

THIRD DIVISION

[G.R. No. 202542, December 09, 2020]

ANGONO MEDICS HOSPITAL, INC., PETITIONER, VS. ANTONINA Q. AGABIN, RESPONDENT.

DECISION

HERNANDO, J.:

This Petition for Review on *Certiorari*^[1] assails the April 27, 2012 Decision^[2] and June 27, 2012 Resolution^[3] of the Court of Appeals (CA) in CAG.R. S.P. No. 114001.

The CA reversed and set aside the December 16, 2009^[4] and February 26, 2010^[5] Resolutions of the National Labor Relations Commission (NLRC) in NLRC Case No. LAC No. 02-000595-09 which declared that the computation for the award of separation pay and backwages in favor of respondent, Antonina Q. Agabin (Agabin), should be limited in view of a rejected previous offer of reinstatement.

The Antecedents:

Agabin was hired by Angono Medics Hospital Inc. (AMHI) on September 1, 2002 as a staff midwife with a monthly salary of P3,500.00. While working, she was allowed by Andres Villamayor (Villamayor), the former President of AMHI, and Antoinette E. Antiojo (Antiojo), the Chief Nurse, to study nursing simultaneously.

On June 23, 2007, Agabin requested permission to go on leave without pay from June 29, 2007 to September 15, 2007 as she needed to work as an affiliate in Mariveles, Bataan as part of her school requirement. Antiojo approved the request on the same day.

On September 15, 2007, Agabin returned to AMHI to inform Antiojo that she was ready to report back to work. Consequently, Agabin was included in the Schedule of Duty for the period September 16 to 30, 2007 with a 10:00 P.M. to 6:00 A.M. shift and off-duty days on September 23 and 30, 2007.

However, on September 19, 2007, Villamayor berated Agabin for coming in to work and told her to go home and take a vacation. Agabin explained to Villamayor that Antiojo approved her leave of absence but Villamayor ignored her explanation and retorted that she should go home since she had been away from work for a long time. Villamayor also told Agabin that she would not be compensated for her work rendered on September 17 and 18, 2007.

The next day, Antiojo informed Agabin that as per Villamayor's instructions, Agabin should not report for work anymore. Thus, Agabin filed a Complaint^[6] for illegal dismissal, separation pay, backwages and other monetary claims.

AMHI denied dismissing Agabin. It claimed that the latter simply failed to report for work after June 28, 2007 for unspecified reasons.

**Ruling of the
Executive
Labor Arbiter
(Arbiter):**

In a December 19, 2008 Decision,^[7] the Arbiter found that Agabin was illegally dismissed from her job. Moreover, Agabin's leave of absence was with the prior approval of Antiojo as supported by an approved leave form. Agabin also reported for work after September 15, 2007 and was included in the Schedule of Duty from September 16 to 30, 2007. The Arbiter found Agabin's assertion that Villamayor ordered her not to report for work anymore to be credible, especially in light of the sudden separation from employment of Antiojo from AMHI, whose cooperation AMHI could have utilized to rebut Agabin's claims. The Arbiter also found Agabin's filing of the illegal dismissal complaint within a reasonable period inconsistent with AMHI's claim of abandonment.^[8]

Likewise, AMHI did not accord due process to Agabin. However, since Agabin opted for separation pay due to her strained relations with AMHI, the Arbiter awarded full backwages and separation pay, in lieu of reinstatement, in addition to service incentive leave pay, 13th month pay, and wages for work performed on September 17 and 18, 2007, and attorney's fees. Villamayor was held jointly and severally liable with AMHI in accordance with Article 212(e)^[9] of the Labor Code and considering that his acts which were tainted with bad faith.^[10]

The dispositive portion of the Arbiter's Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered finding that complainant [Agabin] was illegally dismissed, and ordering respondents to jointly and severally pay complainant [Agabin] the following:

a. Backwages from September 19, 2007 until the finality of the Decision in her favor, tentatively computed until December 19, 2008 in the amount of P97,890.00;

b. 13th month pay of P8,157.50;

c. Separation pay at one month pay for every year [of] service to be computed from September 2, 2002 until the finality of the Decision in her favor, tentatively computed until December 19, 2008 in the amount of P39,156.00;

d. Service Incentive Leave Pay for three (3) years in the amount of P3,745.00;

e. Salary from September 17 & 18, 2008 of P502.00;

- f. Thirteenth (13th) month pay for 2007 in the amount of P3,745.00;
- g. Attorney's fee at ten (10%) percent of the total award in the amount of P15,416.00.

SO ORDERED.^[11]

Aggrieved, AMHI appealed^[12] before the NLRC.

**Ruling of the
National
Labor
Relations
Commission:**

In its December 16, 2009 Resolution,^[13] the NLRC affirmed the ruling of the Arbiter. The labor tribunal held that Agabin was illegally dismissed as AMHI did not observe substantial and procedural due process.^[14]

However, considering Agabin's refusal to AMHI's offer for reinstatement during the January 16, 2008 hearing, the computation of her separation pay and backwages should be modified in that it should be limited for the period September 19, 2007 until January 16, 2008 while her separation pay should be computed from September 1, 2002 up to January 16, 2008.^[15] Thus, the NLRC modified the Executive Labor Arbiter's Decision, viz.:

WHEREFORE, premises considered, the appeal is partly GRANTED and the Decision dated 19 December 2008 is MODIFIED by limiting the period of the award of separation pay from 01 September 2002 until 16 January 2008 and the backwages from 19 September 2007 until 16 January 2008. Accordingly, complainant-appellee [Agabin] is entitled to **P33,800.00** separation pay and **P29,070.10** backwages.

The other parts of the Decision [STAND].

SO ORDERED.^[16]

AMHI^[17] and Agabin^[18] both asked for a reconsideration but the NLRC denied their motions in its February 26, 2010 Resolution.^[19] Dismayed, AMHI filed a Petition for Certiorari^[20] before the CA which was docketed as CA-G.R. S.P. No. 113939 (SP No. 113939) and entitled "*Angono Medics Hospital, Inc. v. NLRC and Antonina Q. Agabin*." Agabin also filed a Petition for Certiorari^[21] which was docketed as CA-G.R. S.P. No. 114001 (SP No. 114001) and entitled "*Antonina Q. Agabin v. NLRC and Angono Medics Hospital, Inc.*" Unfortunately, both petitions were not consolidated by

the appellate court.

Ruling of the Court of Appeals:

The CA dismissed AMHI's Petition (SP No. 113939) in its July 19, 2010 Decision^[22] and held that the NLRC's factual findings and conclusions are supported by substantial evidence. It did not give credence to AMHI's claim that Agabin was guilty of abandoning her job.^[23] It also ruled that as a consequence of her illegal dismissal, Agabin is entitled to full backwages and separation pay, in lieu of reinstatement, and attorney's fees.^[24]

Undeterred, AMHI filed a Motion for Reconsideration^[25] but it was denied by the CA in its November 4, 2010 Resolution.^[26]

AMHI's Petition for Review on *Certiorari*^[27] docketed as G.R. No. 194465 was denied by this Court in its February 9, 2011 Resolution;^[28] AMHI's motion for reconsideration thereof was likewise denied with finality in a June 13, 2011 Resolution.^[29] An Entry of Judgment^[30] was subsequently issued.

Meanwhile, in SP No. 114001, the appellate court reinstated the Arbiter's December 19, 2008 Decision in its assailed April 27, 2012 Decision.^[31] The appellate court found that AMHI's offer of reinstatement was not supported by evidence and thus should not have been automatically factored in by the NLRC as a basis for modifying the reckoning point of the award of separation pay and backwages.

It clarified that even if the alleged offer was made, the award of separation pay and backwages should be computed from the time Agabin's compensation was withheld from her until the time of her actual reinstatement, and not only up to the time the offer of reinstatement was made, in accordance with Article 279^[32] of the Labor Code. A mere order for reinstatement issued by the Arbiter is different from the actual restoration of an employee to his or her previous position. Hence, in case of reinstatement, the backwages and other monetary awards shall continue beyond the issuance of the Arbiter's ruling until such time the said reinstatement is actually complied.^[33]

Moreover, in cases where reinstatement is no longer feasible, separation pay and backwages must be computed up to the finality of the decision. In addition, until actual receipt by the employee of the award of separation pay, the employer-employee relationship subsists and entitles the illegally dismissed employee to an award of backwages, 13th month pay, and other benefits from the time of his or her actual dismissal until finality of the decision of the Labor Arbiter.^[34] Thus, the dispositive portion of the CA's assailed April 27, 2012 Decision provides:

WHEREFORE, the petition is **GRANTED**. The December 16, 2009 and February 26, 2010 *Resolutions* of the NLRC in NLRC Case No. RAB IV-11-25748-07-RI 00-01-00499-06 (LAC No. 02-000595-09) are **REVERSED** and **SET ASIDE**. Accordingly, the December 19, 2008 Decision of the Labor Arbiter in NLRC Case No. RAB-IV-11-25748-07-RI is hereby

ordered **REINSTATED**.

SO ORDERED.^[35]

AMHI's motion for reconsideration was denied by the appellate court in its June 27, 2012 Resolution.^[36] Discontented, AMHI elevated^[37] this case (SP No. 114001) before Us via a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court and raised this sole error:

THE COURT OF APPEALS ERRED IN NOT RULING THAT [ITS] JULY 19, 2010 DECISION IN CA-GR SP NO. 113939, WHICH AFFIRMED IN FULL THE RESOLUTIONS DATED DECEMBER 16, 2009 AND FEBRUARY 26, 2010 OF THE NATIONAL LABOR RELATIONS COMMISSION IN NLRC LAC NO. 02-000595-09 ENTITLED "ANTONINA Q. AGABIN VS. ANGONO MEDICS HOSPITAL" WHICH PARTLY GRANTED THE APPEAL OF PETITIONER FROM THE EARLIER DECISION DATED DECEMBER 19, 2008 OF THE LABOR ARBITER IN NLRC CASE NO. RAB-IV-11-25748-07-RI, CONSTITUTES AS A BAR TO ANY SUBSEQUENT CONTRARY DECISION IN CA-GR SP NO. 114001.^[38]

The pivotal issue in this case is whether or not the ruling of the CA in SP No. 113939 (G.R. No. 194465) controls and prevails over another CA ruling in SP No. 114001. Stated differently, the issue is whether or not the ruling in SP No. 113939 (G.R. No. 194465) serves as *res judicata* upon SP No. 114001, the case at bench. After resolving this matter, the next question is how the monetary awards of Agabin should actually be computed.

The Petition:

AMHI mainly argues that the decision in SP No. 113939 (G.R. No. 194465), which is already final and executory, has the effect of *res judicata* upon SP No. 114001. It opines that the decision in SP No. 114001 should be considered null and void since there is identity of parties, subject matter, and causes of action between the two cases contemplated herein.^[39]

Agabin counters that the legal issues raised by the parties in the separate Petitions for *Certiorari* before the CA are entirely different from each other. She clarifies that the question in SP No. 114001 (G.R. No. 202542, the case at bench) before the CA is the computation of her monetary awards.

Agabin also argues that SP No. 114001 should not be considered as subsequent case to SP No. 113939 for the purpose of the application of *res judicata* because both SP No. 113939 and SP No. 114001 stemmed from the same issuances, *i.e.*, the NLRC's December 16, 2009 and February 26, 2010 Resolutions. The mere fact that SP No. 113939 was filed a week earlier and decided ahead of SP No. 114001 should not prejudice her as she just exercised her statutory right to file a *certiorari* petition to assail the Resolutions of the NLRC which limited her award of backwages.^[40]