Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **August 4, 2021**, *which reads as follows:*

"G.R. No. 226617 (PHILIPPINE NATIONAL CONSTRUCTION CORPORATION, ***petitioner*** **v. ROY D. PASOS,** ***respondent*****).** – This Court's final and executory judgment ordering the reinstatement of an illegally dismissed employee is unalterable. Any invoked exception to the doctrine of immutability of judgments and the rule of mandatory reinstatement must be proven by evidence.

This Court resolves the Petition[1] under Rule 45 which seeks the reversal of the Court of Appeals' Decision[2] and Resolution,[3] which upheld respondent's reinstatement in accordance with this Court's Decision in *Pasos v. Philippine National Construction Corporation.*[4]

Philippine National Construction Corporation (PNCC) is a government owned and/or controlled corporation governed by Republic Act No. 10149.[5] Roy D. Pasos (Pasos) was an accounting clerk at PNCC.[6]

In *Pasos v. Philippine National Construction Corporation,* this Court rendered a Decision finding PNCC guilty of illegally dismissing Pasos.[7] This Court found that while Pasos started as a project employee, he became a regular employee when his services were extended without any specification as to its duration. As such, he cannot be dismissed on the ground of contract expiration or project completion. This Court thus ordered

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1 *Rollo*, pp. 11 –23.

2 Id. at 33–43. The March 22, 2016 Decision in CA-G.R. SP NO. 140329 was penned by Associate Justice Japar B. Dimaampao and concurred in by Associate Justices Franchito N. Diamante and Carmelita Salandanan-Manahan of the Eighth Division, Court of Appeals, Manila.

3 Id. at 44–45. The August 17, 2016 Resolution in CA-G.R. SP NO. 140329 was penned by Associate Justice Japar B. Dimaampao and concurred in by Associate Justices Franchito N. Diamante and Carmelita Salandanan-Manahan of the Eighth Division, Court of Appeals, Manila

4 713 Phil. 416–438 (2013) [Per J. Villarama, First Division].

5 *Rollo*, p. 58.

6 713 Phil. 416, 421 (2013) [Per J. Villarama, First Division].

7 Id. at 436.

Pasos' reinstatement to his former position or to a substantially equivalent position. The dispositive portion reads:

> WHEREFORE, the petition is GRANTED. The assailed March 26, 2010 Decision and May 26, 2010 Resolution of the Court of Appeals in CA-G.R. SP No. 107805 are hereby REVERSED. The decision of the Labor Arbiter is hereby REINSTATED with the following MODIFICATIONS:
>
> 1) respondent PNCC is DIRECTED to pay petitioner Roy D. Pasos full back wages from the time of his illegal dismissal on October 19, 2000 up to the finality of this Decision, with interest at 6% per annum, and 12% legal interest thereafter until fully paid;
>
> *2) respondent PNCC is ORDERED to reinstate petitioner Pasos to his former position or to a substantially equivalent one, without loss of seniority rights and other benefits attendant to the position; and*
>
> 3) respondent PNCC is DIRECTED to pay petitioner Pasos attorney's fees equivalent to 10% of his total monetary award.
>
> No pronouncement as to costs.
>
> SO ORDERED. (Emphasis supplied)[8]

PNCC filed a Motion for Reconsideration which was denied.[9]

When the Decision became final and executory, Pasos filed a Motion for Execution before the Labor Arbiter. During the pre-execution conference, the parties could not agree on the total amount due to Pasos. Thus, the parties submitted the matter to the National Labor Relations Commission – Computation and Examination Unit (NLRC-CEU). Thereafter, PNCC filed a Manifestation and Motion alleging that Pasos cannot be reinstated because the position he previously occupied had been abolished in light of its retrenchment program.[10] PNCC thus offered to pay Pasos separation pay instead and moved for the computation to include the separation pay due to Pasos.[11] The NLRC-CEU's final computation, however, did not include the separation pay.[12]

The Labor Arbiter adopted the final computation of the NLRC-CEU and ordered the issuance of a writ of execution and the reinstatement of Pasos:

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[8] Id. at 438.
[9] Id. at 125.
[10] Id. at 34.
[11] Id. at 46–48.
[12] Id. at 35–36.

As agreed during the pre-execution conference, the matter of the total award due the complainant was referred to the Computation and Examination Unit of this Commission which came with a total of P3,227,786.36.

This Office, finding this award to be in line with the Decision, adopts the same.

WHEREFORE, premises considered, let a writ be issued for the actual reinstatement of the complainant to his former position and for the payment of the monetary award in the total amount of P3,227,786.36.

Respondent has ten [10] days from receipt of this Order to inform this Office on its compliance with the order of reinstatement.

SO ORDERED.[13]

PNCC appealed to the National Labor Relations Commission. The National Labor Relations Commission denied PNCC's Appeal[14] and Motion for Reconsideration.[15] It found that the adoption and implementation of the retrenchment program happened in 2005, prior to the final resolution of the illegal dismissal case, but PNCC failed to invoke it before the July 3, 2013 Decision in *Pasos v. Philippine National Construction Corporation* attained finality. It noted that PNCC only invoked the alleged supervening event after it obtained an unfavorable decision and only when the matter was already before the Labor Arbiter during the execution proceedings.[16] Thus:

In sum, this Commission finds that petitioner's arguments against the order of reinstatement in favor of private respondent is an attempt to modify a final and executory decision, which cannot be countenanced.

WHEREFORE, premises considered, the Motion for Partial Reconsideration of petitioner is **DENIED**.[17] (Emphasis in the original)

PNCC filed a Petition for Certiorari with the Court of Appeals. In its Decision,[18] the Court of Appeals dismissed the Petition. It found that the National Labor Relations Commission did not commit grave abuse of discretion in enforcing the final judgment of this Court, especially as it had no authority to modify or alter the decision which had become final and

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[13] Id. at 51. The September 4, 2014 Order was penned by Labor Arbiter Patricio P. Libo-On of the National Labor Relations Commission, National Capital Region, Quezon City.

[14] Id. at 76–80. The October 30, 2014 NLRC Decision was penned by Commissioner Dolores M. Peralta-Beley and concurred in by Presiding Commissioner Grace E. Maniquiz-Tan and Commissioner Mercedes R. Posada-Lacap.

[15] Id. at 92–96. The February 24, 2015 Resolution was penned by Commissioner Dolores M. Peralta-Beley and concurred in by Presiding Commissioner Grace E. Maniquiz-Tan and Commissioner Mercedes R. Posada-Lacap.

[16] Id. at 93.

[17] Id. at 95–96.

[18] Id. at 33–41.

executory. It also denied reconsideration in a Resolution dated August 17, 2016.[19]

PNCC thus filed this Petition for Review on Certiorari[20] under Rule 45.

Petitioner argues that it is already impossible and unjust to reinstate respondent to his previous position as it had already been abolished in light of its retrenchment program.[21]

Petitioner claims that it had to implement a retrenchment program, which has been ongoing since 2005, due to poor market conditions because of lack of demand for construction projects. As a result, petitioner has retained only a small number of employees to protect its remaining assets.[22] This was disclosed to the Labor Arbiter and respondent during the pre-execution conference.[23] Petitioner argues that the reinstatement would cause injustice as this would compel it to create a new position just so respondent can be accommodated.[24] This would prompt the Commission on Audit to disallow any of its disbursements given petitioner's business reverses.[25]

Petitioner claims that separation pay is the more viable option as it may be awarded in lieu of reinstatement where there is a supervening fact or event which renders the execution of the Decision unenforceable.[26]

In respondent's Comment,[27] he argues that it was correctly held that he is entitled to reinstatement because the judgment which ordered it has become final and executory.[28]

Respondent maintains that the alleged retrenchment is not a supervening event which would make the judgment alterable because it occurred before the judgment became final and executory. In fact, it transpired while the case was still pending with the Labor Arbiter,[29] eight years prior to the Supreme Court's Decision in 2013. He further points out that petitioner failed to question the ruling in its Motion for Reconsideration before the Supreme Court, and only raised the issue during the execution

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[19] Id. at 44–45.
[20] Id. at 11–23.
[21] Id. at 17.
[22] Id.
[23] Id. at 21.
[24] Id. at 22.
[25] Id.
[26] Id. at 16–17.
[27] Id. at 118–134.
[28] Id. at 125–126.
[29] Id. at 128.

proceedings.[30] Respondent further claims that retrenchment is a question of fact, which is not a proper subject of a Petition for Review under Rule 45.[31]

Respondent further argues that the issue is not only belatedly raised, but also barred by laches.[32] He asserts that since his complaint was for illegal dismissal with prayer for reinstatement, it should have been raised at the earliest opportunity with the Labor Arbiter.[33] Respondent claims that petitioner still failed to raise it before the National Labor Relations Commission and the Supreme Court despite questioning the rulings,[34] adding that it took petitioner nine years to manifest the alleged retrenchment program.[35]

Assuming the issue was not raised belatedly, respondent claims petitioner failed to support its claim of retrenchment.[36] According to respondent, petitioner did not present any proof of the validity of the retrenchment program during the execution proceedings before the Labor Arbiter, in its petition for extraordinary remedies filed with the National Labor Relations Commission, and in the present case.[37] Respondent adds that there is likewise no showing that petitioner is suffering from financial reverses or serious losses.[38] Respondent claims that petitioner's 2015 Annual Report to the Securities and Exchange Commission states that its revenue, incomes from operations and other charges, and net comprehensive income increased compared to the previous year.[39]

Respondent contends that his reinstatement is feasible. As in *Quijano v. Bartolabac,*[40] he previously held a clerical/rank and file position prior to his illegal dismissal.[41] He likewise claims that it is untrue that petitioner only has 24 employees, because in its 2015 Annual Report, petitioner stated it has 202 employees, 163 of which are rank and file.[42]

Finally, respondent points out that backwages does not depend on the availability of reinstatement.[43] Thus, respondent asserts that the Court should not limit the computation of his backwages up to the time petitioner implemented its retrenchment program.[44]

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[30] Id. at 125.
[31] Id. at 127.
[32] Id. at 128–129.
[33] Id. at 129.
[34] Id.
[35] Id. at 128.
[36] Id. at 129.
[37] Id.
[38] Id. at 130.
[39] Id.
[40] 516 Phil. 4–18 (2006) [Per J. Tinga, Third Division].
[41] *Rollo*, p. 131.
[42] Id.
[43] Id. at 132.
[44] Id.

In its Reply,[45] petitioner reiterates that separation pay in lieu of reinstatement is proper because the retrenchment program which abolished respondent's position is a supervening event that renders reinstatement impossible and unjust.[46]

Petitioner explained that it failed to raise the issue of retrenchment in the earlier proceedings because it was never put in issue during the illegal dismissal case. Additionally, the National Labor Relations Commission and the Court of Appeals ruled in petitioner's favor.[47]

Petitioner maintains that it was forced to implement the retrenchment program because it has been bleeding resources since 2005.[48] According to petitioner, to insist on the reinstatement will cause it to incur more costs and to create a position it does not need, which was deliberately removed for its financial recovery.[49]

Petitioner further argues that this Court should take judicial notice of its financial distress in 2005 as this situation was recognized in *Strategic Alliance Development Corp. v. Radstock Securities Ltd.*[50] Petitioner insists that this is sufficient evidence of its losses, thus, there is no need to provide specific proof such as audited financial statements showing the losses it suffered.[51]

Petitioner maintains that the retrenchment caused it to retain only 24 personnel at the end of 2014.[52] In 2015, out of the 202 employees mentioned by respondent, 169 are employees of Dasmariñas Industrial and Steelworks Corporation, one of petitioner's wholly owned subsidiaries.[53] Furthermore, petitioner's Annual Report shows that the earnings were not due to new operations that would require additional manpower, but rather to existing financial dealings and property management.[54] Furthermore, in petitioner's website, its dividends history shows a multi-billion deficit for year 2013 and 2014.[55]

Finally, petitioner explains that the amount of backwages is already for the Commission on Audit's approval.[56]

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[45] Id. at 143–151.
[46] Id. at 147–148.
[47] Id. at 144–145.
[48] Id. at 147.
[49] Id.
[50] 622 Phil. 431–623 (2009) [Per J. Carpio, En Banc]. *Rollo*, p. 147.
[51] *Rollo*, p. 147.
[52] Id. at 149.
[53] Id.
[54] Id. at 150.
[55] Id.
[56] Id. at 144.

The issue for this Court's resolution is whether or not respondent Roy D. Pasos may be awarded separation pay in lieu of reinstatement.

This Court denies the Petition. Respondent must be reinstated.

A final and executory judgment is already immutable and unalterable. Once the judgment has reached this stage, its execution is merely ministerial. In *International School, Inc. v. Minister of Labor and Employment*:[57]

> It has been ruled time and again that it is the ministerial duty of the court to order execution of its final and executory judgment[.]
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> ....
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> A writ of execution is a matter of right in favor of a prevailing party once judgment becomes final and executory for failure to seasonably perfect an appeal. Execution is fittingly called the fruit and end of the law and aptly called the life of the law ... and the end of suit[.] Once a decision becomes final, the Court can no longer amend or modify the same, much less set it aside. To allow the court to amend the final judgment will result in endless litigation[.] Every litigation must come to an end. Access to the court is guaranteed. But there must be limit to it. Once a litigant's right has been adjudicated in a valid final judgment of a competent court, he should not be granted an unbridled license to come back for another try. The prevailing party should not be harassed by subsequent suits. For, if endless litigation were to be encouraged, unscrupulous litigations will multiply in number to the detriment of the administration of justice[.]
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> ....
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> Fundamental is the rule that execution must conform to that ordained or decreed in the dispositive part of the decision. A court cannot except for clerical error or omission, amend a judgment that has become final[.] Similarly, in a very recent case, this Court aptly stated:
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>> "We must bear in mind that final judgments are entitled to respect and should not be disturbed, as otherwise, there would be a wavering of trust in the courts. *In the absence of a reasonable appeal therefrom, the questioned judgment of Judge Agana, Sr. has become final and executory. It is now the law of the case. Having been rendered by a court of competent jurisdiction acting within its authority, that judgment may no longer be altered even at the risk of legal infirmities and errors it may contain.* Certainly they cannot be corrected by a special civil action of *certiorari* which, as in this case, was filed long after the judgment became final and executory." (Emphasis in the original, citations omitted)[58]

This doctrine is subject only to a few exceptions. In *Gadrinab v. Salamanca*:[59]

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[57] 256 Phil. 940–951 (1989) [Per J. Paras, Second Division].
[58] Id. at 947–951.
[59] 736 Phil. 279–297 (2014) [Per J. Leonen, Third Division].

> This doctrine [of finality of judgment or immutability of judgment] admits a few exceptions, usually applied to serve substantial justice:
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> 1. "The correction of clerical errors;
> 2. the so-called *nunc pro tunc* entries which cause no prejudice to any party;
> 3. void judgments; and
> 4. whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable."
>
> ...
>
> A supervening event may justify the disturbance of a final judgment on compromise if it "brought about a material change in [the] situation" between the parties. The material change contemplated must render the execution of the final judgment unjust and inequitable. Otherwise, a party to the compromise agreement has a "right to have the compromise agreement executed, according to its terms."[60] (Citations omitted)

In *Mercury Drug Corp. v. Spouses Huang,*[61] this Court discussed that when a supervening event transpires after the finality of a decision, the following conditions must be present in order for the final and executory judgment to be alterable:

> Parties must establish two (2) conditions in order to properly invoke the exception on supervening events. First, the fact constituting the supervening event must have transpired after the judgment has become final and executory. It should not have existed prior to the finality of the judgment. Second, it must be shown that the supervening event "affects or changes the substance of the judgment and renders its execution inequitable."[62] (Citation omitted)

None of these requisites are present in this case. There is no circumstance that transpired after the finality of the Decision which would render the execution unjust or inequitable.

First, the alleged supervening circumstance occurred even before this Court rendered its judgment ordering reinstatement. According to petitioner, its retrenchment program started back in 2005. This Court rendered its Decision on July 3, 2013. When this Court ordered respondent's reinstatement, petitioner could have manifested that its retrenchment program had made it impossible for it to comply. However, petitioner only invoked its retrenchment program as a supervening event after the finality of the judgment and during pre-execution proceedings.

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[60] Id. at 293–294.
[61] 817 Phil. 434–464 (2017) [Per J. Leonen, Third Division].
[62] Id. at 454.

Second, there is no showing that reinstating respondent would be inequitable or unjust. Under Article 279 of the Labor Code, an illegally dismissed employee is entitled to backwages and reinstatement. Reinstatement is mandated by law.

Petitioner claims that separation pay is the better alternative. However, payment of separation pay is awarded only if reinstatement is no longer feasible. In *Velasco v. National Labor Relations Commission*:[63]

> The accepted doctrine is that separation pay may avail in lieu of reinstatement if reinstatement is no longer practical or in the best interest bbbof the parties. Separation pay in lieu of reinstatement may likewise be awarded if the employee decides not to be reinstated.[64] (Citation omitted)

Moreover, in *Globe-Mackay Cable and Radio Corp. v. National Labor Relations Commission*:[65]

> Over time, the following reasons have been advanced by the Court for denying reinstatement under the facts of the case and the law applicable thereto: that reinstatement can no longer be effected in view of the long passage of time (22 years of litigation) or because of the realities of the situation; or that it would be "inimical to the employer's interest;" or that reinstatement may no longer be feasible; or, that it will not serve the best interests of the parties involved; or that the company would be prejudiced by the workers' continued employment; or that it will not serve any prudent purpose as when supervening facts have transpired which make execution on that score unjust or inequitable or, to an increasing extent, due to the resultant atmosphere of "antipathy and antagonism" or "strained relations" or "irretrievable estrangement" between the employer and the employee.
>
> In lieu of reinstatement, the Court has variously ordered the payment of backwages and separation pay or solely separation pay.[66] (Citations omitted)

Petitioner claims that it has become impossible to reinstate respondent as his position had been abolished by virtue of its retrenchment program.

However, petitioner did not present any evidence to support its claim that it will be impossible to reinstate respondent. Its pleadings do not contain any proof that it encountered financial losses, implemented a retrenchment program, or abolished petitioner's position. Instead, it states there is no need to provide the specific proof of its losses. It relies instead

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[63] 525 Phil. 749–764 (2006) [Per J. Tinga, Third Division].
[64] Id. at 761.
[65] 283 Phil. 649– 664 (1992) [Per J. Romero, En Banc].
[66] Id. at 659–660.

on this Court to take judicial notice of its financial distress[67] because of this portion stated in the 2009 case of *Strategic Alliance Development Corp. v. Radstock Securities Ltd:*[68]

> While PNCC insists that it remains financially viable, the figures in the COA Audit Reports tell otherwise. **For 2006 and 2005, "the Corporation has incurred negative gross margin of ₱84.531 Million and ₱80.180 Million, respectively, and *net losses that had accumulated in a deficit of ₱14.823 Billion as of 31 December 2006.*"** The COA even opined that **"unless [PNCC] Management addresses the issue on net losses in its financial rehabilitation plan, ...the Corporation may not be able to continue its operations as a going concern."**[69] (Emphasis in the original, citations omitted)

However, this does not fall within the doctrine of judicial notice. In *State Prosecutors v. Muro:*[70]

> I. The doctrine of judicial notice rests on the wisdom and discretion of the courts. The power to take judicial notice is to be exercised by courts with caution; care must be taken that the requisite notoriety exists; and every reasonable doubt on the subject should be promptly resolved in the negative.
>
> Generally speaking, matters of judicial notice have three material requisites: (1) the matter must be one of common and general knowledge; (2) it must be well and authoritatively settled and not doubtful or uncertain; and (3) it must be known to be within the limits of the jurisdiction of the court. The principal guide in determining what facts may be assumed to be judicially known is that of notoriety. Hence, it can be said that judicial notice is limited to facts evidenced by public records and facts of general notoriety.
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> To say that a court will take judicial notice of a fact is merely another way of saying that the usual form of evidence will be dispensed with if knowledge of the fact can be otherwise acquired. This is because of the court assumes that the matter is so notorious that it will not be disputed. But judicial notice is not judicial knowledge. The mere personal knowledge of the judge is not the judicial knowledge of the court, and he is not authorized to make his individual knowledge of a fact, not generally or professionally known, the basis of his action. Judicial cognizance is taken only of those matters which are "commonly" known.
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> Things of "common knowledge," of which courts take judicial notice, may be matters coming to the knowledge of men generally in the course of the ordinary experiences of life, or they may be matters which are generally accepted by mankind as true and are capable of ready and unquestioned demonstration. Thus, facts which are universally known, and which may be found in encyclopedias, dictionaries or other

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67 *Rollo*, p. 147
68 622 Phil. 431–623 (2009) [Per J. Carpio, En Banc].
69 Id. at 478–479.
70 *State Prosecutors v. Muro,* 306 Phil. 519-562 (1994) [Per Curiam, En Banc].

> publications, are judicially noticed, provided they are of such universal notoriety and so generally understood that they may be regarded as forming part of the common knowledge of every person.[71] (Citations omitted)

Furthermore, *Strategic Alliance Development Corp. v. Radstock Securities Ltd*[72] involves the determination of whether the PNCC Board acted in evident bad faith and gross inexcusable negligence, amounting to fraud in the management of PNCC's affairs. It made no mention of any retrenchment or abolition of any employment positions.

Assuming petitioner did experience financial distress in 2005, several years have passed since then. Thus, it is bound to at least provide evidence that it has not yet recovered from its losses. It cannot expect this Court to rely solely on its bare allegations. The party who alleges a fact has the burden of proving it. In *Republic v. Estate of Hans Menzi*:[73]

> It is procedurally required for each party in a case to prove his own affirmative allegations by the degree of evidence required by law. In civil cases such as this one, the degree of evidence required of a party in order to support his claim is preponderance of evidence, or that evidence adduced by one party which is more conclusive and credible than that of the other party. It is therefore incumbent upon the plaintiff who is claiming a right to prove his case. Corollarily, the defendant must likewise prove its own allegations to buttress its claim that it is not liable.
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> The party who alleges a fact has the burden of proving it. The burden of proof may be on the plaintiff or the defendant. It is on the defendant if he alleges an affirmative defense which is not a denial of an essential ingredient in the plaintiff's cause of action, but is one which, if established, will be a good defense — *i.e.*, an "avoidance" of the claim.[74] (Citations omitted).

Finally, the abolition of the position should not be a hindrance considering the dispositive portion states that the reinstatement may be to respondent's former position *or to a substantially equivalent one*. Thus, in *Quijano v. Bartolabac*:[75]

> We now go to the main issue at bar, *i.e.*, whether or not respondents are liable for their acts in deviating from the final and executory judgment of this Court in G.R. No. 126561.
>
> The Court is unyielding in its adjudication that complainant must be reinstated to his former position as warehouseman or to a substantially equivalent position. This was stated in its Decision dated 8 July 1998,

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[71] Id. at 537–538.
[72] 622 Phil. 431–623 (2009) [Per J. Carpio, En Banc].
[73] 512 Phil. 425–462 (2005) [Per J. Tinga, En Banc].
[74] Id. at 456–457.
[75] *Quijano v. Bartolabac,* 516 Phil. 4–18 (2006) [Per J. Tinga, Third Division].

reiterated in the Resolution dated 5 July 1999, and again stressed in the Resolution dated 17 November 1999. In the latter resolution, it was particularly expressed that:

> Indeed, private respondent's [Mercury Drug Corporation] contention, as erroneously upheld by the labor arbiter, that there is no substantially equivalent position for petitioner's reinstatement has been categorically discounted by this Court. We took judicial notice of the fact that private respondent *Mercury Drug Corporation operates nationwide and has numerous branches all over the Philippines. Petitioner, as warehouseman, occupied a clerical/rank and file position in said company* and we find it *highly inconceivable* that no other substantially equivalent position exists to effect his reinstatement.

Clearly, the Court is unwilling to accept the corporation and respondent labor arbiter's reason that reinstatement is no longer feasible because the position of warehouseman had already been abolished and there is no substantially equivalent position in the corporation.

Both respondents labor arbiter and commissioner do not have any latitude to depart from the Court's ruling. The Decision in G.R. No. 126561 is final and executory and may no longer be amended. It is incumbent upon respondents to order the execution of the judgment and implement the same to the letter. Respondents have no discretion on this matter, much less any authority to change the order of the Court. The acts of respondent cannot be regarded as acceptable discretionary performance of their functions as labor arbiter and commissioner of the NLRC, respectively, for they do not have any discretion in executing a final decision. The implementation of the final and executory decision is mandatory.

...

Again, we are unceasing in emphasizing that the decision in the labor case has become final and executory since 1999. There can be no justification for the overturning of the Court's reinstatement order by the NLRC First Division and full satisfaction of the monetary award of only three (3) years after the finality of the judgment.

The Court is not wont to compel the corporation to instantly restore the position of warehouseman if it has been already abolished. Indeed, the Court granted that complainant could be reinstated to a substantially equivalent or similar position as a viable alternative for the corporation to carry out.

Our Constitution mandates that no person shall be deprived of life, liberty, and property without due process of law. It should be borne in mind that employment is considered a property right and cannot be taken away from the employee without going through legal proceedings. In the instant case, respondents wittingly or unwittingly dispossessed complainant of his source of living by not implementing his reinstatement. In the process, respondents also run afoul of the public policy enshrined in

the Constitution ensuring the protection of the rights of workers and the promotion of their welfare.[76] (Emphases in the original, citations omitted)

Thus, respondent may hold another position so long as it is equivalent to his former position.

WHEREFORE, the Petition is **DENIED**. The March 22, 2016 Decision and August 17, 2016 Resolution of the Court of Appeals in CA-G.R. SP No. 140329 is **AFFIRMED**. Petitioner Philippine National Construction Corporation is ordered to **REINSTATE** respondent Roy D. Pasos to his former position and **PAY** the total amount of ₱3,227,786.36 as backwages, interests, and attorney's fees.

SO ORDERED." (Lopez, J., *J., designated additional Member per Special Order no. 2834.*)

By authority of the Court:

MISAEL DOMINGO C. BATTUNG III
Division Clerk of Court

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[76] Id. at 14–17.