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SECOND DIVISION

[G.R. No. 200653, June 13, 2012]

3RD ALERT SECURITY AND DETECTIVE SERVICES, INC., PETITIONER, VS. CARPIO, (CHAIRPERSON), BRION, PEREZ, SERENO, AND REYES, JJ. ROMUALDO NAVIA, RESPONDENT.

R E S O L U T I O N

BRION, J.:

This is a petition for review on *certiorari*[1] under Rule 45 of the Rules of Court, assailing the decision[2] dated September 30, 2011 and the resolution[3] dated February 15, 2012 of the Court of Appeals *(CA)* in CA-G.R. SP No. 117361, which dismissed the petition filed by 3rd Alert Security and Detective Services, Inc. (*3rd Alert*).

The Antecedent Facts

This case started from an illegal dismissal complaint filed by Romualdo Navia against 3rd Alert.

On November 30, 2005, the labor arbiter issued a decision that Navia's dismissal was illegal. 3rd Alert appealed to the National Labor Relations Commission *(NLRC)* which affirmed the ruling of the labor arbiter. 3rd Alert's motion for reconsideration of the NLRC decision was denied in a resolution dated October 19, 2008.

From this ruling, 3rd Alert filed an appeal with the CA (docketed as CA-G.R. SP No. 106963) with a prayer for the issuance of a temporary restraining order. The CA denied the appeal; 3rd Alert moved for a motion for reconsideration but the motion was also denied.

The writ of execution *(CA-G.R. SP No. 117361)*

In the meantime, on January 29, 2009, the NLRC issued an Entry of Judgment certifying that the NLRC resolution dated October 19, 2008 has become final and executory. Thus, Navia filed with the labor arbiter an *ex-parte* motion for recomputation of back wages and an *ex-parte* motion for execution based on the recomputed back wages.

On November 10, 2009, the labor arbiter issued a writ of execution to enforce the recomputed monetary awards.

3rd Alert appealed the recomputed amount stated in the writ of execution to the NLRC. 3rd Alert also alleged that the writ was issued with grave abuse of discretion since there was already a notice of reinstatement sent to Navia.

The NLRC dismissed the appeal, ruling that 3rd Alert is ***guilty of bad faith*** since there was no earnest effort to reinstate Navia. The NLRC also ruled that there was no notice or reinstatement sent to Navia's counsel. A motion for reconsideration was filed, but it was likewise denied.

3rd Alert filed a petition for *certiorari* with the CA which found the petition without merit because Navia had not been reinstated either physically or in the payroll. The CA also denied the motion for reconsideration filed by 3rd Alert; hence, this petition.

The Issue

In this petition, we resolve the issue of whether the CA erred in ruling that the NLRC did not commit any grave abuse of discretion.

The Ruling

We do not see any grave abuse of discretion after a close examination of the petition and the attached records where 3rd Alert insists that a copy of the manifestation on reinstatement had been sent to Navia's counsel and was received by a certain "Biznar."

Time and again, we have held that this Court is not a trier of facts.[4] In the absence of any attendant grave abuse of discretion, these findings are entitled not only to respect, but to our final recognition in this appellate review. Since it was ruled that there had been no notice of reinstatement sent to Navia or his counsel, as also affirmed by the CA, we cannot rule otherwise in the absence of any compelling evidence.

Article 223 of the Labor Code provides that in case there is an order of reinstatement, the employer must admit the dismissed employee under the same terms and conditions, or merely reinstate the employee in the payroll. The order shall be immediately executory. Thus, 3rd Alert cannot escape liability by simply invoking that Navia did not report for work. The law states that the employer must still reinstate the employee in the payroll. Where reinstatement is no longer viable as an option, separation pay equivalent to one (1) month salary for every year of service could be awarded as an alternative.[5]

Since the proceedings below indicate that 3rd Alert failed to adduce additional evidence to show that it tried to reinstate Navia, either physically or in the payroll, we adopt as correct the finding that there was no earnest effort to reinstate Navia. The CA was correct in affirming the judgment of the NLRC in this regard.

We also take note that 3rd Alert resorted to legal tactics to frustrate the execution of the labor arbiter's order; for about four (4) years, it evaded the obligation to reinstate Navia. By so doing, 3rd Alert has made a mockery of justice. We thus find it proper, under the circumstances, to impose treble costs against 3rd Alert for its utter disregard to comply with the writ of execution. To reiterate, no indication exists showing that 3rd Alert exerted any efforts to reinstate Navia; worse, 3rd