Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

POLYMER RUBBER CORPORATION and JOSEPH ANG, Petitioners,	**G.R. No. 185160**
	Present:
	SERENO, *C.J.*, *Chairperson*, LEONARDO-DE CASTRO, BERSAMIN, VILLARAMA, JR., and REYES, *JJ.*
- versus -	
	Promulgated:
BAYOLO SALAMUDING, Respondent.	JUL 24 2013

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DECISION

REYES, *J.*:

The instant petition[1] assails the Decision[2] dated June 30, 2008 of the Court of Appeals (CA) in CA-G.R. SP No. 98387 directing the recall of the alias writ of execution and the lifting of the notice of levy on the shares of stocks of petitioner Joseph Ang (Ang). The Resolution[3] dated November 5, 2008 denied the motion for reconsideration thereof.

The antecedent facts are as follows:

Herein respondent Bayolo Salamuding (Salamuding), Mariano Gulanan and Rodolfo Raif (referred to as the complainants) were employees of petitioner Polymer Rubber Corporation (Polymer), who were dismissed after allegedly committing certain irregularities against Polymer.

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1 *Rollo*, pp. 3-16.

2 Penned by Associate Justice Sixto C. Marella, Jr., with Associate Justices Edgardo F. Sundiam and Monina Arevalo-Zenarosa, concurring; id. at 17-31.

3 Id. at 33-34.

On July 24, 1990, the three employees filed a complaint against Polymer and Ang (petitioners) for unfair labor practice, illegal dismissal, non-payment of overtime services, violation of Presidential Decree No. 851, with prayer for reinstatement and payment of back wages, attorney's fees, moral and exemplary damages.[4]

On November 21, 1990, the Labor Arbiter (LA) rendered a decision, the dispositive portion of which reads:

> WHEREFORE, judgment is hereby rendered dismissing the complainant unfair labor practice (*sic*) but directing the respondent the following:
>
> 1. Reinstate complainants to their former position with full back wages from the time they were illegally dismissed up to the time of reinstatement.
>
> 2. To pay individual complainants their 13th month pay and for the year 1990 in the following amount:
>
> a. Mariano Gulanan …….. [₱]3,194
> b. Rodolfo Raif ……. [₱]3,439
> c. Bayolo Salam[u]ding …… [₱]3,284
>
> 3. To pay individual complainants overtime in the amount of [₱]1,335 each.
>
> 4. To pay individual complainants overtime in the amount of [₱]6,608.80 each.
>
> 5. To pay individual complainants moral and exemplary damages in the amount of [₱]10,000 each.
>
> 6. To pay attorney's fee equivalent to ten (10) percent of the total monetary award of the complainants.
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> SO ORDERED.[5]

A writ of execution was subsequently issued on April 18, 1991 to implement the aforesaid judgment.[6]

The petitioners appealed to the National Labor Relations Commission (NLRC).

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4 Id. at 18.
5 Id. at 18-19.
6 Id. at 19.

On April 7, 1992, the NLRC affirmed the decision of the LA with modifications. The NLRC deleted the award of moral and exemplary damages, service incentive pay, and modified the computation of 13th month pay.[7] The corresponding Entry of Judgment was made on September 25, 1992,[8] and an alias writ of execution was issued on October 29, 1992, based on the NLRC decision.[9]

The case was subsequently elevated to the Supreme Court (SC) on a petition for *certiorari*. In a Resolution dated September 29, 1993, the Court affirmed the disposition of the NLRC with the further modification that the award of overtime pay to the complainants was deleted.[10]

On September 30, 1993, Polymer ceased its operations.[11]

Upon a motion dated November 11, 1994, the LA *a quo* issued a writ of execution on November 16, 1994 based on the SC resolution. Since the writ of execution was returned unsatisfied, another alias writ of execution was issued on June 4, 1997.[12]

In the latter part of 2004, Polymer with all its improvements in the premises was gutted by fire.[13]

On December 2, 2004, the complainants filed a Motion for Recomputation and Issuance of Fifth (5th) Alias Writ of Execution. The Research and Computation Unit of the NLRC came up with the total amount of ₱2,962,737.65. Due to the failure of the petitioners to comment/oppose the amount despite notice, the LA approved said amount.[14]

Thus, on April 26, 2005, the LA issued a 5th Alias Writ of Execution[15] prayed for commanding the sheriff to collect the amount.

