

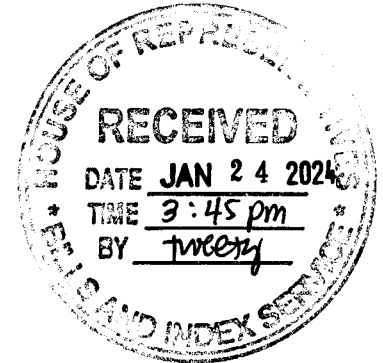


Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

Nineteenth Congress

Second Regular Session

House Bill No. 9827



Introduced by:
HON. MARISSA "DEL MAR" MAGSINO
OFW PARTY LIST

EXPLANATORY NOTE

The main goal of labor justice is to be a countervailing force to counteract the inequality of bargaining power inherent in the employment relationship, between a bearer of power and one who is not^{1,1}. This paradigm has been long-pursued in modern labor movements through the interplay of trade unionism and tripartism, and further reinforced by protective legislation. Thus, the constitutional guarantee that the State shall protect the rights of workers and promote their welfare, and also inasmuch as it affirms that labor, is a primary socio-economic force and an indispensable partner in the nation's progress and stability.

On the ground, the demand for labor justice reverberates in the prompt execution of orders and decisions rendered in labor disputes by quasi-judicial bodies such as the National Labor Relations Commission (NLRC) and the National Conciliation and Mediation Board (NCMB), particularly those in favor of the workingmen.

A study conducted by the Commission on Human Rights (CHR) in 2021 showed that it takes an average of 7.2 years for an overseas Filipino worker's (OFW) money claims case to be resolved from the time of filing of the complaint in the NLRC up to the date of a final decision by the Supreme Court. Legal maneuverings and strategies by lawyers such as endless motions and pleadings, often dilatory, slow down the proceedings, and more significantly, give their clients the time to hide their assets beyond the reach of impending execution. As a result, many plaintiff-workers (OFWs)

¹ Paul Davies and Mark Freedland, *Kahn-Freund's Labour and the Law*, 3rd edition (Stevens, 1983).

are overwhelmed by frustration and mounting expenses, compelling them to enter into lopsided settlements and accept payments grossly less than what they are actually entitled to under the law. No more pronounced is 'justice delayed is justice denied'.

Patent dilatory tactics in labor litigations, particularly in the execution of decisions and orders on money claims of workers, must be discouraged and declared contemptuous to prevent them from being resorted to.

But the problem doesn't stop there. With a favorable decision in the hands of a complainant-worker, the challenge now is the satisfaction of the decision, whether fully or partially. While the winning party may already move for the execution of the monetary award even pending appeal (except when a restraining order is issued by a competent court), the assets of the losing respondents may no longer be found, or the companies have closed or ceased operations due to insolvency, or transferred to third parties. In the end, the monetary award is practically unsatisfied, and the worker still cannot enjoy the fruits of his long and protracted legal struggle for what must rightfully accrue to him. A classic case of a pyrrhic victory.

To address these issues, this bill mandates the Chairman of the NLRC (and the Secretary of Labor and Employment) to exercise the power to cite in contempt any person or party whose action unreasonably delays, impedes or obstructs the execution of the decisions, orders or awards, or is tantamount to non-compliance thereto, to ensure prompt compliance with their decisions, orders or awards and those of Labor Arbiters and voluntary arbitrators, and to impose specific fines and penalties in the exercise thereof.

Additionally, the bill provides the Chairman of the NLRC (and the Secretary of Labor) the power to issue an order to break open premises and freeze or attach properties, real or personal, or any other related order, for purposes of securing existing assets of a judgement-obligor to satisfy the judgement award. However, under no circumstance shall the exercise of this power violate the right of any person or party to due process.

It should be noted that the power to issue order to break open premises, or attach properties, or other related orders, to secure the assets of a judgement-obligor to satisfy the judgement award dispenses with the requirement of a judicial search warrant which is secured primarily for purposes of evidence-gathering in the prosecution of criminal cases.

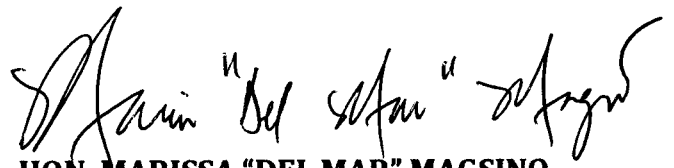
Moreover, the bill recognizes that the general power to cite a party in contempt is already granted to the NLRC in Article 235, (and to the Secretary of Labor in Article 231) of Presidential Decree No. 442, or the Labor Code of the Philippines. To distinguish, this bill provides for the exercise of the same power specifically in ensuring the prompt execution of the decisions, orders and awards of the NLRC and its Labor Arbiters and Voluntary Arbitrators and to impose specific fines and penalties in the exercise thereof.

Finally, just as the winning party has the right to enjoy the finality of the resolution of the case, the losing party has the right to file an appeal within the prescribed period. To expedite the proceedings for the benefit of both parties in either way, this measure seeks to allow the decision of the Commission (NLRC) to be appealed via a petition for *certiorari* to the Supreme Court under Rule 65 of the Rules of Court.

At present, the NLRC's ruling can be appealed to the Court of Appeals (CA) under Rule 43 of the Revised Rules of Court. In turn, the latter's decision may be further elevated to the Supreme Court for final resolution. Under the proposed measure, decisions of the NLRC will no longer need to pass through the CA and instead may be appealed directly to the Supreme Court on *certiorari* under Rule 65, which will be more practical and cost-effective, and less time-consuming.

It has been the advocacy of this representation to uphold the interest of the workingman, particularly our OFWs, especially in the prompt and timely execution of awards and money claims granted to them after years of litigation. Labor justice is part and parcel of social justice.

For the foregoing reasons, the immediate consideration and approval of this bill is earnestly urged.


HON. MARISSA "DEL MAR" MAGSINO



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OFW PARTY LIST

AN ACT
PROMOTING AND EXPEDITING LABOR JUSTICE AND FOR OTHER PURPOSES,
AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 442 OTHERWISE
KNOWN AS THE LABOR CODE OF THE PHILIPPINES

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

Section 1. *Short Title* – This Act shall be known as the ‘Promoting and Expediting Labor Justice Act.’

Section 2. Article 230, Chapter III, Title II, Book Five, of Presidential Decree No 442, otherwise known as the Labor Code of the Philippines, as amended, is hereby amended to read as follows:

‘Article 230. Execution of Decisions, Orders, or Awards –

(a) xxxx

(b) The Secretary of Labor and Employment, and the Chairman of the Commission may designate special sheriffs and take any measure under existing laws to ensure compliance with their decisions, orders or awards and those of Labor Arbiters and voluntary arbitrators or panel of voluntary arbitrators, including the: ~~[imposition of administrative fines which shall not be less than five hundred pesos (P500.00) nor more than ten thousand pesos (P10,000.00).]~~

- A) EXERCISE OF THE POWER OF CONTEMPT AND TO IMPOSE ADMINISTRATIVE FINES THEREOF WHICH SHALL NOT BE LESS THAN TEN THOUSAND PESOS (P 10,000.00) BUT NOT MORE THAN ONE HUNDRED THOUSAND PESOS (P 100,000.00), OR IMPRISONMENT OF NOT MORE THAN THIRTY (30) DAYS, OR BOTH, AGAINST ANY PARTY WHOSE ACTION UNREASONABLY DELAYS, IMPEDES OR OBSTRUCTS THE PROMPT EXECUTION OF THE DECISIONS, ORDERS OR AWARDS, OR IS TANTAMOUNT TO DISOBEDIENCE OR NON-COMPLIANCE THERETO;
- B) ISSUANCE OF AN ORDER TO BREAK OPEN ANY PREMISES, AND FREEZE OR ATTACH ANY PROPERTY, OR ANY OTHER RELATED ORDER, FOR PURPOSES OF SECURING THE ASSETS OF A JUDGEMENT-OBLIGOR TO SATISFY THE JUDGEMENT AWARD. IF NEEDED, THE ORDER SHALL BE ENFORCED WITH THE ASSISTANCE OF THE PHILIPPINE NATIONAL POLICE (PNP) AND OTHER LAW ENFORCEMENT AGENCIES.

UNDER NO CIRCUMSTANCE SHALL THE EXERCISE OF THIS POWER VIOLATE THE RIGHT OF ANY PERSON OR PARTY TO DUE PROCESS.

Section 3. Article 229, Chapter III, Title II, Book Five, of Presidential Decree No. 44, otherwise known as the Labor Code of the Philippines, as amended, is hereby further amended to read as follows:

'Article 229. 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:

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THE DECISION OF THE COMMISSION MAY BE APPEALED VIA A PETITION FOR CERTIORARI TO THE SUPREME COURT UNDER RULE 65 OF THE RULES OF COURT.

Section 4. *Implementing Rules and Regulations* – Within sixty (60) days from the effectivity of this Act, the Commission shall promulgate the rules and regulations necessary for the proper implementation of this Act.

Section 5. *Separability Clause* - If any part or provision of this Act shall be declared unconstitutional or invalid, the other provisions hereof which are not affected thereby shall continue to be in full force and effect.

Section 6. *Repealing Clause* – All laws, presidential decrees, executive orders, rules and regulations, other issuances and parts thereof which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 8. *Effectivity Clause* - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved.