries Corp.,* 467 Phil. 229, 243 (2004).

Such agreement has the force of law and is conclusive between the parties.[11] It transcends its identity as a mere contract binding only upon the parties thereto, as **it becomes a judgment that is subject to execution in accordance with the Rules.**[12]

In this respect, the law and the rules provide the mode and the periods within which a party may enforce his right.

The most relevant rule in the instant case is Section 8, Rule XI, 2005 Revised Rules of Procedure of the NLRC which states that:

> Section 8. *Execution By Motion or By Independent Action.* - A decision or order may be executed on motion within five (5) years from the date it becomes final and executory. After the lapse of such period, the judgment shall become dormant, and may only be enforced by an independent action within a period of ten (10) years from date of its finality.

In the same manner, pertinent portions of Sections 4 (a) and 6, Rule III, of the NLRC Manual on Execution of Judgment, provide as follows:

> Section 4. *Issuance of a Writ.* - Execution shall issue upon an order, resolution or decision that finally disposes of the actions or proceedings and after the counsel of record and the parties have been duly furnished with the copies of the same in accordance with the NLRC Rules of Procedure, provided:
>
> > a) The Commission or Labor Arbiter shall, *motu proprio* or upon motion of any interested party, issue a writ of execution on a judgment only within five (5) years from the date it becomes final and executory. x x x
>
> x x x x x x x x x
>
> Section 6. *Execution by Independent Action.* - A judgment after the lapse of five (5) years from the date it becomes final and executory and before it is barred by prescription, may only be enforced by an independent action.

Similarly, Section 6, Rule 39 of the Rules of Court, which can be applied in a suppletory manner, provides:

> Sec. 6. *Execution by motion or by independent action.* - A final and executory judgment or order may be executed on motion within five (5)

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11 *Id.*

12 *Id.*

> years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five years from the date of its entry and, thereafter, by action before it is barred by the statute of limitations.

Article 1144 of the Civil Code may, likewise be applied, as it provides that an action upon a written contract must be brought within ten years from the time the right of action accrues.

It is clear from the above law and rules that a judgment may be executed on motion within five years from the date of its entry or from the date it becomes final and executory. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. If the prevailing party fails to have the decision enforced by a mere motion after the lapse of five years from the date of its entry (or from the date it becomes final and executory), the said judgment is reduced to a mere right of action in favor of the person whom it favors and must be enforced, as are all ordinary actions, by the institution of a complaint in a regular form.[13]

In the present case, the five-and ten-year periods provided by law and the rules are more than sufficient to enable petitioners to enforce their right under the subject MOA. In this case, it is clear that the judgment of the NLRC, having been based on a compromise embodied in a written contract, was immediately executory upon its issuance on October 12, 1998. Thus, it could have been executed by motion within five (5) years. It was not. Nonetheless, it could have been enforced by an independent action within the next five (5) years, or within ten (10) years from the time the NLRC Decision was promulgated. It was not. Therefore, petitioners' right to have the NLRC judgment executed by mere motion as well as their right of action to enforce the same judgment had prescribed by the time they filed their Motion for Writ of Execution on January 25, 2010.

It is true that there are instances in which this Court allowed execution by motion even after the lapse of five years upon meritorious grounds. However, in instances when this Court allowed execution by motion even after the lapse of five years, there is, invariably, only one recognized exception, *i.e.,* when the delay is caused or occasioned by actions of the judgment debtor and/or is incurred for his benefit or advantage.[14] In the

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[13] See *Zamboanga Barter Traders Kilusang Bayan Inc. v. Hon. Plagata, et. al.,* 588 Phil. 464, 488 (2008).

[14] *Id; Olongapo City v. Subic Water and Sewerage Co., Inc.,* G.R. No. 171626, August 6, 2014, 732 SCRA 132, 148-149; *Republic v. Court of Appeals,* 329 Phil. 115, 121-122 (1996); *Gonzales v. Court of Appeals,* G.R. No. 62556, August 13, 1992, 212 SCRA 595, 603; *Lancita, et. al. v. Magbanua, et. al.,* 117 Phil. 39, 44-45 (1963).

present case, there is no indication that the delay in the execution of the MOA, as claimed by petitioners, was caused by respondent nor was it incurred at its instance or for its benefit or advantage.

