

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)

Second Regular Session)

HOUSE BILL NO. **5430**



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Introduced by ANGKLA Party-list Representative JESULITO A. MANALO

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AN ACT AMENDING ARTICLE 223 OF PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

This bill aims to put in order the existing systems and mechanisms governing the immediately "final and executory" nature of decisions issued by the National Labor Relations Commission (NLRC) and the National Conciliation and Mediation Board (NCMB).

While there are established rules providing for extraordinary remedies to parties aggrieved by execution proceedings, including restitution, there is still, in reality, a great deal of difficulty that some parties continuously face in these labor dispute resolutions. This particularly exists in situations where after successfully obtaining a money judgment from the NLRC or NCMB, the said judgment is reversed on appeal, and the laborer-claimant is mandated, but is no longer able to return the judgment award to the principal.

As there is no other jurisdiction or legal system in the world, except in our country that allows for the enforcement of a decision of a labor court in full, despite the availability of further recourse to the appellate courts, this bill now aims to address and resolve these prevailing labor issues.

The wisdom imparted by the Supreme Court in the case of *Mansion Printing Center, et. al. versus Diosdado Bitara, Jr.* (G.R. No. 168120, 25 January 2012) is instrumental to this proposed measure. The said Decision in part provides:

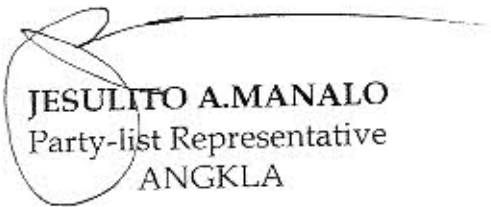
“The law in protecting the rights of the employees authorizes neither oppression nor self-destruction of the employer. It should be made clear that when the law tilts the scale of justice in favor of labor, it is but a recognition of the inherent economic inequality between labor and management. The intent is to balance the scale of justice; to put the two parties on relatively equal positions. There may be cases where the circumstances warrant favoring labor over the interests of management but never should the scale be so tilted if the result is an injustice to the employer.”

To highlight the gravity of the inherent problem in restitution of monetary judgments, the records of cases on monetary claims awarded to seafarers alone from 2009 to 2013 are cited. The figures show that the number of cases reversed or modified by the CA and the SC had increased to ninety-eight (98), which translates to the amount of US\$6,283,485.00 due to be returned by seafarers to the ship owners. Of these cases, sixty-three (63) involving a total value of US\$3,892,769, have already been decided with finality. Out of the said amount of US\$6,283,485.00, only US\$19,701.50 (in respect of three cases where the amount to be returned to the ship owners was supposed to be USD\$177,791.50) were recorded to have been recovered or restituted in favor of the principals who prevailed in their appeals.

The problem gains greater relevance considering the following factors: (a) the complainant will insist on the execution of the NLRC or NCMB decision despite the appeal; (b) even if the appellate courts overturn or modify the NLRC or NCMB decision, there is little hope of recovering anything through restitution; (c) more legal costs and expenses will be incurred in pursuing the case through the appellate courts and in applying for restitution of the judgment award.

Admittedly, the remedy of injunction is available upon elevation of the case to the CA. However, there were only a few occasions wherein the CA timely ruled on the applications for injunction, resolving the same unfavorably for failure to prove the irreparable damage that will be brought about in the enforcement of the NLRC or NCMB Decision.

Thusly, in order to strike a balance between the rights of the workers and employers giving equal importance to the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns to investments, expansion and growth, it is submitted that the money judgment be deposited to an Escrow Account, as sufficient to meet the requirements of execution. In this manner, the laborers are assured of the availability of the funds and monies due them, and at the same time, restitution, if proper, is also guaranteed.



JESULITO A. MANALO
Party-list Representative
ANGKLA

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Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled,

SECTION 1. Article 223 of Presidential Decree No. 442, as amended, shall be read and amended as follows:

“Art. 223. Appeal. Decisions, awards, or orders of the Labor Arbiter are final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards, or orders. Such appeal may be entertained only on any of the following grounds:

- a. If there is prima facie evidence of abuse of discretion on the part of the Labor Arbiter;
- b. If the decision, order or award was secured through fraud or coercion, including graft and corruption;
- c. If made purely on questions of law; and
- d. If serious errors in the findings of facts are raised which would cause grave or irreparable damage or injury to the appellant.

In case of a judgment involving a monetary award, an appeal by the employer may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Commission in the amount equivalent to the monetary award in the judgment appealed from.

In any event, the decision of the Labor Arbiter reinstating a dismissed or separated employee, insofar as the reinstatement aspect is concerned, shall immediately be executory, even pending appeal. The employee shall either be admitted back to work under the same terms and conditions prevailing prior to his dismissal or separation or, at the option of the employer, merely reinstated in the payroll. The posting of a bond by the employer shall not stay the execution for reinstatement provided herein.

To discourage frivolous or dilatory appeals, the Commission or the Labor Arbiter shall impose reasonable penalty, including fines or censures, upon the erring parties.

In all cases, the appellant shall furnish a copy of the memorandum of appeal to the other party who shall file an answer not later than ten (10) calendar days from receipt thereof.

The Commission shall decide all cases within twenty (20) calendar days from receipt of the answer of the appellee. ANY PARTY MAY FILE A MOTION FOR RECONSIDERATION ON THE GROUND OF PALPABLE OR PATENT ERRORS WITHIN TEN (10) CALENDAR DAYS FROM RECEIPT OF THE DECISION OF THE COMMISSION SOUGHT TO BE RECONSIDERED. The decision or RESOLUTION of the Commission shall be final and executory after ten (10) calendar days from receipt thereof by the parties. A WRIT OF EXECUTION SHALL ISSUE ONLY UPON FILING WITH THE COMMISSION OF A MOTION FOR EXECUTION BY THE PREVAILING PARTY.

THE FINAL DECISION OR RESOLUTION OF THE COMMISSION OR OF THE NATIONAL CONCILIATION AND MEDIATION BOARD (NCMB) IN CONCILIATION OR MEDIATION PROCEEDINGS, MAY BE BROUGHT TO THE APPROPRIATE APPELLATE COURTS.

TO ENSURE THE RESTITUTION OF MONETARY AWARDS IN CASE THE APPROPRIATE APPELLATE COURT ANNULS OR PARTIALLY OR TOTALLY REVERSES THE MONETARY JUDGMENT, THE PROCEEDS OF EXECUTION SHALL BE DEPOSITED IN AN ESCROW ACCOUNT WITH

AN ESCROW AGENT DESIGNATED BY THE NLRC OR THE NCMB. THE PROCEEDS SHALL REMAIN IN ESCROW UNTIL SUCH TIME THE FINALITY OF THE DECISION ISSUED BY THE APPROPRIATE APPELLATE COURT IS OBTAINED.

THE ABOVE PROCEEDS SHALL ONLY BE RELEASED AFTER ISSUANCE OF AN ENTRY OF JUDGMENT BY THE APPROPRIATE APPELLATE COURT AND UPON ISSUANCE BY THE NLRC OR THE NCMB, AFTER MOTION OF THE PROPER PARTY, OF AN ORDER AUTHORIZING THE RELEASE OF PROCEEDS OF EXECUTION. THE ORDER AUTHORIZING THE RELEASE OF THE AMOUNT DEPOSITED IN ESCROW SHALL BE DEEMED FINAL.

Any law enforcement agency may be deputized by the Secretary of Labor and Employment or the Commission in the enforcement of decisions, awards or orders.

SECTION 2. Repealing Clause. - All laws, decrees, executive orders or rules and regulations inconsistent with this Act are hereby repealed, amended or modified accordingly.

SECTION 3. Effectivity. - This Act shall take effect after fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

Approved,