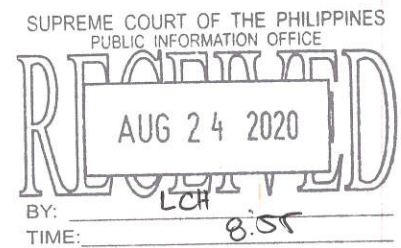




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **February 26, 2020**, which reads as follows:*

“G.R. No. 222889 (BEATO C. ANG, *petitioner* v. ALEX V. AVILA, in his capacity as Regional Director of the Department of Labor and Employment, National Capital Region (DOLE-NCR), *respondent*). — The sole remedy from a Regional Director’s compliance order is an appeal to the Secretary of Labor and Employment, as provided in the Labor Standards Enforcement Framework and the Rules on Labor Laws Compliance System, which both implemented Article 128 of the Labor Code, as amended. However, a motion for reconsideration may be considered an appeal if it is timely filed and accompanied by an appeal bond.

This Court resolves a Petition for Review¹ assailing the Resolutions² of the Court of Appeals, which upheld the validity of Department of Labor and Employment Regional Director Alex V. Avila’s (Regional Director Avila) Order³ finding Beato C. Ang (Ang), his company, and co-officer solidarily liable for monetary claims to their workers.

The facts are not disputed.

Ang is the president of Kentex Manufacturing Corporation (Kentex), a corporation engaged in manufacturing and producing rubber slippers.⁴

On May 13, 2015, a fire broke out at the Kentex factory in Valenzuela City. As a result, 72 workers died and several others were injured.⁵

¹ *Rollo*, pp. 9–35.

² *Id.* at 37–41 and 43. The Resolutions docketed in CA-G.R. SP No. 142334 and dated October 8, 2015 and February 5, 2016, respectively, were penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Jane Aurora C. Lantion and Nina G. Antonio-Valenzuela of the Sixth Division, Court of Appeals, Manila.

³ *Id.* at 92–132. The June 26, 2015 Order was docketed in Case No. NCR00-TSSD-1505-OSHI-001.

⁴ *Id.* at 11.

⁵ *Id.* at 93.

On May 14, 2015, the Department of Labor and Employment-National Capital Region issued Authority to Assess No. NCR00-TSSD-1505-OSHI-001 for an Occupational Safety and Health Investigation at Kentex.⁶ Its representatives proceeded to the Kentex factory, but were unable to interview Kentex officers and employees. Nevertheless, they observed the following:

- i. two plant ingresses were observed to be available;
- ii. the foul smell of burnt rubber materials was still present in the surrounding area, which was still cordoned by the police;
- iii. the whole plant structure appeared as a warehouse outside, where vents are only visible on the walls at the upper section of the structure, which was considered to be the 2nd floor of the whole facility;
- iv. grilled windows were observed at the 2nd floor; and
- v. the ground floor where the administrative office was once located was also destroyed.⁷

The Department of Labor and Employment also found from available records that Kentex had a contractor, CJC Manpower Services (CJC Manpower). Thus, it issued a Notice of Mandatory Conference to both Kentex and CJC Manpower, directing them to attend the scheduled mandatory conferences on May 18 and 20, 2015.⁸

On May 18, 2015, the first mandatory conference proceeded, but only CJC Manpower's liaison officer and consultant attended. No representative from Kentex appeared.⁹

CJC Manpower's representatives averred that the company had no written service contract with Kentex. Additionally, they claimed that at the time of the fire, the 99 workers CJC Manpower deployed to Kentex were referred to it by Kentex. They also denied that CJC Manpower executed employment contracts with the deployed workers.¹⁰

At the second mandatory conference on May 20, 2015, Kentex was represented by its counsel, Atty. Renato Paraiso (Atty. Paraiso), while CJC Manpower's representatives failed to attend.¹¹

Atty. Paraiso refuted the statements made by CJC Manpower's representatives that Kentex transferred its workers to CJC Manpower. He then continued that the steel bars on the windows had been in place for security

⁶ Id.

⁷ Id.

⁸ Id. at 93-94.

⁹ Id. at 94.

¹⁰ Id.

¹¹ Id. at 94-95.

and to prevent pilferage. He also maintained that the fire escapes in the factory had been kept unlocked except those on the second floor.¹²

A third mandatory conference was scheduled on May 22, 2015, but that same day, Atty. Edward Sipin (Atty. Sipin), claiming to be Atty. Paraiso's collaborating counsel, submitted a letter-request¹³ for the resetting of the mandatory conference to May 26, 2015 due to Atty. Paraiso's unavailability.

The Department of Labor and Employment denied the request for resetting due to Atty. Sipin's lack of authority to represent either Kentex or Atty. Paraiso in the mandatory conference. It then considered Atty. Paraiso's non-appearance as a waiver of Kentex's right to appear and present evidence, and directed Atty. Paraiso to submit a position paper.¹⁴

On June 26, 2015, the Department of Labor and Employment, through Regional Director Avila's Order,¹⁵ found CJC Manpower to be a labor-only contractor and held Kentex solidarily liable with its officers, Ang and Ong King Guan (Guan), to pay its workers' monetary claims.¹⁶

Regional Director Avila brushed aside Kentex's assertion that the destruction of its factory had rendered its visitorial and enforcement powers moot. He emphasized that as a corporation, Kentex's existence depends on its registration as a corporation and not on the condition of its factory or place of business.¹⁷

Regional Director Avila continued that even the death of Kentex's workers did not remove the Department of Labor and Employment's visitorial and enforcement powers. He explained that to abide by Kentex's interpretation would be to condone its negligence, since the factory burned down because of Kentex's lack of due diligence in ensuring the safety of its workers and their work premises.¹⁸

The dispositive portion of the Order read:

WHEREFORE, premises considered, Kentex Manufacturing Corporation and/or Beato C. Ang and/or Ong King Guan is/are hereby ordered to pay within ten (10) days from receipt hereof, Louie Andaya and 56 other similarly situated employees an aggregate amount of **One Million**

¹² Id. at 95.

¹³ Id. at 173.

¹⁴ Id. at 174.

¹⁵ Id. at 92-132.

¹⁶ Id. at 105-106 and 132.

¹⁷ Id. at 103.

¹⁸ Id. at 105.

Four Hundred Forty Thousand Six Hundred Forty-One Pesos and Thirty-Nine Centavos (₱1,440,641.39). Failure to pay said workers within ten (10) days from receipt hereof shall cause the imposition of the penalty of double indemnity pursuant to Republic Act No. 8188 otherwise known as "*An Act Increasing the Penalty and Imposing Double Indemnity for Violation of the Prescribed Increase or Adjustment in the Wage Rates.*"

SO ORDERED.¹⁹ (Emphasis in the original)

Kentex moved for the reconsideration and dismissal²⁰ of the Order. However, Regional Director Avila merely noted without action²¹ its Motion for Reconsideration for being the wrong remedy and did not give due course to its Motion to Dismiss. Because no notice of appeal was timely filed before the Office of the Secretary, Regional Director Avila directed the issuance of a notice of finality of the June 26, 2015 Order.²²

On August 27, 2015, Regional Director Avila issued a Writ of Execution²³ to be served on Kentex, Ang, and Guan.

Ang subsequently filed a Petition for Certiorari,²⁴ but the Court of Appeals summarily dismissed the Petition in its October 8, 2015 Resolution.²⁵ It ruled that Ang availed of the wrong remedy,²⁶ and that in any case, the Motion for Reconsideration could not be treated as an appeal since it was filed beyond the 10-day reglementary period.²⁷

The dispositive portion of the Court of Appeals Resolution read:

WHEREFORE, the petition is dismissed outright.

SO ORDERED.²⁸ (Emphasis in the original)

Petitioner moved for reconsideration, but his Motion was denied in the Court of Appeals' February 5, 2016 Resolution.²⁹

In his Petition,³⁰ petitioner Ang insists that Kentex's Motion for Reconsideration from respondent Regional Director Avila's June 26, 2015

¹⁹ Id. at 132.

²⁰ Id. at 136-148.

²¹ Id. at 133-135.

²² Id. at 135.

²³ Id. at 181-182.

²⁴ Id. at 68-91-A.

²⁵ Id. at 37-41.

²⁶ Id. at 38.

²⁷ Id. at 40.

²⁸ Id. at 41.

²⁹ Id. at 43.

³⁰ Id. at 9-35.

Order was the proper remedy under the Rules on the Disposition of Labor Standards Cases in the Regional Offices (Rules on Disposition). He stresses that Department Order No. 131-31 did not repeal the Rules on Disposition; thus, an aggrieved party may file either a motion for reconsideration within seven (7) days, or an appeal to the Secretary of Labor and Employment within 10 days, from receipt of the Regional Director's compliance order.³¹

Petitioner also points out that even if Kentex had mistakenly availed of the wrong remedy, the Court of Appeals still erred in summarily dismissing his Petition for Certiorari. He asserts that respondent's Order was clearly issued as a knee-jerk reaction to the death of the factory workers and was devoid of legal basis; as such, the Court of Appeals should have given due course to his Petition.³²

Petitioner likewise maintains respondent's lack of jurisdiction over the case, insisting that Kentex had no employer-employee relationship with the workers named in the assailed Order. He also claims that he should not have been held personally liable for the workers' money claims.³³

In his Comment,³⁴ respondent maintains that Department Order No. 131-13, or the Rules on Labor Laws Compliance System, was the applicable rule and not the Rules on Disposition, as the former governed all matters arising from the Secretary of Labor and Employment's exercise of visitorial and enforcement powers. He maintains that the Rules on Labor Laws Compliance System repealed the Rules on Disposition.³⁵

Respondent points out that petitioner's Motion for Reconsideration, even if filed within the 10-day reglementary period, could not be treated as an appeal because it lacked an appeal bond. He asserts that both the Rules on Labor Laws Compliance System and the Rules on Disposition required the posting of an appeal bond for a motion for reconsideration to be treated as an appeal.³⁶

Respondent likewise stresses the validity of his June 26, 2015 Order, as it was a compliance order issued pursuant to the Secretary of Labor and Employment's visitorial and enforcement powers. He then reiterates that the workers were indeed Kentex employees, as CJC Manpower was merely a labor-only contractor.³⁷

³¹ Id. at 22-23.

³² Id. at 24-27.

³³ Id. at 28-30.

³⁴ Id. at 212-231.

³⁵ Id. at 219-221.

³⁶ Id. at 221-223.

³⁷ Id. at 223-226.

In his Reply,³⁸ petitioner reiterates that respondent's Order was void for being issued without factual or legal basis, as respondent granted the money claims of 57 workers but only had the affidavits of 11 workers as basis, with the other 46 unaccounted for.³⁹

The sole issue for this Court's resolution is whether or not the June 26, 2015 Order of respondent Alex V. Avila, the Regional Director of the Department of Labor and Employment-National Capital Region, had attained finality, and thus, was immutable and unalterable.

The Petition lacks merit.

The visitorial and enforcement powers of the Secretary of Labor and Employment are provided in Section 128 of the Labor Code, as amended. It states:

ARTICLE 128. Visitorial and enforcement powers. (a) The Secretary of Labor and Employment or his duly authorized representatives, including labor regulations officers, shall have access to employer's records and premises at any time of the day or night whenever work is being undertaken therein, and the right to copy therefrom, to question any employee and to investigate any fact, condition or matter which may be necessary to determine violations or which may aid in the enforcement of this Code and of any labor law, wage order or rules and regulations issued pursuant thereto.

(b) The provisions of Article 217 of this Code to the contrary notwithstanding and in cases where the relationship of employer-employee still exists, the Secretary of Labor and Employment or his duly authorized representatives shall have the power to order and administer, after due notice and hearing, compliance with the labor standards provisions of this Code and other labor legislation based on the findings of labor regulation officers or industrial safety engineers made in the course of inspection, and to issue writs of execution to the appropriate authority for the enforcement of their order, except in cases where the employer contests the findings of the labor regulation officer and raises issues which cannot be resolved without considering evidentiary matters that are not verifiable in the normal course of inspection.

(c) The Secretary of Labor and Employment may likewise order stoppage of work or suspension of operations of any unit or department of an establishment when non-compliance with the law or implementing rules and regulations poses grave and imminent danger to the health and safety of workers in the workplace. Within twenty-four hours, a hearing shall be conducted to determine whether an order for the stoppage of work or suspension of operations shall be lifted or not. In case the violation is attributable to the fault of the employer, he shall pay the employees

³⁸ Id. at 240-247.

³⁹ Id. at 241-244.

concerned their salaries or wages during the period of such stoppage of work or suspension of operation.

(d) It shall be unlawful for any person or entity to obstruct, impede, delay or otherwise render ineffective the order of the Secretary of Labor and Employment or his duly authorized representatives issued pursuant to the authority granted under this Article, and no inferior court or entity shall issue temporary or permanent injunction or restraining order or otherwise assume jurisdiction over any case involving the enforcement orders issued in accordance with this Article.

(e) Any government employee found guilty of violation of, or abuse of authority under this Article shall, after appropriate administrative investigation, be subject to summary dismissal from the service.

(f) The Secretary of Labor and Employment may by appropriate regulations require employers to keep and maintain such employment records as may be necessary in aid of his visitorial and enforcement powers under this Code.

The visitorial and enforcement powers empowered the Secretary of Labor and Employment, or his or her authorized representative, to: (1) access the employer's records and premises at any time of the day or night, so long as work is being undertaken; (2) issue compliance orders to give effect to the labor standards provisions of the Labor Code; and (3) order work stoppage or suspend an establishment's operations when noncompliance with labor standards poses grave and imminent danger to the health and safety of workers.

On September 16, 1987, then Labor and Employment Secretary Franklin Drilon issued the Rules on Disposition, which designated the Regional Directors as the Secretary of Labor and Employment's authorized representatives in administering and enforcing labor standards in their respective jurisdiction.⁴⁰ The Regional Directors were likewise granted visitorial power.⁴¹

Additionally, the Rules on Disposition empowered the Regional Directors to conduct summary hearings⁴² between employers and their

⁴⁰ RULES ON THE DISPOSITION OF LABOR STANDARDS CASES IN THE REGIONAL OFFICES, Rule I, sec. 3 provides:

SECTION 3. Authorized representatives of the Secretary of Labor and Employment. — The Regional Directors shall be the duly authorized representatives of the Secretary of Labor and Employment in the administration and enforcement of labor standards within their respective territorial jurisdictions.

⁴¹ RULES ON THE DISPOSITION OF LABOR STANDARDS CASES IN THE REGIONAL OFFICES, Rule I, sec. 4 provides:

SECTION 4. Visitorial Power. — The Regional Directors or their authorized representatives, shall have access to employers' records and premises all the time of the day or night whenever work is being undertaken therein, and the right to copy therefrom, to question any employee and investigate any fact, condition or matter which may be necessary to determine violation or may aid in the enforcement of the Labor Code and of any labor law, wage order or rules and regulations issued pursuant thereto.

⁴² RULES ON THE DISPOSITION OF LABOR STANDARDS CASES IN THE REGIONAL OFFICES, Rule II, secs. 11 and 12 provide:

employees, and if violations of labor standards are found after hearing, to issue a compliance order⁴³ directing the employer to reconstitute corrective measures.

The Rules on Disposition also provided that an aggrieved party may file either a motion for reconsideration⁴⁴ within seven (7) days from receipt of the compliance order or an appeal⁴⁵ to the Secretary of Labor and Employment within 10 days from receipt of the compliance order.

On June 2, 1994, then President Fidel V. Ramos enacted Republic Act No. 7730, which amended Article 128(b) of the Labor Code to further strengthen the Secretary of Labor and Employment's visitorial and enforcement powers. Article 128(b) was amended to read as follows:

(b) Notwithstanding the provisions of Articles 129 and 217 of this Code to the contrary, and in cases where the relationship of employer-employee still exists, the Secretary of Labor and Employment or his duly authorized representatives shall have the power to issue compliance orders to give effect to the labor standards provisions of this Code and other labor legislation based on the findings of labor employment and enforcement officers or industrial safety engineers made in the course of inspection. The Secretary or his duly authorized representatives shall issue writs of execution to the appropriate authority for the enforcement of their orders,

SECTION 11. Hearing. — Where no proof of compliance is submitted by the employer after seven (7) calendar days from receipt of the inspection results, the Regional Director shall summon the employer and the complainants to a summary investigation. In regular routine inspection cases however, such investigation shall be conducted where no complete field investigation can be made for reasons attributable to the fault of the employer or his representatives, such as those but not limited to instances when the field inspectors are denied access to the premises, employment records, or workers of the employer.

SECTION 12. Nature of proceedings. — The proceedings before the Regional Office shall be summary and non-litigious in nature. Subject to the requirements of due process, the technicalities of law and procedure and the rules governing admissibility and sufficiency of evidence obtaining in the courts of law shall not strictly apply thereto. The Regional Office may, however, avail itself of all reasonable means to ascertain the facts of the controversy speedily and objectively, including ocular inspection and examination of well-informed persons. Substantial evidence, whenever necessary shall be sufficient to support a decision or order.

⁴³ RULES ON THE DISPOSITION OF LABOR STANDARDS CASES IN THE REGIONAL OFFICES, Rule II, sec. 18 provides:

SECTION 18. Compliance order. — If the Regional Director finds after hearing that violations have been committed, he shall issue an Order directing the employer to reconstitute other corrective measures within ten (10) calendar days upon receipt of the Order and to submit proof of compliance. The Order shall specify the amount due each worker and shall include the computations on which the Order was based.

⁴⁴ RULES ON THE DISPOSITION OF LABOR STANDARDS CASES IN THE REGIONAL OFFICES, Rule II, sec. 19 provides:

SECTION 19. Motion for reconsideration. — The aggrieved party may file a motion for reconsideration of the Order of the Regional Office within seven (7) calendar days from receipt by him of a copy of said Order.

The Regional Director shall resolve the motion for reconsideration within ten (10) calendar days from receipt thereof. A motion for reconsideration filed beyond the seven-day reglementary period shall be treated as an appeal if filed within the ten-day reglementary period for appeal, but subject to the requirements for the perfection of an appeal. No second motion for reconsideration shall be entertained in any case.

⁴⁵ RULES ON THE DISPOSITION OF LABOR STANDARDS CASES IN THE REGIONAL OFFICES, Rule IV, sec. 1 provides:

SECTION 1. Appeal. — The order of the Regional Director shall be final and executory unless appealed to the Secretary of Labor and Employment within ten (10) calendar days from receipt thereof.

except in cases where the employer contests the findings of the labor employment and enforcement officer and raises issues supported by documentary proofs which were not considered in the course of inspection.

An order issued by the duly authorized representative of the Secretary of Labor and Employment under this article may be appealed to the latter. In case said order involves 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 Secretary of Labor and Employment in the amount equivalent to the monetary award in the order appealed from.

Notably, Republic Act No. 7730 amended Article 128(b) by providing that a Regional Director's compliance order may be appealed to the Secretary of Labor and Employment, and that the ₱5,000.00 jurisdictional amount provided in Articles 129 and 217 of the Labor Code would not be considered with the Regional Director's exercise of visitorial and enforcement powers.⁴⁶

On January 7, 2004, then Labor and Employment Secretary Patricia A. Sto. Tomas issued Department Order No. 57-04, creating the Labor Standards Enforcement Framework. This endeavored "to build a culture of voluntary compliance with labor standards by all establishments and workplaces and expand the reach of the Department of Labor and Employment through partnership with labor and employers' organization as well as with other government agencies and professional organizations[.]"

Section 4 of the Labor Standards Enforcement Framework provided that any violation of labor standards discovered through inspection or self-assessment would be disposed of in accordance with Articles 128, 129,⁴⁷ 162,⁴⁸ and 165⁴⁹ of the Labor Code.

⁴⁶ *Allied Investigation Bureau, Inc. v. Secretary of Labor & Employment*, 377 Phil. 80, 90-92 (1999) [Per J. Kapunan, First Division].

⁴⁷ LABOR CODE, art. 129 provides:

Article 129. Recovery of wages, simple money claims and other benefits. — Upon complaint of any interested party, the Regional Director of the Department of Labor and Employment or any of the duly authorized hearing officers of the Department is empowered, through summary proceeding and after due notice, to hear and decide any matter involving the recovery of wages and other monetary claims and benefits, including legal interest, owing to an employee or person employed in domestic or household service or househelper under this Code, arising from employer-employee relations: Provided, That such complaint does not include a claim for reinstatement: Provided further, That the aggregate money claims of each employee or househelper does not exceed Five thousand pesos (P5,000.00). The Regional Director or hearing officer shall decide or resolve the complaint within thirty (30) calendar days from the date of the filing of the same. Any sum thus recovered on behalf of any employee or househelper pursuant to this Article shall be held in a special deposit account by, and shall be paid on order of, the Secretary of Labor and Employment or the Regional Director directly to the employee or househelper concerned. Any such sum not paid to the employee or househelper because he cannot be located after diligent and reasonable effort to locate him within a period of three (3) years, shall be held as a special fund of the Department of Labor and Employment to be used exclusively for the amelioration and benefit of workers.

Any decision or resolution of the Regional Director or hearing officer pursuant to this provision may be appealed on the same grounds provided in Article 223 of this Code, within five (5) calendar days from receipt of a copy of said decision or resolution, to the National Labor Relations Commission

On July 19, 2013, then Labor and Employment Secretary Rosalinda Dimapilis-Baldoz issued Department Order No. 131-13, or the Rules on Labor Laws Compliance System, which emphasized that the Secretary of Labor and Employment's visitorial and enforcement powers remain to be "the primary framework in ensuring compliance with labor laws."⁵⁰

The Rules on Labor Laws Compliance System provide that parties may appeal a compliance order issued after a mandatory conference within 10 days from receipt of the compliance order:

RULE XI
APPEAL

SECTION 1. Appeal. — The Compliance Order may be appealed to the Office of the Secretary of Labor and Employment by filing a Memorandum of Appeal, furnishing the other party with a copy of the same, within ten (10) days from receipt thereof. No further motion for extension of time shall be entertained.

A mere Notice of Appeal shall not stop the running of the period within which to file an appeal.

. . . .

which shall resolve the appeal within ten (10) calendar days from the submission of the last pleading required or allowed under its rules.

The Secretary of Labor and Employment or his duly authorized representative may supervise the payment of unpaid wages and other monetary claims and benefits, including legal interest, found owing to any employee or househelper under this Code.

⁴⁸ LABOR CODE, art. 162 provides:

ARTICLE 162. Safety and health standards. — The Secretary of Labor and Employment shall, by appropriate orders, set and enforce mandatory occupational safety and health standards to eliminate or reduce occupational safety and health hazards in all workplaces and institute new, and update existing, programs to ensure safe and healthful working conditions in all places of employment.

⁴⁹ LABOR CODE, art. 165 provides:

ARTICLE 165. Administration of safety and health laws. — (a) The Department of Labor and Employment shall be solely responsible for the administration and enforcement of occupational safety and health laws, regulations and standards in all establishments and workplaces wherever they may be located; however, chartered cities may be allowed to conduct industrial safety inspections of establishments within their respective jurisdictions where they have adequate facilities and competent personnel for the purpose as determined by the Department of Labor and Employment and subject to national standards established by the latter.

(b) The Secretary of Labor and Employment may, through appropriate regulations, collect reasonable fees for the inspection of steam boilers, pressure vessels and pipings and electrical installations, the test and approval for safe use of materials, equipment and other safety devices and the approval of plans for such materials, equipment and devices. The fee so collected shall be deposited in the national treasury to the credit of the occupational safety and health fund and shall be expended exclusively for the administration and enforcement of safety and other labor laws administered by the Department of Labor and Employment.

⁵⁰ Department Order No. 131-13 (2013), Rule I, sec. 2 provides:

SECTION 2. Objectives. — The visitorial and enforcement power of the Secretary of Labor and Employment remains as the primary framework in ensuring compliance with labor laws. The promotion of voluntary compliance through the use of developmental approach is a supplement to: (a) inculcate a culture of compliance with labor laws; (b) ensure fair, expeditious, and non-litigious settlement of disputes; (c) encourage the use of settlement in all labor cases; and (d) strengthen tripartism among the employees, employers and the government.

SECTION 5. Perfection of Appeal; effect thereof. — An appeal is deemed perfected upon filing of the Memorandum of Appeal together with the appeal bond within the 10-day reglementary period.

In case of non-perfection, the Compliance Order shall become final and executory and the Regional Director shall *motu proprio* issue a Notice of Finality.

The Rules on Labor Laws Compliance System repealed the Labor Standards Enforcement Framework and other regulations, department orders, and issuances inconsistent with the current rules.⁵¹

Here, petitioner filed a Motion for Reconsideration of respondent's Order finding him solidarily liable with Kentex and Ong to pay the workers' money claims. However, respondent merely noted the Motion without action for being an improper remedy. Before this Court, petitioner now asserts that a motion for reconsideration is allowed under the Rules on Disposition and that respondent committed grave abuse of discretion in refusing to take cognizance of his pleading.

Petitioner is mistaken.

The Rules on Disposition are regulatory guidelines meant to implement Article 128 of the Labor Code by providing, among others, the alternative remedies of a motion for reconsideration or appeal from a compliance order. Thus, the Rules on Disposition are anchored on and find legal basis in Article 128 of the Labor Code.

However, Republic Act No. 7730 amended Article 128(b) by providing the sole remedy of appeal from a compliance order. Its repealing clause⁵² repealed or modified any inconsistent issuances such as the Rules on Disposition, effectively removing a motion for reconsideration as an alternative remedy.

The sole remedy of an appeal from a compliance order was repeated in both the Labor Standards Enforcement Framework and the Rules on Labor Laws Compliance System, which were likewise regulatory guidelines meant to implement Article 128 of the Labor Code, as amended.

⁵¹ Department Order No. 131-13 (2013), Rule XIV, sec. 2 provides:
SECTION 2. Repealing Clause. — Department Order 57-04 otherwise known as 'New Labor Standards Enforcement Framework' is hereby repealed. All rules and regulations, department orders and other issuances inconsistent herewith are repealed or modified accordingly.

⁵² Republic Act No. 7730 (1994), sec. 2 provides:
SECTION 2. All laws, presidential decrees, executive orders, rules, and regulations or parts thereof which are inconsistent with this Act are hereby repealed or modified accordingly.

Moreover, this Court in *Department of Labor and Employment v. Kentex Manufacturing Corporation*⁵³ has already upheld the validity of respondent's Order and the applicability of the Rules on Labor Laws Compliance System:

Both the DOLE-NCR and the CA correctly ruled that the June 26, 2015 Order had already become final and executory in view of the failure of respondents Kentex and Ong to appeal therefrom to the Secretary of Labor. *Notice ought to be taken of the fact that, at the time the DOLE-NCR rendered its ruling, Department Order No. 131-13 Series of 2013 was the applicable rule of procedure.* The pertinent provision states:

Rule 11, Section 1. Appeal. — The Compliance Order may be appealed to the Office of the Secretary of Labor and Employment by filing a Memorandum of Appeal, furnishing the other party with a copy of the same, within ten (10) days from receipt thereof. No further motion for extension of time shall be entertained.

A mere notice of appeal shall not stop the running of the period within which to file an appeal.

Here, instead of filing an appeal with the DOLE Secretary, Ong moved for a reconsideration of the subject Order; needless to say, this did not halt or stop the running of the period to elevate the matter to the DOLE Secretary. Indeed, the DOLE-NCR took no action at all on Ong's motion for reconsideration; in fact, it categorically informed Ong that his resort to the filing of a motion for reconsideration was procedurally infirm. The June 26, 2015 Order having become final, it could no longer be altered or modified by discharging or releasing Ong from his accountability.⁵⁴ (Emphasis supplied, citation omitted)

Clearly, then, petitioner's Motion for Reconsideration did not toll the period to file an appeal, making the assailed Order final and immutable.

WHEREFORE, the Petition is **DENIED**. The October 8, 2015 and February 5, 2016 Resolutions of the Court of Appeals in CA-G.R. SP No. 142334 are **AFFIRMED**. The June 26, 2015 Order of respondent Alex A. Avila, as Regional Director of the Department of Labor and Employment-National Capital Region, in Case No. NCR00-TSSD-1505-OSHI-001 is deemed final and immutable.

⁵³ G.R. No. 233781, July 8, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65425>> [Per J. Del Castillo, First Division].

⁵⁴ Id.

SO ORDERED.” (Gaerlan, J., on leave.)

Very truly yours,

Misael DC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
7/16/2020

Atty. Edward S. Sipin
Counsel for Petitioner
Unit 209, Señor Ivan De Palacio Bldg.
139 Malakas St., Diliman,
Quezon City

COURT OF APPEALS
CA G.R. SP No. 142334
1000 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

The Regional Director
Dept. of Labor and Employment-National Capital Region
DOLE-NCR Bldg.
967 Maligaya St.
Malate, Manila
[NCROO-TSSD-1505-OSHI-001]

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES
Supreme Court, Manila

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila

222889
len/

(208)
URES