

## SECOND DIVISION

[ G.R. No. 124711, November 03, 1998 ]

**MARICALUM MINING CORP., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (NLRC), SIPALAY MINE FREE LABOR UNION AND CECILIO T. SALUDAR, RESPONDENTS.**

### D E C I S I O N

**PUNO, J.:**

Before us is a special civil action on certiorari under Rule 65 of the Rules of Court to set aside the decision of the National Labor Relations Commission (NLRC) **ordering Maricalum Mining Corporation**<sup>[1]</sup> to reinstate Cecilio Saludar to his former job or substantially equivalent position with three (3) years backwages without qualification and deduction, or to pay the sum of P52,010.55.

The records show that on August 17, 1984 a decision was rendered by Labor Arbiter Ethelwoldo Ovejera in RAB Case No. 06-0610-83 entitled **Sipalay Mine Free Labor Union and Cecilio T. Saludar v. Marinduque Mining and Industrial Corporation** which ordered the reinstatement of illegally dismissed equipment operator Cecilio Saludar. The decision was not executed as all the assets of Marinduque had been foreclosed by the Philippine National Bank (PNB) and the Development Bank of the Philippines (DBP). These assets were subsequently acquired by petitioner Maricalum while Marinduque had ceased its operations.

Eight years later, Saludar moved for the issuance of a writ of execution against Maricalum. On April 14, 1993, Executive Labor Arbiter Oscar Uy granted the motion. Maricalum appealed to the NLRC contending that it is a different entity from Marinduque which was the only party to the original action. In its May 19, 1994 decision, the NLRC ruled:

"(t)he records will show that Maricalum not only voluntarily recognized and absorbed the services rendered by the workers under the previous management of Marinduque Mining and Industrial Corporation, but it also assumed the obligation of Marinduque to its employees.

"Besides, this issue was already settled in the earlier and similar case of Maricalum Mining and Industrial Corporation v. Xerxes Mission, NLRC Case No. V-0233-91, where we stated:

"Likewise, we note from the records that in the Deed of Transfer from the PNB and DBP of the assets of Marinduque, Maricalum shall assume liabilities due or owing to any other person.

"Section 3, subsection 3.01 of the said deed states:

"1. From and after the effectivity date, Maricalum shall be solely liable (I) x x x; (II) for any other liability due or owing to any other person (natural or corporate).

"The Deed of Transfer was made retroactive to October 1984, when Maricalum was duly incorporated. Therefore, under the above general stipulation there can be no doubt that the awards adjudicated in favor of Leonardo Munion and Julian Montilla in the NLRC decision of January 29, 1987 come within the purview of the liabilities contemplated in the aforesaid provision and is enforceable against Maricalum. We find no merit in its contention that it assumed only the assets, and not the liabilities of Marinduque specially in the light of its having voluntarily recognized and absorbed the services of the workers under the previous management of Marinduque Mining and Industrial Corporation. It undertook to rehire the workers of Marinduque or to pay those who cannot be rehired their corresponding benefits pursuant to the applicable law or CBA. It is clearly pointless for Maricalum to insist that it is not a successor-in-interest of Marinduque Mining and Industrial Corporation, at least in relation to the tenural rights of the latter's employees and the satisfaction of the judgment under execution."

Nonetheless, the NLRC held that since more than five (5) years have elapsed the judgment could be enforced against Maricalum, not by mere motion but by an action for revival of judgment.

On September 2, 1994, Saludar filed an Action for Revival of Judgment before the NLRC Regional Arbitration Branch (Bacolod City).<sup>[2]</sup> Maricalum again moved to dismiss alleging that: (1) the complaint was not accompanied by a certificate of non-forum shopping; (2) that the action was cognizable only by regular courts; and (3) that it was not a party to the original case.

On December 14, 1994, Saludar filed an Opposition to the Motion to Dismiss, attaching therewith an Affidavit of Compliance with Supreme Court Circular 04-94 on non-forum shopping. On December 21, 1994, Labor Arbiter Oscar Uy denied Maricalum's Motion to Dismiss and directed the parties to submit their position papers. On April 18, 1995, Labor Arbiter Oscar Uy ruled<sup>[3]</sup> in favor of Saludar. He held that the certification of non-forum shopping does not apply to cases falling within the original and exclusive jurisdiction of the NLRC and labor arbiters because the NLRC is not a court but an agency performing quasi-judicial functions. He also sustained the jurisdiction of the labor arbiter over action to revive judgment involving illegal dismissal. The dispositive portion of the Decision states:

"Wherefore, premises considered, judgment is hereby rendered ordering **MARICALUM MINING CORPORATION** to reinstate complainant CECILIO T. SALUDAR to his former job or substantially equivalent position with three (3) years backwages without qualification and deduction, or the sum of FIFTY TWO THOUSAND TEN and 55/100 PESOS (P52,010.55)." (Emphasis supplied.)

On May 25, 1995, Maricalum appealed the decision of Labor Arbiter Uy.<sup>[4]</sup> On October 27, 1995, the NLRC affirmed this decision. It held:

"Aside from the fact that its liability as a successor entity has already been settled in our decision on May 19, 1994, which is already final and executory, the necessity of a hearing to implead Maricalum Mining Corporation in order to enforce and satisfy an award decreed by the NLRC had already been ruled by the High Court in this wise:[5]

"`Being an incident in the execution of the final judgment award, NLRC retained jurisdiction and control over the case and could issue such orders, as were necessary for the implementation of that award. It is true that DBP was not an original party and that it was ordered impleaded only after the Writs of Execution were not satisfied because the properties levied upon on execution had been foreclosed extrajudicially by it, DBP had to be impleaded, however, for the proper satisfaction of a final judgment. Being an incident in the execution of the final judgment award, NLRC retained jurisdiction and control over the case and could issue such orders as were necessary for the implementation of the award. Its inclusion as a party could not have been accomplished at the earlier stages of the proceedings because at the time of the filing of the complaint, private respondent's cause of action was only against Lirag.'

"In the light of the foregoing, the assertion of respondent Maricalum Mining Corporation that impleading it at this stage of the proceedings infringes upon its constitutional right to due process loses its worth. Especially where as ruled earlier by this Commission, Maricalum Mining Corporation "not only voluntarily recognized and absorbed the service rendered by the workers under the previous management of Marinduque Mining and Industrial Corporation, but it also assumed the obligations of Marinduque to its employees, Maricalum Mining Corporation did not even ask for a reconsideration of the above ruling.

"Lastly, we are not persuaded by respondent's version that the present action had already prescribed. It is undisputed that the original decision dated August 17, 1984 became final and executory on September 14, 1984 and when the complaint subject hereof was instituted on September 2, 1994, it has not yet prescribed.[6]

Hence, this petition with the following issues for resolution:

- "1. Whether or not Supreme Court Circular No. 04-94 is mandatory and should apply to NLRC.
- "2. Whether or not Saludar's complaint for revival of judgment is fatally defective and null and void, hence did not stop the running of the prescriptive period.
- "3. Whether or not complainant Saludar has cause of action against petitioner in an action for revival of judgment directed against another entity, Marinduque Mining and Industrial Corporation (MMIC).
- "4. Whether or not the NLRC-Bacolod has jurisdiction over an action for revival of