



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

**COCA-COLA BOTTLERS
PHILIPPINES, INC.,**
Petitioner,

G.R. No. 212520

Present:

- versus -

CARPIO, J., Chairperson,
PERLAS-BERNABE,
CAGUIOA,
REYES, J., JR., and
LAZARO-JAVIER, JJ.

**ANTONIO P. MAGNO, JR.
and MELCHOR L. OCAMPO, JR.,**
Respondents.

Promulgated:

03 JUL 2019

x ----- *Atty. Cabalag* ----- x

RESOLUTION

CARPIO, J.:

The Case

G.R. No. 212520 is a petition¹ assailing the Court of Appeals (CA) Resolutions in CA-G.R. SP No. 122684 promulgated on 4 February 2014² and on 9 May 2014.³ This case involves the same parties in G.R. No. 202141 (*Ocampo and Magno v. Coca-Cola Bottlers Phils., Inc., et al.*), which was denied in a Resolution dated 30 July 2012.

Antecedent Facts

In its Decision⁴ dated 27 July 2010, the National Labor Relations Commission (NLRC) stated the facts of the case as follows:

¹ *Rollo*, pp. 8-33. Under Rule 45 of the 1997 Rules of Civil Procedure.
² Id. at 526-528. Penned by Associate Justice Normandie B. Pizarro, with Presiding Justice Andres B. Reyes, Jr. (now a member of this Court) and Associate Justice Manuel M. Barrios concurring.
³ Id. at 543-544. Penned by Associate Justice Normandie B. Pizarro, with Presiding Justice Andres B. Reyes, Jr. (now a member of this Court) and Associate Justice Manuel M. Barrios concurring.
⁴ Id. at 424-436. Penned by Commissioner Isabel G. Panganiban-Ortiguerra, with Presiding Commissioner Benedicto R. Palacol and Commissioner Nieves Vivar-De Castro concurring.

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Complainant-[a]ppellee [Melchor L. Ocampo, Jr., or] Ocampo alleged that he was hired by [Coca-Cola] on 1 May 1988. During the course of his employment he was rewarded with promotions and incentives until he reached the position of District Sales Supervisor with a basic monthly salary of ₱45,900.00, cellular phone subsidy, gas allowance and incentive pay.

Complainant-[a]ppellee [Antonio P. Magno, Jr., or] Magno was employed on 15 December 1988. His last position was as Territory Sales Manager with a basic monthly pay of ₱76,410.00, cellphone subsidy, gas allowance and other incentive pay.

In January 2007, complainants-appellees were meted a suspension for one month because of the charge that two (2) hauler trucks belonging to one Tirso B. Tablang (Tablang), a dealer of [Coca-Cola's] products, and whose operation is under Ocampo's district and Magno's territory, were found to be distributing soon-to-expire products in Manila, which is outside of his dealership area.


Complainants-[a]ppellees claimed that the said incident happened at a time when respondent company's products were not doing well in the market and this decrease in the sales would result to the expiration of the products stored in the warehouses. The expiration of the products on [sic] storage would in turn translate to financial losses to respondent company.

On 29 April 2008, the services of complainant-appellee Ocampo was terminated. On 14 May 2008, complainants-appellees filed a complaint for illegal dismissal of Ocampo. Furthermore, they prayed for an order of reinstatement and payment of backwages and other incentives, damages and attorney's fees.

On 18 June 2008, complainants-appellees filed a supplemental position paper alleging that Antonio Magno was likewise terminated from work on 29 May 2008 when he was not allowed to enter company premises for no reason at all.

Upon the other hand and by way of controversion, respondents-appellants alleged that the local sales market of the company is geographically divided into areas, territories and districts. This scheme is meant to protect each dealer's area and prevent unfair dealings. Thus, the company has a "no encroachment policy" for strict compliance by sales personnel, the violation of which is a ground for the termination of dealership agreement and/or the services of employees involved (Annex "I", pp. 107-109, Records).

Complainants-[a]ppellees were assigned in the Nueva Ecija and Aurora province areas. The head of this area is individual respondent Jaime Ronquillo. Complainant-[a]ppellee Magno is the Territory Sales Manager for Cabanatuan City and San Leonardo, Nueva Ecija and Baliuag, Bulacan, who directly reported to Ronquillo. In turn, complainant-appellant [sic] Ocampo was a District Sales Supervisor assigned to Aurora District who reported to Magno.



Respondents-[a]ppellants claimed that Magno and Ocampo who were charged with engaging in fictitious sales transactions and violation of the "no encroachment" policy; were placed on preventive suspension and dismissed from service in accordance with the provisions of Sections 10 and 12, Rule 005-85 of the CCBPI Rules in relation to Article 282 of the Labor Code on loss of trust and confidence.

Respondents-[a]ppellants related that complainants-appellees committed the infractions in connivance with the company's dealer-partner in Casiguran and Dipaculao, Aurora province, Tirso B. Tablang (Tablang). Tablang was under complainant-appellee Ocampo's district and he sourced his products from Cabanatuan Sales Office, which was covered by Magno's territory.

Sometime in December 2006, respondent company received reports that some products purportedly hauled from Cabanatuan Sales Office under the name and by authority of Tablang were not actually delivered to Casiguran or Dipaculao but were diverted to other outlets in Metro Manila or other district in Nueva Ecija. The products were hauled using Tablang's delivery trucks/haulers. The company conducted a surveillance of Tablang's trucks and on 28 December 2006 they were able to track down REH 597. Nine hundred cases of soft drinks were pulled out from Cabanatuan Sales Office, but instead of proceeding to Casiguran or Dipaculao, Aurora, the driver proceeded to Manila. The surveillance team trailed the truck up to Tambo, Parañaque and saw the products being unloaded from said truck.

When Tablang was confronted, he stated that complainants-appellants [sic] Magno and Ocampo used his facilities to buy company products at discounted rates, only to dispose them outside their territory. Ocampo convinced him to issue a signed blank authorization form so that the former can pull out stocks from the Cabanatuan Sales Office. These stocks were included as part of Tablang's account with the respondent company. As payment for the stocks, complainants-appellees [sic] would issue checks to Tablang to cover the amount corresponding to the stocks that they pulled out.

After further review of the records, respondents-appellants served a Notice to Explain and Preventive Suspension to Magno on 19 January 2007 and to Ocampo on 24 January 2007 (Annexes "15" and "16," pp. 142-143, Records).

In his letter of explanation, Magno argued that the company did not incur any losses, instead he prevented the same when he was able to sell and dispose of the soon-to-expire products stored in the warehouse.

Ocampo, on the other hand, admitted that the plan to dispose of the stocks in the manner that they did was a strategy devised by Magno in order to protect the interest of the company.

However, they did not attend the administrative hearings scheduled on 9 and 12 February 2007. The hearing was again set for 13 February 2007 for Ocampo and 19 February 2007 for Magno. Still, complainants-appellee [sic] failed to appear. The meeting was again reset to 22 February 2007, but



despite notice, they did not attend. Thus, the hearing was conducted in their absence and the witnesses present thereat were questioned and were asked to submit their verified statements.

After evaluation of the records and the statements of both parties, management came to a decision that Ocampo was guilty as charged and decided to terminate his services on 29 April 2008 through a Notice of Termination dated 23 April 2008. In view of Magno's position in the company and his long years of service, he was given a Fourth Notice to Explain which was also unheeded. Thus he was given his termination papers on 29 May 2008.⁵

Antonio Magno, Jr. (Magno) and Melchor Ocampo, Jr. (Ocampo) filed a complaint for illegal suspension and money claims before the Labor Arbiter (LA) on 7 March 2008.⁶ On 5 June 2008, the complaint was amended to include a prayer for reinstatement, backwages, damages and attorney's fees and payment of their salaries corresponding to their suspension.⁷

Coca-Cola Bottlers Philippines, Inc. (Coca-Cola), on the other hand, claims that Magno and Ocampo were legally dismissed for cause. Magno and Ocampo allegedly violated Sections 10 and 12, Rule 005-85 of Coca-Cola's Code of Disciplinary Rules and Regulations (the CCBPI Rules), which provided penalties for fictitious sales transactions and analogous cases.⁸

⁵ Id. at 427-431.

⁶ Id. at 36.

⁷ Id. at 38-39.

⁸ Sec. 10. Fictitious sales transactions; Falsifications of Company records/data/documents/invoices/reports; fictitious issuance of TCS/TDI/COL; misappropriation or embezzlement of Company funds, withholding of funds due to the Company, kiting of collections or of Company funds; unauthorized retrieval of empties by converting the same to cash for personal use; unremitted or short remittance of collections; non-issuance or mis-issuance of invoices and/or receipt as well as commercial documents to dealers; forgery, misuse, abuse or defalcation of funds for market development program and/or Company funds conspiring or conniving with, directing others to commit any of the foregoing, other anomalies similar or analogous to the foregoing whether committed within a calendar year or not; analogous cases.

(a) Each transaction shall constitute one offense:

First offense 6 days suspension

Second offense 15 days suspension

Third offense 30 days suspension

Fourth offense DISCHARGE

(b) For violation of Section 10 of Rule 005-85, where the damage or loss to the Company is incurred:

Each transaction or the total transaction where the amount involved is ₱500 or less
- 15 days suspension with restitution

Each transaction or the total transaction where the amount involved is more than ₱500 but not more than ₱2,000

- 30 days suspension with restitution

Each transaction or the total transaction where the amount involved is more than ₱2,000
- DISCHARGE with restitution

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Sec 12. (a) Other acts of negligence or inefficiency in the performance of duties or in the care, custody and/or use of Company property, funds and/or equipment; or blatant disregard of or deviation from established control and other policies and procedures including but not limited to the care, custody and/or use of Company property, funds or equipment; similar or analogous acts or omissions, whether committed within a calendar

The Ruling of the Labor Arbiter

On **30 October 2008**, the LA, in NLRC Case No. RAB-III-03-13268-08,⁹ declared Coca-Cola guilty of illegally suspending and dismissing Magno and Ocampo. The LA ordered payment of salaries and benefits for the one month suspension. The LA also ordered reinstatement, as well as payment to both Magno and Ocampo of their respective backwages, transportation benefits, cellphone benefits, incremental increase, and annual incentive pay. The LA also awarded payment of moral damages, exemplary damages, and attorney's fees. The dispositive portion of the Decision reads:

WHEREFORE, judgment is hereby rendered declaring respondents guilty of illegally suspending and dismissing complainants.

Concomitantly, they are hereby ordered to pay complainants their salaries and other benefits during the time of their suspension as follows:

1. for complainant Magno:
 - a. Salary for one month suspension in the amount of ₱76,100.00;
 - b. Transportation benefits for one month in the amount of ₱15,000.00;
2. for complainant Ocampo:
 - a. Salary for one month suspension in the amount of ₱45,900.00;
 - b. Transportation benefits for one month in the amount of ₱10,000.00.

Further considering that complainants' dismissals are illegal, respondents are also hereby ordered to reinstate complainants to their former positions under the same terms and conditions prevailing during the time of their employment without loss of seniority rights and privileges. The reinstatement is immediately executory and respondent Coca-Cola is directed to submit a report of compliance thereof within ten (10) calendar

year or not; analogous cases.

Each act of [sic] omission constitute [sic] one offense:

First offense	6 days suspension
Second offense	15 days suspension
Third offense	30 days suspension
Fourth offense	DISCHARGE

(b) For violation of the provisions of Section 12 of Rule 005-85, where the damage or loss to the Company is incurred:

If the amount of damage or loss is not more than ₱1,000

- 10 days suspension with restitution

If the amount of damage or loss is more than ₱1,000 but not more than ₱3,000

- 15 days suspension with restitution

If the amount of damage or loss is more than ₱3,000 but not more than ₱5,000

- 30 days suspension with restitution

If the amount of damage or loss is more than ₱5,000

- DISCHARGE with restitution

(c) In the application of the proper penalties for violation of section 12 of Rule 005-85, subsection (a) thereof where any of the elements of sub-section (b) thereof is/are present in each case, the heavier penalty shall be imposed.

⁹ *Rollo*, pp. 36-58. Penned by Labor Arbiter Reynaldo V. Abdon.

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days from receipt of this decision pursuant to the provisions of paragraph 2, Section 14, Rule V of the 2005 NLRC Revised Rules of Procedure.

Respondents are further ordered to pay herein complainants the following:

3. for complainant Magno:
 - a. Backwages from May 29, 2008 up to the date of this Decision computed in the amount of ₱380,500.00;
 - b. Transportation benefits from the time it was withheld from them commencing [i]n February 2007 up to the time of this Decision = 21 months x ₱15,000 or in the total amount of ₱315,000.00;
 - c. Cellphone benefits in the amount of ₱17,500.00;
 - d. Incremental increase for 2008 equivalent to ₱3,000 a month for 10 months = ₱30,000.00;
 - e. Annual Incentive Pay which he earned for his accomplishments in 2007 in the amount of ₱300,000.00;
4. for complainant Ocampo:
 - a. Backwages from April 29, 2008 up to the date of this Decision computed in the amount of ₱275,400.00;
 - b. Transportation benefits from the time it was withheld from them commencing [i]n February 2007 up to the time of this Decision = 21 months x ₱10,000 or in the total amount of ₱210,000.00;
 - c. Cellphone benefits in the amount of ₱25,000.00;
 - d. Incremental increase for 2008 equivalent to ₱4,200 a month for 10 months = ₱42,000.00;
 - e. Variable Incentive Pay from January 2007 up to the date of this Decision in the amount of ₱550,000.00.

For having suffered besmirched reputation, sleepless nights and serious anxiety, not to mention the presence of bad faith, respondents are also ordered to pay complainants Magno and Ocampo, moral damages in the amount of ₱3,000,000.00 and ₱2,000,000.00, respectively.

In order to deter anyone similarly inclined to commit such illegal and malevolent acts, respondents are likewise ordered to pay exemplary damages in the amount of ₱2,000,000.00 for each complainant.

It is also apparent that complainants hired the services of a counsel to litigate their cause, respondents are also hereby ordered to pay attorney's fees equivalent to ten percent (10%) of the total award.

Finally, respondents are hereby ordered to expunge from their personnel records, all violations attributed to herein complainants.

SO ORDERED.¹⁰

¹⁰ Id. at 55-58.


On 5 December 2008, Coca-Cola filed a Memorandum of Appeal¹¹ with the NLRC, which was docketed as NLRC LAC No. 01-000034-09. Coca-Cola prayed that the NLRC declare valid Magno's and Ocampo's preventive suspension and dismissal from service.

During the pendency of the appeal in the NLRC, Magno and Ocampo filed motions for the issuance of a partial writ of execution before the LA on the following dates: 4 December 2008,¹² 22 January 2009,¹³ 3 August 2009,¹⁴ 13 October 2009,¹⁵ 15 December 2009,¹⁶ and 2 March 2010.¹⁷

Coca-Cola filed the corresponding oppositions to these motions on the following dates: 5 January 2009,¹⁸ 9 February 2009,¹⁹ 20 August 2009,²⁰ 5 November 2009,²¹ and 7 January 2010.²² Coca-Cola also filed an opposition to Magno and Ocampo's 1 March 2010 motion for the issuance of a partial writ of execution. This opposition, however, is not in the records and was only mentioned in the LA's Order dated 26 March 2010.²³

The LA granted Magno and Ocampo's motions for partial writ of execution in Orders released on the following dates: 9 January 2009,²⁴ 18 February 2009,²⁵ 2 September 2009,²⁶ 15 January 2010,²⁷ and 26 March 2010.²⁸ The LA denied Coca-Cola's Opposition of 5 November 2009 in an Order released on 20 November 2009.²⁹ The LA also released on 20 November 2009 a separate Order³⁰ directing the Branch Manager of Metrobank, San Fernando City branch to release, in separate checks, the amount of ₱351,269.00 representing Magno's and Ocampo's reinstatement salaries and benefits for August and September 2009, and the amount of ₱4,790.00 representing execution and deposit fees.

¹¹ Id. at 59-118.
¹² Id. at 249-250, for benefits that accrued in favor of Ocampo and Magno after the issuance of the LA's Decision promulgated on 30 October 2008.
¹³ Id. at 276-279, for November 2008 to January 2009.
¹⁴ Id. at 323-325, for June and July 2009.
¹⁵ Id. at 336-338, for August and September 2009.
¹⁶ Id. at 364-367, for October and November 2009.
¹⁷ Id. at 394-397, for December 2009 and February 2010.
¹⁸ Id. at 251-254, for deferral of execution of the 30 October 2008 Decision of the LA until such time that Coca-Cola's appeal has been resolved by the NLRC.
¹⁹ Id. at 280-285.
²⁰ Id. at 326-331.
²¹ Id. at 339-344.
²² Id. at 368-377.
²³ Id. at 399.
²⁴ Id. at 255-258.
²⁵ Id. at 303-307.
²⁶ Id. at 332-335.
²⁷ Id. at 378-382.
²⁸ Id. at 398-401.
²⁹ Id. at 345-346.
³⁰ Id. at 347-348.



Coca-Cola filed the corresponding memoranda of appeal before the NLRC on the following dates: 5 December 2008,³¹ 2 February 2009,³² 2 March 2009,³³ 24 November 2009,³⁴ 28 January 2010,³⁵ and 31 March 2010.³⁶

On **26 March 2010**, the LA ordered Coca-Cola to reinstate Magno and Ocampo to their former positions without loss of seniority rights and privileges, and specified the amounts that they should be paid. The dispositive portion of the Order reads:

WHEREFORE, let a Partial/Alias Writ of Execution be issued directing the respondents to reinstate the complainants to their former positions without loss of seniority rights and privileges and for the respondents to pay them their basic reinstatement wages for the months of December 2009, January 2010 and February 2010 and their sick and vacation leave credits as follows:

	Basic Pay	SL & VL	TOTAL
Antonio Magno, Jr.	₱228,300.00	₱163,721.00	₱392,021.00
Melchor Ocampo, Jr.	137,700.00	98,749.00	236,449.00
TOTAL			₱628,470.00

SO ORDERED.³⁷

There were six sets of these exchanges (motion for issuance of partial writ of execution, opposition, order granting the writ, memorandum of appeal) from December 2008 to March 2010. The amounts granted by the LA to Magno from 20 October 2008 to 26 March 2010 are summarized as follows:

	30 October 2008 ³⁸	9 January 2009 ³⁹	18 February 2009 ⁴⁰	1 September 2009 ⁴¹	20 November 2009 ⁴²	15 January 2010 ⁴³	26 March 2010 ⁴⁴
Salary for one-month suspension	₱76,100	-	-	-	-	-	-
Transportation benefits for one month	₱15,000	-	-	-	-	-	-
Backwages	₱380,500	-	-	₱152,200	₱ 152,200	₱ 152,200	₱ 228,300

³¹ Id. at 59-118.

³² Id. at 259-269.

³³ Id. at 308-322.

³⁴ Id. at 349-363.

³⁵ Id. at 383-393.

³⁶ Id. at 402-422.

³⁷ Id. at 401.

³⁸ Id. at 55-57.

³⁹ Id. at 257-258.

⁴⁰ Id. at 306.

⁴¹ Id. at 325 (specific amounts from Motion for Issuance of Partial Writ of Execution), 335.

⁴² Id. at 338 (specific amounts from Motion for Issuance of Partial Writ of Execution), 348.

⁴³ Id. at 381.

⁴⁴ Id. at 401.

	From 29 May 2008 up to date of Decision			For June and July 2009	For August and September 2009	For October and November 2009	For December 2009 to February 2010
Transportation benefits	₱315,000 (₱15,000 x 21 months) From February 2007 up to date of Decision	-	-	₱57,000 For June and July 2009	₱57,000 For August and September 2009	-	-
Cellphone benefits	₱17,500	-	-	₱7,000	₱7,000	-	-
Incremental increase/ Salary increase	₱30,000 (₱3,000 x 10 months)	-	-	₱6,000	₱6,000	-	-
Annual incentive pay	₱300,000 (For accomplishments in 2007)	-	-	-	-	-	-
Medicine	-	-	-	₱5,326	₱1,030	-	-
13th Month Pay	-	-	-	-	-	₱76,100	-
Sick Leave and Vacation Leave	-	-	-	-	-	-	₱163,721
Statement	-	“[T]o effect the reinstatement of [Magno] to [his] former position without loss of seniority rights and privileges, either physically or in the payroll, at the option of [Coca-Cola].”	“[T]o collect the reinstatement wages of [Magno] x x x.”	“[T]o collect from [Coca-Cola] the total amount of x x x (₱356,337.00) representing reinstatement wages.”	“[T]o immediately release the amount of x x x ₱351,269.00) representing [Magno’s] reinstatement salaries/wages and benefits for the months of August and September 2009 x x x.”	“[T]o reinstate [Magno] to [his] former position x x x and for [Coca-Cola] to PAY [Magno] [his] basic reinstatement wages for October 2009 and November 2009 and 13 th month pay for the year 2009 x x x.”	“[T]o reinstate [Magno] to [his] former position without loss of seniority rights and privileges and for [Coca-Cola] to pay them their basic reinstatement wages for the months of December 2009, January 2010 and February 2010 and their sick and vacation leave benefits x x x.”

The amounts granted by the LA to Ocampo from 20 October 2008 to 26 March 2010 are summarized as follows:

	30 Oct 2008 ⁴⁵	9 Jan 2009 ⁴⁶	18 Feb 2009 ⁴⁷	1 Sept 2009 ⁴⁸	20 Nov 2009 ⁴⁹	15 Jan 2010 ⁵⁰	26 Mar 2010 ⁵¹
Salary for one-month suspension	₱45,900	-	-	-	-	-	-
Transportation benefits for one month	₱10,000	-	-	-	-	-	-
Backwages	₱275,400 From 29 April 2008 up to date of Decision	-	-	₱91,800 For June and July 2009	₱91,800 For August and September 2009	₱91,800 For October and November 2009	₱137,700 For December 2009 to February 2010
Transportation benefits	₱ 210,000 (₱10,000 x 21 months) From February 2007 up to date of Decision	-	-	₱20,000 For June and July 2009	₱20,000 For August and September 2009	-	-
Cellphone benefits	₱25,000	-	-	₱5,000	₱5,000	-	-
Merit increase/Salary increase	₱42,000 (₱4,200 x 10 months)	-	-	₱8,400	₱8,400	-	-
Variable incentive pay	₱550,000 (From January 2007 up to date of Decision)	-	-	-	-	-	-
Medicine	-	-	-	₱3,611	₱2,839	-	-
13th Month Pay	-	-	-	-	-	₱48,900	-
Sick Leave and Vacation Leave	-	-	-	-	-	-	₱98,749
Statement	-	“[T]o effect the reinstatement of [Ocampo] to [his] former position	“[T]o collect the reinstatement wages of [Ocampo] x x x.”	“[T]o collect from [Coca-Cola] the total amount of x x x	“[T]o immediately release the amount of x x x (₱351,269.00) represent-	“[T]o reinstate [Ocampo] to [his] former position x x x and for [Coca-	“[T]o reinstate [Ocampo] to [his] former position without loss of

⁴⁵ Id. at 55-57.

⁴⁶ Id. at 257-258.

⁴⁷ Id. at 306.

⁴⁸ Id. at 325 (amounts from Motion for Issuance of Partial Writ of Execution), 335.

⁴⁹ Id. at 338 (specific amounts from Motion for Issuance of Partial Writ of Execution), 348.

⁵⁰ Id. at 381.

⁵¹ Id. at 401.

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		without loss of seniority rights and privileges, either physically or in the payroll, at the option of [Coca-Cola].”		(₱356,337.00) representing reinstatement wages.”	ting [Ocampo’s] reinstatement salaries/wages and benefits for the months of August and September 2009 x x x.”	Cola] to PAY [Ocampo] [his] basic reinstatement wages for October 2009 and November 2009 and 13 th month pay for the year 2009 x x x.”	seniority rights and privileges and for [Coca-Cola] to pay them their basic reinstatement wages for the months of December 2009, January 2010 and February 2010 and their sick and vacation leave benefits x x x.”
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The Ruling of the NLRC

On **27 July 2010**, the NLRC promulgated a Decision which resolved Coca-Cola’s appeal from the LA’s Decision dated 30 October 2008. **The NLRC ruled that Magno and Ocampo were legally dismissed, but their suspension was illegal.**

The 27 July 2010 NLRC Decision adjusted the monetary awards granted by the LA to Magno and Ocampo. In contrast to the 30 October 2008 Decision, where the LA awarded Magno and Ocampo backwages, transportation benefits, cellphone benefits, incremental increase, annual incentive pay, moral damages, exemplary damages, and attorney’s fees, the 27 July 2010 Decision of the NLRC limited the monetary awards to payment of salary for one month suspension and transportation benefits. The 27 July 2010 Decision also denied Magno’s and Ocampo’s claims for moral and exemplary damages and attorney’s fees.

The dispositive portion of the NLRC’s 27 July 2010 Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring that complainants-appellees have been legally dismissed. However, their suspension is declared illegal. Respondent-Appellant Coca-Cola Bottlers Philippines, Inc. is hereby ordered to pay their salaries and benefits during the period of their suspension, in the following grounds [sic]:

1. for Antonio P. Magno:
 - a. Salary for one month suspension of ₱76,100.00
 - b. Transportation benefits of ₱15,000.00

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2. for Melchor L. Ocampo
 - a. Salary for one month suspension of ₱45,900.00
 - b. Transportation benefits of ₱10,000.00

The claims for moral and exemplary damages as well as attorney's fees are denied for lack of merit.

SO ORDERED.⁵²

Both parties filed their respective motions for reconsideration, and the NLRC denied both motions for lack of merit in a Resolution promulgated on **23 September 2010**.⁵³

Magno and Ocampo filed a petition before the CA dated 8 December 2010 which questioned the NLRC's 27 July 2010 Decision, which ruled that their suspension was illegal but their dismissal was legal, and 23 September 2010 Resolution, which denied their motion for reconsideration of the 27 July 2010 Decision. **The CA petition was docketed as CA-G.R. SP No. 117180.**

While CA-G.R. SP No. 117180 was pending, the NLRC promulgated a Resolution on **25 April 2011**.⁵⁴ The NLRC dismissed Coca-Cola's appeal of the Labor Arbiter's 26 March 2010 Order, which reinstated Magno and Ocampo to their former positions without loss of seniority rights and privileges, and specified the amounts that they should be paid (that is, their basic reinstatement wages for the months of December 2009, January 2010 and February 2010, and their sick and vacation leave credits).

The NLRC's 25 April 2011 Resolution stated that "[t]he resolution of this appeal [of the Labor Arbiter's 26 March 2010 Order] is no longer necessary inasmuch as it has been rendered moot and academic by our Decision promulgated on July 27, 2010 which declared the dismissal of [Magno and Ocampo] as legal."⁵⁵

Coca-Cola filed a motion for reconsideration of the NLRC's 25 April 2011 Resolution, which the NLRC subsequently denied in a Resolution dated **18 October 2011**.⁵⁶ The NLRC ruled that "[t]he declaration that complainants were legally dismissed did not render moot and academic the issue on excess payment of the accrued wages. There is no doubt that complainants [Magno and Ocampo] were entitled to accrued wages from the time the Labor Arbiter issued the 30 October 2008 Decision until its reversal by this Commission on

⁵² Id. at 435. Penned by Commissioner Isabel G. Panganiban-Ortiguerra, with Presiding Commissioner Benedicto R. Palacol and Commissioner Nieves Vivar-De Castro concurring.

⁵³ Id. at 437-439.

⁵⁴ Id. at 440-445. Penned by Commissioner Isabel G. Panganiban-Ortiguerra, with Presiding Commissioner Benedicto R. Palacol and Commissioner Nieves Vivar-De Castro concurring.

⁵⁵ Id. at 444.

⁵⁶ Id. at 458-467. Penned by Commissioner Isabel G. Panganiban-Ortiguerra, with Commissioner Nieves Vivar-De Castro concurring.

27 July 2010.”⁵⁷ The NLRC declared that “[t]he instant appeal centers on whether [Magno and Ocampo] are entitled to vacation leaves and sick leaves.”⁵⁸ The NLRC continued:

Thus, it was mandatory on the part of respondents to actually reinstate the complainants or merely reinstate them in the payroll. Having failed to do so, respondents must pay the salaries they are entitled to, as if the complainants were immediately reinstated, from November 2008 to February 2010. Such judgment should mean “*backwages for the lay-off period, coupled with seniority or other rights and privileges*” attached to the status of the employees when they should have been reinstated. To put it differently, the affected employees should be treated as if they had not been absent from work and had been uninterruptedly working during the relevant period. This saving act is designed to stop a continuing threat or danger to survival or even the life of the dismissed employee and of his family. **The complainants are thus entitled to the salaries or wages plus all other benefits to which they should have been normally entitled to had they been immediately reinstated, either actual or in the payroll.** Had complainants been immediately reinstated, they should have been entitled not only to their basic wages for December 2009, January 2010, and February 2010 but also to all other benefits such as vacation and sick leave. Hence, respondents’ argument that there is no basis for the inclusion of the vacation and sick leave pay in the accrued wages does not have a leg to stand on.⁵⁹ (Italicization in the original; boldfacing supplied)

The NLRC proceeded to deny Coca-Cola’s appeal, and to affirm the 26 March 2010 Order of the Labor Arbiter *in toto*. On 29 December 2011, Coca-Cola filed a petition under Rule 65 of the Rules of Court before the CA. Coca-Cola sought to annul the **25 April 2011** and **18 October 2011** Resolutions of the NLRC. **The CA petition was docketed as CA-G.R. SP No. 122684.**

The Ruling of the CA

Both parties filed separate petitions concerning different matters before the CA.

As previously stated, Magno and Ocampo’s petition before the CA, as CA-G.R. SP No. 117180, questioned the NLRC’s 27 July 2010 Decision and 23 September 2010 Resolution. The CA’s **7 March 2012** Decision⁶⁰ **upheld the legality of Magno’s and Ocampo’s dismissal** and correspondingly denied for lack of merit Magno’s and Ocampo’s claims for reinstatement, backwages, moral and exemplary damages, and attorney’s fees. The CA’s 30 May 2012 Resolution⁶¹ denied Magno and Ocampo’s motion for reconsideration for lack of merit. On 21 June 2012, Magno and Ocampo filed

⁵⁷ Id. at 459.

⁵⁸ Id. at 465.

⁵⁹ Id. at 465-466.

⁶⁰ *Rollo* (G.R. No. 202141), pp. 33-49. Penned by Associate Justice Fernanda Lampas Peralta, with Associate Justices Mario V. Lopez and Socorro B. Inting concurring.

⁶¹ Id. at 50.

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a petition for review on certiorari before this Court. Their petition before this Court was docketed as G.R. No. 202141. On 30 July 2012, this Court issued a Resolution⁶² denying Magno's and Ocampo's claims for failure to sufficiently show that the CA committed any reversible error in the challenged decision and resolution that would warrant the exercise of this Court's appellate jurisdiction. Entry of judgment was made on 31 October 2012.⁶³

Coca-Cola's petition before the CA, CA-G.R. SP No. 122684, on the other hand, sought to annul the NLRC's **25 April 2011** and **18 October 2011** Resolutions. In a Resolution promulgated on 4 February 2014, the CA stated:

The annulment of the first assailed *Resolution* sought by the Petitioner, which dismissed its appeal for being moot and academic, has been rendered superfluous and unnecessary because the NLRC had, in fact, subsequently reconsidered its stance thereon when it issued the second assailed *Resolution*. There is, therefore, no need to question the first assailed *Resolution* before this Court.

As to the second assailed *Resolution*, the Petitioner failed to prove that the NLRC acted arbitrarily or capriciously in denying its appeal and in affirming the Labor Arbiter's finding that the Private Respondents are entitled to their basic wages for the periods of December 2009, January 2010, and February 2010, as well as to all other benefits to which they should have been normally entitled to had they been immediately reinstated, either actual or in the payroll, by the Petitioner. The arguments which the Petitioner relies upon to substantiate its claim of grave abuse of discretion are mere reiterations of the ones it had previously raised before the NLRC. The arguments have already been considered and resolved by the NLRC in accordance with prevailing law and jurisprudence, thereby negating the Petitioner's imputation of grave abuse of discretion on the part of the NLRC.

The failure of the Petitioner to point to any specific act on the part of the NLRC that can be construed as amounting to grave abuse of discretion must necessarily result in the dismissal of its petition for being patently without merit.

WHEREFORE, the petition for certiorari is DISMISSED.

SO ORDERED.⁶⁴

Coca-Cola's motion for reconsideration⁶⁵ was denied for lack of merit in a Resolution promulgated on 9 May 2014.⁶⁶

⁶² Id. at 412.

⁶³ Id. at 413.

⁶⁴ *Rollo*, pp. 527-528.

⁶⁵ Id. at 529-541.

⁶⁶ Id. at 543-544.

The Issue

Coca-Cola raises only one argument. It states that:

WITH DUE RESPECT, THE COURT OF APPEALS RULED CONTRARY TO LAW AND APPLICABLE JURISPRUDENCE WHEN IT SANCTIONED THE EXECUTION AGAINST THE COMPANY OF AMOUNTS IN EXCESS OF RESPONDENTS' ENTITLEMENT BY WAY OF ACCRUED REINSTATEMENT WAGES.⁶⁷

Coca-Cola's main contention is that "any entitlement of [Magno and Ocampo] to accrued wages should be limited to their basic pay only."⁶⁸ Coca-Cola further states that "[t]here is no factual or legal basis of the inclusion in [Magno's and Ocampo's] accrued wages of benefits and amounts in excess of their basic pay, including the supposed cash equivalent of their vacation and sick leave credits."⁶⁹ Coca-Cola prays that the CA's Resolutions in CA-G.R. SP No. 122684 promulgated on 4 February 2014 and on 9 May 2014 be annulled and set aside, and that judgment be rendered directing Magno and Ocampo to return to Coca-Cola "any and all amounts that they received as part of their accrued wages in excess of their basic pay."⁷⁰

Our Ruling

We deny Coca-Cola's appeal for lack of merit. Coca-Cola's submissions are utterly bereft of legal basis. We shall now proceed to determine the components of Magno's and Ocampo's accrued backwages, as well as the period covered by the award of accrued backwages.

Components of Magno's and Ocampo's Accrued Backwages

The third paragraph of Article 229⁷¹ of the Labor Code provides: "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."

⁶⁷ Id. at 23.

⁶⁸ Id. at 24.

⁶⁹ Id. at 30.

⁷⁰ Id.

⁷¹ Formerly Article 223. See Department of Labor and Employment Department Advisory No. 01, Series of 2015, Renumbering of the Labor Code of the Philippines, as Amended. <http://ncmb.ph/Files/DOLE/Labor-Code-of-the-Philippines-Renumbered.pdf> (visited 10 June 2019).

Article 294⁷² of the Labor Code further provides: “x x x 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.”

Our jurisprudence has been consistent as to what should constitute accrued backwages. In *Paramount Vinyl Products Corp. v. NLRC*,⁷³ we ruled that “the **base figure to be used in the computation of backwages** due to the employee **should include not just the basic salary, but also the regular allowances that he had been receiving, such as the emergency living allowances and the 13th month pay mandated under the law.**” In *United Coconut Chemicals, Inc. v. Valmores*,⁷⁴ we ruled that “[t]he base figure to be used in reckoning full backwages is the **salary rate of the employee at the time of his dismissal.** The amount **does not include the increases or benefits granted during the period of his dismissal** because time stood still for him at the precise moment of his termination, and move forward only upon his reinstatement.” Entitlement to such benefits must be proved by submission of proof of having received the same at the time of the illegal dismissal.⁷⁵ Increases are thus excluded from backwages.

Subject to submission of proof of receipt of benefits at the time of their dismissal, Magno’s and Ocampo’s accrued backwages should include their basic salary as well as the allowances and benefits that they have been receiving at the time of their dismissal. In accordance with the claims previously put forward by Magno and Ocampo, accrued backwages may include, but are not limited to, allowances and benefits such as transportation benefits, cellphone allowance, 13th month pay, sick leave, and vacation leave in the amounts at the time of their dismissal. Magno and Ocampo should also prove that they have been receiving the amounts that correspond to merit or salary increases, incentive pay, and medicine at the time of their dismissal so that they may validly qualify for receipt of such as part of their accrued backwages.

⁷² Formerly Article 279. See Department of Labor and Employment Department Advisory No. 01. Series of 2015, Renumbering of the Labor Code of the Philippines, as Amended. <http://ncmb.ph/Files/DOLE/Labor-Code-of-the-Philippines-Renumbered.pdf> (visited 10 June 2019).

⁷³ 268 Phil. 558, 569-570 (1990). Cited in *United Coconut Chemicals, Inc. v. Valmores*, 813 Phil. 685 (2017). *Paramount*, in turn, cited the cases of *Pan-Philippine Life Insurance Corporation v. NLRC*, 200 Phil. 355 (1982); *Santos v. NLRC*, 238 Phil. 161 (1987); *Soriano v. NLRC*, 239 Phil. 119 (1987); *Insular Life Assurance Co., Ltd. v. NLRC*, 240 Phil. 703 (1987).

⁷⁴ 813 Phil. 685, 699 (2017).

⁷⁵ *Id.* at 699. See also *BPI Employees Union-Metro Manila v. BPI*, 673 Phil. 599 (2011).



*Period Covered by the Award of
Accrued Backwages*

In *Pfizer, Inc. v. Velasco*,⁷⁶ we ruled that an order for reinstatement entitles an employee to receive his accrued backwages from the moment the reinstatement order was issued up to the date when the same was reversed by a higher court without fear of refunding what he had received. *Wenphil Corporation v. Abing*,⁷⁷ further clarified *Pfizer*: the start of the computation of the backwages should be on the day following the last day when the dismissed employee was paid backwages, and end on the date that a higher court reversed the LA's ruling of illegal dismissal. The date of reversal should be the end date, and not the date of the ultimate finality of such reversal.

Considering that the kind of monetary awards granted to Magno and Ocampo have differed throughout the course of the present case, the LA should determine the day following the last day when Magno or Ocampo received the amount for such allowance or benefit. In any event, the last day of the period of computation of Magno's and Ocampo's backwages should be **27 July 2010**. This is the date of promulgation of the NLRC Decision which ruled that Magno and Ocampo were legally dismissed. This Court's Entry of Judgment in G.R. No. 202141 on 31 October 2012 should not have any bearing on the determination of the last day of the period of computation.

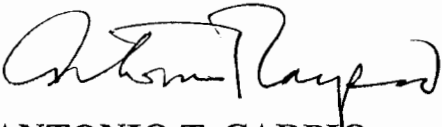
The LA is tasked to determine the specific allowances and benefits, as well as the corresponding amounts, that Magno and Ocampo have been receiving at the time of their dismissal. The LA should also determine the last day when Magno or Ocampo received the amount for such allowance or benefit. Following this computation, the LA should then deduct the amount that Coca-Cola previously paid Magno and Ocampo in the course of this case. The resulting amount, being in the form of a judgment for money, shall earn interest at the rate of 6% *per annum* from the date of finality of this Resolution until fully paid.

WHEREFORE, the petition is **DENIED**. We **AFFIRM** with **CLARIFICATION** the Court of Appeals' Resolutions in CA-G.R. SP No. 122684 promulgated on 4 February 2014 and on 9 May 2014. We **REMAND** this case to the Labor Arbiter for the computation, within thirty (30) days from receipt of this Resolution, of backwages, inclusive of allowances and other benefits due to Antonio P. Magno, Jr. and Melchor L. Ocampo, Jr. from the day following the last day of their receipt of the amount corresponding to a qualified monetary award until 27 July 2010. The Labor Arbiter should also deduct the amount that Coca-Cola previously paid Magno and Ocampo. Said backwages shall earn 6% *per annum* from the date of finality of this Resolution until fully paid.

⁷⁶ 660 Phil. 434, 455 (2011).

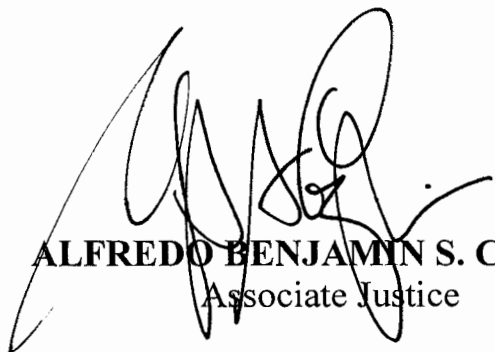
⁷⁷ 731 Phil. 685 (2014).

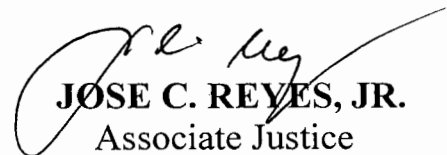
SO ORDERED.



ANTONIO T. CARPIO
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Associate Justice

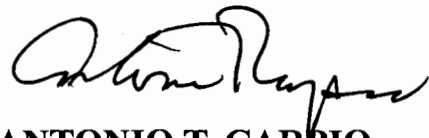

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


JOSE C. REYES, JR.
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

ATTESTATION

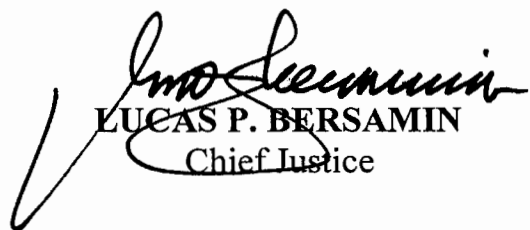
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LUCAS P. BERSAMIN
Chief Justice