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SPECIAL SECOND DIVISION

[G.R. No. 180147, January 14, 2015]

SARA LEE PHILIPPINES, INC., PETITIONER, VS. EMILINDA D. MACATLANG, ET AL.,[1] RESPONDENTS.

[G.R. NO. 180148]

ARIS PHILIPPINES, INC., PETITIONER, VS. EMILINDA D. MACATLANG, ET AL., RESPONDENTS.

[G.R. NO. 180149]

SARA LEE CORPORATION, PETITIONER, VS. EMILINDA D. MACATLANG, ET AL., RESPONDENTS.

[G.R. NO. 180150]

CESAR C. CRUZ, PETITIONER, VS. EMILINDA D. MACATLANG, ET AL., RESPONDENTS.

[G.R. NO. 180319]

FASHION ACCESSORIES PHILS., INC., PETITIONER, VS. EMILINDA D. MACATLANG, ET AL., RESPONDENTS.

[G.R. NO. 180685]

EMILINDA D. MACATLANG, ET AL., PETITIONERS, VS. NLRC, ARIS PHILIPPINES, INC., FASHION ACCESSORIES PHILS., INC., SARA LEE CORPORATION, SARA LEE PHILIPPINES, INC., COLLIN BEAL AND ATTY. CESAR C. CRUZ, RESPONDENTS.

R E S O L U T I O N

PEREZ, J.:

This treats of the 1) Motion for Reconsideration with Urgent Petition for the Court's Approval of the Pending "Motion for Leave of Court to File and Admit Herein Statement and Confession of Judgment – to Buy Peace and/or Secure against any Possible Contingent Liability by Sara Lee Corporation" filed by Sara Lee Philippines Inc. (SLPI), Aris Philippines Inc. (Aris), Sara Lee Corporation (SLC) and Cesar C. Cruz, 2) Motion for Reconsideration filed by Fashion Accessories Phils. Inc. (FAPI), and 3) Manifestation of Conformity to the Motion for Leave of Court to File and Admit Confession of Judgment – to Buy Peace and/or to Secure against any Possible Contingent Liability by Petitioner SLC.

In the Decision dated 4 June 2014, this Court directed SLPI, Aris, SLC, Cesar Cruz, and FAPI, collectively known as the Corporations, to post P725 Million, in cash or surety bond, within 10 days from the receipt of the Decision. The Court further nullified the Resolution of the National Labor Relations Commission (NLRC) dated 19 December 2006 for being premature.

The Motion for Reconsideration is anchored on the following grounds:

A. The Court failed to consider the "Motion for Leave of Court to file and Admit Herein Statement and Confession of Judgment to Buy Peace and/or to Secure Against any Possible Contingent Liability by Petitioner Sara Lee Corporation" (hereafter the "compromise agreement") filed by petitioner Sara Lee Corporation on June 23, 2014 before receipt of the Decision of June 04, 2014 on July 31, 2014 with the conformity of the respondents in their "Manifestation and Conformity to the Petitioners' Motion for Leave to File and Admit Statement of Confession of Judgment" dated July 04, 2014 which could have terminated the present cases and avoid delays with its remand for further proceedings below.

B. The Court did not duly rule on the violations of the rights of due process of Petitioner SLPI as shown by the following:

1. The Labor Arbiter has never acquired jurisdiction over Petitioner SLPI which was never impleaded as a party respondent and was never validly served with summons which fact was specifically mentioned in NLRC's Resolution of December 19, 2006; and

2. There is no employer-employee relationships between Petitioner SLPI and the respondents.

C. The Court did not duly rule on the violations of the rights of due process of Petitioner SLC because of the following:

1. The Labor Arbiter has never acquired jurisdiction over Petitioner SLC which was never impleaded as a party respondent and was never validly served with summons which fact was specifically raised by the Court as an issue in page 12 of the Decision of June 04, 2014 but remained unresolved; and

2. There is no employer-employee relationship between Petitioner SLC and the respondents.

D. The Court did not duly rule on the violations of the rights of due process of Petitioner Cesar C. Cruz as shown by the following:

1. The Labor Arbiter has never acquired jurisdiction over Petitioner Cesar C. Cruz who was never impleaded as a party respondent and was never validly served with summons; and

2. There is no employer-employee relationship between petitioner Cesar C. Cruz and the respondents.

E. There was no legal impediment for the NLRC to issue its Resolution of December 19, 2006 vacating the Labor Arbiter's Decision and remanding the case to the Labor Arbiter for further proceeding as no Temporary Restraining Order (TRO) or Writ of Preliminary Injunction was issued by the Court of Appeals and the rule on judicial courtesy remains the exception rather than the rule.

F. The Court did not duly rule on the applicability of the final and executory Decision of Fullido, et al., v. Aris Philippines, Inc. and Cesar C. Cruz (G.R. No. 185948) with respect to the present consolidated cases considering the identical facts and issues involved plus the fact that the Court in Fullido sustained the findings and decisions of three (3) other tribunals, i.e., the Court of Appeals, the NLRC and the Labor Arbiter.

G. The Court failed to consider the prescription of the complaints for money claims filed by the respondents against the Petitioners under Article 291 of the Labor Code due to the lapse of three (3) years and four (4) months when Petitioners were impleaded as respondents only through the amendment of complaints by the complainants, the respondents' herein.

H. The Court also did not consider that the Complaints filed by the respondents are barred by *res judicata* because of the final and executory decision rendered by the Voluntary Arbitrator on the identical facts and issues in the case filed by the labor union representing the respondents against Petitioner API.

I. Contrary to the Decision of June 04, 2014, the Abelardo petition (CA GR SP No. 95919, Pacita S. Abelardo v. NLRC, Aris, Philippines, Inc.) was filed earlier than the Macatlang petition (CA GR SP No. 96363) as shown by the lower docket number, thus, the Macatlang petition should be the one dismissed for forum shopping.

J. In fixing the bond to PhP725 Million which is 25% of the monetary award, the Court failed to consider the En Banc Decision in McBurnie v. Ganzon, 707 SCRA 646, 693 (2013) which required only the posting of a bond equivalent to ten percent (10%) of the monetary award.[2]

We briefly revisit the factual milieu of this case.

Aris permanently ceased operations on 9 October 1995 displacing 5,984 rank-and-file employees. On 26 October 1995, FAPI was incorporated prompting former Aris employees to file a case for illegal dismissal on the allegations that FAPI was a continuing business of Aris. SLC, SLP and Cesar Cruz were impleaded as defendants being major stockholders of FAPI and officers of Aris, respectively.

On 30 October 2004, the Labor Arbiter found the dismissal of 5,984 Aris employees illegal and awarded them monetary benefits amounting to P3,453,664,710.86. The

judgment award is composed of separation pay of one month for every year of service, backwages, moral and exemplary damages and attorney's fees.

The Corporations filed a Notice of Appeal with Motion to Reduce Appeal Bond. They posted a P4.5 Million bond. The NLRC granted the reduction of the appeal bond and ordered the Corporations to post an additional P4.5 Million bond.

The 5,984 former Aris employees, represented by Emilinda Macatlang (Macatlang petition), filed a petition for review before the Court of Appeals insisting that the appeal was not perfected due to failure of the Corporations to post the correct amount of the bond which is equivalent to the judgment award.

While the case was pending before the appellate court, the NLRC prematurely issued an order setting aside the decision of the Labor Arbiter for being procedurally infirmed.

The Court of Appeals, on 26 March 2007, ordered the Corporations to post an additional appeal bond of P1 Billion.

In our Decision dated 4 June 2014, we modified the Court of Appeals' Decision, to wit:

> WHEREFORE, the Decision of the Court of Appeals in CA-G.R. SP No. 96363 dated 26 March 2007 is MODIFIED. The Corporations are directed to post P725 Million, in cash or surety bond, within TEN (10) days from the receipt of this DECISION. The Resolution of the NLRC dated 19 December 2006 is VACATED for being premature and the NLRC is DIRECTED to act with dispatch to resolve the merits of the case upon perfection of the appeal.[3]

We also resolved the procedural issue of forum-shopping by holding that the 411 petitioners of the Pacita Abelardo petition (Abelardo petition) are not representative of the interest of all petitioners in Macatlang petition. The number is barely sufficient to comprise the majority of petitioners in Macatlang petition and it would be the height of injustice to dismiss the Macatlang petition which evidently enjoys the support of an overwhelming majority due to the mistake committed by petitioners in the Abelardo petition.

The Motion for Reconsideration has no merit.

The Corporations score this Court for failing to consider the ruling in *McBurnie v. Ganzon*[4] which purportedly required only the posting of a bond equivalent to 10% of the monetary award.

The Corporations gravely misappreciated the ruling in *McBurnie*. The 10% requirement pertains to the reasonable amount which the NLRC would accept as the minimum of the bond that should accompany the motion to reduce bond in order to suspend the period to perfect an appeal under the NLRC rules. The 10% is based on the judgment award and should in no case be construed as the minimum amount of bond to be posted in order to perfect appeal. There is no room for a different

interpretation when *McBurnie* made it clear that the percentage of bond set is provisional, thus:

> The foregoing shall not be misconstrued to unduly hinder the NLRC's exercise of its discretion, given that the percentage of bond that is set by this guideline shall be merely provisional. The NLRC retains its authority and duty to resolve the motion and determine the final amount of bond that shall be posted by the appellant, still in accordance with the standards of "meritorious grounds" and "reasonable amount." Should the NLRC, after considering the motion's merit, determine that a greater amount or the full amount of the bond needs to be posted by the appellant, then the party shall comply accordingly. The appellant shall be given a period of 10 days from notice of the NLRC order within which to perfect the appeal by posting the required appeal bond.

The Corporations argue that there was no legal impediment for the NRLC to issue its 19 December 2006 Resolution vacating the Labor Arbiter's Decision as no TRO or injunction was issued by the Court of Appeals. The Corporations assert that the rule on judicial courtesy remains the exception rather than the rule.

We do not agree. In the recent case of *Trajano v. Uniwide Sales Warehouse Club,*[5] this Court gave a brief discourse on judicial courtesy, which concept was first introduced in *Eternal Gardens Memorial Park Corp. v. Court of Appeals*,[6] to wit:

> x x x [t]he principle of judicial courtesy to justify the suspension of the proceedings before the lower court even without an injunctive writ or order from the higher court. In that case, we pronounced that "[d]ue respect for the Supreme Court and practical and ethical considerations should have prompted the appellate court to wait for the final determination of the petition [for certiorari] before taking cognizance of the case and trying to render moot exactly what was before this [C]ourt." We subsequently reiterated the concept of judicial courtesy in *Joy Mart Consolidated Corp. v. Court of Appeals.*
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> We, however, have qualified and limited the application of judicial courtesy in *Go v. Abrogar* and *Republic v. Sandiganbayan*. In these cases, we expressly delimited the application of judicial courtesy to maintain the efficacy of Section 7, Rule 65 of the Rules of Court, and held that the principle of judicial courtesy applies only "if there is a strong probability that the issues before the higher court would be rendered moot and moribund as a result of the continuation of the proceedings in the lower court." Through these cases, we clarified that the principle of judicial courtesy remains to be the exception rather than the rule.[7]

The Corporations' argument is specious. Judicial courtesy indeed applies if there is a strong probability that the issues before the higher court would be rendered moot as a result of the continuation of the proceedings in the lower court. This is the exception contemplated in the aforesaid ruling and it obtains in this case. The 19