

SECOND DIVISION

[G.R. No. 203332, June 18, 2014]

FLORENCIO LIBONGCOGON, FELIPE VILLAREAL AND ALFONSO CLAUDIO, PETITIONERS, VS. PHIMCO INDUSTRIES, INC., RESPONDENT.

D E C I S I O N

BRION, J.:

We resolve the present petition for review on *certiorari*^[1] which seeks to nullify the amended decision^[2] dated August 30, 2012 of the Court of Appeals in CA-G.R. 115295.

The Antecedents

The Phimco Industries, Inc. (*PHIMCO*) is a domestic corporation engaged in the production of matches. The Phimco Labor Association (*PILA*) is the exclusive collective bargaining representative of the PHIMCO regular rank-and-file employees. Due to a bargaining deadlock with PHIMCO, PILA staged a strike on April 21, 1995.

The National Labor Relations Commission (*NLRC*) issued a temporary restraining order on June 23, 1995, but the strike continued, with the strikers blocking the company's points of ingress and egress. Three days later or, on June 26, 1995, PHIMCO served dismissal notices on the strikers for the alleged illegal acts they committed during the strike. Consequently, PILA filed a complaint for illegal dismissal and unfair labor practice against PHIMCO (*illegal dismissal case*) under NLRC NCR Case No. 00-07-04705-95. PHIMCO, for its part, filed a petition to declare the strike illegal (*illegal strike case*), docketed as NLRC Case No. 00-08-06031-95.

Then Acting Secretary Jose Brillantes of the Department of Labor and Employment assumed jurisdiction over the strike and issued a return-to-work order. PILA ended its strike and PHIMCO resumed its operations. Later, PHIMCO laid off 21 of its employees and implemented a retirement program covering 53 other employees. Twenty-two out of the 53 questioned the legality of their retirement. Further, PILA found out that seven other workers who were also dismissed on June 26, 1995—Florencio Libongcogon, Felipe Villareal, Mario Perea, Angelito Dejan, Mariano Rosales, Roger Caber, and Alfonso Claudio - were not included in the illegal dismissal case.

In view of these developments, PILA filed another complaint (NLRC NCR Case No. 00-07-04723-97) against PHIMCO with the following causes of action: (1) the illegal dismissal of the 7 employees; (2) the forced retirement of 53 employees; and (3)

the lay-off of 21 employees.

The Compulsory Arbitration Rulings and Related Incidents

In a decision^[3] dated August 5, 1998, Labor Arbiter (LA) Felipe P. Pati dismissed NLRC Case No. 00-07-04723-97. PILA filed an appeal which the NLRC dismissed through its decision^[4] dated July 30, 1999. PILA sought relief from the CA through a petition for *certiorari* (CA-G.R. SP No. 57988).

The CA Special 12th Division rendered a decision^[5] on February 27, 2001 partly granting the petition. It found the 7 employees to have been illegally dismissed. It ruled that as ordinary union members, the 7 must have been shown to have committed illegal acts during the strike to warrant their dismissal, but there was no such showing. Having been illegally dismissed, the 7 were entitled to reinstatement, full backwages inclusive of allowances, and other benefits, computed from June 26, 1995 up to the time of their actual reinstatement.

Thereafter, PHIMCO appealed to this Court through a petition for review on *certiorari* which the Court denied in its Resolution^[6] dated October 3, 2001. The resolution became final and executory on December 4, 2001.^[7] PILA then filed a motion for the computation of backwages and benefits of the 7 union members, the CA decision in CA-G.R. SP No. 57988 likewise having become final and executory.

On October 18, 2002, the NLRC NCR Arbitration Branch submitted a computation of the backwages for June 26, 1995 to October 2, 2002 in the total amount of P519,907.10 *for each* of the 7 employees. The amount of P174,305.84 received by Caber (for which he executed a quitclaim), was deducted from the computation of his backwages. On January 7, 2003, LA Pati ordered the issuance of a writ of execution in favor of Libongcogon, Villareal, Claudio, Peria and Dejan, excluding Caber and Rosales who passed away and whose heirs had received financial assistance from the company for which they executed the corresponding quitclaims and release.

PHIMCO appealed, but the NLRC denied the appeal, as well as PHIMCO's subsequent motion for reconsideration.

On March 6, 2004, Dejan moved for the dismissal of the case as far as he was concerned, manifesting that he voluntarily executed a quitclaim and release in the company's favor (before LA Pati) in consideration of P164,025.85. PILA moved for execution of the CA ruling.

PHIMCO, on the other hand, filed a motion for the computation of the backwages of Libongcogon, Villareal and Claudio, claiming that their former positions no longer existed as of June 26, 1995, making their reinstatement physically impossible. It argued that under Section 4(b), Rule I, Book VI of the Omnibus Rules Implementing the Labor Code, its obligation to the three employees was only to pay them separation pay up to June 26, 1995.

Accompanying PHIMCO's motion for computation was a certification issued by its Chief Accountant, Nestor Sebastian, stating that in 1993, the company shifted to the buying of splints (*palito*) and skillets (*match boxes*) instead of buying logs and

making the materials in the company itself. In the middle of June 1995, PHIMCO stopped the splint and skillet processing in its Sta. Ana factory, resulting in the abolition on June 26, 1995 of the jobs of Perea, Villareal and Claudio. Later, PHIMCO closed one match automatic line due to reduced sales of matches. The closure also resulted in the abolition of the jobs of eleven (11) other employees, including Libongcogon. Through a supplement to the motion for computation, PHIMCO maintained that the separation pay of the remaining four employees should be as follows: Libongcogon, P71,289.00; Villareal, P113,556.00; Perea, P143,809.00; and Claudio, P35,385.00.

In an order^[8] dated March 28, 2005, LA Aliman D. Mangandog, who took over the case due to LA Pati's inhibition from further handling the dispute, upheld PHIMCO's position and declared that the reinstatement of the 7 union members had been rendered impossible because of the abolition of their positions in 1995. Further, LA Mangandog noted that three of the 7 had withdrawn their claims against the company (Caber and Rosales [who died during the pendency of the case] and Dejan). He ordered PHIMCO to pay Libongcogon, Villareal, Perea and Claudio separation pay of one month's salary for every year of service from date of their employment up to June 1995, plus financial assistance of one-half month's pay for each of them.

After receipt of copy of LA Mangandog's order, Perea moved to withdraw his claim against PHIMCO, stating that he voluntarily executed a quitclaim and release in favor of the company in consideration of P143,711.32. PILA filed a motion for reconsideration of the order which the NLRC treated as an appeal.

On June 30, 2009, the NLRC issued a resolution^[9] reversing LA Mangandog's ruling. It declared that PHIMCO had not shown any clear basis to modify the CA decision of February 27, 2001^[10] ordering the reinstatement of the 7 dismissed union members, which had long become final and executory. It considered LA Mangandog's order which modified the CA decision a nullity. It then remanded the records of the case to its Regional Arbitration Branch for the issuance of a writ of execution to strictly enforce the CA decision of February 27, 2001.

PHIMCO moved for reconsideration. On July 21, 2010, the NLRC issued another resolution^[11] modifying its resolution of June 30, 2009. It dismissed the case with prejudice with respect to Rosales, Caber, Dejan and Perea as they or their heirs executed quitclaims in favor of PHIMCO. It again remanded the records to its arbitration branch for the issuance of a writ of execution in the following amounts: (1) P827,842.23 for Libongcogon; (2) P1,061,512.70 for Villareal; and (3) P811,835.47 for Claudio.

Undaunted, PHIMCO appealed to the CA on grounds that the NLRC committed grave abuse of discretion when (1) it took cognizance of the 7 employees' motion for reconsideration despite its non-compliance with the requirements for perfecting an appeal; (2) ordered the reinstatement of two of the 7 who were already deceased and two who filed motions to dismiss the case; and (3) ruled that they were entitled to backwages and accrued salaries from June 26, 1995 to December 31, 2004.

With respect to the procedural question, PHIMCO argued that the NLRC should not have accepted the employees' appeal since it failed to comply with the requirements

for perfection of an appeal. It pointed out that the appeal lacked a verification and certification of non-forum shopping and was not accompanied by an appeal fee. On the merits of the case, PHIMCO reiterated its argument that the former positions of the 7 employees were already abolished and the machines that they were using were dismantled as early as June 1995, rendering their reinstatement a legal impossibility. Under such a situation, it maintained, their backwages should be computed only up to the date their positions were abolished.

PHIMCO further argued that the March 28, 2005 resolution^[12] of LA Mangandog did not modify the February 27, 2005 decision^[13] of the CA in CA-G.R. SP No. 57988. The Mangandog resolution, it explained, simply applied Section 4, Rule 1, Book VI of the Omnibus Rules Implementing the Labor Code, requiring the payment of separation pay in case the establishment where the employee is to be reinstated has closed or has ceased operations or where his or her former position no longer exists at the time of reinstatement, for reasons not attributable to the fault of the employer.

The CA Decision

In its first assailed decision,^[14] the CA denied the petition and upheld the NLRC rulings. It found that the NLRC committed no grave abuse of discretion when it accepted the employees' motion for reconsideration as an appeal. It stressed that the circumstances obtaining in the case warrant a liberal application of the rules of procedure considering the seriousness of the issue that had to be resolved, involving no less the alteration by LA Mangandog of a final and executory decision of the CA. Further, it sustained the NLRC's dismissal of the complaint with respect to Rosales, Caber, Dejan and Perea, as they or their heirs executed quitclaims in PHIMCO's favor.

The CA emphasized that the decision of its Special 12th Division in CA-G.R. SP No. 57988 became final and executory on December 4, 2001; thus, there is nothing more left to be done but to enforce it. It rejected PHIMCO's argument that since there were no more positions the remaining 3 employees could go back to, its only obligation was to give them separation pay. At any rate, it opined, even on the assumption that the employees' positions had been abolished in June 1995, that this circumstance would not justify a modification of the NLRC's final and executory reinstatement order inasmuch as (1) the abolition of the workers' positions occurred before the judgment had attained finality; and (2) the issue was raised only during the execution stage.

PHIMCO moved for reconsideration of the CA decision. It argued in the main that independent of the issue on the abolition of the employees' positions, their reinstatement should not have been upheld in view of the ruling of this Court in G.R. No. 170830, **Phimco Industries, Inc. v. Phimco Industries Labor Association (PILA)**^[15] (illegal strike case) promulgated on August 11, 2010, as well as the Court's Resolution in G.R. No. 192875, **Phimco Industries Labor Association (PILA) et al, v. Phimco Industries, Inc.**^[16] (illegal dismissal case) issued on January 19, 2011.

PHIMCO maintained that in the illegal strike case, the Court's 3rd Division ruled that

the company had a just cause to dismiss the affected union members as they committed illegal acts during the strike. In the illegal dismissal case, on the other hand, the Court's 2nd Division took into consideration the 3rd Division's ruling in the illegal strike case which, it noted, had already become final and executory. Accordingly, the 2nd Division denied PILA's petition seeking (1) the reinstatement of the striking employees; and (2) the reversal of the decision of the CA 17th Division in CA-G.R. No. 83569 declaring the dismissal of the concerned employees valid.

PILA, for its part, argued that the procedural issue had already been passed upon by the CA in its decision of December 9, 2011 and PHIMCO had not presented any fresh argument to warrant a reconsideration. On the merits of the case, PILA maintained that since the reinstatement order of the CA Special 12th Division had become final and executory long before this Court's decision in G.R. No. 170830 and its resolution in G.R. No. 192875 were rendered, the rulings of the Court should not have affected the dismissed employees.

The CA Amended Decision

Through its amended decision of August 30, 2012^[17] (on further reconsideration), the CA granted PHIMCO's motion for reconsideration, although it reaffirmed its finding that the NLRC committed no grave abuse of discretion in issuing its assailed resolutions of June 30, 2009 and July 21, 2010 as they were rendered in line with the ruling of the CA Special 12th Division in CA-G.R. SP No. 57988.

Invoking this Court's ruling in ***David v. CA***,^[18] the CA held that while the judgment in CA-G.R. SP No. 57988 (sought to be enforced by the challenged NLRC resolutions) had attained finality, there were facts and/or events which transpired after the judgment was issued, which presented a supervening cause that rendered the final and executory decision no longer enforceable. **The "supervening cause" CA had in mind referred principally to this Court's (3rd Division) ruling in the illegal strike case (G.R. No. 170830) promulgated on August 11, 2010 that PILA's members were validly dismissed as they committed unlawful acts during the strike.** It also cited the Court's (2nd Division) resolution in the illegal dismissal case (G.R. No. 192875) issued on January 19, 2011 recognizing that the Court's decision in the illegal strike case had already become final and executory. The Court, in effect, **denied PILA's prayer in G.R. No. 192875 to have the dismissed union members who participated in the strike reinstated, thereby acknowledging that they had been validly dismissed.**

The CA took note that PHIMCO was able to identify the union members who participated and committed illegal acts (illegally blocking ingress to and egress from the company premises during the strike) through the affidavits of company employees and its personnel manager, as well as through photographs of the strike scene, as stated in the Court's decision in the illegal strike case.^[19] **The identified union members included Libongcogon, Villareal and Claudio, the remaining employees who were contesting their dismissal.**

By amending its decision dated December 9, 2011, reversed the assailed NLRC resolutions in so far as they pertain to the reinstatement or payment of accrued wages, 13th month pay and service incentive leave pay of Libongcogon, Villareal and