It is settled that the purpose of the law (or rule) in prescribing time limitations for enforcing judgments or actions is to prevent obligors from sleeping on their rights.[15] In this regard, petitioners insist that they are vigilant in exercising their right to pursue payment of the monetary awards in their favor. However, a careful review of the records at hand would show that petitioners failed to prove their allegation. The only evidence presented to show that petitioners ever demanded payment was a letter dated May 22, 2008, signed by one Atty. Calderon, representing herein individual petitioners, addressed to respondent company and seeking proof that the company has indeed complied with the provisions of the subject MOA.[16] Considering that the NLRC Decision approving the MOA was issued as early as October 12, 1998, the letter from petitioners' counsel, which was dated almost ten years after the issuance of the NLRC Decision, can hardly be considered as evidence of vigilance on the part of petitioners. No proof was ever presented showing that petitioners did not sleep on their rights. Despite their claims to the contrary, the records at hand are bereft of any evidence to establish that petitioners exerted any effort to enforce their rights under the subject MOA, either individually, through their union or their counsel. It is a basic rule in evidence that each party must prove his affirmative allegation, that mere allegation is not evidence.[17] Indeed, as allegation is not evidence, the rule has always been to the effect that a party alleging a critical fact must support his allegation with substantial evidence which has been construed to mean such relevant evidence as a reasonable mind will accept as adequate to support a conclusion.[18] Unfortunately, petitioners failed in this respect.

Even granting, for the sake of argument, that the records of the case were lost, as alleged by petitioners, leading to the delay in the enforcement of petitioners' rights, such loss of the records cannot be regarded as having interrupted the prescriptive periods for filing a motion or an action to enforce the NLRC Decision because such alleged loss could not have prevented petitioners from attempting to reconstitute the records and, thereafter, filing the required motion or action on time.[19]

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[15] *Zamboanga Barter Traders Kilusang Bayan Inc. v. Plagata, supra* note 12, at 487.

[16] See *rollo,* pp. 85-86.

[17] *Lopez v. Bodega City (Video-Disco Kitchen of the Philippines) and/or Torres-Yap,* 558 Phil. 666, 679 (2007).

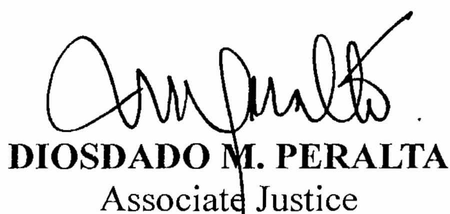
[18] *Tan Brothers Corporation of Basilan City v. Escudero,* G.R. No. 188711, July 3, 2013, 700 583, 593.

[19] See *Philippine National Railways v. NLRC,* 258 Phil. 552, 557-558 (1989).

As a final note, it bears to reiterate that while the scales of justice usually tilt in favor of labor, the present circumstances prevent this Court from applying the same in the instant petition. Even if our laws endeavor to give life to the constitutional policy on social justice and on the protection of labor, it does not mean that every labor dispute will be decided in favor of the workers.[20] The law also recognizes that management has rights which are also entitled to respect and enforcement in the interest of fair play.[21] Stated otherwise, while the Court fully recognizes the special protection which the Constitution, labor laws, and social legislation accord the workingman, the Court cannot, however, alter or amend the law on prescription to relieve petitioners of the consequences of their inaction. *Vigilantibus, non dormientibus, jura subveniunt* – Laws come to the assistance of the vigilant, not of the sleeping.[22]

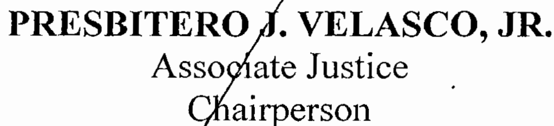
WHEREFORE, the instant petition is **DENIED**. The Resolutions of the Court of Appeals, dated June 30, 2011 and September 28, 2011, respectively, in CA-G.R. SP No. 118459, are **AFFIRMED.**

SO ORDERED.

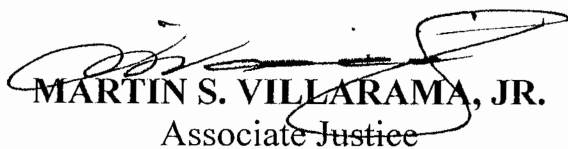


DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

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[20] *Insular Hotel Employees' Union-NFL v. Waterfront Insular Hotel Davao,* 645 Phil. 387, 420 (2010).

[21] *Id.*

[22] *Magno v. Philippine National Construction Corporation,* G.R. No. 87320, June 6, 1991.

FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice