

SECOND DIVISION

[CA-G.R. SP No. 133072, December 12, 2014]

SOLID HOMES, INC., PETITIONER, VS. THE NATIONAL LABOR RELATIONS COMMISSION (THIRD DIVISION), HON. MADJAYRAN H. AJAN, IN HIS CAPACITY AS LABOR ARBITER OF THE NATIONAL LABOR RELATIONS COMMISSION AND SOLID HOMES, INC. EMPLOYEES UNION CHAPTER, ET AL., RESPONDENTS.

DECISION

GARCIA, R.R., J.:

Before Us is a Petition for Certiorari^[1] under Rule 65 of the Rules of Court assailing the Resolution^[2] dated September 24, 2013 of public respondent National Labor Relations Commission (NLRC), Third Division, which dismissed herein petitioner's petition for extraordinary remedy under the NLRC Rules of Procedure; and the Resolution^[3] dated October 30, 2013 denying the motion for reconsideration thereof.

THE FACTS

The antecedents show that on April 4, 2004, the Labor Arbiter rendered a Decision reviving an earlier Decision dated May 9, 1989 which ordered petitioner Solid Homes, Inc. to reinstate private respondents Solid Homes Inc. Employees Union Chapter, et al. and to pay the latter backwages from May 23, 1988 until reinstatement. On June 7, 2004, the Labor Arbiter issued a writ of execution to implement the order of reinstatement of private respondents and the payment of backwages amounting to P27,830,048.10. On July 20, 2004, petitioner filed a *Very Urgent Motion to Quash Writ of Execution with Motion for Earlier Resolution of the Motion for Recomputation of Backwages*. The motion was denied by the Labor Arbiter in an Order dated April 7, 2005.^[4]

On May 25, 2005, petitioner filed a Petition for Certiorari before this Court assailing the Decision dated April 4, 2004 and the Order dated April 7, 2005 of the Labor Arbiter. This was docketed as CA-G.R. SP No. 89888. In a Decision dated October 20, 2006, this Court affirmed the Labor Arbiter's decision but with modification in that the amount of backwages shall be for one year plus accrued reinstatement wages reckoned from May 9, 1989. The motion for reconsideration filed by petitioner was denied in a Resolution dated January 10, 2007.^[5]

This was appealed by petitioner to the Supreme Court via a petition for review on certiorari docketed as G.R. No. 176192. In a Resolution dated February 12, 2007, the Supreme Court denied the petition. In another Resolution dated June 18, 2007, petitioner's motion for reconsideration was denied with finality and the

corresponding entry of judgment was issued by the Supreme Court on September 5, 2007.^[6]

Thereafter, on October 22, 2007, private respondents filed a *Motion to Re-compute the Amount of Backwages and Accrued Reinstatement Wages*. Several pre-execution conferences were held to give the parties opportunities for possible amicable settlement as to the payment of the monetary award. On December 13, 2007, the parties agreed to submit the case for a re-computation of the monetary award. However, with the failure of petitioner to appear during the subsequent hearings, private respondents filed an *Urgent Ex-Parte Reiteration of the Writ of Execution*.^[7]

On June 15, 2009, a sheriff's return was submitted to the Labor Arbiter in relation to the levy/attachment of petitioner's real property. The report further stated that the writ of execution had expired unsatisfied. On June 17, 2009, private respondents filed an *Urgent Ex-Parte Motion for a 3rd Alias Writ of Execution*. Thereafter, the NLRC Sheriff issued a report stating that an amount of P20,000.00 had been garnished in favor of private respondents in partial satisfaction of the monetary award. The report also stated that private respondents have not been reinstated. On April 4, 2011, private respondents filed another *Motion for the Issuance of 4th Alias Writ of Execution*. On May 8, 2012, the Labor Arbiter issued the corresponding alias writ of execution which included reinstatement wages computed up to January 2008. Upon the service of the writ, only the amount of P24,524.88 was garnished and thereafter released to private respondents, thus leaving a balance of P40,215,320.52.^[8]

With the failure to enforce the judgment within the period of five (5) years from the Entry of Judgment dated September 5, 2007, a second *Petition for Revival of Judgment*^[9] was filed before the Arbitration Branch of the NLRC by herein private respondents. On December 19, 2012, the Labor Arbiter rendered a Decision^[10] which granted the revival of judgment and the recomputation of the monetary award with updated accrued reinstatement wages. In the computation of reinstatement wages, the Labor Arbiter noted that petitioner failed to reinstate private respondents and to effect payment of the latter's accrued reinstatement wages despite the service of a total of five (5) writs of execution. However, due to the long passage of time, reinstatement is no longer feasible, hence, it becomes proper to award separation pay of one (1) month for every year of service in lieu of reinstatement. The dispositive portion of the Decision reads:

WHEREFORE, premises above considered, judgment is hereby rendered, finding this independent action sufficient in form and substance. The decision dated 14 April 2004 as modified by the decision of the Court of Appeals dated 20 October 2006 is hereby revived, and respondent Solid Homes, Inc. and/or Victorio V. Soliven are hereby directed to pay the Complainant Union members their backwages for one year plus accrued reinstatement wages xxx reckoned from 09 May 1989 until full payment shall have been effected.

In lieu of reinstatement as ordered in the judgment herein revived, aside from backwages and accrued reinstatement wages, respondent Solid Homes, Inc. and/or Victorio V. Soliven are hereby directed to pay the

Complainant Union members separation pay equivalent to one [1] month pay for every year of service, a fraction of six months shall be considered one whole year, and the same shall be computed up to the promulgation of this decision.

ACCORDINGLY, on the basis of total recomputed monetary award of SIXTY-ONE MILLION EIGHTY-TWO THOUSAND PESOS FIVE HUNDRED NINETY-FOUR PESOS AND TEN CENTAVOS [Php61,082,594.10] representing payment of separation pay and reinstatement wages for all twenty-seven [27] complainant union members, as of November 30, 2012, forming part hereof, let a writ of execution [should] be issued simultaneously for the immediate enforcement of the same.

SO ORDERED.^[11]

The corresponding *Writ of Execution*^[12] was issued by the Labor Arbiter on January 2, 2013. On January 10, 2013, petitioner filed an *Urgent Motion for Clarification of the Writ of Execution Dated January 02, 2013*^[13]. This was denied by the Labor Arbiter in an Order^[14] dated May 2, 2013, the dispositive portion of which reads:

WHEREFORE, premises above considered, the instant urgent motion for clarification, quashing or setting aside of the writ of execution dated January 2, 2013 filed by SHI is hereby DENIED for utterly lack of merit.

ACCORDINGLY, the subject Writ of Execution dated January 2, 2013 hereby STANDS undisturbed, valid and effective.

SO ORDERED.^[15]

Undeterred, petitioner filed before the NLRC a petition for extraordinary remedy^[16] under Section 1, Rule XII of the NLRC Rules of Procedure. Petitioner claimed that the Labor Arbiter committed grave abuse of discretion and serious error in granting the revival of judgment and the recomputation of the monetary award with updated accrued reinstatement wages amounting to a huge sum of P61,000,000.00 as of January 2, 2013.

In the assailed Resolution^[17] dated September 24, 2013, the NLRC dismissed petitioner's petition for extraordinary remedy ratiocinating that the Labor Arbiter did not commit grave abuse of discretion in granting the revival of judgment. The NLRC noted that the award being executed is the Decision dated October 20, 2006 of the Court of Appeals granting backwages for one (1) year plus accrued reinstatement wages reckoned from May 9, 1989 until full payment. Hence, in view of the long period of time of more than twenty-two (22) years that have elapsed, the monetary award should not come as a surprise to petitioner. Despite the issuance of a total of five (5) writs of execution, petitioner still refused to reinstate private respondents nor effect payment of their reinstatement wages. The NLRC also held that the Labor

Arbiter's Decision dated December 19, 2012 which granted the revival of judgment had already become final and executory for failure of petitioner to appeal the same within the reglementary period. The pertinent portions of the Resolution read:

After a careful review of the records, we find no grave abuse of discretion on the part of the Labor Arbiter. The award sought to be executed is based on the Court of Appeals' decision granting backwages for "one year plus accrued reinstatement wages xxx reckoned from May 9, 1989 *until full payment have been effected.*" It also includes the amount of separation pay granted in *lieu* of reinstatement since reinstatement is no longer feasible. The public respondent's order for the payment of separation pay in *lieu* of reinstatement is proper and equitable under the present circumstances. In view of the long period of time that elapsed (22 years of litigation), reinstatement can hardly serve the best interest of the parties herein. We note that the original decision in this case was rendered in May 1989. Despite the issuance of five (5) writs of execution, petitioner arrogantly refused to reinstate private respondents. Neither did it effect payment of the latter's accrued reinstatement wages as ordered by the Court of Appeals.

We cannot subscribe to petitioner's argument that the assailed Decision of the public respondent would result in the unjust enrichment of private respondents. The sum sought to be collected are legally due them under a final judgment. The increase in the computation of their awards cannot be taken against them as the same was solely brought about by petitioner's abject refusal to abide by the Court of Appeals decision which had become final and executory. As correctly held by the Labor Arbiter, petitioner only has itself to blame.

x x x

For failure of petitioner to file an appeal, the 19 December 2012 Decision of public respondent became final by operation of law. This being the case, we have no jurisdiction to alter said final judgment, not even under our present rules on Extraordinary Remedies.

x x x

WHEREFORE, premises considered, the Petition is **DISMISSED**. The Labor Arbiter is ordered to continue with the execution proceedings with dispatch taking into consideration in the computation (cut-off period) of accrued and separation pay at the time of death of some of the complainant union-members.

SO ORDERED.^[18]

Petitioner filed a motion for reconsideration but the same was denied in a