

FIRST DIVISION

[G.R. NO. 157696-97, February 09, 2006]

MARICALUM MINING CORPORATION, PETITIONER, VS. HON. ARTURO D. BRION IN HIS OFFICIAL CAPACITY AS ACTING SECRETARY OF LABOR AND EMPLOYMENT AND THE NATIONAL MINES AND ALLIED WORKERS UNION (NAMAWU LOCAL 103), RESPONDENTS.

DECISION

CHICO-NAZARIO, J.:

This petition for review on *certiorari* under Rule 45 of the Rules of Court seeks to set aside the Decision^[1] dated 24 January 2002 of the Court of Appeals in CA-G.R. SP No. 65351 and No. 65458 entitled, "*Carlos G. Nerja, Jr., et al. v. Hon. Arturo D. Brion, et al.*" and "*Maricalum Mining Corporation v. Hon. Arturo D. Brion, et al.*," respectively, and the Resolution dated 18 March 2003 denying petitioner's motion for reconsideration.

Petitioner Maricalum Mining Corporation (MMC) is a domestic corporation engaged in mining business and operation, while private respondent National Mines and Allied Workers Union Local 103 (NAMAWU) is the exclusive bargaining agent of the rank and file employees of petitioner.

On 29 January 1996, NAMAWU submitted its Collective Bargaining Agreement (CBA) proposals to petitioner. Due to petitioner's inaction to the proposals submitted by NAMAWU, the latter filed on 19 March 1996, its first Notice of Strike with the National Conciliation and Mediation Board (NCMB), Bacolod City, for refusal to bargain and Unfair Labor Practice.

Eventually, petitioner presented its counter-proposals and started the CBA negotiations. While the negotiations were going on, petitioner dismissed some workers effective 06 May 1996.

On 23 August 1996, NAMAWU filed a second Notice of Strike for Unfair Labor Practice against petitioner.

On 05 September 1996, while the NCMB Bacolod City was conducting conciliation meetings, petitioner issued Notices of Temporary Lay-off to its selected rank and file employees effective 07 October 1996.

After the NCMB failed to conciliate the labor dispute between NAMAWU and petitioner, then Department of Labor and Employment (DOLE) Secretary Leonardo Quisumbing,^[2] on 03 October 1996, assumed jurisdiction over the case docketed as OS-AJ-10-96-014 (NCMB-RB6-08-06-96).

Meanwhile, Pedro M. Abuana, Jr., an adversely affected employee of petitioner during the retrenchment effected on 07 October 1996, filed, in his own behalf, an illegal dismissal case against the petitioner before the Regional Arbitration Branch No. VI, National Labor Relations Commission (NLRC) docketed as RAB Case No. 06-12-10636-96 (Abuana case). The Labor Arbiter ruled that the dismissal of Abuana was legal and valid.^[3] On appeal, the NLRC affirmed the ruling of the Labor Arbiter, which decision became final and executory.^[4]

In an order dated 30 July 1997 (Quisumbing order), Secretary Quisumbing resolved the labor dispute in favor of NAMAWU: (1) directing the reinstatement with backwages of the workers laid-off in May and October 1996; (2) finding petitioner guilty of illegal dismissal and unfair labor practice; (3) directing the parties to enter into a collective bargaining agreement incorporating all the terms and conditions of the previous bargaining agreement; and (4) providing for across-the-board increase of all rank-and-file workers. The dispositive portion reads:

WHEREFORE, judgment is hereby rendered:

1. Declaring that lay-offs implemented on May 7, 1996 and October 7, 1996 as illegal;
2. Ordering that all workers, whether union members or not, who were laid-off on May 7, 1996 and October 7, 1996 be immediately reinstated without gap in service, loss of seniority, and that their full backwages and benefits from the time of termination until actual reinstatement be paid;
3. Declaring the Company to have violated the Labor Code provisions on Unfair Labor Practice for negotiating in bad faith and later refusing to negotiate; and
4. Ordering the parties to enter into a new collective bargaining agreement incorporating all the terms and conditions of the previous collective bargaining agreement between the Company and the NFL, except the name of the exclusive bargaining agent, and providing for an annual across-the-board increase in the daily wage of all rank and file workers in the amount of P60.00 per day from February, 1995 until January, 1998 and another P50.00 increase annually effective February 1, 1998 until January 31, 2000.

Petitioner filed a motion for reconsideration which was granted by succeeding DOLE Secretary Cresenciano Trajano in an order dated 17 April 1998 (Trajano order). The Trajano order modified the Quisumbing order as follows: (1) setting aside the finding of illegal dismissal and unfair labor practice and remanding these issues to the arbitration level of the NLRC for a hearing on the merits; and (2) deleting the award of backwages for the workers to be reinstated. The pertinent portions of the Trajano order state:

This Office finds that there are no new matters/evidence in the Motion for Reconsideration which would warrant a reversal of Our decision on wage issue.

We however find it necessary, in the interest of justice and fairness, to reconsider Our finding of Unfair Labor Practice which could ultimately subject the Company and its officers to criminal prosecution.

x x x x

This being the case, it is a matter of necessity that a full-blown hearing be conducted on the issue of unfair labor practice. Indeed, Art. 247 of the Labor Code, as amended, mandates that a hearing should be conducted in the resolution of an unfair labor practice.

Pending resolution of the issue of unfair labor practice and illegal termination, the Company is directed to physically reinstate all workers, whether union members or not who were laid-off on May 7, 1996 and October 7, 1996.

WHEREFORE, except as above modified, Our Order dated 30 July 1997 is hereby AFFIRMED.

The Executive Labor Arbiter, Regional Arbitration Branch No. VI, National Labor Relations Commission, is hereby deputized as Hearing Officer and is directed to conduct hearing/s and receive evidence as expeditiously as possible on the issues of unfair labor practice and terminations effected by the Company on May 7, 1996 and October 7, 1996, and to submit his Report and Recommendation to this Office within ten (10) days from termination of the hearing.

Meanwhile, as earlier mentioned, on 30 April 1998, the Labor Arbiter handling RAB Case No. 06-12-10636-96 which was filed by Abuana ruled that the retrenchment effected by MMC on 07 May 1996 and 07 October 1996 were valid and legal.^[5]

Dissatisfied by the Quisumbing and Trajano orders, petitioner MMC filed a petition for *certiorari* before this Court docketed as G.R. No. 133519 entitled, "*Maricalum Mining Corporation v. Hon. Cresenciano B. Trajano, et al.*" In a resolution dated 06 July 1998 (Resolution), this Court dismissed the petition on the ground that the then Secretary of DOLE Quisumbing did not commit grave abuse of discretion in issuing his order dated 30 July 1997.

Petitioner moved for a reconsideration of the Resolution.

On 11 September 1998, NAMAWU filed a Motion for Partial Execution with the DOLE which was not acted upon due to the pendency of petitioner's motion for reconsideration.

During the pendency of petitioner's motion for reconsideration, the decision in *St. Martin's Funeral Homes v. National Labor Relations Commission*^[6] was promulgated. Following the ruling in said case, petitioner's motion for reconsideration of our resolution dated 06 July 1998 was remanded to the Court of Appeals for proper disposition.

On 14 June 1999, the appellate court denied petitioner's motion for reconsideration.

Still undaunted, petitioner brought the case anew to this Court *via* petition for review on *certiorari*, docketed as G.R. No. 138996 entitled, "*Maricalum Mining Corporation v. Hon Cresenciano B. Trajano, in his capacity as the Secretary of the*

DOLE and NAMAWU Local 103," which was, however, denied with finality in a resolution dated 26 January 2000.

On 10 February 2000, NAMAWU filed an *Ex-Parte* Manifestation and Second Motion for Execution with the Secretary of DOLE. The motion also sought assistance from the Bureau of Working Conditions (BWC) in the computation of the awards/benefits due NAMAWU's members under the Quisumbing order.

On 25 July 2000, the BWC submitted to the DOLE its findings and observation, coming up with a computation in the aggregate amount of One Hundred Fifty-Nine Million, Fifty-Four Thousand Nine Hundred Seventy-One and 30/100 (P159,054,971.30) Pesos for loss of time, benefits, rice subsidy, health insurance bonus and backwages of union members who were illegally dismissed.

Petitioner filed a comment to the BWC findings on 08 September 2000, stating that the BWC computation was erroneous for the following reasons: (1) there is no legal basis for the computation of backwages because the Trajano order deleted the award of backwages made in the Quisumbing order; (2) the entitlement to backwages of the employees retrenched in May and October 1996 would be dependent on the resolution of the cases for illegal dismissal and unfair labor practice; and (3) the wage increase awarded by the Secretary cannot be availed of by the other employees who were not retrenched in May and October 1996.

On 18 November 2000, 149 employees of petitioner who claimed were part of the 215 members of NAMAWU filed a Motion for Intervention With Prior Leave before the Office of the Secretary of DOLE.^[7]

In an order^[8] dated 09 May 2001, DOLE Acting Secretary Arturo D. Brion granted NAMAWU's motion for execution, approved BWC's computation of the benefits due to the laid-off employees and denied the motion for intervention, thus:

WHEREFORE, premises considered, judgment is hereby rendered:

1. Ordering respondent MMC to immediately reinstate all workers whether union member or not, who were laid-off on May 7, 1997 and October 7, 1996 without gap in service, loss of seniority, and that their full backwages and benefits from the time of termination until actual reinstatement be paid;
2. Approving the computation of BWC consisting of 23 pages based on the Order of July 30, 1997 submitted on this office on July 25, 2000 through Director Danilo S. Lorredo and made integral part thereof;
3. Denying intervenor's motion for intervention; and
4. Ordering the Bureau of Working Condition to compute the remaining amount of the award due to complainants as per order of the Secretary of Labor dated July 30, 1997 starting October 1, 1999 until January 31, 2000.

Let a partial writ of execution be issued directing the Sheriff, Regional Office No. VI, Department of Labor and Employment, Bacolod City to proceed to the premises of Mariculum Mining Corporation to execute the Order dated July 30, 1997 affirmed by the Court of Appeals and the Supreme Court in the resolutions dated June 14, 1999 and July 6, 1998,

respectively, and collect the aggregate amount of P159,054,971.30 whose breakdown is specified in the partial writ of execution.

Petitioner filed a motion for reconsideration. On 11 May 2001, then DOLE Acting Secretary Brion issued a Partial Writ of Execution,^[9] directing to proceed to the MMC premises for the execution of the same. In an order dated 06 June 2001, Acting Secretary Brion denied petitioner's motion for reconsideration.

With the denial of petitioner's motion, Carlos G. Nerja, Jr. and Eugenio D. Caras, who claimed to represent the 342 employees of petitioner at that time and who allegedly stand to be adversely affected by the enforcement of the Partial Writ of Execution, filed a petition for *certiorari* before the Court of Appeals docketed as CA-G.R. SP No. 65351.

Petitioner also filed a petition for *certiorari* before the Court of Appeals which was docketed as CA-G.R. SP No. 65458.

NAMAWU filed a motion for consolidation of the two petitions which was granted by the appellate court in its order dated 12 November 2001.

The Court of Appeals dispose of the two petitions by dismissing them in a Decision dated 24 January 2002.

Motions for reconsiderations were filed, which the Court of Appeals denied in an order dated 18 March 2003.

Carlos G. Nerja, Jr. and Eugenio D. Caras filed a petition for review before this Court which was dismissed on 09 June 2003.

On 11 April 2003, petitioner filed the instant petition for review on *certiorari*.

In its Memorandum, petitioner raises the following issues:

I

WHETHER THE COURT OF APPEALS ERRED IN NOT RULING THAT THE TRAJANO ORDER MODIFIED THE QUISUMBING ORDER AND THUS, PUBLIC RESPONDENT GRAVELY ABUSED HIS DISCRETION IN ORDERING AND ISSUING A WRIT OF EXECUTION BASED ON THE QUISUMBING ORDER.

II

WHETHER THE COURT OF APPEALS ERRED IN NOT RULING THAT PUBLIC RESPONDENT ACTED WHIMSICALLY AND CAPRICIOUSLY IN APPROVING THE COMPUTATION OF THE BUREAU OF WORKING CONDITIONS (BWC) WITHOUT GIVING ANY CONSIDERATION TO THE SUPERVENING EVENTS THAT RENDER THE ENFORCEMENT OF THE BWC COMPUTATION UNREASONABLE AND UNJUST.

III