



**Republic of the Philippines
Supreme Court
Manila**

THIRD DIVISION

**ANGONO
HOSPITAL, INC.,**

MEDICS

G.R. No. 202542

Petitioner,

Present:
LEONEN, J.,
Chairperson,

GESMUNDO,*
HERNANDO,
DELOS SANTOS, and
ROSARIO, JJ.

- versus -

ANTONINA Q. AGABIN,
Respondent.

Promulgated:
December 9, 2020

X-----~~Misdeceit~~-----X

D E C I S I O N

HERNANDO, J.:

This Petition for Review on *Certiorari*¹ assails the April 27, 2012 Decision² and June 27, 2012 Resolution³ of the Court of Appeals (CA) in CA-G.R. S.P. No. 114001.

The CA reversed and set aside the December 16, 2009⁴ and February 26, 2010⁵ Resolutions of the National Labor Relations Commission (NLRC) in NLRC Case No. LAC No. 02-000595-09 which declared that the computation for the award of separation pay and backwages in favor of respondent, Antonina Q. Agabin (Agabin), should be limited in view of a rejected previous offer of

* Designated as additional Member per raffle dated November 23, 2020 vice J. Inting who recused due to his sister's (then Associate Justice of the Court of Appeals Socorro B. Inting) prior participation in the Court of Appeals.

¹ *Rollo*, pp. 9-20.

² *Id.* at 22-30; penned by Associate Justice Socorro B. Inting and concurred in by Associate Justices Fernanda Lampas Peralta and Mario V. Lopez (now a Member of this Court).

³ *Id.* at 32-33.

⁴ *CA rollo*, pp. 16-25; penned by Commissioner Pablo C. Espiritu and concurred in by Presiding Commissioner Alex A. Lopez and Commissioner Gregorio O. Bilog III.

⁵ *Id.* at 27-28.

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reinstatement.

The Antecedents:

Agabin was hired by Angono Medics Hospital Inc. (AMHI) on September 1, 2002 as a staff midwife with a monthly salary of ₱3,500.00. While working, she was allowed by Andres Villamayor (Villamayor), the former President of AMHI, and Antoinette E. Antiojo (Antiojo), the Chief Nurse, to study nursing simultaneously.

On June 23, 2007, Agabin requested permission to go on leave without pay from June 29, 2007 to September 15, 2007 as she needed to work as an affiliate in Mariveles, Bataan as part of her school requirement. Antiojo approved the request on the same day.

On September 15, 2007, Agabin returned to AMHI to inform Antiojo that she was ready to report back to work. Consequently, Agabin was included in the Schedule of Duty for the period September 16 to 30, 2007 with a 10:00 P.M. to 6:00 A.M. shift and off-duty days on September 23 and 30, 2007.

However, on September 19, 2007, Villamayor berated Agabin for coming in to work and told her to go home and take a vacation. Agabin explained to Villamayor that Antiojo approved her leave of absence but Villamayor ignored her explanation and retorted that she should go home since she had been away from work for a long time. Villamayor also told Agabin that she would not be compensated for her work rendered on September 17 and 18, 2007.

The next day, Antiojo informed Agabin that as per Villamayor's instructions, Agabin should not report for work anymore. Thus, Agabin filed a Complaint⁶ for illegal dismissal, separation pay, backwages and other monetary claims.

AMHI denied dismissing Agabin. It claimed that the latter simply failed to report for work after June 28, 2007 for unspecified reasons.

Ruling of the Executive Labor Arbiter (Arbiter):

In a December 19, 2008 Decision,⁷ the Arbiter found that Agabin was illegally dismissed from her job. Moreover, Agabin's leave of absence was with the prior approval of Antiojo as supported by an approved leave form. Agabin also reported for work after September 15, 2007 and was included in the Schedule of Duty from September 16 to 30, 2007. The Arbiter found Agabin's assertion that Villamayor ordered her not to report for work anymore to be

⁶ Id at 37.

⁷ Id. at 30-36; penned by Executive Labor Arbiter Generoso V. Santos.

credible, especially in light of the sudden separation from employment of Antiojo from AMHI, whose cooperation AMHI could have utilized to rebut Agabin's claims. The Arbiter also found Agabin's filing of the illegal dismissal complaint within a reasonable period inconsistent with AMHI's claim of abandonment.⁸

Likewise, AMHI did not accord due process to Agabin. However, since Agabin opted for separation pay due to her strained relations with AMHI, the Arbiter awarded full backwages and separation pay, in lieu of reinstatement, in addition to service incentive leave pay, 13th month pay, and wages for work performed on September 17 and 18, 2007, and attorney's fees. Villamayor was held jointly and severally liable with AMHI in accordance with Article 212(e)⁹ of the Labor Code and considering that his acts which were tainted with bad faith.¹⁰

The dispositive portion of the Arbiter's Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered finding that complainant [Agabin] was illegally dismissed, and ordering respondents to jointly and severally pay complainant [Agabin] the following:

a. Backwages from September 19, 2007 until the finality of the Decision in her favor, tentatively computed until December 19, 2008 in the amount of P97,890.00;

b. 13th month pay of P8,157.50;

c. Separation pay at one month pay for every year [of] service to be computed from September 2, 2002 until the finality of the Decision in her favor, tentatively computed until December 19, 2008 in the amount of P39,156.00;

d. Service Incentive Leave Pay for three (3) years in the amount of P3,745.00;

e. Salary from September 17 & 18, 2008 of P502.00;

f. Thirteenth (13th) month pay for 2007 in the amount of P3,745.00;

g. Attorney's fee at ten (10%) percent of the total award in the amount of P15,416.00

SO ORDERED.¹¹

⁸ Id.

⁹ ART. 219 [212] *Definitions*. x x x
x x x x

(e) "Employer" includes any person acting in the interest of an employer, directly or indirectly. The term shall not include any labor organization or any of its officers or agents except when acting as employer.

¹⁰ CA *rollo*, pp. 34-35.

¹¹ Id. at 35-36.

Aggrieved, AMHI appealed¹² before the NLRC.

**Ruling of the National Labor
Relations Commission:**

In its December 16, 2009 Resolution,¹³ the NLRC affirmed the ruling of the Arbiter. The labor tribunal held that Agabin was illegally dismissed as AMHI did not observe substantial and procedural due process.¹⁴

However, considering Agabin's refusal to AMHI's offer for reinstatement during the January 16, 2008 hearing, the computation of her separation pay and backwages should be modified in that it should be limited for the period September 19, 2007 until January 16, 2008 while her separation pay should be computed from September 1, 2002 up to January 16, 2008.¹⁵ Thus, the NLRC modified the Executive Labor Arbiter's Decision, viz.:

WHEREFORE, premises considered, the appeal is partly GRANTED and the Decision dated 19 December 2008 is MODIFIED by limiting the period of the award of separation pay from 01 September 2002 until 16 January 2008 and the backwages from 19 September 2007 until 16 January 2008. Accordingly, complainant-appellee [Agabin] is entitled to **P33,800.00** separation pay and **P29,070.10** backwages.

The other parts of the Decision [STAND].

SO ORDERED.¹⁶

AMHI¹⁷ and Agabin¹⁸ both asked for a reconsideration but the NLRC denied their motions in its February 26, 2010 Resolution.¹⁹ Dismayed, AMHI filed a Petition for *Certiorari*²⁰ before the CA which was docketed as CA-G.R. S.P. No. 113939 (SP No. 113939) and entitled "*Angono Medics Hospital, Inc. v. NLRC and Antonina Q. Agabin.*" Agabin also filed a Petition for *Certiorari*²¹ which was docketed as CA-G.R. S.P. No. 114001 (SP No. 114001) and entitled "*Antonina Q. Agabin v. NLRC and Angono Medics Hospital, Inc.*" Unfortunately, both petitions were not consolidated by the appellate court.

¹² Id. at 86-93.

¹³ CA *rollo*, pp. 16-21.

¹⁴ Id. at 22-23.

¹⁵ Id. at 23.

¹⁶ Id.

¹⁷ Id. at 95-102.

¹⁸ Id. at 104-107.

¹⁹ Id. at 27-28.

²⁰ Id. at 3-14.

²¹ Not appended in the records but mentioned by Agabin in her Comment dated June 10, 2010 to AMHI's petition for *certiorari* in CA-G.R. SP No. 113939.

Ruling of the Court of Appeals:

The CA dismissed AMHI's Petition (SP No. 113939) in its July 19, 2010 Decision²² and held that the NLRC's factual findings and conclusions are supported by substantial evidence. It did not give credence to AMHI's claim that Agabin was guilty of abandoning her job.²³ It also ruled that as a consequence of her illegal dismissal, Agabin is entitled to full backwages and separation pay, in lieu of reinstatement, and attorney's fees.²⁴

Undeterred, AMHI filed a Motion for Reconsideration²⁵ but it was denied by the CA in its November 4, 2010 Resolution.²⁶

AMHI's Petition for Review on *Certiorari*²⁷ docketed as G.R. No. 194465 was denied by this Court in its February 9, 2011 Resolution;²⁸ AMHI's motion for reconsideration thereof was likewise denied with finality in a June 13, 2011 Resolution.²⁹ An Entry of Judgment³⁰ was subsequently issued.

Meanwhile, in SP No. 114001, the appellate court reinstated the Arbiter's December 19, 2008 Decision in its assailed April 27, 2012 Decision.³¹ The appellate court found that AMHI's offer of reinstatement was not supported by evidence and thus should not have been automatically factored in by the NLRC as a basis for modifying the reckoning point of the award of separation pay and backwages.

It clarified that even if the alleged offer was made, the award of separation pay and backwages should be computed from the time Agabin's compensation was withheld from her until the time of her actual reinstatement, and not only up to the time the offer of reinstatement was made, in accordance with Article 279³² of the Labor Code. A mere order for reinstatement issued by the Arbiter is different from the actual restoration of an employee to his or her previous position. Hence, in case of reinstatement, the backwages and other monetary

²² *Rollo*, pp. 35-53; penned by Associate Justice Celia C. Librea-Leagogo and concurred in by Associate Justices Remedios A. Salazar-Fernando and Michael P. Elbinias.

²³ *Id.* at 43-44.

²⁴ *Id.* at 50.

The dispositive portion of the appellate court's July 19, 2010 Decision in CA-G.R. SP No. 113939 reads:
WHEREFORE, premises considered, the Petition is DENIED.
SO ORDERED.

²⁵ *CA rollo*, pp. 149-152.

²⁶ *Rollo*, pp. 55-56; penned by Associate Justice Celia C. Librea-Leagogo and concurred in by Associate Justices Remedios A. Salazar-Fernando and Michael P. Elbinias.

²⁷ *CA rollo*, pp. 174-188.

²⁸ *Rollo*, p. 57.

²⁹ *Id.* at 58.

³⁰ *Id.* at 59.

³¹ *Id.* at 22-30.

³² Art. 279. Security of Tenure. – In cases of regular employment, the employer shall not terminate the services of an employee except for just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

awards shall continue beyond the issuance of the Arbiter's ruling until such time the said reinstatement is actually complied.³³

Moreover, in cases where reinstatement is no longer feasible, separation pay and backwages must be computed up to the finality of the decision. In addition, until actual receipt by the employee of the award of separation pay, the employer-employee relationship subsists and entitles the illegally dismissed employee to an award of backwages, 13th month pay, and other benefits from the time of his or her actual dismissal until finality of the decision of the Labor Arbiter.³⁴ Thus, the dispositive portion of the CA's assailed April 27, 2012 Decision provides:

WHEREFORE, the petition is **GRANTED**. The December 16, 2009 and February 26, 2010 *Resolutions* of the NLRC in NLRC Case No. RAB IV-11-25748-07-RI 00-01-00499-06 (LAC No. 02-000595-09) are **REVERSED** and **SET ASIDE**. Accordingly, the December 19, 2008 Decision of the Labor Arbiter in NLRC Case No. RAB-IV-11-25748-07-RI is hereby ordered **REINSTATED**.

SO ORDERED.³⁵

AMHI's motion for reconsideration was denied by the appellate court in its June 27, 2012 Resolution.³⁶ Discontented, AMHI elevated³⁷ this case (SP No. 114001) before Us via a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court and raised this sole error:

THE COURT OF APPEALS ERRED IN NOT RULING THAT [ITS] JULY 19, 2010 DECISION IN CA-GR SP NO. 113939, WHICH AFFIRMED IN FULL THE RESOLUTIONS DATED DECEMBER 16, 2009 AND FEBRUARY 26, 2010 OF THE NATIONAL LABOR RELATIONS COMMISSION IN NLRC LAC NO. 02-000595-09 ENTITLED "ANTONINA Q. AGABIN VS. ANGONO MEDICS HOSPITAL" WHICH PARTLY GRANTED THE APPEAL OF PETITIONER FROM THE EARLIER DECISION DATED DECEMBER 19, 2008 OF THE LABOR ARBITER IN NLRC CASE NO. RAB-IV-11-25748-07-RI, CONSTITUTES AS A BAR TO ANY SUBSEQUENT CONTRARY DECISION IN CA-GR SP NO. 114001.³⁸

The pivotal issue in this case is whether or not the ruling of the CA in SP No. 113939 (G.R. No. 194465) controls and prevails over another CA ruling in SP No. 114001. Stated differently, the issue is whether or not the ruling in SP No. 113939 (G.R. No. 194465) serves as *res judicata* upon SP No. 114001, the case at bench. After resolving this matter, the next question is how the monetary awards of Agabin should actually be computed.

³³ *Rollo*, pp. 27-28.

³⁴ *Id.* at 28-29.

³⁵ *Id.* at 29.

³⁶ *Id.* at 32-33.

³⁷ *Id.* at 9-18.

³⁸ *Id.* at 14.

The Petition:

AMHI mainly argues that the decision in SP No. 113939 (G.R. No. 194465), which is already final and executory, has the effect of *res judicata* upon SP No. 114001. It opines that the decision in SP No. 114001 should be considered null and void since there is identity of parties, subject matter, and causes of action between the two cases contemplated herein.³⁹

Agabin counters that the legal issues raised by the parties in the separate Petitions for *Certiorari* before the CA are entirely different from each other. She clarifies that the question in SP No. 114001 (G.R. No. 202542, the case at bench) before the CA is the computation of her monetary awards.

Agabin also argues that SP No. 114001 should not be considered as subsequent case to SP No. 113939 for the purpose of the application of *res judicata* because both SP No. 113939 and SP No. 114001 stemmed from the same issuances, *i.e.*, the NLRC's December 16, 2009 and February 26, 2010 Resolutions. The mere fact that SP No. 113939 was filed a week earlier and decided ahead of SP No. 114001 should not prejudice her as she just exercised her statutory right to file a *certiorari* petition to assail the Resolutions of the NLRC which limited her award of backwages.⁴⁰

Agabin further contends that the CA rulings in SP No. 113939 and SP No. 114001 are consistent with each other because in both cases, the CA held that AMHI illegally dismissed her and awarded her separation pay, backwages, and other benefits.⁴¹

Our Ruling

The petition is unmeritorious.

SP No. 113939, AMHI's Petition for *Certiorari* before the CA, raised the issue of the Arbiter's alleged abuse of discretion "in not granting the motion for examination and in not setting the case for formal hearing before deciding the case on its merits, and the [NLRC's abuse of] discretion in affirming a clearly illegal act of said arbiter."⁴² SP No. 114011 or Agabin's Petition for *Certiorari* before the CA, on the other hand, she raised the following issues:

WHETHER OR NOT THE NLRC COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT MODIFIED THE DECISION OF THE LABOR ARBITER DATED DECEMBER 19, 2008 BY LIMITING THE AWARD OF BACKWAGES TO PETITIONER ONLY FROM SEPTEMBER 19, 2007 UNTIL JANUARY 16, 2008 INSTEAD OF FROM SEPTEMBER 19, 2007

³⁹ Id. at 14-15.

⁴⁰ Id. at 68.

⁴¹ Id. at 69.

⁴² CA *rollo*, p. 8.

UNTIL THE FINALITY OF THE DECISION.

WHETHER OR NOT THE NLRC COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT DENIED THE MOTION FOR RECONSIDERATION OF ITS RESOLUTION DATED DECEMBER 16, 2009.⁴³

Preliminarily, We agree with the finding that Agabin was illegally dismissed and that the same has already become final and executory. This is clear from the ruling in SP No. 113939 (G.R. No. 194465) and even in SP No. 114001 or the case at bench. It should be stressed that what is being assailed in the case at bench (G.R. No. 202542) is the computation of Agabin's separation pay and backwages and no longer the finding of illegal dismissal. Indeed,

As a rule, 'a final judgment may no longer be altered, amended or modified, even if the alteration, amendment or modification is meant to correct what is perceived to be an erroneous conclusion of fact or law and regardless of what court, be it the highest Court of the land, rendered it. Any attempt on the part of the ... entities charged with the execution of a final judgment to insert, change or add matters not clearly *contemplated* in the dispositive portion violates the rule on immutability of judgments.' An exception to this rule is the existence of supervening event which refer to facts transpiring after judgment has become final and executory or to new circumstances that developed after the judgment acquired finality, including matters that the parties were not aware of prior to or during the trial as they were not yet in existence at that time."⁴⁴

In this case, no supervening event transpired which could alter the finding of illegal dismissal.

The question now is whether the finality of SP No. 113939 (G.R. No. 194465) would affect the computation of respondent's backwages and separation pay. AMHI contends that the doctrine of *res judicata* should apply and Agabin can no longer question the limitation in the computation of her monetary awards.

Res judicata means 'a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment.' It lays the rule that an existing final judgment or decree rendered on the merits, without fraud or collusion, by a court of competent jurisdiction, upon any matter within its jurisdiction, is conclusive of the rights of the parties or their privies, in all other actions or suits in the same or any other judicial tribunal of concurrent jurisdiction on the points and matters in issue in the first suit.⁴⁵

The concept of *res judicata* can be found in Section 47, Rule 39 of the Rules of Court, *viz.* :

⁴³ *Rollo*, p. 27.

⁴⁴ *Bani Rural Bank, Inc. v. De Guzman*, 721 Phil. 84, 97 (2013).

⁴⁵ *Monterona v. Coca-Cola Bottlers Philippines, Inc.*, G.R. No. 209116, January 14, 2019 citing *Spouses Selga v. Brar*, 673 Phil. 581, 591 (2011).

SEC. 47. Effect of judgments or final orders. –

The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

x x x x

(b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised [or missed] in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; and

(c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

*Monterona v. Coca-Cola Bottlers Philippines, Inc.*⁴⁶ exhaustively explains the two rules of *res judicata* which are:

xxx (1) bar by prior judgment as enunciated in Rule 39, Section 47 (b); and (2) conclusiveness of judgment in Rule 39, Section 47 (c). *Oropeza Marketing Corporation v. Allied Banking Corporation*⁴⁷ differentiated between the two rules of *res judicata*:

There is 'bar by prior judgment when, as between the first case where the judgment was rendered and the second case that is sought to be barred, there is identity of parties, subject matter, and causes of action. In this instance, the judgment in the first case constitutes an absolute bar to the second action. Otherwise put, the judgment or decree of the court of competent jurisdiction on the merits concludes the litigation between the parties, as well as their privies, and constitutes a bar to a new action or suit involving the same cause of action before the same or any other tribunal.

But where there is identity of parties in the first and second cases, but no identity of causes of action, the first judgment is conclusive only as to those matters actually and directly controverted and determined and not as to the matters merely involved therein. This is the concept of *res judicata* known as 'conclusiveness of judgment.' Stated differently, any right, fact or matter in issue directly adjudicated or necessarily involved in the determination of an action before a competent court in which judgment is rendered on the merits is conclusively settled by the judgment therein and cannot again be litigated between the parties and their privies, whether or not the claim, demand, purpose, or subject matter of the two actions is the same.

⁴⁶ Id.

⁴⁷ Id., citing *Oropeza Marketing Corporation v. Allied Banking Corporation*, 441 Phil. 551, 564 (2002).

The elements of *res judicata* are: (1) the judgment sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be a judgment on the merits; and (4) there must be as between the first and second action, identity of parties, subject matter, and causes of action. xxx Should identity of parties, subject matter, and causes of action be shown in the two cases, then *res judicata* in its aspect as a ‘bar by prior judgment’ would apply. If as between the two cases, only identity of parties can be shown, but not identical causes of action, then *res judicata* as ‘conclusiveness of judgment’ applies.⁴⁸

The instant case should be resolved on the basis of the rule on “conclusiveness of judgment” since although there is identity of parties in both SP Nos. 113939 and 114001, the causes of action are not identical, as earlier discussed. Moreover, strictly speaking, there is only conclusiveness of judgment insofar as the finding of illegal dismissal is concerned and not as to the computation of the monetary awards.

In view of these considerations, the Court finds that there is no conflict between the two CA rulings. In SP No. 113939, the appellate court dealt with the illegal dismissal aspect of the case as well as the Arbiter’s denial of AMHI’s motion to further examine Agabin’s documents and to set the case for formal hearing.

On the other hand, in SP No. 114001, the CA delved on the correct basis and computation of Agabin’s backwages and separation pay. Relevantly, the appellate court in SP No. 113939 did not discuss at all the computation of the monetary awards; it merely quoted the rulings of both the Arbiter and the NLRC.

To reiterate, in SP No. 113939, while the appellate court affirmed both the rulings of the Arbiter and the NLRC as regards the issue of Agabin’s illegal dismissal, it did not delve into the computation of separation pay and backwages. In this regard, it cannot be said that there was a bar by conclusiveness of judgment by virtue of the finality of SP No. 113939 which would in turn bar Agabin from further contesting the computation of her monetary awards. As it stands, the said computation can still be questioned since the CA in SP No. 113939 did not expressly make a definitive finding that the NLRC’s ruling in limiting the award prevailed over the Arbiter’s Decision to grant full backwages and separation pay to Agabin.

At this point, We reiterate that the issue of Agabin’s illegal dismissal has already been settled as confirmed by both SP No. 113939 (G.R. No. 194465), which already became final and executory, and by SP No. 114001. Hence, there is no need to belabor this issue.

⁴⁸ Id.

We now resolve the issue on the computation of Agabin's backwages and separation pay.

It is settled that "[t]he twin reliefs that should be given to an illegally dismissed employee are full backwages and reinstatement.⁴⁹ Backwages restore the lost income of an employee and is computed from the time compensation was withheld up to actual reinstatement.⁵⁰ Anent reinstatement, only when it is not viable is separation pay given."⁵¹ As earlier ruled, Agabin is entitled to the said reliefs. In *Session Delights Ice Cream and Fast Foods v. Court of Appeals (Sixth Division)*,⁵² We held that a decision in a case involving illegal dismissal consists essentially of two components:

The *first* is that part of the decision that cannot now be disputed because it has been confirmed with finality. This is the finding of the illegality of the dismissal and the awards of separation pay in lieu of reinstatement, backwages x x x.

The *second* part is the computation of the awards made. x x x⁵³

Since the first part, specifically the finding of illegal dismissal, is no longer disputed in the instant case, the second part or the computation of monetary awards should be determined. The case of *Bani Rural Bank, Inc. v. De Guzman*⁵⁴ extensively explained the basis for the computation of the monetary awards, as follows:

The computation of backwages depends on the final awards adjudged as a consequence of illegal dismissal, in that:

First, when reinstatement is ordered, the general concept under Article 279 of the Labor Code, as amended, computes the backwages from the time of dismissal until the employee's reinstatement. The computation of backwages (and similar benefits considered part of the backwages) can even continue beyond the decision of the labor arbiter or NLRC and ends only when the employee is actually reinstated.⁵⁵

Second, when separation pay is ordered in lieu of reinstatement (in the event that this aspect of the case is disputed) or reinstatement is waived by the employee (in the event that the payment of separation pay, in lieu, is not disputed), backwages is computed from the time of dismissal until the finality of the decision **ordering separation pay**.

⁴⁹ *Peak Ventures Corp. v. Heirs of Villareal*, 747 Phil. 320-337 (2014) citing *St. Luke's Medical Center, Inc. v. Notario*, 648 Phil. 285 (2010).

⁵⁰ *Id.*

⁵¹ *Id.*, citing *Capili v. National Labor Relations Commission*, 337 Phil. 210, 216 (1997), *Buhain v. Court of Appeals*, 433 Phil. 94, 102-103 (2002), and *St. Luke's Medical Center, Inc. v. Notario*, supra.

⁵² 624 Phil. 612 (2010).

⁵³ *Id.* at 625.

⁵⁴ *Supra*, note 44.

⁵⁵ *Id.* citing *Javellana, Jr. v. Belen*, 628 Phil. 241 (2010).

Third, when separation pay is ordered after the finality of the decision ordering the reinstatement by reason of a supervening event that makes the award of reinstatement no longer possible (as in the case), backwages is computed from the time of dismissal until the finality of the decision **ordering separation pay**.

The above computation of backwages, when separation pay is ordered, has been the Court's consistent ruling. In *Session Delights Ice Cream and Fast Foods v. Court of Appeals (Sixth Division)*, we explained that the finality of the decision becomes the reckoning point because in allowing separation pay, the **final** decision effectively declares that the employment relationship ended so that separation pay and backwages are to be computed up to that point.

We may also view the proper computation of backwages (whether based on reinstatement or an order of separation pay) in terms of the life of the employment relationship itself.

When reinstatement is ordered, the employment relationship continues. Once the illegally dismissed employee is reinstated, any compensation and benefits thereafter received stem from the employee's continued employment. In this instance, backwages are computed only up until the reinstatement of the employee since after the reinstatement, the employee begins to receive compensation from his resumed employment.

When there is an order of separation pay (in lieu of reinstatement or when the reinstatement aspect is waived or subsequently ordered in light of a supervening event making the award of reinstatement no longer possible), the employment relationship is terminated only upon the finality of the decision ordering the separation pay. The finality of the decision cuts-off the employment relationship and represents the final settlement of the rights and obligations of the parties against each other. Hence, backwages no longer accumulate upon the finality of the decision ordering the payment of separation pay since the employee is no longer entitled to any compensation from the employer by reason of the severance of his employment.⁵⁶

The second scenario squarely applies in the case at bar since the order of separation pay was decreed in lieu of reinstatement. Hence, the employer-employee relationship of AMHI and Agabin will only be completely terminated upon the finality of the decision which ordered the payment of separation pay and backwages.

It follows that the computation of Agabin's backwages must be from the time of her illegal dismissal from employment on September 19, 2007 until the finality of the decision ordering the payment thereof. As for her separation pay, it should be computed at one month pay for every year of service reckoned from September 2, 2002 (as found by the Arbiter) until the finality of the decision in her favor. The ruling of the CA in its assailed April 27, 2012 Decision and June 27, 2012 Resolution which reinstated the December 19, 2008 Decision of the Arbiter is thus correct.

⁵⁶ Id. at 101-103.

Lastly, the backwages including allowances and benefits or their monetary equivalent which were granted in favor of Agabin shall, in accordance with Our ruling in *Nacar v. Gallery Frames*,⁵⁷ earn legal interest of twelve (12%) percent per *annum* from the time these were withheld until June 30, 2013, and thereafter, six percent (6%) per *annum* from July 1, 2013 until finality of this judgment. Additionally, all monetary awards shall earn an interest at the rate of six percent (6%) per *annum* from the date of the finality of this Decision until fully paid.⁵⁸

WHEREFORE, the instant petition is **DENIED**. The April 27, 2012 Decision and June 27, 2012 Resolution of the Court of Appeals in CA-G.R. SP No. 114001 holding that respondent Antonina Q. Agabin was illegally dismissed and thus entitled to full backwages, separation pay, and other monetary awards from the time of her illegal dismissal until finality of the decision in her favor, are **AFFIRMED**. The December 19, 2008 Decision of the Executive Labor Arbiter is **REINSTATED**.

Petitioner is **ORDERED** to pay respondent Antonina Q. Agabin the following:

a. **FULL BACKWAGES**, inclusive of allowances, and other benefits or their monetary equivalent from the time these were withheld from her on September 19, 2007 until finality of this judgment; and

b. **SEPARATION PAY IN LIEU OF REINSTATEMENT** at one month salary for every year of service, with a fraction of at least six (6) months considered as one whole year computed from the date of the start of her employment on September 2, 2002 until finality of judgment;

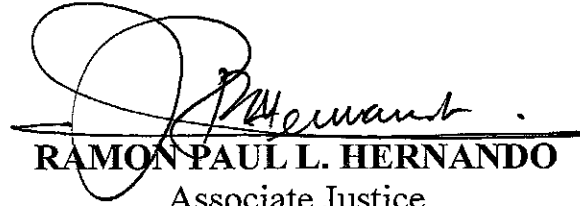
The total monetary award shall earn legal interest at the rate of twelve percent (12%) per *annum* from the time her salary and other benefits were withheld until June 30, 2013; and at the rate of six percent (6%) per *annum* from July 1, 2013 until the date of finality of this judgment. All the said monetary awards shall be subject to legal interest of six percent (6%) per *annum* from the date of finality of this judgment until full satisfaction of the same.

The case is **REMANDED** to the arbitration branch of origin for the computation of separation pay and backwages, other allowances and benefits or their monetary equivalent, and for the execution of the award.

⁵⁷ 716 Phil. 267, 280-283 (2013). See Bangko Sentral ng Pilipinas Monetary Board Circular No. 799, Series of 2013.


⁵⁸ *Id.*

SO ORDERED.

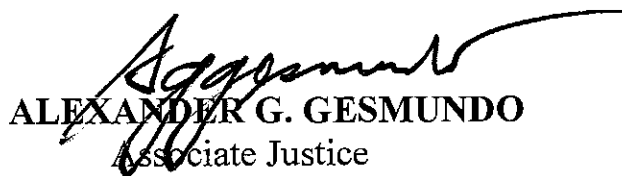


RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:



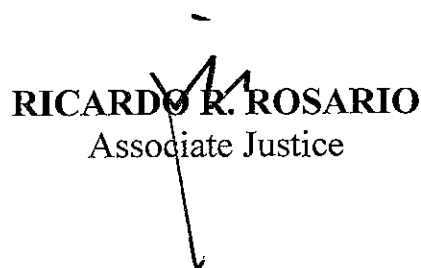
MARVIC M. V. F. LEONEN
Associate Justice
Chairperson



ALEXANDER G. GESMUNDO
Associate Justice



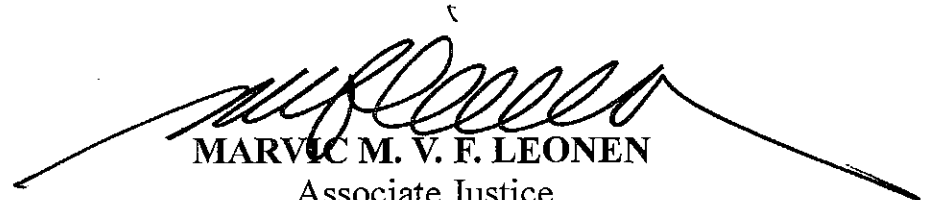
EDGARDO L. DELOS SANTOS
Associate Justice



RICARDO R. ROSARIO
Associate Justice

ATTESTATION

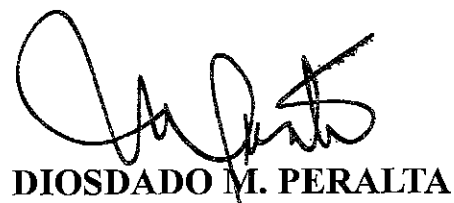
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M. V. F. LEONEN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I hereby 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.



DIOSDADO M. PERALTA
Chief Justice