FIRST DIVISION

[G.R. No. 197074, September 12, 2018]

CITIBANK, N. A., VS. PETITIONER, PRISCILA B. ANDRES AND PEDRO S. CABUSAY, JR., RESPONDENTS.

D E C I S I O N

JARDELEZA, J.:

This is a petition for review on *certiorari*[1] assailing the Decision[2] dated January 12, 2011 and Resolution[3] dated May 16, 2011 of the Court of Appeals (CA) in CA-G.R. SP No. 110524 which annulled and set aside the Decision[4] dated March 31, 2009 and Resolution[5] dated June 30, 2009 of the National Labor Relations Commission (NLRC) Second Division in NLRC NCR CASE 04-04447-03. The NLRC Second Division set aside the finality of the Resolution[6] dated December 28, 2007 and Entry of Judgment[7] dated April 18, 2008 issued by the NLRC First Division in NLRC NCR CA No. 039174-04 (NLRC NCR CASE 04-04447-2003).

Respondents Priscila B. Andres (Andres) and Pedro S. Cabusay, Jr. (Cabusay) [collectively, respondents] were employed as Reconciliation Officer and SpeedCollect Officer, respectively, of the SpeedCollect Unit of petitioner Citibank, N.A. (p titioner). The SpeedCollect Unit is in charge of implementing, monitoring, and documenting the collection and crediting of payments made by petitioner's clients. On November 5, 2002, one of petitioner's clients complained that the check payments from its customers were not credited to their account. This prompted petitioner to launch an internal investigation where respondents voluntarily submitted themselves to a fact-finding interview. After the interview, petitioner referred the matter to its Internal Investigation Unit, the Citigroup Security Investigative Services (CSIS).[8]

The CSIS conducted an investigation and submitted a report detailing the alleged misdeeds committed by respondents. Eulalia M. Herrera (Herrera), Vice-President of petitioner's Human Resources Department, then met with respondents separately. She informed respondents that full-blown administrative proceedings will be conducted to determine the appropriate actions against them, if any, based on the CSIS report. Herrera also informed respondents that if they are found guilty of misconduct, their employment may be terminated, and the termination will be reported to the *Bangko Sentral ng Pilipinas.* In order to avoid such a result, Cabusay and Andres opted to file their respective resignation letters effective April 2 and 3, 2003, respectively.[9]

Respondents thereafter filed a complaint for constructive dismissal with claims for moral and exemplary damages, and attorney's fees against petitioner before the Labor Arbiter (LA). The LA, however, dismissed respondents' complaint in its Decision[10] dated December 29, 2003. Consequently, respondents filed an appeal

with the NLRC. On October 20, 2005, the NLRC First Division issued its Decision[11] (October Decision) reversing the LA Decision and ruling in respondents' favor. Petitioner filed a motion for reconsideration, but it was denied by the NLRC First Division in its Resolution[12] dated December 28, 2007 (December Resolution).[13] On February 15, 2008, the NLRC First Division mailed a copy of its December Resolution to petitioner through Herrera and its counsel of record, the Ponce Enrile Reyes & Manalastas Law Offices (PECABAR).[14]

Meanwhile, on January 25, 2008, the Romulo Mabanta Buenaventura Sayoc & De Los Angeles Law Offices (RMBSA) entered its appearance as collaborating counsel for petitioner. PECABAR subsequently withdrew its appearance as counsel for petitioner, with the latter's consent, on February 19, 2008.[15]

In due course, the NLRC First Division issued an Entry of Judgment on April 18, 2008.[16] Respondents promptly moved for the execution of the NLRC ruling on May 12, 2008.[17]

On June 25, 2008, petitioner filed an urgent motion to set aside finality of judgment. The following day, it also filed an urgent motion to elevate *expediente* to the NLRC First Division.[18] Due to the inhibition from the case of Commissioner Romeo L. Go of the NLRC First Division, the re-raffle of the case was indorsed.[19] The Chairman of the NLRC later issued Administrative Order No. 11-16, series of 2008, endorsing the case to the NLRC Second Division.[20]

Petitioner alleged in its urgent motion to set aside finality of judgment that while a copy of the December Resolution was sent to PECABAR, its present counsel, RMBSA, did not similarly receive a copy. Moreover, the copy sent to petitioner (in the name of Eulalia Herrera) was returned unserved due to Herrera's resignation. Aside from the December Resolution, petitioner also denied having received copies of the Entry of Judgment and Notice of Hearing issued by the NLRC First Division. Thus, it claimed that it had been denied of its right to due process. Consequently, the October Decision did not attain finality and cannot be executed.[21]

Acting on petitioner's motion, the NLRC Second Division issued its Decision[22] dated March 31, 2009, the dispositive portion of which states:

> WHEREFORE, premises considered, the finality of the Resolution and the corresponding Entry of Judgment, dated April 18, 2008, are hereby ordered SET ASIDE.
>
> SO ORDERED.[23]

The NLRC Second Division accepted RMBSA's claim that it did not receive copies of the December Resolution, Entry of Judgment, and Notice of Hearing of the NLRC First Division. Hence, Section 6,[24] Rule III of the 2005 Revised Rules of Procedure of the NLRC was not complied with. According to the NLRC, since petitioner was deprived of its right to due process, it should now be given sufficient opportunity to

present its position.[25]

Respondents filed a motion for reconsideration, but this was denied. Thus, they filed a petition for *certiorari* before the CA to assail the ruling of the NLRC Second Division (the First CA Petition; CA-G.R. SP No. 110524).[26]

A few days after respondents filed the First CA Petition,[27] petitioner also filed a petition for *certiorari* assailing the October Decision and December Resolution of the NLRC First Division before the CA (the Second CA Petition; CA-G.R. SP No. 110376).[28] The First CA Petition was raffled to the Special Fifteenth Division of the CA, while the Second CA Petition was raffled to its Special Eleventh Division.

On January 12, 2011, the Special Fifteenth Division of the CA rendered its Decision[29] granting the First CA Petition. Thus:

> **WHEREFORE**, the instant petition is hereby **GRANTED**. The challenged *Decision* and *Resolution* of respondent NLRC are **ANNULLED** and **SET ASIDE**.
>
> **SO ORDERED.**[30]

According to the CA, PECABAR failed to give proper and adequate notice of its withdrawal as petitioner's counsel to the NLRC First Division. It noted that a copy of the December Resolution was mailed to PECABAR on February 15, 2008, while PECABAR filed its motion to withdraw as counsel four days later. After receiving a copy of the December Resolution, PECABAR did not notify the NLRC First Division that it had already withdrawn its appearance or that it had forwarded the copy to petitioner. Therefore, the CA ruled that petitioner was not deprived of due process. It reminded petitioner that the review of the decision of the NLRC is a mere statutory privilege. Moreover, considering that it took RMBSA four months after PECABAR's withdrawal as counsel to inquire into the records of the case, it may be said that RMBSA was guilty of negligence.[31]

Petitioner moved for the reconsideration of the First CA Decision, but this was denied by the CA, prompting petitioner to file the present petition before us.

Meanwhile, on July 12, 2011, the Special Eleventh Division of the CA granted the Second CA Petition.[32] It set aside the ruling of the NLRC First Division and reinstated that of the LA.[33] Respondents filed a petition for review on *certiorari* before us to question this ruling. This was docketed as G.R. No. 201344.[34] However, in our Resolution[35] dated June 27, 2012, we denied G.R. No. 201344 for being filed out of time, late payment of docket and other fees and deposit for costs, as well as failure to comply with the requirements under Rule 45 and other related provisions of the Rules of Procedure. Our resolution became final and executory on August 28, 2012, and was recorded in the Book of Entries of Judgment.[36]

The issue presented before us now is whether the December Resolution and the

Entry of Judgment issued by the NLRC First Division should be set aside.

We grant the petition

Ideally, the CA should have consolidated the respective petitions filed before it by petitioner and respondents. As we opined in *Serrano v. Ambassador Hotel, Inc.*:[37]

> Rather than rely on the interested party to register a motion to consolidate or the Justice to whom the case is assigned, it is best that it should be the Clerk of Court and the Division Clerks of Court of the CA who should be responsible for the review and consolidation of similarly intertwined cases. x x x[38]

This, unfortunately, was not done. Indeed, the First and Second CA Petitions questioned different rulings of the NLRC that were issued by different NLRC divisions. Nonetheless, they involved the same parties and closely-related subjects.[39] A ruling in this case should have rendered G.R. No. 201344 moot. We are now presented with a dilemma. If we grant the petition before us, then all is well for petitioner because it would mean that the Second CA Petition was rightfully acted upon by the Special Eleventh Division of the CA. However, if we deny this petition and uphold the ruling of the Special Fifteenth Division of the CA, then petitioner could not have appealed the October Decision and December Resolution of the NLRC, and the Special Eleventh Division of the CA could not have reversed and set aside the same. In effect, we would be disregarding a final and executory decision, which is what the Decision of the CA is, as upheld in G.R. No. 201344 with respect to the Second CA Petition. This we are loath to do.

The doctrine of immutability of judgment provides that once a final judgment is executory, it becomes immutable and unalterable.[40] It cannot be modified in any respect by any court. The purpose of the doctrine is *first,* to avoid delay in the administration of justice and thus, procedurally, to make orderly the discharge of judicial business, and *second,* to put an end to judicial controversies, at the risk of occasional errors, which is precisely why courts exist.[41]

Nonetheless, there are exceptions to the foregoing doctrine. These are: *first,* the correction of clerical errors; *second, nunc pro tunc* entries which cause no prejudice to any party; *third,* void judgments; and *fourth,* whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable.[42]

None of the exceptions obtain in this case. *First,* if we uphold the Decision of the CA on the First Petition, then it will effectively set aside the Decision of the CA on the Second Petition which has already been affirmed with finality by this Court in G.R. No. 201344. Clearly, that is not a mere correction of a clerical error. *Second,* the objective of *nunc pro tunc* entries is to place in proper form on the record the judgment that had been previously rendered to make it speak the truth, so as to make it show what the judicial action really was.[43] Here, there is no ambiguity or confusion as to the ruling of the CA on the Second Petition. *Third,* the Decision of the CA regarding the Second Petition is not void as it was issued by a court having jurisdiction over the case. *Fourth,* no circumstance has transpired that would render