SUPREME COURT
SECOND DIVISION

RADIO COMMUNICATIONS OF THE PHILIPPINES, INC.,
***Petitioner*,**

-versus-

G.R. No. 77959
January 9, 1989

THE SECRETARY OF LABOR AND EMPLOYMENT, THE REGIONAL DIRECTOR OF THE NATIONAL CAPITAL REGION, DEPARTMENT OF LABOR AND EMPLOYMENT AND UNITED RCPI COMMUNICATIONS LABOR ASSOCIATION (URCPICLA) — FUR,
Respondents.
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D E C I S I O N

REGALADO, *J.*:

This Petition for *Certiorari* seeks the annulment of the orders issued by public respondents in NWC Ref. No. W01-13, viz: (1) the order of May 7, 1986 of respondent Regional Director requiring petitioner Radio Communications of the Philippines, Inc. (hereinafter, RCPI) and its employees represented by Buklod ng Manggagawa sa RCPI-

NFL (BMRCPI-NFL, for brevity) to pay private respondent United RCPI Communications Labor Association (URCPICLA-FUR, for short) its 15% union service fee of P427,845.60, jointly and severally, and accordingly directing the issuance of a writ of execution and garnishment of RCPI's bank account for the satisfaction of said fee; (2) the order of August 16, 1986 of respondent Secretary of Labor and Employment modifying the foregoing order by reducing the union service fee to 10% of the awarded amounts and holding petitioner solely liable for the payment of such fee; and (3) the order, dated March 20, 1987, of respondent Secretary denying petitioner's motion for reconsideration.

The records[1] show that on May 4, 1981, petitioner, a domestic corporation engaged in the telecommunications business, filed with the National Wages Council an application for exemption from the coverage of Wage Order No. 1.[2] The application was opposed by respondent URCPICLA-FUR, a labor organization affiliated with the Federation of Unions of Rizal (FUR). On May 22, 1981, the National Wages Council, through its Chairman, rendered a letter-decision[3] disapproving said application and ordering the petitioner to pay its covered employees the mandatory living allowance of P2.00 daily effective March 22, 1981. Said letter-decision was affirmed by the Office of the President in O.P. Case No. 1882 and, subsequently, this Court in its resolution of July 15, 1985 in G.R. No. 70148 dismissed RCPI's petition for certiorari for lack of merit. Entry of final judgment was issued by the Court on July 15, 1985.[4]

Furthermore, it is not denied that as early as March 13, 1985, before the aforesaid case was elevated to this Court, respondent union filed a motion for the issuance of a writ of execution, asserting therein its claim to 15% of the total backpay due to all its members as "union service fee" for having successfully prosecuted the latter's claim for payment of wages and for reimbursement of expenses incurred by FUR, and prayed for the segregation and remittance of said amount to FUR thru its National President.[5]

In a subsequent "Motion for Immediate Issuance of Writ of Execution", dated September 9, 1985, respondent union reiterated its claim for said union service fee but this time in an amount equivalent

to 20% of the total backpay due its members, to be remitted to the institution previously adverted to.[6]

On September 24, 1985, petitioner filed its opposition to said motion, asserting, among others, that "there is no legal basis for respondent Union to have the sum equivalent to 20% union service fee deducted from the amount due to every recipient member."[7] An alias writ of execution was issued on September 26, 1985.[8]

On October 24, 1985, without the knowledge and consent of respondent union, petitioner entered into a compromise agreement[9] with BMRCPI-NFL, as the new bargaining agent of oppositors RCPI employees, the pertinent provisions whereof are hereunder reproduced:

> "WHEREAS, there are now pending with the National Labor Relations Commission Case No. NLRC-NCR-11-5265-83 (NFL, et al. vs. RCPI) relative to RCPI's alleged liabilities under P.D. 1713 and Wage Orders 1, 2 and 3 and NLRC Certified Case No. 0356, with the National Wages Council and the Office of the Regional Director, Ministry of Labor and Employment, National Capital Region NWC Case Ref. No. WO-1-13 (O.P. Case No. 1882, S.C. G.R. No. 70148) relative to RCPI's alleged liabilities under Wage Order No. 1; and with the Office of the Regional Director, MOLE-NCR, a similar case (NCR-FSD-10-118-83);
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> "WHEREAS, RCPI is one of the parties in the above cases and is herein represented by its duly authorized representative/s while the complainants/employees of RCPI are the other real parties in interest in the said cases and are represented herein by BMRCPI-NFL, the duly certified bargaining agent of the said complainant/employees;
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> "WHEREAS, it is to the actual interest and benefit of the parties mentioned in the preceding WHEREAS (the herein parties) that this Compromise Agreement be entered into by and between them for the purpose of novating the above mentioned cases, particularly any and all decisions therein, with the view of re-defining the parties' rights and obligations under the various

Presidential Decrees and/or Wage Orders subjects of the above mentioned cases.

"NOW, THEREFORE, for and in consideration of the foregoing premises and the terms and conditions herein stated, the parties have agreed and bound themselves as follows: THAT —

1. RCPI by way of a compromise settlement acknowledges its alleged liability under PD 1713 (mandatory third year) and Wage Order 1 (first and third year) subject of the cases mentioned in the first WHEREAS hereof;

2. As consideration for the dismissal with prejudice of the above-captioned cases and the novation thereof and of all decisions in said cases, the parties hereby further agree that:

    a) On November 30, 1985, RCPI shall pay to each of its employees/complainants 30% of whatever is due him/her under PD 1713 (mandatory third year) and Wage Order 1 (first and third year) subject of the cases mentioned in the first WHEREAS hereof;

    b) The balance of 70% due to each employee/complainant under PD 1713 (mandatory third year) and Wage Order 1 (first and third year) subject of the cases mentioned in the first WHEREAS hereof shall be the subject of re-opening and/or negotiation by the parties on July 31, 1986 for the purpose of reaching a compromise settlement thereon on terms mutually acceptable. Against this 30% shall be deducted in full all personal cash advances of every covered employee;

    c) Of and from the aforesaid total amount due every employee, 10% thereof shall be considered as attorney's fee due Atty. Rodolfo

> Capocyan, the same to be deducted from the remaining 70% and distributed to Atty. R. Capocyan at the time of the distribution of the remaining 70%. In this connection, Atty. Rodolfo Capocyan manifest (sic) that he is authorized by the covered employee (sic) to collect 10% of whatever is/are due them as attorney's fees and undertakes and binds himself to submit to RCPI the required individual check-off authorization with respect to the 30%. He and the herein union assume sole responsibility for and shall hold RCPI free and harmless from any claim, suit or complaint arising from the deduction of this 10% attorney's fee;"
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> x x x

What transpired thereafter is more completely and undisputedly narrated by the Solicitor General in behalf of public respondent, thus:

> "Thereupon, the parties to the compromise agreement filed a joint Motion to Dismiss with Prejudice praying for the dismissal of the same with prejudice on the ground that the decision of the National Wages Council dated May 22, 1981 had already been novated by the Compromise Agreement re-defining the rights and obligations of the parties. Respondent Union on November 7, 1985 countered by opposing the motion and alleging that one of the signatories thereof — Buklod ng Manggagawa sa RCPI — is not a party in interest in the case but that it was respondent Union which represented oppositors RCPI employees all the way from the level of the National Wages Council up the Supreme Court. Respondent Union therefore claimed that the Compromise Agreement is irregular and invalid, apart from the fact that there was nothing to compromise in the face of a final and executory decision.
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> "On November 22, 1985, respondent Union filed an Urgent Motion for Lien (15% Union Service Fee) calling attention to a Resolution passed and approved by the URCPICLA-FUR

Legislative Board on June 4, 1984 declaring respondent Union entitled to a sum equivalent to 15% of the total backpay received by each RCPI employee from RCPI as union service fee and reimbursement of expenses incurred in successfully handling the instant case. Respondent Union prayed that RCPI be required to deposit with the Cashier of the National Capital Region, Ministry of Labor and Employment an amount equivalent to 15% of the total amount due to the covered employees as union service fee. Copy of this motion was received by the Office of the President, RCPI on November 28, 1985.

X x x

"Acting on the Urgent Motion for Lien, Director Severo M. Pucan issued an Order dated November 25, 1985 awarding to URCPICLA-FUR and FUR 15% of the total backpay of RCPI employees as their union service fees, and directing RCPI to deposit said amount with the cashier of the Regional Office for proper disposition to said awardees.

"Despite notice of the Order of November 25, 1985 and its accompanying letter requesting the management of RCPI to withhold the 15% union service fee from each employee affected, petitioner paid in full the covered employees on November 29, 1985, without deducting the union service fee of 15%. In its motion for reconsideration and to set aside the Order of November 25, 1985, petitioner argued that said Order has been rendered moot and academic by the fact that it had already paid in full the award under the decision of the National Wages Council. It proposed instead that URCPICLA and/or FUR re-direct their efforts at collection to the rank and file employees of RCPI. It also attacked the questioned order as null and void ab initio for lack of jurisdiction and due process.

"On December 16, 1985, respondent Union filed a petition praying for garnishment of petitioner's funds in its depository banks to effect remittance of its 15% union service fee in view of the payment in full by the latter of the wages due its covered employees. Petitioner moved to dismiss the petition for

> garnishment as illegal, irregular and highly anomalous. This was opposed by respondent Union."[10]

At this juncture, the record shows that on December 19, 1985, said Regional Director issued an order declaring the decision fully satisfied and lifting all the garnishments effected pursuant thereto "(C)onsidering that the Alias Writ of Execution dated 26 September 1985 in this case had already been fully satisfied."[11]

However, it appears that thereafter, in an order dated May 7, 1986, NCR officer-in-charge Romeo A. Young found petitioner RCPI and its employees jointly and severally liable for the payment of the 15% union service fee amounting to P427,845.60 to private respondent URCPICLA-FUR and consequently ordered the garnishment of petitioner's bank account to enforce said claim. It was his position that although the decision of the National Wages Council did not categorically require payment of the 15% service fee directly to URCPICLA-FUR, it had acted as the counsel of record of petitioner's employees, hence said payment could be authorized by applying suppletorily the provisions of Section 37, Rule 138 of the Rules of Court on attorney's lien. Said order further noted that the transaction entered into by petitioner in favor of BMRCPI-NFL, in the guise of a compromise agreement, was made without the consent of URCPICLA-FUR in clear defraudation of the latter's right to the 15% union service fee justly due it.[12]

Acting on petitioner's "Omnibus Motion" seeking, among others, a reconsideration of said order of May 7, 1986, which motion was treated as an appeal, respondent Secretary of Labor and Employment issued an order on August 18, 1986 modifying the order appealed from by holding petitioner solely liable to respondent union for 10% of the awarded amounts as attorney's fees, on the rationale that:

> "Oppositor's claim for attorney's fee was the ultimate consequence of the non-compliance of RCPI with Wage Order No. 1. The RCPI employees were forced to avail of the services of oppositor as counsel, RCPI having continuously withheld payment of said benefit. They were forced to litigate up to the Supreme Court for the protection of their interest. In the case of Cristobal vs. ECC, L-49280 promulgated February 26, 1981, 103

> SCRA 339, the Supreme Court ruled that 'the defaulting employer or government agency remains liable for attorney's fees because it compelled the complainant to employ the services of counsel by unjustly refusing to recognize the validity of the claim.' Attorney's fee due the oppositor is, thus, chargeable against RCPI."[13]

Hence, the instant petition, basically on the sole issue of whether the public respondents acted with grave abuse of discretion amounting to lack of jurisdiction in holding the petitioner solely liable for "union service fee" to respondent URCPICLA-FUR.

We hold in the negative.

The contention of petitioner that the challenged order of May 7, 1986 was issued with grave abuse of discretion, for supposedly imposing an additional obligation in the form of attorney's fees not contemplated in the decision of the National Wages Council, is bereft of merit.

While it is true that the original decision of said Council; did not expressly provide for payment of attorney's fees, that particular aspect or deficiency is deemed to have been supplied, if not modified pro tanto, by the compromise agreement subsequently executed between the parties. A cursory perusal of said agreement shows an unqualified admission by petitioner that "from the aforesaid total amount due every employee, 10% thereof shall be considered as attorney's fee,"[14] although, as hereinafter discussed, it sought to withhold it from respondent union. Considering, however, that respondent union was categorically found by the Labor Secretary to have been responsible for the successful prosecution of the case to its ultimate conclusion in behalf of its member, employees of herein petitioner, its right to fees for services rendered, or what it termed as "union service fee," is indubitable.

The further pretension of petitioner that respondent union is not entitled to attorney's fee or union service fee because it is not a member of the Bar is both untenable and in disregard of the liberalized scheme and theory of representation for labor adopted in the Labor Code.

As explained by the order of the Deputy Minister of August 18, 1986 hereinbefore adverted to —

> "The appearance of labor federations and local unions as counsel in labor proceedings has been given legal sanction and we need only cite Art. 222 of the Labor Code which allows non-lawyers to represent their organization or members thereof.
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> "It is undisputed that oppositor (private respondent herein) was the counsel on record of the RCPI employees in their claim for ECOLA under Wage Order No. 1 since the inception of the proceedings at the National Wages Council up to the Supreme Court. It had therefore a valid claim for attorney's fee which it called 'union service fee.'"[15] (Parenthetical indication supplied).

As affirmed and further clarified by respondent Secretary of Labor and Employment in his order of March 20, 1987 —

> "While the claim for union service fee was initially directed against the union members, there is no dispute that the claim was basically for attorney's fee. As a matter of fact, RCPI admitted that the union service fee is 'for compensation for services rendered by the union."[16]

We also cannot but look askance and take a quizzical view of the aforequoted compromise agreement on which petitioner anchors its main arguments.

Aside from the fact that, as already stated, the same was concluded behind the back of private respondent, so to speak, and with another labor union and a lawyer neither of whom prior thereto had a hand in the recovery of benefits for the RCPI employees concerned, there are certain indicia which cast serious doubts on the motives and actuations therein of petitioner.

As already stated, as early as March 13, 1985, private respondent had moved for the deduction of said fee from the total backpay awarded in the decision of the Council. It reiterated such claim in its motion for a writ of execution filed on September 10, 1985 after this Court had

dismissed the petition for certiorari filed by petitioner in G.R. No. 70148. Petitioner was fully aware of these proceedings since it even filed its opposition thereto on September 23, 1985, but in the aforestated order of November 25, 1985, private respondent was awarded 15% of the total backpay of the RCPI employees as its union service fee, with petitioner being directed to deposit said amount with the NCR office. Yet, on November 29, 1985, petitioner, despite timely notice of said order and in total disregard thereof, directly paid its employees the full amount of their backpay, without deducting the union service fee.[17]

Again, as is evident in the aforequoted provisions of the compromise agreement, petitioner was bound to pay only 30% of the amount due each employee on November 30, 1985, while the balance of 70% would still be the subject of renegotiation by the parties on July 31, 1986. Yet, despite such conditions beneficial to it, petitioner paid in full the backpay of its employees on November 29, 1985, ignoring the service fee due the private respondent.

Worse, petitioner supposedly paid to one Atty. Rodolfo M. Capocyan the 10% fee that properly pertained to herein private respondent, an unjustified and baffling diversion of funds. It tried to explain away such obvious tergiversation by claiming that said 10% fee corresponded to the other claims embraced in the compromise agreement but not the liability under Wage Order No. 1, an apocryphal contradiction of its contrary admission in Paragraph 7 of its Reply[18] and the provisions of Paragraph 2(c) of the compromise agreement.

On top of that, the records do not show any rejoinder or explanation by petitioner of this grave revelation and accusation of the Solicitor General:

> "But the spurious and fraudulent character of such disposition made by petitioner is clearly inferable from the circumstances that: (2) there is no such Atty. Rodolfo Capocyan in the Attorney's Roll of this Court (See Communication from the Office of the Bar Confidant of the Supreme Court dated March 17, 1986 found on page 459 of the record). Atty. Capocyan, being a mere fictitious character, his 'attorney's fees' which

included the claim of private respondent, necessarily devolved upon petitioner.

"It would now appear that petitioner had a secret interest over the 10% fees due and owing to private respondent and thru the manipulations of petitioner's agents were given the appearance of 'attorney's fees' to a certain Atty. Rodolfo Capocyan. It cannot be denied that by such fraudulent method, private respondent was deprived of its just and lawful fees."[19]

Even the employment of the term "novation" in the compromise agreement appears to have been dictated by the dubious motive to secure dismissal with prejudice of the decision of the National Wages Council. For, despite the express, albeit improper use of such term, there could have been no valid novation of the prior judgment for the simple reason that the preexisting obligation thereunder and the new one sought to be created are not absolutely incompatible. On the contrary, the compromise agreement expressly recognizes the respective obligations of the parties in said judgment and precisely provides a method by which the same shall be extinguished, which method is, as expressly stated in said contract, by installment payments. The contract, instead of containing provisions incompatible with the obligations in the judgment, expressly ratifies such obligations and contains provisions for satisfying them. The said agreement simply gave the petitioner a method and more time for the satisfaction of said judgment. It did not extinguish the obligations contained in the judgment, until the terms of said agreement had been fully complied with. Had the petitioner continued to comply with the conditions of said agreement, it could have successfully invoked its provisions against the issuance of a writ of execution upon said judgment. The contract and the punctual compliance with its terms only delayed the right of the respondent union to the execution of the judgment. The judgment was not satisfied and the obligations existing thereunder still subsisted until the terms of the agreement had been fully complied with.[20]

Finally, petitioner cannot invoke the lack of an individual written authorization from the employees as a shield for its fraudulent refusal to pay the service fee of private respondent. Prior to the payment made to its employees, petitioner was ordered by the Regional

Director to deduct the 15% attorney's fee from the total amount due its employees and to deposit the same with the Regional Labor Office. Petitioner failed to do so allegedly because of the absence of individual written authorizations. Be that as it may, the lack thereof was remedied and supplied by the execution of the compromise agreement whereby the employees, expressly approved the 10% deduction and held petitioner RCPI free from any claim, suit or complaint arising from the deduction thereof. When petitioner was thereafter again ordered to pay the 10% fees to respondent union, it no longer had any legal basis or subterfuge for refusing to pay the latter.

We agree that Article 222 of the Labor Code requiring an individual written authorization as a prerequisite to wage deductions seeks to protect the employee against unwarranted practices that would diminish his compensation without his knowledge and consent.[21] However, for all intents and purposes, the deductions required of the petitioner and the employees do not run counter to the express mandate of the law since the same are not unwarranted or without their knowledge and consent. Also, the deductions for the union service fee in question are authorized by law and do not require individual check-off authorizations.[22]

On the foregoing considerations, We find no cogent reason to disturb the order of the Secretary of Labor and Employment finding petitioner liable for the union service fee of private respondent.

WHEREFORE, the order of the Secretary of Labor of August 16, 1986 is hereby **AFFIRMED** and the petition at bar is **DISMISSED**, with double costs against petitioner. The temporary restraining order issued pursuant to the Resolution of the Court of June 22, 1987 is **LIFTED** and declared of no further force and effect.

SO ORDERED.

Melencio-Herrera, Paras, Padilla and Sarmiento, *JJ.*, concur.

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[1] Rollo, 5-6, 130-131, 171.

[2] Annex E, Petition; Rollo, 34-35.
[3] Annex F, ibid.; ibid., 36.
[4] Comment of Public Respondent, 3; Rollo, 131.
[5] Ibid; ibid.
[6] Annex G, Petition; Rollo, 37-40.
[7] Comment of Public Respondent, 4; Rollo, 132.
[8] Annex H, ibid.; ibid., 41-43.
[9] Annex I, ibid.; ibid., 44-48.
[10] Comment of Public Respondents, 5-8; Rollo, 133-137.
[11] Annex J, Petition; Rollo, 49.
[12] Annex B, Petition; Rollo, 19-23.
[13] Annex C, ibid.; ibid., 29-30.
[14] Vide ante, Footnote 9, Par. 1(c).
[15] Rollo, 28.
[16] Annex D, Petition; Rollo, 32.
[17] Rollo, 141-142.
[18] Ibid., 153.
[19] Memorandum of Public Respondents, 3-4; Rollo, 166-167.
[20] Zapanta vs. De Rotaeche, 21 Phil. 154 (1912).
[21] National Power Corporation Supervisors' Union vs. National Power Corporation, 106 SCRA 556 (1981).
[22] Section 11 in relation to Section 13, Rule VIII, Book III, Omnibus Rules Implementing the Labor Code.