

FIRST DIVISION

[G.R. No. 161006, October 14, 2015]

**ROGELIO BARONDA, PETITIONER, VS. HON. COURT OF APPEALS,
AND HIDEKO SUGAR MILLING CO., INC., RESPONDENTS.**

D E C I S I O N

BERSAMIN, J.:

The reinstatement aspect of the Voluntary Arbitrator's award or decision is immediately executory from its receipt by the parties.

The Case

The petitioner assails the decision^[1] promulgated on August 21, 2003 in CA-G.R. SP No. 67059, whereby the Court of Appeals (CA) annulled and set aside the order issued by the Voluntary Arbitrator^[2] granting his motion for the issuance of the writ of execution.^[3]

Antecedents

Respondent Hideco Sugar Milling Co., Inc. (HIDEKO) employed the petitioner as a mud press truck driver with a daily salary of P281.00. On May 1, 1998, he hit HIDEKO's transmission lines while operating a dump truck, causing a total factory blackout from 9:00 pm until 2:00 am of the next day. Power was eventually restored but the restoration cost HIDEKO damages totaling P26,481.11. Following the incident, HIDEKO served a notice of offense requiring him to explain the incident within three days from notice. He complied. Thereafter, the management conducted its investigation, and, finding him guilty of negligence, recommended his dismissal.^[4] On June 15, 1998, the resident manager served a termination letter and informed him of the decision to terminate his employment effective at the close of office hours of that day. Hence, HIDEKO no longer allowed him to report to work on the next day.^[5]

In August 1998, the petitioner, along with another employee also dismissed by HIDEKO, filed in the Office of the Voluntary Arbitrator of the National Conciliation and Mediation Board in Tacloban City a complaint for illegal dismissal against HIDEKO.

Voluntary Arbitrator Antonio C. Lopez, Jr. handled the case and eventually rendered his decision on January 13, 1999 by finding the petitioner's dismissal illegal, and ordering his reinstatement. Voluntary Arbitrator Lopez, Jr. deemed the petitioner's separation from the service from June 16, 1998 to January 15, 1999 as a suspension from work without pay, and commanded him to pay on installment basis the damages sustained by HIDEKO from the May 1, 1998 incident he had caused,^[6]

to wit:[7]

Wherefore, in so far as the case of ROGELIO BARONDA is concerned, this Office finds his dismissal illegal and reinstatement is therefore ordered. His separation on June 16, 1998 up to January 15, 1999 is deemed suspension without pay for his negligent acts, and is further ordered to pay respondent employer the sum of P26,484.41 for actual damages at P1,500.00 every month deductible from his salary until complete payment is made.

HIDECO filed a motion for reconsideration,[8] but the Voluntary Arbitrator denied the motion on August 11, 2000.[9] Accepting the outcome, HIDECO reinstated the petitioner on September 29, 2000.[10]

Thereafter, on October 9, 2000, the petitioner filed his manifestation with motion for the issuance of the writ of execution in the Office of the Voluntary Arbitrator,[11] praying for the execution of the decision, and insisting on being entitled to backwages and other benefits corresponding to the period from January 16, 1999 up to September 28, 2000 totaling P192,268.66 based on Article 279 of the Labor Code (*"An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement"*).

HIDECO opposed the petitioner's motion for execution,[12] and simultaneously presented its own motion for execution to enforce the decision of the Voluntary Arbitrator directing the petitioner to pay the actual damages totaling P26,484.41 at the rate of P1,500.00/month deductible from his salary starting in January 2001 until complete payment was made.[13]

In his order dated March 20, 2001,[14] the Voluntary Arbitrator denied the petitioner's motion for execution on the ground that the decision did not award any backwages; and granted HIDECO's motion for execution by directing the petitioner to pay HIDECO P26,484.41 at the rate of P1,500.00/month.

On May 17, 2001, the petitioner filed another motion for execution praying that a writ of execution requiring HIDECO to pay to him unpaid wages, 13th month pay and bonuses from January 16, 2001, the date when his reinstatement was effected, until his actual reinstatement.[15] HIDECO opposed the petitioner's second motion for execution because "the items prayed for by the complainant in his Motion for Issuance of Writ of Execution are not included in the dispositive portion of the decision of the voluntary arbitrator, neither are the said items mentioned in any part of the same decision." [16]

On July 25, 2001, however, the Voluntary Arbitrator granted the petitioner's second motion for execution,[17] to wit:

Wherefore, for failure of complainant to re-admit complainant nor reinstate him in the payroll for the period from January 21, [1999] up to September 28, 2000, let an order or execution issue for the satisfaction of his reinstatement wages in the amount of P155,647.00 (554 days at P281.00 per day), 13 month pay in the amount of P7,200.00, bonus in the amount of P8,000.00 for 1999, and P8,000.00 for his signing bonus.

The sheriff of the National Labor Relations Commission, Regional Arbitration Branch No. VIII is directed to implement the writ.

So ordered.

The Voluntary Arbitrator cited as basis Article 223 of the Labor Code, which pertinently provides:

Art. 223. Appeal -

x x x x

In any event, the decision of the Labor Arbiter reinstating a dismissed or separated employee, insofar as the reinstatement aspect is concerned, shall immediately be executory, even pending appeal. The employee shall either be admitted back to work under the same terms and conditions prevailing prior to his dismissal or separation or, at the option of the employer, merely reinstated in the payroll. The posting of a bond by the employer shall not stay the execution for reinstatement provided herein.

Having received a copy of the order of July 25, 2001 on August 7, 2001,^[18] HIDECO instituted a special civil action for *certiorari* in the Court of Appeals (CA) on October 2, 2001.^[19]

Decision of the CA

HIDECO's petition for *certiorari* averred that the Voluntary Arbitrator had acted with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the July 25, 2001 order. It listed the following issues, namely:

I. The voluntary arbitrator, in rendering the assailed order actually granted an award without giving due process to the herein petitioner.^[20]

II. The voluntary arbitrator resolved the (second) motion by applying Art. 223 of the Labor Code. Was this the correct law to apply under the circumstances? Did he have jurisdiction to apply this law?^[21]

III. The decision dated January 13, 1999 clearly stated the relief that had been granted to the complainant Baronda, which was reinstatement. Baronda was reinstated on September 29, 2000, thus [HIDECO] had complied with the decision. The questions therefore: Could a relief that is

not written in the decision be executed? Since the voluntary arbitrator clearly did this in this case, is it not correct to say that he committed grave abuse of discretion?^[22]

IV. In the assailed Order dated July 25, 2001 the Voluntary Arbitrator said, among others, that it treated a second motion for the issuance of a writ of execution, and that a first motion had already been denied on the ground that no backwages had been awarded to the complainant Baronda. Did he have any legal basis then to issue two different and contradictory orders for what are essentially similar motions?^[23]

In his comment,^[24] the petitioner countered that the petition for *certiorari* should be dismissed considering that HIDECO should have appealed the decision of the Voluntary Arbitrator under Rule 43 of the *Rules of Court* because *certiorari* was not a substitute for a lost appeal; that HIDECO did not file a motion for reconsideration of the questioned order, which would have been an adequate remedy at law; that the petition for *certiorari* did not raise any jurisdictional error on the part of the Voluntary Arbitrator but only factual and legal issues not proper in *certiorari*; and that the Voluntary Arbitrator did not commit any error, much less grave abuse of discretion amounting to lack or excess of jurisdiction in rendering the questioned order.

In the decision promulgated on August 21, 2003,^[25] the CA treated HIDECO's petition for *certiorari* as a petition for review brought under Rule 43, and brushed aside the matters raised by the petitioner. It observed that the petition for *certiorari* included the contents required by Section 6, Rule 43 for the petition for review; that the writ of execution was proper only when the decision to be executed carried an award in favor of the movant; that the Voluntary Arbitrator had issued the writ of execution for backwages despite his decision lacking such award for backwages; and that the reliance by the Voluntary Arbitrator on Article 223 of the *Labor Code* was misplaced because said provision referred to decisions, awards or orders of the Labor Arbiter, not the Voluntary Arbitrator. It disposed as follows:

WHEREFORE, the instant petition is hereby **GRANTED** and the questioned **Order dated July 25, 2001** of the public respondent **ANNULLED** and **SET ASIDE**.

SO ORDERED.^[26]

Issues

In this appeal, the petitioner submits the following issues,^[27] namely

I.

THE HONORABLE COURT OF APPEALS COMMITTED AN ERROR OF LAW WHEN IT CONSIDERED THE PETITION FOR CERTIORARI FILED BY PRIVATE RESPONDENT AS ONE FILED UNDER RULE 43 OF THE RULES OF

COURT WHEN SAID PETITION EXPRESSLY DECLARED THAT IT WAS FILED UNDER RULE 65 OF THE RULES OF COURT. EVEN GRANTING FOR THE SAKE OF ARGUMENT THAT SAID PETITION COULD BE CONSIDERED AS FILED UNDER RULE 43 OF THE RULES OF COURT, THE HONORABLE COURT OF APPEALS COMMITTED AN ERROR OF LAW IN NOT CONSIDERING THAT IT WAS FILED OUT OF TIME.

II.

THE HONORABLE COURT OF APPEALS COMMITTED AN ERROR OF LAW WHEN IT DID NOT DISMISS THE PETITION FILED BY THE PRIVATE RESPONDENT FOR NOT HAVING PREVIOUSLY FILED A MOTION FOR RECONSIDERATION BEFORE RESORTING TO THE PETITION FOR CERTIORARI.

III.

THE HONORABLE COURT OF APPEALS COMMITTED AN ERROR OF LAW WHEN IT CONSIDERED THE WRIT OF EXECUTION AS ISSUED FOR THE SATISFACTION OF BACKWAGES INSTEAD OF FOR REINSTATEMENT WAGES.

IV.

THE HONORABLE COURT OF APPEALS COMMITTED AN ERROR OF LAW AND SANCTIONED A VIOLATION OF THE EQUAL PROTECTION OF THE LAWS WHEN IT RULED THAT THE REINSTATEMENT ASPECT OF THE DECISION OF THE VOLUNTARY ARBITRATOR IS NOT IMMEDIATELY EXECUTORY.

V.

THE HONORABLE COURT OF APPEALS COMMITTED AN ERROR OF LAW WHEN IT DECLARED THAT PRIVATE RESPONDENT WAS DENIED DUE PROCESS OF LAW.

In other words, the decisive issues for consideration and resolution are: (a) whether or not the CA erred in granting HIDECO's petition for *certiorari* despite its procedural flaws; and (b) whether or not the reinstatement aspect of the Voluntary Arbitrator's decision was executory pending appeal.

Ruling

The appeal is meritorious.

I

HIDECO's proper recourse was to appeal by petition for review; hence, the CA erred in granting HIDECO's petition for *certiorari*