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inconsistencies in the testimonies of the prosecution witnesses hardly lend credence to their supposed positive testimony and casts serious doubt on the credibility of their charge. Having failed to indubitably prove the identity of Ramon as the assailant, We cannot sustain Ramon's conviction.

In view of these findings, the Court no longer deems it necessary to discuss the other issue raised by Ramon.

WHEREFORE, the Decision dated August 30, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 07692 is **REVERSED** and **SET ASIDE**. Accused-appellant Ramon Quillo *y* Esmani is **ACQUITTED** on reasonable doubt and is ordered to immediately be released unless he is being held for some other valid or lawful cause. The Director of Prisons is **DIRECTED** to inform this Court of the action taken hereon within five (5) days from receipt hereof.

SO ORDERED.

Bersamin, C.J., del Castillo, Jardeleza, and *Gesmundo, JJ.*, concur.

FIRST DIVISION

[G.R. No. 233781. July 8, 2019]

DEPARTMENT OF LABOR AND EMPLOYMENT (DOLE), *petitioner, vs.* **KENTEX MANUFACTURING CORPORATION and ONG KING GUAN,** *respondents.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; DEPARTMENT OF LABOR AND EMPLOYMENT (DOLE); DEPARTMENT ORDER NO. 131-13 SERIES OF 2013; FAILURE TO APPEAL THE COMPLIANCE ORDER OF THE DOLE-NCR TO THE

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SECRETARY OF THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL RENDER SUCH ORDER FINAL AND EXECUTORY AND CAN NO LONGER BE ALTERED OR MODIFIED; CASE AT BAR.— 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.

2. **POLITICAL LAW; ADMINISTRATIVE LAW; THE ESSENCE OF DUE PROCESS IS TO BE HEARD, AND AS APPLIED TO ADMINISTRATIVE PROCEEDINGS THIS MEANS A FAIR AND REASONABLE OPPORTUNITY TO EXPLAIN ONE'S SIDE, OR AN OPPORTUNITY TO SEEK A RECONSIDERATION OF THE ACTION OR RULING COMPLAINED OF; PRESENT IN CASE AT BAR.—**Anent respondents' allegation regarding the DOLE Secretary's partiality, this Court agrees with the CA, that — x x x True, litigation is not a game of technicalities. It is equally true, however, that every case must be presented in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice. The failure, therefore, of petitioners to comply with the settled procedural rules justifies the dismissal of the present petition. Neither was there merit in respondents'

claim that they had been denied or deprived of due process. The facts clearly disclose that they had substantially participated in the proceedings before the DOLE-NCR from the mandatory conference up to the filing of a position paper where their side was sufficiently heard. It is axiomatic that "[t]he observance of fairness in the conduct of any investigation is at the very heart of procedural due process. The essence of due process is to be heard, and, as applied to administrative proceedings, this means a fair and reasonable opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of."

3. **REMEDIAL LAW; CIVIL PROCEDURE; JUDGMENTS; A DECISION THAT HAS ACQUIRED FINALITY BECOMES IMMUTABLE AND UNALTERABLE; EXCEPTIONS; NOT PRESENT IN CASE AT BAR.—**Thus, it is self-evident that the CA committed serious error when it ordered the discharge or release of Ong from the obligations of Kentex. The reason is elemental in its simplicity: contrary to settled, unrelenting jurisprudence, it unconsciously and egregiously sought to alter and modify, as indeed it altered and modified, an already final and executory verdict. We have already declared in *Mocorro, Jr. v. Ramirez* that: x x x A definitive final judgment, however erroneous, is no longer subject to change or revision. A decision that has acquired finality becomes immutable and unalterable. This quality of immutability precludes the modification of a final judgment, even if the modification is meant to correct erroneous conclusions of fact and law. And this postulate holds true whether the modification is made by the court that rendered it or by the highest court in the land. x x x Indeed, the principle of conclusiveness of prior adjudications is not confined in its operation to the judgments of what are ordinarily known as courts, but extends to all bodies upon which judicial powers had been conferred. The only exceptions to the rule on the immutability of final judgments are (1) the correction of clerical errors, (2) the so-called *nunc pro tunc* entries which cause no prejudice to any party, and (3) void judgments. x x x In the absence of any showing that the CA's modification or alteration of the subject Order falls within the exceptions to the rule on the immutability of final judgments, the DOLE-NCR's June 26, 2015 Order must be upheld and respected.

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APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Puno & Associates Law Office for respondents.

D E C I S I O N

DEL CASTILLO, *J.*:

Petitioner Department of Labor and Employment (DOLE) filed this Rule 45 Petition[1] assailing the March 27, 2017 Decision[2] of the Court of Appeals (CA) in CA-G.R. SP No. 141606 discharging respondent Ong King Guan (Ong), a corporate officer of Kentex Manufacturing Corporation (Kentex), from being personally and solidarily liable with Kentex for the monetary awards specified in the June 26, 2015 Order[3] rendered by the DOLE-National Capital Region (DOLE-NCR) in NCROO-TSSD-1505-OSHI-001.[4]

The Facts

Records show that, on May 13, 2015, a fire broke out in the factory located in Valenzuela City owned by Kentex. The fire claimed 72 lives and injured a number of workers. As part of its standard procedures, personnel of the DOLE Caloocan, Malabon, Navotas and Valenzuela (DOLE-CAMANAVA) Field Office went to Kentex's premises.[5] For its part, the DOLE-

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[1] *Rollo*, pp. 10-27.

[2] *Id*. at 30-50: penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Magdangal M. De Leon and Carmelita Salandanan Manahan.

[3] *Id*. at 62-102; penned by Regional Director Alex V. Avila.

[4] In the Matter of the General Labor Standards and Occupational Safety and Health Investigation at Kentex Manufacturing Corporation located at No. 6159 Tatalon Street, Brgy. Ugong, Mapulang Lupa, Valenzuela City.

[5] While they were not able to interview Kentex representatives and workers, the team noted the following:

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NCR also assessed[6] Kentex's compliance with the occupational health and safety standards.

In the course of the investigation, it was discovered that Kentex had contracted with CJC Manpower Services (CJC) for the deployment of workers. The DOLE-NCR directed Kentex and CJC to attend the mandatory conference set on May 18 and 20, 2015 at the DOLE-NCR Office in Malate, Manila. Notably, Kentex, its Chairman and Chief Executive Officer Beato Ang, and the corporation's Chief Finance Officer Ong, were made parties to this case before the DOLE-NCR.

In the meantime, on May 15, 2015, the DOLE Regional Office No. III (DOLE-RO III) conducted its own Joint Assessment[7] of CJC. The DOLE-RO III discovered that CJC, which deployed workers to Kentex, was an unregistered private recruitment and placement agency. Moreover, it noted that CJC was non-compliant with the occupational health and safety standards as well as with labor standards, such as underpayment of wages and nonpayment of statutory benefits.[8] As a result of these

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1) two plant ingresses were available; 2) the foul smell of burnt rubber materials was still present in the surrounding area, which was still cordoned by the police; 3) 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 second floor of the whole facility; 4) grilled windows were at the second floor; and 5) the ground floor where the administrative office was once located was also destroyed. *Rollo*, pp. 31-32.

[6] No. NCR00-TSSD-1505-OSHI-001.

[7] Case No. R003-JA-2015-05-002-6; *id*. at 32.

[8] The following deficiencies are as follows: On general labor standards: 1) Underpayment of minimum wage under Wage Order No. NCR-18 and Wage Order No. NCR-19 from date of employment to present; 2) Non-payment of COLA under Wage Order No. NCR-18 and Wage Order No. NCR-19; 3) Non-payment of 13th month pay for the year 2014; 4) Non-payment of holiday pay and special holiday premium; 5) Illegal deduction of cash bond (Php100.00 per week); 6) Non-membership of workers and therefore non-remittance of premiums to SSS, PhilHealth, and PAGIBIG Fund despite deductions on pay; 7) CJC Manpower Services is not registered as contractor/subcontractor under Department Order (D.O.) No. 18-A in Region III; 8) There is no written service agreement between KMC and

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findings, the DOLE- RO III issued a June 8, 2015 Compliance Order[9] which effectively declared CJC as a labor-only contractor with Kentex as its principal.[10]

Meanwhile, during the mandatory conference set by the DOLE-NCR, CJC's representatives admitted that there was no service contract between CJC and Kentex; that CJC had deployed 99 workers at the Kentex factory on the day of the unfortunate incident; that there were no employment contracts between CJC and the workers; that a CJC representative was sent once a week to Kentex only to check on the workers' daily time records; that Kentex remitted to CJC the wage of Php230.00/day for each of the deployed workers from which amount CJC deducted administrative costs and other statutory contributions, leaving each worker a mere wage of Php202.50 a day.

Kentex and its corporate officers, through counsel, refuted CJC's claims. They alleged that CJC's workers were originally engaged by Panday Management and Labor Consultancy which CJC later absorbed; and that the workers' wages ranged from Php250.00 to Php350.00/day on top of CJC's wage of, more or less, Php202/day. They contended that while the corporate/ business and employment records had all been gutted by fire, Kentex nevertheless complied with the labor standards particularly on the minimum wage requirement and with the occupational health and safety standards, as evidenced by a Certificate of Compliance (COC) signed by the DOLE-NCR Regional Director Alex Avila (Avila).

CJC Manpower Services; and 9) There is no employment contract between CJC Manpower Services and workers deployed at Kentex. On occupational safety and health standards: 1) Non-registration under Rule 1020; 2) Non-submission of annual work accident/illness exposure data report; 3) Non-submission of annual medical report; 4) No company policy and program on anti-sexual harassment, drug-free workplace, tuberculosis, hepatitis B, and HIV-AIDS; *id* at 32-33.

[9] *Rollo*, pp. 54-56.

[10] Both Kentex and CJC were ordered to pay jointly and severally the total monetary deficiencies of Php8,389,655.70 to 99 workers; *id*. at 56.

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The DOLE-NCR's Orders

In a June 26, 2015 Order,[11] the DOLE-NCR rejected the aforementioned arguments of Kentex. It declared that Kentex could not invoke the COC because this only attested to the findings of the compliance officer at the time of the assessment/inspection, even as Kentex was duty-bound to observe continuing compliance with the labor standards as well as the occupational health and safety standards. Like the June 8, 2015 Compliance Order of the DOLE-RO III, the DOLE-NCR also found that CJC was a mere labor-only contractor considering that it was unregistered with the DOLE Regional Office where it operated.[12] The DOLE-NCR likewise found that the workers were underpaid,[13] and computed the monetary claims due them. It concluded, thus —

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 Four Hundred Forty Thousand Six Hundred Forty-One

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[11] *Rollo*, pp. 62-102.

[12] In violation of Section 14 of Department Order No. 18-A Series of 2011:

Section 14. Mandatory Registration and Registry of Legitimate Contractors. Consistent with the authority of the Secretary of Labor and Employment to restrict or prohibit the contracting out of labor to protect the rights of workers, it shall be mandatory for all persons or entities, including cooperatives, acting as contractors to register with the Regional Office of the Department of Labor and Employment (DOLE) where it principally operates.

Failure to register shall give rise to the presumption that the contractor is engaged in labor-only contracting.

Accordingly, the registration system governing contracting arrangements and implemented by the Regional Offices of the DOLE is hereby established, with the Bureau of Working Conditions (BWC) as the central registry.

[13] The computations were for the underpayment of basic wages, premium pay on rest days, COLA, wages on holidays, overtime pay, night shift differential, 13th month, and the unauthorized deduction of the cash bond.

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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.[14]

On July 3, 2015, only Ong moved for reconsideration of the foregoing order.[15] However, in a letter dated July 7, 2015,[16] DOLE-NCR Regional Director Avila explained that Ong's motion for reconsideration was not the proper remedy. Instead, an appeal to the DOLE Secretary should have been made within 10 days from receipt of the Order pursuant to Section 1, Rule 11 of Department Order No. 131, Series of 2013. Moreover, since Ong received the June 26, 2015 Order on the same day, he had only until July 6, 2015 within which to appeal to the DOLE Secretary. However, Ong never did; thus, the Compliance Order had attained finality.

After this, Kentex and Ong filed with the CA a Rule 43 Petition[17] assailing the (1) June 8, 2015 Compliance Order; (2) the June 26, 2015 Order; and (3) the July 7, 2015 letter of the DOLE-NCR Regional Director. Among the errors Kentex and Ong assigned was the DOLE-NCR's finding that Ong was solidarily liable with Kentex for the monetary awards due the workers.

Ruling of the Court of Appeals

Although the CA ruled on the merits of the case and upheld the assailed Orders and letter of the DOLE-NCR Regional Director,[18] it observed at the outset that Kentex and Ong resorted

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[14] *Rollo*, p. 102.

[15] *Id*. at 103-113.

[16] *Id*. at 114-115.

[17] *Id*. at 116-136.

[18] *Id*. at 30-50.

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to the wrong remedy in filing a Rule 43 Petition, when the proper remedy should have been a Rule 65 *certiorari* petition from the decisions/resolutions of the DOLE Secretary. In fact, nothing from the assailed documents indicative of acts of grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the DOLE Secretary was set forth or amply demonstrated. And given the fact that time had irretrievably lapsed without any appeal being availed of by Kentex and Ong as prescribed by the procedural rules on labor laws,[19] the CA ruled that the assailed orders had become final and executory.

Anent the particular issue involving Ong, the CA took the view that, as a company officer, he could not be personally held liable for the debts of Kentex without a showing of bad faith or wrongdoing on his part for the corporation's unlawful act.[20] The CA opined that nothing from the DOLE-NCR's June 26, 2015 Order discussed any act of Ong that showed his involvement in the wrongdoing of Kentex. Thus, the dispositive portion of the CA judgment stated:

> FOR THESE REASONS, the Order, dated June 26, 2015, of the DOLE-National Capital Region in Case No. NCR00-TSSD-1505-OSHI-001, is AFFIRMED with the MODIFICATION that petitioner Ong King Guan is held not liable for the monetary awards specified in the Order. The Order, dated June 8, 2015 of the DOLE-Regional Office No. III, San Fernando City, Pampanga, in Case No. R003-JA-2015-05-002-6 and the Order/Letter, dated July 7, 2015, of DOLE-NCR Regional Director Alex V. Avila, are AFFIRMED.

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[19] N.B. The CA cited Rule XV, Section 1 of D.O. No. 131-B, Series of 2016, *i.e.*, the "Revised Rules on Labor Laws Compliance System," which echoes the same provision cited by the DOLE Regional Director in his July 7, 2015 letter that cited Rule II, Section 1 of D.O. 131-13, Series of 2013.

[20] Citing Section 31 of the Corporation Code Liability of Directors, Trustees or Officers. – Directors or trustees who willfully and knowingly vote for or assent to patently unlawful acts of the corporation or who are guilty of gross negligence or bad faith in directing the affairs of the corporation x x x shall be liable jointly and severally for all damages resulting therefrom suffered by the corporation, its stockholders or members and other persons.

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SO ORDERED.[21]

Petitioner filed a Motion for Partial Reconsideration[22] to set aside the release or discharge of Ong from liability to pay the monetary awards. But the CA denied the motion in its August 22, 2017 Resolution.[23] Hence, this Petition.

The Arguments

Petitioner contends that the CA erred in releasing or discharging Ong from liability. It argues that, since the June 26, 2015 DOLE-NCR Order had already become final and executory, there being no appeal made or perfected from said order to the DOLE Secretary, the CA could no longer alter the subject Order.

Respondents Kentex and Ong counter that the CA Decision correctly released or discharged Ong from monetary liability because a corporate officer has a juridical personality entirely separate and distinct from the corporation. They moreover claim that the DOLE-NCR Order was a void judgment because they were deprived of due process; they assert that they could not expect a fair decision if they appealed because the then DOLE Secretary[24] had previously announced that cases would be filed against Kentex, an announcement that was clearly designed for media consumption and to gain publicity mileage.

Our Ruling

We agree with petitioner.

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

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[21] *Rollo*, pp. 49-50.

[22] *Id*. at 137-141.

[23] *Id*. at 52-53.

[24] The then DOLE Secretary was Rosalinda Baldoz.

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of the fact that, at the time the DOLE-NCR rendered its ruling, Department Order No. 131-13 Series of 2013[25] 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.

Anent respondents' allegation regarding the DOLE Secretary's partiality, this Court agrees with the CA, that —

> [Kentex and Ong King Guan's] contention that the Secretary has already prejudged their liability in her pronouncements before the media, such that an appeal to her would be an exercise in futility, is untenable. We have the rules. And, as heretofore stated, failure to conform to the rules regarding appeal will render the judgment final and executory. True, litigation is not a game of technicalities. It is equally true, however, that every case must be presented in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice. The failure, therefore, of petitioners to comply with the settled procedural rules justifies the dismissal of the present petition.[26]

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[25] Entitled "Rules on Labor Laws Compliance System."

[26] *Rollo*, p. 44.

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Neither was there merit in respondents' claim that they had been denied or deprived of due process. The facts clearly disclose that they had substantially participated in the proceedings before the DOLE-NCR from the mandatory conference up to the filing of a position paper where their side was sufficiently heard. It is axiomatic that "[t]he observance of fairness in the conduct of any investigation is at the very heart of procedural due process. The essence of due process is to be heard, and, as applied to administrative proceedings, this means a fair and reasonable opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of."[27]

Thus, it is self-evident that the CA committed serious error when it ordered the discharge or release of Ong from the obligations of Kentex. The reason is elemental in its simplicity: contrary to settled, unrelenting jurisprudence, it unconsciously and egregiously sought to alter and modify, as indeed it altered and modified, an already final and executory verdict. We have already declared in *Mocorro, Jr. v. Ramirez*[28] that:

> x x x A definitive final judgment, however erroneous, is no longer subject to change or revision.
>
> A decision that has acquired finality becomes immutable and unalterable. This quality of immutability precludes the modification of a final judgment, even if the modification is meant to correct erroneous conclusions of fact and law. And this postulate holds true whether the modification is made by the court that rendered it or by the highest court in the land. The orderly administration of justice requires that, at the risk of occasional errors, the judgments/resolutions of a court must reach a point of finality set by the law. The noble purpose is to write *finis* to dispute once and for all. This is a fundamental principle in our justice system, without which there would be no end to litigations. Utmost respect and adherence to this principle must always be maintained by those who exercise the power of adjudication. Any act, which violates such principle, must

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[27] *Vivo v. Philippine Amusement and Gaming Corporation*, 721 Phil. 34, 39 (2013).

[28] 582 Phil. 357 (2008).

immediately be struck down. Indeed, the principle of conclusiveness of prior adjudications is not confined in its operation to the judgments of what are ordinarily known as courts, but extends to all bodies upon which judicial powers had been conferred.

The only exceptions to the rule on the immutability of final judgments are (1) the correction of clerical errors, (2) the so-called *nunc pro tunc* entries which cause no prejudice to any party, and (3) void judgments. x x x[29]

In the absence of any showing that the CA's modification or alteration of the subject Order falls within the exceptions to the rule on the immutability of final judgments, the DOLE-NCR's June 26, 2015 Order must be upheld and respected.

WHEREFORE, the Petition is hereby **GRANTED**. The Court of Appeals' Decision dated March 27, 2017 insofar as it holds respondent Ong King Guan not liable for the monetary awards specified in the June 26, 2015 Order is hereby **REVERSED and SET ASIDE**. The June 26, 2015 Order of the Department of Labor and Employment, National Capital Region, finding respondent Ong King Guan solidarily liable to pay the employees named in the Order the amount of Php1,440,641.39 is hereby **REINSTATED**.

Costs against respondents.

SO ORDERED.

Bersamin, C.J., Jardeleza, Gesmundo, and *Carandang, JJ.*, concur.

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[29] *Id*. at 366-367.