

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**SAMPAGUITA
CORPORATION,**

GARMENTS

Petitioner,

-versus-

G.R. No. 102406

June 17, 1994

**NATIONAL LABOR RELATIONS
COMMISSION (SECOND DIVISION)
and EMILIA B. SANTOS,**

Respondents.

X-----X

DECISION

CRUZ, J.:

If in a labor case, an employee is absolved of an offense that led to her dismissal and is ordered reinstated, will her subsequent conviction in a criminal prosecution for the same offense affect the administrative decision?

The offense subject of the two cases is theft, claimed to have been committed by private respondent Emilia B. Santos, an employee of petitioner Sampaguita Garments Corporation.

It was alleged in both cases that on April 14, 1987, Santos attempted to bring out of the company premises, without authorization or permission, a piece of cloth belonging to the petitioner.^[1]

Sampaguita dismissed her on this ground. She filed a complaint for illegal dismissal but the labor arbiter sustained the company.^[2] However, his decision was reversed by the NLRC, which ordered her reinstatement with back wages from the time of her illegal suspension until her actual reinstatement.^[3]

Meantime, the petitioner had also filed a criminal action against Santos for the same offense in the Municipal Trial Court of Caloocan City. After trial, she was found guilty and sentenced to an indeterminate penalty of 1 month and 1 day of *arresto mayor* as minimum to 4 months of *arresto mayor* as maximum.^[4] This decision was affirmed by the Regional Trial Court of Caloocan City.^[5]

In G.R. No. 89323, this Court dismissed the petition for *certiorari* against the decision of the NLRC for lack of a showing that it was tainted with grave abuse of discretion.^[6]

In G.R. 100929, this Court saw no reversible error in the decision of the Court of Appeals sustaining the petitioner's conviction by the Municipal Trial Court as affirmed by the Regional Trial Court.^[7]

The decision in both cases became final and executory and the corresponding entries of judgment were eventually made.

Subsequently, Santos moved for the execution of the NLRC decision. The petitioner opposed, invoking her conviction in the criminal case. However, the NLRC sustained her on the ground that its decision had been affirmed by this Court and had long become final and executory. Sampaguita then came to this Court for relief.

It is asserted by the petitioner that, in view of the private respondent's conviction, the decision of the NLRC calling for her reinstatement and the payment to her of P63,908.00 in back wages should not now be enforced. Otherwise, she would in effect be undeservedly rewarded when she should instead be punished for her offense.

On the other hand, the private respondent argues that the decision of the NLRC is independent of the criminal case and in any event can no longer be modified or reversed after having become final and executory on August 7, 1990.

We hold for the petitioner.

It is true that once a judgment has become final and executory, it can no longer be disturbed except only for the correction of clerical errors or where supervening events render its execution impossible or unjust.^[8] In the latter event, the interested party may ask the court to modify the judgment to harmonize it with justice and the facts.^[9]

There is no dispute in the case at bar that the decision of the respondent NLRC ordering the private respondent's reinstatement with back wages had indeed become final and executory. Even so, we find, in light of the subsequent developments, that the NLRC was not correct in sustaining the implementation of that decision.

In *Heirs of Francisco Guballa, Sr. vs. Court of Appeals*.^[10] this Court held that "the power of the NLRC to issue a writ of execution carries with it the right to look into the correctness of the execution of the decision and to consider supervening events that may affect such execution."

The affirmance by the Regional Trial Court and the Court of Appeals of the private respondent's conviction for theft is justification enough for the NLRC to exercise this authority and suspend the execution of its decision. Such conviction, which was also upheld by this Court in G.R. No. 100929, is a supervening cause that rendered unjust and inequitable the decision mandating the private respondent's reinstatement, and with back wages to boot.

The Solicitor General agrees that reinstatement is no longer feasible in view of the subsequent conviction of the private respondent and the already strained relationship between her and the petitioner. He suggests instead the grant of separation pay to the private respondent.

We disagree. Even this award is not justifiable because Santos was found guilty of a crime involving moral turpitude and so is disqualified from this benefit under the ruling in *PLDT vs. NLRC*.^[11] That case laid down the rule as follows:

We hold that henceforth separation pay shall be allowed as a measure of social justice only in those instances where the employee is validly dismissed for causes other than serious misconduct or those reflecting on his moral character. Where the reason for the valid dismissal is, for example, habitual intoxication or an offense involving moral turpitude, like theft or illicit sexual relations with a fellow worker, the employer may not be required to give the dismissed employee separation pay, or financial assistance, or whatever other name it is called, on the ground of social justice.

A contrary rule would, as the petitioner correctly argues, have the effect of rewarding rather than punishing the erring employee for his offense. And we do not agree that the punishment is his dismissal only and that the separation pay has nothing to do with the wrong he has committed. Of course it has. Indeed, if the employee who steals from the company is granted separation pay even as he is validly dismissed, it is not unlikely that he will commit a similar offense in his next employment because he thinks he can expect a like leniency if he is again found out. This kind of misplaced compassion is not going to do labor in general any good as it will encourage the infiltration of its ranks by those who do not deserve the protection and concern of the Constitution.

The same rationale exists for not enforcing the respondent Commission's award of back wages in favor of the private respondent.

Conformably to *Wenphil Corporation vs. NLRC*^[12] and subsequent cases,^[13] the only award to which the private respondent may be entitled is for the amount of P1,000.00, to be paid to her by the petitioner as a penalty for effecting her dismissal without complying with the procedural requirements laid down in Sections 2 and 5 of

Rule XIV, Book V, of the Omnibus Rules Implementing the Labor Code.

The contention that the petition should be dismissed for lack of the certification on forum-shopping required under Circular No. 28-91 is not well taken. The petition was filed on December 5, 1991, before the circular took effect on January 1, 1992.

The private respondent's conviction of the crime of theft of property belonging to the petitioner has affirmed the existence of a valid ground for her dismissal and thus removed the justification for the administrative decision ordering her reinstatement with back wages. Nevertheless, the petitioner is still subject to sanction for its failure to accord the private respondent the right to an administrative investigation in conformity with the procedural requirements of due process.

WHEREFORE, the petition is **GRANTED** and the order of execution dated April 1, 1991, is **SET ASIDE**. The petitioner is instead required to pay the private respondent an indemnity of P1,000.00 for its arbitrariness in effecting her dismissal.

SO ORDERED.

Davide, Jr., Bellosillo, Quiason and Kapunan, JJ., concur.

[1] Rollo, pp. 27 and 37.

[2] Rollo, p. 26.

[3] Penned by Comm. Zapanta with Pres. Comm. Lucas concurring and Comm. Abella, dissenting; Rollo, pp. 26-34.

[4] Decided by Judge Belen B. Ortiz; Rollo, p. 81, G.R. No. 89323.

[5] Rollo, p. 36.

[6] Minute Resolution, Rollo, p. 94; G.R. No. 89323.

[7] Penned by Romero, J. with Feliciano, Bidin, Melo and Vitug, JJ. concurring.

[8] *Presbitero vs. Court of Appeals*, 129 SCRA 443; *Galindez vs. Rural Bank of Llaner, Inc.*; *Cardoza vs. Singson*, 181 SCRA 45; *Sealand Service, Inc. vs. NLRC*, 190 SCRA 347; *Ramirez vs. CA*, 207, 287; *Mabuhay Vinyl Corp. vs. NLRC*, 214 SCRA 135.

[9] *City of Butuan vs. Ortiz*, 3 SCRA 659; *Sealand Service, Inc. vs. NLRC*, 190 SCRA 347; *Mabuhay Vinyl Corp. vs. NLRC*, 214 SCRA 135.

[10] 168 SCRA 518.

[11] 164 SCRA 671.

[12] 170 SCRA 69.

[13] Panelco vs. NLRC, 215 SCRA 669; Kwikway Engineering Works vs. NLRC, 195 SCRA 526; Great Pacific Life Assurance Corp. vs. NLRC, 187 SCRA 694; Rubberworld (Phils.), Inc. vs. NLRC, 183 SCRA 421; Seahorse Maritime Corp. vs. NLRC, 173 SCRA 390.

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