**SUPREME COURT**
**THIRD DIVISION**

**MANILA MIDTOWN HOTEL,**
***Petitioner*,**

***-versus-***

**G.R. No. 138305**
**September 22, 2004**

**VOLUNTARY ARBITRATOR DR. REY A. BORROMEO, THE MANILA MIDTOWN HOTEL EMPLOYEES LABOR UNION, RAFAEL QUILILAN, NINO VAMTA, LEO POTENCION, EDUARDO MUNOZ, JERRY SULA, EDGAR MAGDALUYO, RANDY TALENTO, RENEL MANALO, ROWENA CAO, JESUS VIRAY, RENATO MANAOIS, ANGELITA IGNACIO, CARLITO TALOSIG, AND THE SHERIFF OF THE DEPARTMENT OF LABOR AND EMPLOYMENT (DOLE),**
***Respondents*.**
**x----------x**

**D E C I S I O N**

**SANDOVAL-GUTIERREZ, *J.*:**

Before us is a Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision dated January 18, 1999[1] and Resolution dated April 19, 1999[2] of the Court of Appeals in CA-G.R. SP No. 48543, entitled "The Manila Midtown Hotel vs. Voluntary Arbitrator Dr. Rey A. Borromeo, The Manila Midtown Hotel Employees Labor Union, Rowena Cao, Jesus Viray, Renato Manaois, Angelita Ignacio, Et Al."

The controversy at bar arose from a complaint filed with the Office of the Voluntary Arbitrator, National Conciliation and Mediation Board (NCMB) by the Manila Midtown Hotel Employees Labor Union (MMHELU-NUWHRAIN), respondent union, against the Manila Midtown Hotel, petitioner, docketed as VA Case No. 026. The complainant prayed for the reinstatement of respondent union members concerned[3] or payment of their separation pay, plus their full backwages and other privileges and benefits, or their monetary equivalent, considering that they were illegally dismissed from the service.

Petitioner filed a motion to dismiss the complaint alleging that the Labor Arbiter, not the Office of the Voluntary Arbitrator, has jurisdiction over the case of illegal dismissal. Upon its denial, petitioner, on November 27, 1996, filed with the Court of Appeals a petition for certiorari, docketed as CA-G.R. SP No. 42591. On October, 27, 1997, the Appellate Court rendered a Decision dismissing the petition. From this decision, petitioner filed a motion for reconsideration which was denied. Petitioner then filed with this Court a petition for review on certiorari, docketed as G.R. No. 132757. In a Resolution dated May 5, 1998, we denied the same. Petitioner filed a motion for reconsideration but was denied with finality in a Resolution dated July 1, 1998. Subsequently or on August 17, 1998, the Resolution dated May 5, 1998, being final and executory, was recorded in the Book of Entries of Judgments.

Going back to VA Case No. 026, in due course, the Voluntary Arbitrator rendered a Decision[4] dated January 15, 1998 holding that respondent union members Rowena Cao, Angelita Ignacio, Jesus Viray and Renato Manaois were illegally dismissed from the service. The dispositive portion of the Decision reads:

> "WHEREFORE, premises considered, respondent is ordered to immediately reinstate the employees ROWENA CAO, ANGELITA IGNACIO, JESUS VIRAY and RENATO MANAOIS, to their former duties with back salaries and benefits due and to be due them, as computed in the preceding pages (with an over-all total), to award moral damages in the amount of P100,000.00 pesos each and actual damages in the amount of P20,000.00 pesos each and attorney's fees of P100,000.00 pesos, to pay the cost of the proceedings herein and sheriff's fees to be determined by the head sheriff during actual execution thereat.
>
> Further, Management is admonished to be more circumspect in the handling and dealing of its employees in the future where due process of law is mandatory. And that a stern warning is imposed (in future controversies) not to settle cases with employees short of the Voluntary Arbitrator Office and without its prior knowledge to avoid any complications that may arise thereat in his handling of the controversies brought before him.
>
> Unless the Honorable High Court will resolve that this Office has no jurisdiction to act on the matter, this resolution stands and is final and executory.
>
> SO ORDERED."

From the said Decision, petitioner Manila Midtown Hotel, on August 5, 1998, filed with the Court of Appeals a petition for certiorari with prayer for issuance of a temporary restraining order and/or writ of preliminary injunction, instead of an appeal via a petition for review.

Meantime, respondent union filed a motion for execution of the Voluntary Arbitrator's Decision. In an Order dated June 17, 1998, the Voluntary Arbitrator issued a writ of execution.

On January 18, 1999, the Appellate Court promulgated its Decision affirming the assailed Decision of the Voluntary Arbitrator.

On February 9, 1999, petitioner filed a motion for reconsideration, but was denied in a Resolution dated April 19, 1999.

Petitioner filed with this Court a petition for review on certiorari, ascribing to the Court of Appeals the lone error of sustaining the Voluntary Arbitrator's issuance of a writ of execution.

In its comment, respondent union maintains that the Appellate Court did not err in upholding the Voluntary Arbitrator's issuance of a writ of execution considering that his Decision was already final and executory when petitioner availed of the wrong remedy, i.e., filing with the Court of Appeals a petition for certiorari, instead of a petition for review.

Sections 1, 3 and 4, Rule 43 of the 1997 Rules of Civil Procedure, as amended, provide:

> "SECTION 1. Scope. - This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. Among these agencies are the x x x, and voluntary arbitrators authorized by law.
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> x x x
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> SECTION 3. Where to appeal. - An appeal under this Rule may be taken to the Court of Appeals within the period and in the manner therein provided, whether the appeal involves questions of fact, of law, or mixed questions of fact and law.
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> SECTION 4. Period of appeal. - The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency a quo. x x x."

Upon receipt of a copy of the Voluntary Arbitrator's Decision, petitioner should have filed with the Court of Appeals, within the 15-

day reglementary period, a petition for review, not a petition for certiorari, which is not a substitute for a lapsed appeal.

And without an appeal (petition for review) seasonably filed, as in this case, the questioned Decision of the Voluntary Arbitrator became final and executory after ten (10) calendar days from notice.

Clearly, the Court of Appeals did not err in sustaining the Voluntary Arbitrator's Order directing the issuance of a writ of execution.

Article 262-A of the Labor Code, as amended, provides:

> "ART. 262-A. Procedures. - x x x.
>
> x x x
>
> The award or decision of the Voluntary Arbitrator or panel of Voluntary Arbitrators shall contain the facts and the law on which it is based. It shall be final and executory after ten (10) calendar days from receipt of the copy of the award or decision by the parties.
>
> Upon motion of any interested party, the Voluntary Arbitrator or panel of Voluntary Arbitrators or the Labor Arbiter in the region where the movant resides, in case of the absence or incapacity of the Voluntary Arbitrator or panel of Voluntary Arbitrators for any reason, may issue a writ of execution requiring either the sheriff of the Commission or regular courts or any public official whom the parties may designate in the submission agreement to execute the final decision, order or award."

In Alviado vs. MJG General Merchandize,[5] we ruled:

> "The finality of a decision is a jurisdictional event that cannot be made to depend on the convenience of a party. Such a definitive judgment is no longer subject to change, revision, amendment or reversal and the court loses jurisdiction over it, except to order its execution."

Indeed, once a decision or resolution becomes final and executory, it is the ministerial duty of the court or tribunal to order its execution. Such order, we repeat, is not appealable.

One final note. Even if we consider petitioner's petition for certiorari as an ordinary appeal (petition for review), still the Court of Appeals did not err in affirming the Voluntary Arbitrator's Decision of January 18, 1999 which declared that respondent union members were illegally dismissed from the service. In fact, records show that petitioner has not questioned the Appellate Court's finding that the termination of respondent union members is illegal.

**WHEREFORE**, the petition is **DENIED**. The assailed Decision dated January 18, 1999 and Resolution dated April 19, 1999 of the Court of Appeals in CA-G.R. SP No. 48543 are hereby **AFFIRMED**.

**SO ORDERED**.

**Panganiban, *J.*, *(Chairman)*, Corona, and Carpio Morales, *JJ.*, concur.**

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[1] Annex "B", Petition, Rollo at 127-136.
[2] Annex "E", id. at 154-155.
[3] Initially, the following respondent union members concerned, through respondent union, filed with the Office of the Voluntary Arbitrator a consolidated complaint against petitioner: (1) for illegal suspension: Rafael Quililan, Nino Vamta, and Leo Potencion; (2) for illegal transfer: Eduardo Munoz, Jerry Sula, Edgar Magdaluyo, Randy Talento, and Renel Manalo; and (3) for illegal dismissal: Rowena Cao, Jesus Viray, Renato Manaois, Angelita Ignacio and Carlito Talosig. On August 28, 1996, 9 out of 13 respondent union members agreed to settle their case amicably. As a consequence, only Rowena Cao, Jesus Viray, Renato Manaois, and Angelita Ignacio remained as respondent union members.
[4] Annex "A", Petition, Rollo at 54-75.
[5] G.R. No. 129702, September 8, 2003 at 6, citing Tag Fibers, Inc. vs. NLRC, 344 SCRA 29 (2000) and Times Transit Credit Coop., Inc. vs. NLRC, 304 SCRA 11 (1999).