

SECOND DIVISION

[G.R. NO. 164856, August 29, 2007]

**JUANITO A. GARCIA AND ALBERTO J. DUMAGO, PETITIONERS,
VS. PHILIPPINE AIRLINES, INC., RESPONDENT.**

DECISION

QUISUMBING, J.:

This petition for review assails both the Decision^[1] dated December 5, 2003 and the Resolution^[2] dated April 16, 2004 of the Court of Appeals in CA-G.R. SP No. 69540, which had annulled the Resolutions^[3] dated November 26, 2001 and January 28, 2002 of the National Labor Relations Commission (NLRC) in NLRC Injunction Case No. 0001038-01, and also denied the motion for reconsideration, respectively.

The antecedent facts of the case are as follows:

Petitioners Alberto J. Dumago and Juanito A. Garcia were employed by respondent Philippine Airlines, Inc. (PAL) as Aircraft Furnishers Master "C" and Aircraft Inspector, respectively. They were assigned in the PAL Technical Center.

On July 24, 1995, a combined team of the PAL Security and National Bureau of Investigation (NBI) Narcotics Operatives raided the Toolroom Section - Plant Equipment Maintenance Division (PEMD) of the PAL Technical Center. They found petitioners, with four others, near the said section at that time. When the PAL Security searched the section, they found shabu paraphernalia inside the company-issued locker of Ronaldo Broas who was also within the vicinity. The six employees were later brought to the NBI for booking and proper investigation.

On July 26, 1995, a Notice of Administrative Charge^[4] was served on petitioners. They were allegedly "caught in the act of sniffing shabu inside the Toolroom Section," then placed under preventive suspension and required to submit their written explanation within ten days from receipt of the notice.

Petitioners vehemently denied the allegations and challenged PAL to show proof that they were indeed "caught in the act of sniffing shabu." Dumago claimed that he was in the Toolroom Section to request for an allen wrench to fix the needles of the sewing and zigzagger machines. Garcia averred he was in the Toolroom Section to inquire where he could take the Trackster's tire for vulcanizing.

On October 9, 1995, petitioners were dismissed for violation of Chapter II, Section 6, Article 46 (Violation of Law/Government Regulations) and Chapter II, Section 6, Article 48 (Prohibited Drugs) of the PAL Code of Discipline.^[5] Both simultaneously filed a case for illegal dismissal and damages.

In the meantime, the Securities and Exchange Commission (SEC) placed PAL under an Interim Rehabilitation Receiver due to severe financial losses.

On January 11, 1999, the Labor Arbiter rendered a decision^[6] in petitioners' favor:

WHEREFORE, conformably with the foregoing, judgment is hereby rendered finding the respondents guilty of illegal suspension and illegal dismissal and ordering them to reinstate complainants to their former position without loss of seniority rights and other privileges. Respondents are hereby further ordered to pay jointly and severally unto the complainants the following:

Alberto J. Dumago - P409,500.00 backwages as of 1/10/99
34,125.00 for 13th month pay

Juanito A. Garcia - P1,290,744.00 backwages as of 1/10/99
107,562.00 for 13th month pay

The amounts of P100,000.00 and P50,000.00 to each complainant as and by way of moral and exemplary damages; and

The sum equivalent to ten percent (10%) of the total award as and for attorneys fees.

Respondents are directed to immediately comply with the reinstatement aspect of this Decision. However, in the event that reinstatement is no longer feasible, respondent[s] are hereby ordered, in lieu thereof, to pay unto the complainants their separation pay computed at one month for [e]very year of service.

SO ORDERED.^[7]

Meanwhile, the SEC replaced the Interim Rehabilitation Receiver with a Permanent Rehabilitation Receiver.

On appeal, the NLRC reversed the Labor Arbiter's decision and dismissed the case for lack of merit.^[8] Reconsideration having been denied, an Entry of Judgment^[9] was issued on July 13, 2000.

On October 5, 2000, the Labor Arbiter issued a Writ of Execution^[10] commanding the sheriff to proceed:

x x x x

1. To the Office of respondent PAL Building I, Legaspi St., Legaspi Village, Makati City or to any of its Offices in the Philippines and cause reinstatement of complainants to their former position and to cause the collection of the amount of [P]549,309.60 from respondent PAL representing the backwages of said complainants on the reinstatement aspect;

2. In case you cannot collect from respondent PAL for any reason, you shall levy on the office equipment and other movables and garnish its deposits with any bank in the Philippines, subject to the limitation that equivalent amount of such levied movables and/or the amount garnished in your own judgment, shall be equivalent to [P]549,309.60. If still insufficient, levy against immovable properties of PAL not otherwise exempt from execution.

x x x x^[11]

Although PAL filed an Urgent Motion to Quash Writ of Execution, the Labor Arbiter issued a Notice of Garnishment^[12] addressed to the President/Manager of the Allied Bank Head Office in Makati City for the amount of P549,309.60.

PAL moved to lift the Notice of Garnishment while petitioners moved for the release of the garnished amount. PAL opposed petitioners' motion. It also filed an Urgent Petition for Injunction which the NLRC resolved as follows:

WHEREFORE, premises considered, the Petition is partially GRANTED. Accordingly, the Writ of Execution dated October 5, 2000 and related [N]otice of Garnishment [dated October 25, 2000] are DECLARED valid. However, the instant action is SUSPENDED and REFERRED to the Receiver of Petitioner PAL for appropriate action.

SO ORDERED.^[13]

PAL appealed to the Court of Appeals on the grounds that: (1) by declaring the writ of execution and the notice of garnishment valid, the NLRC gave petitioners undue advantage and preference over PAL's other creditors and hampered the task of the Permanent Rehabilitation Receiver; and (2) there was no longer any legal or factual basis to reinstate petitioners as a result of the reversal by the NLRC of the Labor Arbiter's decision.

The appellate court ruled that the Labor Arbiter issued the writ of execution and the notice of garnishment without jurisdiction. Hence, the NLRC erred in upholding its validity. Since PAL was under receivership, it could not have possibly reinstated petitioners due to retrenchment and cash-flow constraints. The appellate court declared that a stay of execution may be warranted by the fact that PAL was under rehabilitation receivership. The dispositive portion of the decision reads:

WHEREFORE, premises considered and in view of the foregoing, the instant petition is hereby **GIVEN DUE COURSE**. The assailed November 26, 2001 Resolution, as well as the January 28, 2002 Resolution of public respondent National Labor Relations Commission is hereby **ANNULLED** and **SET ASIDE** for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction. Consequently, the Writ of Execution and the Notice of Garnishment issued by the Labor Arbiter are hereby likewise **ANNULLED** and **SET ASIDE**.

SO ORDERED.^[14]

Hence, the instant petition raising a single issue as follows: