

THIRD DIVISION

[G.R. No. 112955, September 01, 1997]

**ABOITIZ SHIPPING EMPLOYEES ASSOCIATION, PETITIONER VS.
HON. UNDERSECRETARY OF LABOR AND EMPLOYMENT,
CRESENCIANO TRAJANO AND DIRECTOR BERNARDINO JULVE,
RESPONDENTS.**

DECISION

FRANCISCO, J.:

Sometime in 1987, petitioner Aboitiz Shipping Employees Association filed a complaint for non-compliance with the mandated minimum wage under P.D. Nos. 1713,^[1] 1751,^[2] and Wage Order Nos. 1, 2, 3, 4, 5 and 6 against Aboitiz Shipping Corporation (ASC) before the National Capital Region (NCR) Regional Office of the Department of Labor and Employment (DOLE). Upon receipt of the complaint, an inspection of the ASC's premises and employment records was accordingly conducted by the NCR Regional Director^[3] who after an evaluation of the evidence adduced by the parties, issued an order the dispositive portion of which reads:

WHEREFORE, premises considered, the Aboitiz Shipping Corporation is hereby Ordered to pay herein listed complainants the total amount of ONE MILLION THREE HUNDRED FIFTY THOUSAND EIGHT HUNDRED TWENTY EIGHT and 00/100 PESOS (P1, 350,828.00) representing underpayment of daily allowance of TWO (P2.00) pesos per day reckoned from 16 February 1982 to 15 February 1985.

"FURTHER, the Aboitiz Shipping Corporation is hereby Ordered to pay each and every one of its employees the deficiency in allowance of TWO (P2.00) Pesos per day from 16 February 1985 onward until this Order is fully complied with."^[4]

ASC interposed an appeal, which the Secretary of Labor dismissed. ASC's subsequent motion for reconsideration was likewise denied.

On petition for certiorari, we affirmed^[5] the foregoing order with modification, as we excluded Mr. Elizardo Manuel^[6] from the list of complainants entitled to the monetary award. Dissatisfied, ASC filed a motion for reconsideration raising both jurisdictional and factual issues. We denied with finality the said motion in our Resolution promulgated on July 25, 1991.^[7]

On August 6, 1991, petitioner filed a motion for the issuance of an alias writ of execution before the Regional Director which granted the motion.^[8] However, on appeal by ASC, public respondent Secretary of Labor "set aside" the order of execution and declared the creation of a Special Committee that will compute the

exact amount of ASC's liability.^[9] The committee then proceeded to re-evaluate the records of the case, together with ASC's newly adduced evidence consisting of company payrolls.^[10] Thereafter, it submitted a Report reducing the original award from P1,350,828.00 to P209,183.42, which public respondent approved.^[11] Petitioner filed a motion for reconsideration, contending that an order of execution is not appealable and that public respondent has no jurisdiction to reduce the Regional Director's award, it being already final and executory. The motion, however, was denied.^[12]

In this petition, petitioner insists that public respondent committed grave abuse of discretion in modifying the final and executory decision of the Regional Director awarding petitioner the sum of P1,350,828.00.

The petition is impressed with merit.

Public respondent justified the reduction of the Regional Director's award on the basis of the Special Committee's findings that, "except for a minimal adjustment due to the late implementation of some of the Wage Orders, ASC has complied with P.D. 1678,^[13] P.D. 1751, and Wage Order Nos. 1, 2, 3, 5 and 6."^[14] We cannot, however, approve the said findings considering that ASC's liability to petitioner under the aforementioned laws and wage orders has long been settled by no less than this Court in *Aboitiz Shipping Corporation v. Hon. Dionisio de la Serna, et. al.*,^[15] where we affirmed the Regional Director's order awarding the sum of P1,350,828.00 to herein petitioner. Thus, as correctly held by the Regional Director, the aforementioned judgment having been already final and executory, the amount adjudged therein should be the subject of execution.^[16]

We are of course well aware of the rule authorizing the court to modify or alter a judgment even after the same has become executory, whenever circumstances transpire rendering its execution unjust and inequitable.^[17] However, this rule, we must emphasize, applies only to cases where the facts or circumstances authorizing such modification or alteration transpired after the judgment has become final and executory. It does not apply in this case wherein public respondent's basis for the modification of the final and executory judgment was clearly the very same evidence which ASC, despite having been given opportunity, failed to adduce during the hearing on the merits of the case.

We thus reiterate our settled rule that, except for correction of clerical errors^[18] or the making of nunc pro tunc entries which causes no prejudice to any party^[19] or where the judgment is void, after the judgment has become final and executory, the same can neither be amended nor altered.^[20] even if the purpose is to correct a perceived conclusion of fact or of law. This is true regardless of whether the modification is to be made by the magistrate that rendered the judgment, or by the appellate magistrate that reviewed the same. Indeed, all litigation must come to an end however unjust the result of error may appear. Otherwise, litigation would even be more intolerable than the wrong or injustice it is designed to correct.^[21]

WHEREFORE, the instant petition is **GRANTED**. The assailed orders of public