Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ROBERTO BORDOMEO, JAYME SARMIENTO and GREGORIO BARREDO, Petitioners,	**G.R. No. 161596**
-versus-	Present: SERENO, *C.J.*, LEONARDO-DE CASTRO, BERSAMIN, VILLARAMA, JR., and REYES, *JJ.*
COURT OF APPEALS, HON. SECRETARY OF LABOR, and INTERNATIONAL PHARMACEUTICALS, INC., Respondents.	Promulgated: FEB 20 2013

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D E C I S I O N

BERSAMIN, *J.*:

As an extraordinary remedy, *certiorari* cannot replace or supplant an adequate remedy in the ordinary course of law, like an appeal in due course. It is the inadequacy of a remedy in the ordinary course of law that determines whether *certiorari* can be a proper alternative remedy.

The Case

The petitioners implore the Court to reverse and set aside the Decision[1] of the Court of Appeals (CA) promulgated on May 30, 2003 in C.A.-G.R. SP No. 65970 entitled *Roberto Bordomeo, Anecito Cupta, Jaime Sarmiento and Virgilio Saragena v. Honorable Secretary of Labor and Employment and International Pharmaceuticals, Inc.*, dismissing their petition for *certiorari* by which they had assailed the Order[2] issued on July 4, 2001 by Secretary Patricia A. Sto. Tomas of the Department of Labor and Employment (DOLE), to wit:

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[1] *Rollo*, pp. 240-247; penned by Associate Justice Juan Q. Enriquez, Jr., with Associate Justices Rodrigo V. Cosico, and Hakim S. Abdulwahid concurring.

[2] Id. at 167-170.

> **WHEREFORE,** the Order of this Office dated March 27, 1998 **STANDS** and having become final and having been fully executed, completely CLOSED and TERMINATED this case.
>
> No further motion shall be entertained.
>
> **SO ORDERED**.[3]

and the CA's resolution promulgated on October 30, 2003, denying their motion for reconsideration.

In effect, the Court is being called upon again to review the March 27, 1998 order issued by the DOLE Secretary in response to the petitioners' demand for the execution in full of the final orders of the DOLE issued on December 26, 1990 and December 5, 1991 arising from the labor dispute in International Pharmaceuticals, Inc. (IPI).

Antecedents

In 1989, the IPI Employees Union-Associated Labor Union (Union), representing the workers, had a bargaining deadlock with the IPI management. This deadlock resulted in the Union staging a strike and IPI ordering a lockout.

On December 26, 1990, after assuming jurisdiction over the dispute, DOLE Secretary Ruben D. Torres rendered the following Decision,[4] to wit:

> WHEREFORE, PREMISES CONSIDERED, decision is hereby rendered as follows:
>
> 1. finding the IPI Employees Union-ALU as the exclusive bargaining agent of all rank and file employees of ALU including sales personnel;
>
> 2. dismissing, for lack of merit, the charges of contempt filed by the Union against the IPI officials and reiterating our strict directive for a restoration of the status quo ante the strike as hereinbefore discussed;
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> 3. dismissing the Union's complaint against the Company for unfair labor practice through refusal to bargain;
>
> 4. dismissing the IPI petition to declare the strike of the Union as illegal; and
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> 5. directing the IPI Employees Union-ALU and the International Pharmaceuticals, Inc. to enter into their new CBA, incorporating therein the dispositions hereinbefore stated. All other provisions in the old CBA

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3 Id. at 170.
4 Id. at 40-53.

not otherwise touched upon in these proceedings are, likewise, to be incorporated in the new CBA.

SO ORDERED.[5]

Resolving the parties' ensuing respective motions for reconsideration or clarification,[6] Secretary Torres rendered on December 5, 1991 another ruling,[7] disposing thus:

WHEREFORE, in the light of the forgoing considerations, judgment is hereby rendered:

1. Dismissing the motions for reconsideration filed by the International Pharmaceutical, Inc. and the Workers Trade Alliance Unions (WATU) for lack of merit;

2. Ordering the International Pharmaceutical Inc. to reinstate to their former positions with full backwages reckoned from 8 December 1989 until actually reinstated without loss of seniority rights and other benefits the "affected workers" herein-below listed:

1. Reynaldo C. Menor
2. Geronimo S. Banquirino
3. Rogelio Saberon
4. Estefanio G. Maderazo
5. Herbert G. Veloso
6. Rogelio G. Enricoso
7. Colito Virtudazo
8. Gilbert Encontro
9. Bebiano Pancho
10. Merlina Gomez
11. Lourdes Mergal
12. Anecito Cupta
13. Prescillano O. Naquines
14. Alejandro O. Rodriguez
15. Godofredo Delposo
16. Jovito Jayme
17. Emma L. Lana
18. Koannia M. Tangub
19. Violeta Pancho
20. Roberto Bordomeo
21. Mancera Vevincio
22. Caesar Sigfredo
23. Trazona Roldan
24. Carmelita Ygot
25. Gregorio Barredo
26. Dario Abella
27. Artemio Pepito
28. Anselmo Tareman
29. Merope Lozada
30. Agapito Mayorga
31. Narciso M. Leyson
32. Ananias Dinolan
33. Cristy L. Caybot
34. Johnnelito S. Corilla
35. Noli Silo
36. Danilo Palioto
37. Winnie dela Cruz
38. Edgar Montecillo
39. Pompio Senador
40. Ernesto Palomar
41. Reynante Germininano
42. Pelagio Arnaiz
43. Ireneo Russiana
44. Benjamin Gellangco, Jr.
45. Nestor Ouano (listed in paragraphs 1 & 9 of the IPI Employees Union-ALU's Supplemental Memorandum dated 6 March 1991)

3. Ordering the International Pharmaceutical Inc. to reinstate to their former positions the following employees, namely:

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5 Id. at 52-53.
6 Id. at 55.
7 Id. at 55-66.

a. Alexander Aboganda
b. Pacifico Pestano
c. Carlito Torregano
d. Clemencia Pestano
e. Elisea Cabatingan

(listed in paragraph 3 of the IPI Employees Union-ALU's Supplemental Memorandum dated 6 March 1991).

No further motions of the same nature shall be entertained.[8]

IPI assailed the issuances of Secretary Torres directly in this Court through a petition for *certiorari* (G.R. No. 103330), but the Court dismissed its petition on October 14, 1992 on the ground that no grave abuse of discretion had attended the issuance of the assailed decisions.[9] Considering that IPI did not seek the reconsideration of the dismissal of its petition, the entry of judgment issued in due course on January 19, 1994.[10]

With the finality of the December 26, 1990 and December 5, 1991 orders of the DOLE Secretary, the Union, represented by the Seno, Mendoza and Associates Law Office, moved in the National Conciliation and Mediation Board in DOLE, Region VII on June 8, 1994 for their execution.[11]

On November 21, 1994, one Atty. Audie C. Arnado, who had meanwhile entered his appearance on October 4, 1994 as the counsel of 15 out of the 50 employees named in the December 5, 1991 judgment of Secretary Torres, likewise filed a so-called Urgent Motion for Execution.[12]

After conducting conferences and requiring the parties to submit their position papers, Regional Director Alan M. Macaraya of DOLE Region VII issued a Notice of Computation/Execution on April 12, 1995,[13] the relevant portion of which stated:

To speed-up the settlement of the issue, the undersigned on 7 February 1995 issued an order directing the parties to submit within ten (10) calendar days from receipt of the Order, their respective Computations. To date, only the computation from complainants including those that were not specifically mentioned in the Supreme Court decision were submitted and received by this office.

Upon verification of the Computation available at hand, management is hereby directed to pay the employees including those that were not specifically mentioned in the decision but are similarly situated, the aggregate amount of FORTY-THREE MILLION SIX HUNDRED

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8 Id. at 68-69; 94-95.
9 Id. at 67.
10 Id. at 67 and 69.
11 Id. at 68.
12 Id. at 119-120.
13 Id. at 68-70.

> FIFTY THOUSAND NINE HUNDRED FIVE AND 87/100 PESOS (₱43,650,905.87) involving NINE HUNDRED SIXTY-TWO (962) employees, in the manner shown in the attached Computation forming part of this Order. This is without prejudice to the final Order of the Court to reinstate those covered employees.
>
> This Order is to take effect immediately and failure to comply as instructed will cause the issuance of a WRIT OF EXECUTION.[14]

In effect, Regional Director Macaraya increased the number of the workers to be benefitted to 962 employees – classified into six groups – and allocated to each group a share in the ₱43,650,905.87 award,[15] as follows:

GROUP	NO. OF EMPLOYEES	TOTAL CLAIM
Those represented by Atty. Arnado	15	₱4,162,361.50
Salesman	9	₱6,241,535.44
For Union Members	179	₱6,671,208.86
For Non-Union Members	33	₱1,228,321.09
Employees who ratified the CBA	642	₱23,982,340.14
Separated Employees	84	₱1,365,136.84
TOTAL	962	₱43,650,905.87

On May 24, 1995, Assistant Regional Director Jalilo dela Torre of DOLE Region VII issued a writ of execution for the amount of ₱4,162,361.50 (which covered monetary claims corresponding to the period from January 1, 1989 to March 15, 1995) in favor of the 15 employees represented by Atty. Arnado,[16] to be distributed thusly:[17]

1.	Barredo, Gregorio	₱278,700.10
2.	Bordomeo, Roberto	₱278,700.10
3.	Cupta, Anecito	₱278,700.10
4.	Delposo, Godofredo	₱278,700.10
5.	Dinolan, Ananias	₱278,700.10
6.	Jayme, Jovito	₱278,700.10
7.	Lozada, Merope	₱278,700.10
8.	Mayorga, Agapito	₱278,700.10
9.	Mergal, Lourdes	₱278,700.10
10.	Pancho, Bebiano	₱278,700.10
11.	Pancho, Violeta	₱278,700.10
12.	Rodriguez, Alejandro	₱278,700.10
13.	Russiana, Ireneo	₱263,685.10
14.	Tangub, Joannis	₱278,700.10
15.	Trazona, Rolsan	₱275,575.10
	TOTAL	₱4,162,361.50

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14 Id. at 70.
15 Id. at 72.
16 Id. at 73.
17 Id. at 100-101.

On June 5, 1995, Assistant Regional Director dela Torre issued another Writ of Execution for the amount of ₱1,200,378.92 in favor of the second group of employees. Objecting to the reduced computation for them, however, the second group of employees filed a Motion Declaring the Writ of Execution dated June 5, 1995 null and void.

On July 11, 1995, IPI challenged the May 24, 1995 writ of execution issued in favor of the 15 employees by filing its Appeal and Prohibition with Prayer for Temporary Restraining Order in the Office of then DOLE Undersecretary Cresenciano Trajano.[18]

On December 22, 1995,[19] Acting DOLE Secretary Jose Brillantes, acting on IPI's appeal, recalled and quashed the May 24, 1995 writ of execution, and declared and considered the case closed and terminated.[20]

Aggrieved, the 15 employees sought the reconsideration of the December 22, 1995 Order of Acting DOLE Secretary Brillantes.

On August 27, 1996, DOLE Secretary Leonardo A. Quisumbing granted the Motion for Reconsideration,[21] and reinstated the May 24, 1995 writ of execution, subject to the deduction of the sum of ₱745,959.39 already paid pursuant to quitclaims from the award of ₱4,162,361.50.[22] Secretary Quisumbing declared the quitclaims executed by the employees on December 2, 3, and 17, 1993 without the assistance of the proper office of the DOLE unconscionable for having been entered into under circumstances showing vitiation of consent; and ruled that the execution of the quitclaims should not prevent the employees from recovering their monetary claims under the final and executory decisions dated December 26, 1990 and December 5, 1991, less the amounts received under the quitclaims.

Aggrieved by the reinstatement of the May 24, 1995 writ of execution, IPI moved for a reconsideration.[23]

On September 3, 1996, and pending resolution of IPI's motion for reconsideration, Regional Director Macaraya issued a writ of execution in favor of the 15 employees represented by Atty. Arnado to recover ₱3,416,402.10 pursuant to the order dated August 27, 1996 of Secretary Quisumbing.[24] Thereafter, the sheriff garnished the amount of ₱3,416,402.10 out of the funds of IPI with China Banking Corporation, which released the

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18 Id. at 120-121
19 Id. at 93-114.
20 Id. at 114.
21 Id. at 115-133.
22 Id. at 133.
23 Id. at 134.
24 Id. at 137.

amount.[25] Hence, on September 11, 1996, the 15 employees represented by Atty. Arnado executed a Satisfaction of Judgment and Quitclaim/Release upon receipt of their respective portions of the award, subject to the reservation of their right to claim "unsatisfied amounts of separation pay as well as backwages reckoned from the date after 15 March 1995 and up to the present, or until separation pay is fully paid."[26]

Notwithstanding the execution of the satisfaction of judgment and quitclaim/release, Atty. Arnado still filed an omnibus motion not only in behalf of the 15 employees but also in behalf of other employees named in the notice of computation/execution, with the exception of the second group, seeking another writ of execution to recover the further sum of ₱58,546,767.83.[27]

Atty. Arnado filed a supplemental omnibus motion for the denial of IPI's Motion for Reconsideration on the ground of mootness.[28]

In the meanwhile, the employees belonging to the second group reiterated their Motion Declaring the Writ of Execution dated June 5, 1995 null and void, and filed on May 15, 1996 a Motion for Issuance of Writ, praying for another writ of execution based on the computation by Regional Director Macaraya.

On December 24, 1997,[29] Secretary Quisumbing, affirming his August 27, 1996 order, denied IPI's Motion for Reconsideration for being rendered moot and academic by the full satisfaction of the May 24, 1995 writ of execution. He also denied Atty. Arnado's omnibus motion for lack of merit; and dealt with the issue involving the June 5, 1995 writ of execution issued in favor of the second group of employees, which the Court eventually resolved in the decision promulgated in G.R. No. 164633.[30]

The employees represented by Atty. Arnado moved for the partial reconsideration of the December 24, 1997 order of Secretary Quisumbing. Resolving this motion on March 27, 1998, Acting DOLE Secretary Jose M. Español, Jr. held as follow:[31]

> WHEREFORE, Our Order dated December 24, 1997, is hereby AFFIRMED.

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25 Id.
26 Id.
27 Id. at 137-138.
28 Id. at 138.
29 Id. at 134-141.
30 *Banquerigo v. Court of Appeals*, G.R. No. 164633, August 7, 2006, 498 SCRA169.
31 *Rollo*, pp. 142-152.

> The Motion for Reconsideration/Amend/Clarificatory and Reiteration of Motion for Issuance of Writ of Execution dated January 12, 1998, filed by six (6) salesmen, namely, Geronimo S. Banquirigo, Reynaldo C. Menor, Rogelio Enricoso, Danilo Palioto, Herbert Veloso and Colito Virtudazo as well as the Motion for Reconsideration and/or Clarification filed by Salesman Noli G. Silo, are hereby DISMISSED, for lack of merit. The June 5, 1995 Writ of Execution is now considered fully executed and satisfied.
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> The Motion for Partial Reconsideration filed by Roberto Bordomeo and 231 others, is likewise DENIED, for lack of merit
>
> SO ORDERED.[32]

Records reveal, however, that Virgilio Saragena, *et al.* brought to this Court a petition for *certiorari* to assail the December 24, 1997 and March 27, 1998 Orders of the Secretary of Labor (G.R. No. 134118). As stated at the start, the Court dismissed the petition of Saragena, *et al.* on September 9, 1998 for having been filed out of time and for the petitioners' failure to comply with the requirements under Rule 13 and Rule 45 of the *Rules of Court*.[33] The entry of judgment was issued on December 7, 1998.

In the meanwhile, on July 27, 1998, Atty. Arnado filed a Motion for Execution with the DOLE Regional Office,[34] demanding the following amounts from IPI, to wit:

For Roberto Bordomeo and 14 others	₱4,990,401.00
The rest of complainants	33,824,820.41
Total	₱ 38,815,221.41

Again, on September 22, 1998, Atty. Arnado filed a Motion for Execution with the Regional Office.[35] This time, no monetary claims were demanded but the rest of the complainants sought to collect from IPI the reduced amount of ₱6,268,818.47.

Another Motion for Execution was filed by Atty. Arnado on July 6, 1999,[36] seeking the execution of the December 26, 1990 order issued by Secretary Torres and of the April 12, 1995 notice of computation/execution issued by Regional Director Macaraya.

Ultimately, on July 4, 2001, DOLE Secretary Patricia Sto. Tomas issued her Order[37] affirming the order issued on March 27, 1998, and

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32 Id. at 151-152.
33 Id. at 315-316.
34 Id. at 168.
35 Id. at 169.
36 Id.
37 Id. at 167-170.

declaring that the full execution of the order of March 27, 1998 "completely CLOSED and TERMINATED this case."

Only herein petitioners Roberto Bordomeo, Anecito Cupta, Jaime Sarmiento and Virgilio Saragena assailed the July 4, 2001 order of Secretary Sto. Tomas by petition for *certiorari* in the CA (C.A.-G.R. SP No. 65970).[38]

On May 30, 2003, the CA rendered its decision in C.A.-G.R. SP No. 65970,[39] to wit:

> It is worthy to note that all the decisions and incidents concerning the case between petitioners and private respondent IPI have long attained finality. The records show that petitioners have already been granted a writ of execution. In fact, the decision has been executed. Thus, there is nothing for this Court to modify. The granting of the instant petition calls for the amendment of the Court of a decision which has been executed. In this light, it is worthy to note the rule that final and executory decisions, more so with those already executed, may no longer be amended except only to correct errors which are clerical in nature. Amendments or alterations which substantially affect such judgments as well as the entire proceedings held for that purpose are null and void for lack of jurisdiction. (*Pio Barreto Realty Development Corporation v. Court of Appeals, 360 SCRA 127).*
>
> This Court in the case of *CA GR No. 54041 dated February 28, 2001,* has ruled that the Orders of the Secretary of Labor and Employment dated December 24, 1997 and March 27, 1998 have become final and executory. It may be noted that the said orders affirmed the earlier orders of the Secretary of Labor and Employment dated December 22, 1995 and August 27, 1996 granting the execution of the decision in the case between petitioners and IPI.
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> x x x x
>
> WHEREFORE, based on the foregoing, the instant petition is hereby **DENIED DUE COURSE** and is **DISMISSED** for lack of merit.
>
> **SO ORDERED**.[40]

The petitioners filed a Motion for Reconsideration,[41] but the CA denied the motion on October 30, 2003.[42]

Hence, they commenced this special civil action for *certiorari*.

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38 Id. at 240.
39 Id. at 240-247.
40 Id. at 246-247.
41 Id. at 248-255.
42 Id. at 258-260.

Issues

The petitioners hereby contend that:

> THE COURT OF APPEALS RULED CONTRARY TO SUPREME COURT DECISIONS AND GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT:
>
> A. HELD THAT GRANTING THE PETITION FOR MANDAMUS (WHICH MERELY SEEKS FULL EXECUTION OF DOLE FINAL JUDGMENTS 26 DECEMBER 1990 AND 5 DECEMBER 1991 WOULD AMEND SAID FINAL AND EXECUTORY JUDGMENTS.
>
> B. FAILED TO IMPLEMENT THE SUPREME COURT DOCTRINE SET IN PDCP VS. GENILO, G.R. NO. 106705, THAT SIMILARLY SITUATED EMPLOYEES HAS THE RIGHT TO PROVE THEIR ENTITLEMENT TO THE BENEFITS AWARDED UNDER FINAL JUDGMENTS.
>
> C. HELD THAT THE QUESTIONED JUDGMENTS HAD BEEN EXECUTED WHEN THE RESPONDENTS THEMSELVES ADMIT THE CONTRARY.
>
> D. HELD THAT DOLE SECRETARY DID NOT COMMIT GRAVE ABUSE OF DISCRETION WHEN SHE REFUSED TO FULLY EXECUTE THE 1990 AND 1991 DOLE FINAL JUDGMENTS AND ISSUE CORRESPONDING WRITS OF EXECUTION.

The petitioners submit that of the six groups of employees classified under the April 12, 1995 notice of computation/execution issued by Regional Director Macaraya, only the first two groups, *that is*, the 15 employees initially represented by Atty. Arnado; and the nine salesmen led by Geronimo S. Banquirigo, had been granted a writ of execution. They further submit that the May 24, 1995 writ of execution issued in favor of the first group of employees, including themselves, had only been partially satisfied because no backwages or separation pay from March 16, 1995 onwards had yet been paid to them; that the reduced award granted to the second group of employees was in violation of the April 12, 1995 notice of computation/execution; that no writ of execution had been issued in favor of the other groups of employees; and that DOLE Secretary Sto. Tomas thus committed grave abuse of discretion in refusing to fully execute the December 26, 1990 and December 5, 1991 orders.

In its comment, IPI counters that the petition for *certiorari* should be dismissed for being an improper remedy, the more appropriate remedy being a petition for review on *certiorari*; that a petition for review on *certiorari* should have been filed within 15 days from receipt of the denial of the

motion for reconsideration, as provided in Section 1 and Section 2 of Rule 45; and that the petition must also be outrightly dismissed for being filed out of time.

IPI contends that the finality of the December 24, 1997 and March 27, 1998 orders of the DOLE Secretary rendered them unalterable; that Atty. Arnado had already brought the December 24, 1997 and March 27, 1998 orders to this Court for review (G.R. No. 134118); and that the Court had dismissed the petition for having been filed out of time and for the petitioners' failure to comply with Rule 13 and Rule 45 of the *Rules of Court*.

Ruling

We dismiss the petition for *certiorari*.

Firstly, an appeal by petition for review on *certiorari* under Rule 45 of the *Rules of Court*, to be taken to this Court within 15 days from notice of the judgment or final order raising only questions of law, was the proper remedy available to the petitioners. Hence, their filing of the petition for *certiorari* on January 9, 2004 to assail the CA's May 30, 2003 decision and October 30, 2003 resolution in C.A.-G.R. SP No. 65970 upon their allegation of grave abuse of discretion committed by the CA was improper. The averment therein that the CA gravely abused its discretion did not warrant the filing of the petition for *certiorari*, unless the petition further showed how an appeal in due course under Rule 45 was not an adequate remedy for them. By virtue of its being an extraordinary remedy, *certiorari* cannot replace or substitute an adequate remedy in the ordinary course of law, like an appeal in due course.[43]

We remind them that an appeal may also avail to review and correct any grave abuse of discretion committed by an inferior court, provided it will be adequate for that purpose.

It is the adequacy of a remedy in the ordinary course of law that determines whether a special civil action for *certiorari* can be a proper alternative remedy. We reiterate what the Court has discoursed thereon in *Heirs of Spouses Teofilo M. Reterta and Elisa Reterta v. Spouses Lorenzo Mores and Virginia Lopez*,[44] *viz*:

> Specifically, the Court has held that the availability of appeal as a remedy does not constitute sufficient ground to prevent or preclude a party

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43 Section 1, Rule 65, *Rules of Court*.
44 G.R. No. 159941, August 17, 2011, 655 SCRA 580.

> from making use of *certiorari* if appeal is not an adequate remedy, or an equally beneficial, or speedy remedy. **It is inadequacy, not the mere absence of all other legal remedies and the danger of failure of justice without the writ, that must usually determine the propriety of *certiorari*. A remedy is plain, speedy and adequate if it will promptly relieve the petitioner from the injurious effects of the judgment, order, or resolution of the lower court or agency. It is understood, then, that a litigant need not mark time by resorting to the less speedy remedy of appeal in order to have an order annulled and set aside for being patently void for failure of the trial court to comply with the *Rules of Court*.**
>
> Nor should the petitioner be denied the recourse despite *certiorari* not being available as a proper remedy against an assailed order, because it is better on balance to look beyond procedural requirements and to overcome the ordinary disinclination to exercise supervisory powers in order that a void order of a lower court may be controlled to make it conformable to law and justice. Verily, the instances in which *certiorari* will issue cannot be defined, because to do so is to destroy the comprehensiveness and usefulness of the extraordinary writ. The wide breadth and range of the discretion of the court are such that authority is not wanting to show that *certiorari* is more discretionary than either prohibition or *mandamus*, and that in the exercise of superintending control over inferior courts, a superior court is to be guided by all the circumstances of each particular case "as the ends of justice may require." Thus, the writ will be granted *whenever necessary to prevent a substantial wrong or to do substantial justice*.[45] (Emphasis supplied)

Even so, Rule 65 of the *Rules of Court* still requires the petition for *certiorari* to comply with the following requisites, namely: (1) the writ of *certiorari* is directed against a tribunal, a board, or an officer exercising judicial or quasi-judicial functions; (2) such tribunal, board, or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (3) there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law.[46]

Jurisprudence recognizes certain situations when the extraordinary remedy of *certiorari* may be deemed proper, such as: (*a*) when it is necessary to prevent irreparable damages and injury to a party; (*b*) where the trial judge capriciously and whimsically exercised his judgment; (*c*) where there may be danger of a failure of justice; (*d*) where an appeal would be slow, inadequate, and insufficient; (*e*) where the issue raised is one purely of law; (*f*) where public interest is involved; and (*g*) in case of urgency.[47] Yet, a reading of the petition for *certiorari* and its annexes reveals that the petition does not come under any of the situations. Specifically, the petitioners have not shown that the grant of the writ of *certiorari* will be necessary to prevent a substantial wrong or to do substantial justice to them.

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[45] Id. at 594-595.

[46] *Philippine National Bank v. Perez*, G.R. No. 187640 and 187687, June 15, 2011, 652 SCRA 317, 332.

[47] *Francisco Motors Corporation v. Court of Appeals*, G.R. Nos. 117622-23, October 23, 2006, 505 SCRA 8, 20.

In dismissing the petitioners' petition for *certiorari*, the CA in effect upheld the Secretary of Labor's declaration in her assailed July 4, 2001 decision that the full satisfaction of the writs of execution had completely closed and terminated the labor dispute.

Yet, the petitioners have ascribed grave abuse of discretion to the CA for doing so.

We do not agree. We find no just cause to now issue the writ of *certiorari* in order to set aside the CA's assailed May 30, 2003 decision. Indeed, the following well stated justifications for the dismissal of the petition show that the CA was correct, *viz*:

> x x x x
>
> It is worthy to note that all the decisions and incidents concerning the case between petitioners and private respondent IPI have long attained finality. The records show that petitioners have already been granted a writ of execution. In fact, the decision has been executed. Thus, there is nothing for this Court to modify. The granting of the instant petition calls for the amendment of the Court of a decision which has been executed. In this light, it is worthy to note the rule that final and executory decisions, more so with those already executed, may no longer be amended except only to correct errors which are clerical in nature. Amendments or alterations which substantially affect such judgments as well as the entire proceedings held for that purpose are null and void for lack of jurisdiction (*Pio Barretto Realty Development Corporation v. Court of Appeals, 360 SCRA 127).*
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> This Court in the case of *CA GR No. 54041 dated February 28, 2001,* has ruled that the Orders of the Secretary of Labor and Employment dated December 24, 1997 and March 27, 1998 have become final and executory. It may be noted that the said orders affirmed the earlier orders of the Secretary of Labor and Employment dated December 22, 1995 and August 27, 1996 granting the execution of the decision in the case between petitioners and IPI.
>
> There is nothing on the records to support the allegation of petitioners that the Secretary of Labor and Employment abused her discretion. The pertinent portion of the assailed order reads:
>
> > "Given that this office had already ruled on all incidents of the case in its March 27, 1998 order and the Writ of Execution dated June 5, 1995 had already attained finality and had in fact been completely satisfied through the deposit with the Regional Office of the amount covered by the Writ, the subsequent Motions filed by Atty. Arnado can no longer be entertained, much less granted by this Office. Thus, at this point, there is nothing more to grant nor to execute."[48]
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[48] *Rollo*, p. 246.

In a special civil action for *certiorari* brought against a court with jurisdiction over a case, the petitioner carries the burden to prove that the respondent tribunal committed not a merely reversible error but a grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the impugned order.[49] Showing mere abuse of discretion is not enough, for the abuse must be shown to be grave. Grave abuse of discretion means either that the judicial or quasi-judicial power was exercised in an arbitrary or despotic manner by reason of passion or personal hostility, or that the respondent judge, tribunal or board evaded a positive duty, or virtually refused to perform the duty enjoined or to act in contemplation of law, such as when such judge, tribunal or board exercising judicial or quasi-judicial powers acted in a capricious or whimsical manner as to be equivalent to lack of jurisdiction.[50] Under the circumstances, the CA committed no abuse of discretion, least of all grave, because its justifications were supported by the history of the dispute and borne out by the applicable laws and jurisprudence.

And, secondly, the records contradict the petitioners' insistence that the two writs of execution to enforce the December 26, 1990 and December 5, 1991 orders of the DOLE Secretary were only partially satisfied. To recall, the two writs of execution issued were the one for ₱4,162,361.50, later reduced to ₱3,416,402.10, in favor of the 15 employees represented by Atty. Arnado, and that for ₱1,200,378.92 in favor of the second group of employees led by Banquerigo.

There is no question that the 15 employees represented by Atty. Arnado, inclusive of the petitioners, received their portion of the award covered by the September 3, 1996 writ of execution for the amount of ₱3,416,402.10 through the release of the garnished deposit of IPI at China Banking Corporation. That was why they then executed the satisfaction of judgment and quitclaim/release, the basis for the DOLE Secretary to expressly declare in her July 4, 2001 decision that the full satisfaction of the writ of execution "completely CLOSED and TERMINATED this case."[51]

Still, the 15 employees demand payment of their separation pay and backwages from March 16, 1995 onwards pursuant to their reservation reflected in the satisfaction of judgment and quitclaim/release they executed on September 11, 1996.

The demand lacked legal basis. Although the decision of the DOLE Secretary dated December 5, 1991 had required IPI to reinstate the affected workers to their former positions with full backwages reckoned from December 8, 1989 until actually reinstated without loss of seniority rights and other benefits, the reinstatement thus decreed was no longer possible.

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49 *Tan v. Antazo*, G.R. No. 187208, February 23, 2011, 644 SCRA 337, 342.
50 *Delos Santos v. Metropolitan Bank and Trust Company, Inc.*, G.R. No. 153852, October 24, 2012.
51 *Rollo*, p. 170.

Hence, separation pay was instead paid to them. This alternative was sustained in law and jurisprudence, for "separation pay may avail in lieu of reinstatement if reinstatement is no longer practical or in the best interest of the parties. Separation pay in lieu of reinstatement may likewise be awarded if the employee decides not to be reinstated."[52]

Under the circumstances, the employment of the 15 employees or the possibility of their reinstatement terminated by March 15, 1995. Thereafter, their claim for separation pay and backwages beyond March 15, 1995 would be unwarranted. The computation of separation pay and backwages due to illegally dismissed employees should not go beyond the date when they were deemed to have been actually separated from their employment, or beyond the date when their reinstatement was rendered impossible. Anent this, the Court has observed in *Golden Ace Builders v. Talde*:[53]

> The basis for the payment of backwages is different from that for the award of separation pay. Separation pay is granted where reinstatement is no longer advisable because of strained relations between the employee and the employer. Backwages represent compensation that should have been earned but were not collected because of the unjust dismissal. The basis for computing backwages is usually the length of the employee's service while that for separation pay is the actual period when the employee was unlawfully prevented from working.
>
> As to how both awards should be computed, *Macasero v. Southern Industrial Gases Philippines* instructs:
>
> > [T]he award of separation pay is inconsistent with a finding that there was no illegal dismissal, for under Article 279 of the Labor Code and as held in a catena of cases, an employee who is dismissed without just cause and without due process is entitled to backwages ***and*** reinstatement or payment of separation pay in lieu thereof:
> >
> > Thus, an illegally dismissed employee is entitled to two reliefs: backwages and reinstatement. The two reliefs provided are separate and distinct. In instances where reinstatement is no longer feasible because of strained relations between the employee and the employer, separation pay is granted. In effect, an illegally dismissed employee is entitled to either reinstatement, if viable, or separation pay if reinstatement is no longer viable, and backwages.
> >
> > **The normal consequences of respondents' illegal dismissal, then, are reinstatement without loss of seniority rights, and payment of backwages computed from the time compensation was withheld up to the date of actual reinstatement. Where reinstatement is no longer viable as an option, separation pay equivalent to one (1) month salary for every year of service should be awarded as an**

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[52] *Velasco v. National Labor Relations Commission,* G.R. No. 161694, June 26, 2006, 492 SCRA 686, 699.

[53] G.R. No. 187200, May 5, 2010, 620 SCRA 283.

> **alternative. The payment of separation pay is in addition to payment of backwages.** (emphasis, italics and underscoring supplied)
>
> x x x x
>
> Clearly then, respondent is entitled to backwages *and* separation pay as his reinstatement has been rendered impossible due to strained relations. As correctly held by the appellate court, the backwages due respondent must be computed from the time he was unjustly dismissed until his actual reinstatement, or from February 1999 until June 30, 2005 when his reinstatement was rendered impossible without fault on his part.
>
> The Court, however, does not find the appellate court's computation of separation pay in order. The appellate court considered respondent to have served petitioner company for only eight years. Petitioner was hired in 1990, however, and he must be considered to have been in the service not only until 1999, when he was unjustly dismissed, but until June 30, 2005, the day he is deemed to have been actually separated (his reinstatement having been rendered impossible) from petitioner company or for a total of 15 years.[54]

As for the portions of the award pertaining to the rest of the employees listed in the April 12, 1995 notice of execution/computation (*i.e.*, those allegedly similarly situated as the employees listed in the December 5, 1991 order of the DOLE Secretary) still remaining unsatisfied, the petitioners are definitely not the proper parties to ventilate such concern in this or any other forum. At any rate, the concern has already been addressed and resolved by the Court in G.R. No. 164633.[55]

WHEREFORE, the Court **DISMISSES** the petition for *certiorari* for its lack of merit; **AFFIRMS** the decision promulgated on May 30, 2003; and **ORDERS** the petitioners to pay the costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

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[54] Id. at 288-291.
[55] *Supra* note 30.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice