



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames

*Please take notice that the Court, Third Division, issued a Resolution dated July 10, 2023, which reads as follows:*

**G.R. No. 263432 – TABACALERA INCORPORADA**, *petitioner,*  
*versus* **ALAN JAMES ANTHONY C. HARROW**, *respondent.*

The Court has reviewed the allegations, issues, and arguments adduced in the Petition and resolves to **DENY** the same for failure to sufficiently show that the Court of Appeals (CA) committed any reversible error in its Decision,<sup>1</sup> dated June 26, 2018, and the Resolution,<sup>2</sup> dated September 12, 2022, in CA-G.R. SP Nos. 151710 and 152523, affirming the: (a) Decision,<sup>3</sup> dated May 15, 2017; (b) Order,<sup>4</sup> dated February 17, 2017; and (c) Resolution,<sup>5</sup> dated June 22, 2017, of the Fifth Division of the National Labor Relations Commission (NLRC) in NLRC NCR CN. 01-00311-14 and NLRC LAC No. 07-001717-14 (RA 01-17), which found that petitioner Tabacalera Incorporada (**Tabacalera**) illegally dismissed respondent Alan James Anthony C. Harrow (**Harrow**) and that Tabacalera failed to perfect its appeal when it did not post an additional bond, as directed.

*The present case is a labor dispute*

A dispute is intra-corporate in nature if it satisfies both the relationship and controversy tests.<sup>6</sup>

<sup>1</sup> *Rollo*, pp. 46-75. Penned by Associate Justice Magdangal M. De Leon and concurred in by Associate Justices Rodil V. Zalameda (now a Member of the Court) and Renato C. Francisco.

<sup>2</sup> *Id.* at 77-82. Penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Pablito A. Perez and Raymond Reynold R. Lauigan.

<sup>3</sup> *Id.* at 125-144. Penned by Presiding Commissioner Grace E. Maniquiz-Tan and concurred in by Commissioners Dolores M. Peralta-Beley and Mercedes R. Posada-Lacap.

<sup>4</sup> *Id.* at 115-123.

<sup>5</sup> *Id.* at 145-149.

<sup>6</sup> *Cacho v. Balagtas*, 825 Phil. 597, 608 (2018); *San Jose v. Ozamiz*, 813 Phil. 669, 678-679 (2017); *De Castro v. Court of Appeals*, 796 Phil. 681, 708 (2016); *Marc II Marketing, Inc. v. Joson*, 678 Phil. 232, 255 (2011), 662 SCRA 35, 51; and *Reyes v. Regional Trial Court of Makati, Branch 142*, 583 Phil. 591, 609 (2008).

The relationship test is satisfied if the dispute is between or among the following parties: (a) between the corporation, partnership, or association and the public; (b) between the corporation, partnership, or association and its stockholders, partners, members, or officers; (c) between the corporation, partnership, or association and the State as far as its franchise, permit or license to operate is concerned; and (d) among the stockholders, partners, or associates themselves. Further, for an individual to become a corporate officer, it must be shown that: (a) the creation of the position is under the corporation's charter or by-laws; and (b) the election of the officer is by the directors or stockholders.<sup>7</sup>

On the other hand, the controversy test is met if the issue is not only rooted in the existence of an intra-corporate relationship, but must also the enforcement of the parties' correlative rights and obligations under the Corporation Code and the internal and intra-corporate regulatory rules of the corporation. Thus, the dispute must be intrinsically connected with the regulation of the corporation.<sup>8</sup>

In the present case, the dispute fails both tests. As found by the labor tribunals and affirmed by the CA, Tabacalera failed to prove that Harrow was a duly elected corporate officer and Harrow's complaint does not seek the enforcement of his rights as a shareholder or officer, nor does it involve corporate regulatory rules.

The relationship test is also not satisfied because the records show that it was Ongpin who appointed Harrow as President and Chief Operating Officer of La Flor and Tabacalera. Tabacalera's contention that Harrow was elected as its President on January 25, 2012 is contrary to its own evidence, *i.e.*, the General Information Sheet which states that no annual meeting was held in 2012, and it likewise failed to produce any minutes of a meeting to prove that Harrow was ever elected to the said position. As the NLRC aptly held, Harrow's discharge of functions as President and his eventual termination did not originate from any action of its board of directors, but on the sole basis of Ongpin's decision. Hence, Harrow is not a corporate officer within the context of Section 5(c) of Presidential Decree No. 902-A,<sup>9</sup> which would prevent the labor tribunals from exercising jurisdiction over the case.<sup>10</sup>

As for the controversy test, the NLRC likewise correctly ruled that Harrow's cause of action is the termination of his employment. Based on the

<sup>7</sup> *Wesleyan University-Philippines v. Maglaya, Sr.*, 803 Phil. 722, 737 (2017); and *Tabang v. National Labor Relations Commission*, 334 Phil. 424, 429 (1997).

<sup>8</sup> *Reyes v. Regional Trial Court of Makati, Branch 142*, supra note 6, at 608; and *Speed Distributing Corp. v. Court of Appeals*, 469 Phil. 739, 759 (2004).

<sup>9</sup> Entitled "REORGANIZATION OF THE SECURITIES AND EXCHANGE COMMISSION WITH ADDITIONAL POWER AND PLACING THE SAID AGENCY UNDER THE ADMINISTRATIVE SUPERVISION OF THE OFFICE OF THE PRESIDENT," approved on March 11, 1976.

<sup>10</sup> *Rollo*, pp. 70, 134, and 387-390, CA and NLRC Decisions.

allegations in his complaint, Harrow did not seek the enforcement of his rights as a stockholder under the Corporation Code as he demanded his reinstatement and payment of backwages, service incentive leave, and damages. The resolution of these issues would remain notwithstanding Harrow's designation as Tabacalera's President.<sup>11</sup>

With the absence of the elements of an intra-corporate controversy in this case, Harrow's complaint is a labor dispute which falls under the jurisdiction of the labor tribunals.<sup>12</sup>

*The decision of the Labor Arbiter has long become final and executory*

The Labor Code and NLRC Rules of Procedure clearly requires the posting of a bond for the perfection of an appeal to the NLRC from a judgment of the Labor Arbiter. The perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but jurisdictional, and failure thereat renders the judgment final and executory.<sup>13</sup>

Here, it is undisputed that Tabacalera failed to post the bond within the reglementary period. While it insisted that it is not financially capable to post the bond, it was able to find a way to do so albeit three months late through its Motion for Partial Reconsideration (With Appeal Bond Attached),<sup>14</sup> dated June 1, 2017.<sup>15</sup> This supports the NLRC's finding that Tabacalera did not present sufficient justification for the further reduction of the appeal bond. As such ruling is evidently not tainted with bad faith, the same is conclusive upon the Court.<sup>16</sup> With the additional bond filed out of time and no grave abuse of discretion on the NLRC's part, the Decision of the Labor Arbiter became final and executory.

Accordingly, the CA correctly dismissed Tabacalera's Petition for *Certiorari*.

Nonetheless, the CA's ruling must be modified to include legal interest commencing from the finality of the Labor Arbiter's Decision. Such Decision, when it attained finality, became a judgment for money judgment from which another consequence flows — the payment of interest in case of delay. Thus, the payment of legal interest of 6% upon the finality of the

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<sup>11</sup> Id.

<sup>12</sup> See *Real v. Sangu Philippines, Inc.*, 655 Phil. 68 (2011).

<sup>13</sup> *Gaudia v. National Labor Relations Commission*, 376 Phil. 548 (1999).

<sup>14</sup> *Rollo*, pp. 151-158.

<sup>15</sup> Id.

<sup>16</sup> *Accessories Specialist, Inc. v. Alabanza*, 581 Phil. 517 (2008).

judgment is proper. The same is not barred by the principle of immutability of judgment as it is compensatory interest arising from the final judgment.<sup>17</sup>

**WHEREFORE**, the Petition is **DENIED**. The Decision, dated June 26, 2018, and the Resolution, dated September 12, 2022, of the Court of Appeals in CA-G.R. SP Nos. 151710 and 152523 are **AFFIRMED with MODIFICATION**.

Petitioner Tabacalera Incorporada is **ORDERED** to **PAY** respondent Alan James Anthony C. Harrow legal interest of 6% *per annum* of the total monetary awards computed from the date of finality of the decision of the Labor Arbiter in NLRC NCR CN 01-00311-14 until full satisfaction.

The Labor Arbiter is hereby **ORDERED** to make a re-computation of the monetary awards according to the above directive.

**SO ORDERED.**

By authority of the Court:

*MisDocBatt*  
**MISAELO DOMINGO C. BATTUNG III**  
*9/10/23*  
Division Clerk of Court

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(NLRC NCR CN 01-00311-14(RA 01-17))

<sup>17</sup> *Consolidated Distillers of the Far East, Inc. v. Zaragoza*, 833 Phil. 888, 899 (2018); *Bani Rural Bank, Inc. v. De Guzman*, 721 Phil. 84, 104-105 (2013).

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