In the implementation of this alias writ of execution dated April 26, 2005, the shares of stocks of Ang at USA Resources Corporation were levied.

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7 Id. at 19-20.
8 CA *rollo*, p. 28.
9 *Rollo*, p. 20.
10 CA *rollo*, p. 29.
11 *Rollo*, p. 26.
12 CA *rollo*, pp. 29-30.
13 *Rollo*, p. 28.
14 CA *rollo*, pp. 48-50.
15 Id.

On November 10, 2005, the petitioners moved to quash the 5th alias writ of execution, and to lift the notice of garnishment.[16] They alleged that: a) Ang should not be held jointly and severally liable with Polymer since it was only the latter which was held liable in the decision of the LA, NLRC and the Supreme Court; b) the computation of the monetary award in favor of the complainants in the amount of ₱2,962,737.65 was misleading, anomalous and highly erroneous; and c) the decision sought to be enforced by mere motion is already barred by the statute of limitations.[17]

In an Order[18] dated December 16, 2005, the LA granted the motion. The LA ordered the quashal and recall of the writ of execution, as well as the lifting of the notice of levy on Ang's shares of stocks.

The LA ruled that the Decision dated November 21, 1990 did not contain any pronouncement that Ang was also liable. To hold Ang liable at this stage when the decision had long become final and executory will vary the tenor of the judgment, or in excess of its terms. As to the extent of the computation of the backwages, the same must only cover the period during which the company was in actual operation. Further, the LA found that the complainant's motion to execute the LA's decision was already barred by the statute of limitations. The *fallo* of the decision reads:

> WHEREFORE, premises all considered, an order is hereby rendered quashing and recalling the Writ of Execution and lifting the Notice of Levy on the Shares of Stocks of respondent Joseph Ang.[19]

On appeal, the NLRC affirmed the findings of the LA in a Decision[20] dated September 27, 2006. It, however, made a pronouncement that the complainants did not sleep on their rights as they continued to file series of motions for the execution of the monetary award and are, thus, not barred by the statute of limitations. The appeal on the aspect of the lifting of the notice of levy on the shares of stocks of Ang was dismissed. The dispositive portion of the decision reads as follows:

> WHEREFORE, the assailed Order dated December 16, 2005 is hereby AFFIRMED with MODIFICATION declaring the rights of the complainants to execute the Decision dated November 21, 1990 not having barred by the statute of limitations. The appeal is hereby, DISMISSED for lack of merit.[21]

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16 Id. at 51-55.
17 Id.
18 Id. at 40-47.
19 Id. at 47.
20 Id. at 26-36.
21 Id. at 35.

On January 12, 2007, the NLRC denied the motion for reconsideration of the foregoing decision.[22]

Undeterred, Salamuding filed a Petition for *Certiorari*[23] before the CA.

On June 30, 2008, the CA found merit with the petition.[24] The CA stated that there has to be a responsible person or persons working in the interest of Polymer who may also be considered as the employer, invoking the cases of *NYK Int'l. Knitwear Corp. Phils. v. NLRC*[25] and *A.C. Ransom Labor Union-CCLU v. NLRC*.[26] Since Ang as the director of Polymer was considered the highest ranking officer of Polymer, he was therefore properly impleaded and may be held jointly and severally liable for the obligations of Polymer to its dismissed employees. Thus, the dispositive portion of the assailed decision reads as follows:

> **WHEREFORE**, the petition is granted in part. The Decision dated September 27, 2006 and the Resolution dated January 12, 2007 of respondent NLRC are hereby annulled and set aside insofar as they direct the recall and quashal of the Writ of Execution and lifting of the Notice of Levy on the shares of stock of respondent Joseph Ang. The Order dated December 16, 2005 of the Honorable Labor Arbiter Ramon Valentin C. Reyes is nullified.
>
> Let the records of the case be remanded to the Labor Arbiter for execution of the Decision dated November 21, 1990 as modified by the NLRC against the respondents Polymer Rubber Corporation and Joseph Ang.[27]

Aggrieved by the CA decision, the petitioners filed the instant petition raising the following questions of law:

> a. That upon the finality of the Decision, the same can no longer be altered or modified[;]
> b. That the Officer of the Corporation cannot be personally held liable and be made to pay the liability of the corporation[;]
> c. That the losing party cannot be held liable to pay the salaries and benefits of the employees beyond the companies [sic] existence;
> d. That the separation pay of employees of the company which has closed its business permanently is only half month salary for every year of service.[28]

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22 Id. at 37-39.
23 Id. at 2-24.
24 *Rollo*, pp. 17-31.
25 445 Phil. 654 (2003).
26 226 Phil. 199 (1986).
27 *Rollo*, pp. 30-31.
28 Id. at 10.

There is merit in the petition.

"A corporation, as a juridical entity, may act only through its directors, officers and employees. Obligations incurred as a result of the directors' and officers' acts as corporate agents, are not their personal liability but the direct responsibility of the corporation they represent. As a rule, they are only solidarily liable with the corporation for the illegal termination of services of employees if they acted with malice or bad faith."[29]

To hold a director or officer personally liable for corporate obligations, two requisites must concur: (1) it must be alleged in the complaint that the director or officer assented to patently unlawful acts of the corporation or that the officer was guilty of gross negligence or bad faith; and (2) there must be proof that the officer acted in bad faith.[30]

In the instant case, the CA imputed bad faith on the part of the petitioners when Polymer ceased its operations the day after the promulgation of the SC resolution in 1993 which was allegedly meant to evade liability. The CA found it necessary to pierce the corporate fiction and pointed at Ang as the responsible person to pay for Salamuding's money claims. Except for this assertion, there is nothing in the records that show that Ang was responsible for the acts complained of. At any rate, we find that it will require a great stretch of imagination to conclude that a corporation would cease its operations if only to evade the payment of the adjudged monetary awards in favor of three (3) of its employees.

The dispositive portion of the LA Decision dated November 21, 1990 which Salamuding attempts to enforce does not mention that Ang is jointly and severally liable with Polymer. Ang is merely one of the incorporators of Polymer and to single him out and require him to personally answer for the liabilities of Polymer is without basis. In the absence of a finding that he acted with malice or bad faith, it was error for the CA to hold him responsible.

In *Aliling v. Feliciano*,[31] the Court explained to wit:

> The CA held the president of WWWEC, Jose B. Feliciano, San Mateo and Lariosa jointly and severally liable for the monetary awards of Aliling on the ground that the officers are considered "employers" acting in the interest of the corporation. The CA cited *NYK International Knitwear Corporation Philippines (NYK) v. National Labor Relations*

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[29] *Peñaflor v. Outdoor Clothing Manufacturing Corporation*, G.R. No. 177114, April 13, 2010, 618 SCRA 208, 216.

[30] *Francisco v. Mallen, Jr.*, G.R. No. 173169, September 22, 2010, 631 SCRA 118, 123-124.

[31] G.R. No. 185829, April 25, 2012, 671 SCRA 186.

Commission in support of its argument. Notably, *NYK* in turn cited *A.C. Ransom Labor Union-CCLU v. NLRC.*

Such ruling has been reversed by the Court in *Alba v. Yupangco*, where the Court ruled:

> "By Order of September 5, 2007, the Labor Arbiter denied respondent's motion to quash the 3rd alias writ. Brushing aside respondent's contention that his liability is merely joint, the Labor Arbiter ruled:
>
> > Such issue regarding the personal liability of the officers of a corporation for the payment of wages and money claims to its employees, as in the instant case, has long been resolved by the Supreme Court in a long list of cases [A.C. *Ransom Labor Union-CLU vs. NLRC* (142 SCRA 269) and reiterated in the cases of *Chua vs. NLRC* (182 SCRA 353), *Gudez vs. NLRC* (183 SCRA 644)]. In the aforementioned cases, the Supreme Court has expressly held that the irresponsible officer of the corporation (*e.g.*, President) is liable for the corporation's obligations to its workers. Thus, respondent Yupangco, being the president of the respondent YL Land and Ultra Motors Corp., is properly jointly and severally liable with the defendant corporations for the labor claims of Complainants Alba and De Guzman. x x x
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> x x x x
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> As reflected above, the Labor Arbiter held that respondent's liability is solidary.
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> There is solidary liability when the obligation expressly so states, when the law so provides, or when the nature of the obligation so requires. *MAM Realty Development Corporation v. NLRC*, on solidary liability of corporate officers in labor disputes, enlightens:
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> > x x x A corporation being a juridical entity, may act only through its directors, officers and employees. Obligations incurred by them, acting as such corporate agents are not theirs but the direct accountabilities of the corporation they represent. True solidary liabilities may at times be incurred but only when exceptional circumstances warrant such as, generally, in the following cases:

> 1. When directors and trustees or, in appropriate cases, the officers of a corporation:
>
> (a) vote for or assent to patently unlawful acts of the corporation;
>
> (b) act in bad faith or with gross negligence in directing the corporate affairs;
>
> x x x x
>
> In labor cases, for instance, the Court has held corporate directors and officers solidarily liable with the corporation for the termination of employment of employees done with malice or in bad faith."[32] (Citations omitted and underscoring ours)

To hold Ang personally liable at this stage is quite unfair. The judgment of the LA, as affirmed by the NLRC and later by the SC had already long become final and executory. It has been held that a final and executory judgment can no longer be altered. The judgment may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest Court of the land.[33] "Since the alias writ of execution did not conform, is different from and thus went beyond or varied the tenor of the judgment which gave it life, it is a nullity. To maintain otherwise would be to ignore the constitutional provision against depriving a person of his property without due process of law."[34]

Anent the computation of their liability for the payment of separation pay in lieu of reinstatement in favor of Salamuding, the Court agrees with the ruling of the LA that it must be computed only up to the time Polymer ceased operations in September 1993. The computation must be based on the number of days when Polymer was in actual operation.[35] It cannot be held liable to pay separation pay beyond such closure of business because even if the illegally dismissed employees would be reinstated, they could not possibly work beyond the time of the cessation of its operation.[36] In the case of *Chronicle Securities Corp. v. NLRC,*[37] we ruled that even an employer who is "found guilty of unfair labor practice in dismissing his employee may

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32 Id. at 218-219.

33 *Manning International Corp. v. NLRC*, G.R. No. 83018, March 13, 1991, 195 SCRA 155, 161.

34 *Alba v. Yupangco,* G.R. No. 188233, June 29, 2010, 622 SCRA 503, 509, citing *B.E. San Diego, Inc. v. Alzul*, G.R. No. 169501, June 8, 2007, 524 SCRA 402, 433 and *Cabang v. Basay*, G.R. No. 180587, March 20, 2009, 582 SCRA 172.

35 *Durabuilt Recapping Plant & Co. v. NLRC,* 236 Phil. 351, 358 (1987).

36 *J.A.T. General Services v. NLRC,* 465 Phil. 785, 798-799 (2004).

37 486 Phil. 560 (2004).

not be ordered so to pay backwages beyond the date of closure of business where such closure was due to legitimate business reasons and not merely an attempt to defeat the order of reinstatement."[38]

WHEREFORE, the petition is **GRANTED**. The Decision dated June 30, 2008 and the Resolution dated November 5, 2008 of the Court of Appeals in CA-G.R. SP No. 98387 are **SET ASIDE**. The Decision of the National Labor Relations Commission dated September 27, 2006 is **REINSTATED**. Let the records of the case be remanded to the Labor Arbiter for proper computation of the award in accordance with this decision.

SO ORDERED.

BIENVENIDO L. REYES
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

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[38] Id. at 572, citing *Pizza Inn/Consolidated Foods Corporation v. NLRC*, G.R. No. L-74531, June 28, 1988, 162 SCRA 773, 778.

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