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**FIRST DIVISION**

[G.R. No. 196134. October 12, 2016]

**VALENTIN S. LOZADA,** *petitioner, vs.* **MAGTANGGOL MENDOZA,** *respondent.*

**SYLLABUS**

1. **COMMERCIAL LAW; CORPORATIONS; A DIRECTOR OR CORPORATE OFFICER IS GENERALLY NOT SOLIDARILY LIABLE WITH THE CORPORATION FOR SEPARATION PAY DUE TO ITS EMPLOYEE.—** A corporation, as a juridical entity, may act only through its directors, officers and employees. Obligations incurred as a result of the acts of the directors and officers as the corporate agents are not their personal liability but the direct responsibility of the corporation they represent. As a general rule, corporate officers are not held solidarily liable with the corporation for separation pay because the corporation is invested by law with a personality separate and distinct from those of the persons composing it as well as from that of any other legal entity to which it may be related. Mere ownership by a single stockholder or by another corporation of all or nearly all of the capital stock of a corporation is not of itself sufficient ground for disregarding the separate corporate personality.

2. **ID.; ID.; ID.; TWO REQUISITES THAT MUST CONCUR FOR A DIRECTOR OR OFFICER TO BE PERSONALLY LIABLE FOR CORPORATE OBLIGATIONS; SUCH REQUISITES WERE LACKING IN CASE AT BAR.—** To hold a director or officer personally liable for corporate obligations, two requisites must concur, to wit: (1) the complaint must allege that the director or officer assented to the patently unlawful acts of the corporation, or that the director or officer was guilty of gross negligence or bad faith; and (2) there must be proof that the director or officer acted in bad faith. A perusal of the respondent's position paper and other submissions indicates that he neither ascribed gross negligence or bad faith to the petitioner nor alleged that the petitioner had assented to patently unlawful acts of the corporation. The respondent only

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maintained that the petitioner had asked him to sign a new employment contract, but that he had refused to do the petitioner's bidding. The respondent did not thereby clearly and convincingly prove that the petitioner had acted in bad faith. Indeed, there was no evidence whatsoever to corroborate the petitioner's participation in the respondent's illegal dismissal. Accordingly, the twin requisites of allegation and proof of bad faith necessary to hold the petitioner personally liable for the monetary awards in favor of the respondent were lacking. x x x The petitioner might have acted in behalf of LB&C Services Corporation but the corporation's failure to operate could not be hastily equated to bad faith on his part. Verily, the closure of a business can be caused by a host of reasons, including mismanagement, bankruptcy, lack of demand, negligence, or lack of business foresight. Unless the closure is clearly demonstrated to be deliberate, malicious and in bad faith, the general rule that a corporation has, by law, a personality separate and distinct from that of its owners should hold sway. In view of the dearth of evidence indicating that the petitioner had acted deliberately, maliciously or in bad faith in handling the affairs of LB&C Services Corporation, and such acts had eventually resulted in the closure of its business, he could not be validly held to be jointly and solidarily liable with LB&C Services Corporation.

3. **REMEDIAL LAW; JUDGMENTS; DOCTRINE OF IMMUTABILITY OF FINAL JUDGMENT, APPLIED.—** The Labor Arbiter did not render any findings about the petitioner perpetrating the wrongful act against the respondent, or about the petitioner being personally liable along with LB&C Services Corporation for the monetary award. The lack of such findings was not assailed by the respondent. On its part, the NLRC did not discuss the matter at all in its decision of May 31, 2006, which ultimately attained finality. To hold the petitioner liable after the decision had become final and executory would surely alter the tenor of the decision in a manner that would exceed its terms. Moreover, by declaring that the petitioner's liability as solidary, the Labor Arbiter modified the already final and executory February 23, 2005 decision. The modification was impermissible because the decision had already become immutable, even if the modification was intended to correct erroneous conclusions of fact and law. The only recognized exceptions to the immutability of the decision are the corrections of clerical errors, the making

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of so-called *nunc pro tunc* entries that cause no prejudice to any party, and where the judgment is void. None of such exceptions applied herein. It is fully warranted, therefore, that we quash and lift the *alias* writ of execution as a patent nullity by virtue of its not conforming to, or of its being different from and going beyond or varying the tenor of the judgment that gave it life. To insist on its validity would be defying the constitutional guarantee against depriving any person of his property without due process of law.

**APPEARANCES OF COUNSEL**

*Genaro S. Jacosalem* for petitioner.
*Public Attorney's Office* for respondent.

**D E C I S I O N**

**BERSAMIN, *J.*:**

This appeal seeks the reversal of the decision promulgated on September 28, 2010,[1] whereby the Court Appeals (CA), in CA-G.R. SP No. 111722, set aside the decision of the National Labor Relations Commission (NLRC) upon finding that the NLRC had gravely abused its discretion amounting to lack or excess of jurisdiction in reversing the ruling of the Labor Arbiter dated February 24, 2009,[2] and reinstated such ruling in favor of the respondent holding the petitioner liable for the satisfaction of the money judgment in favor of the respondent.

**Antecedents**

The factual and procedural antecedents are as follows:

On October 13, 1997, the petitioner Magtanggol Mendoza was employed as a technician by VSL Service Center, a single proprietorship owned and managed by Valentin Lozada.

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[1] *Rollo*, pp. 149-157; penned by Associate Justice Isaias Dicdican (retired), and concurred in by Associate Justice Stephen C. Cruz and Associate Justice Samuel H. Gaerlan.

[2] *Id*. at 128-129.

Sometime in August 2003, the VSL Service Center was incorporated and changed its business name to LB&C Services Corporation. Subsequently, the petitioner was asked by respondent Lozada to sign a new employment contract. The petitioner did not accede because the respondent company did not consider the number of years of service that he had rendered to VSL Service Center. From then on, the petitioner's work schedule was reduced to one to three days a week.

In December 2003, the petitioner was given his regular working schedule by the respondent company. However, on January 12, 2004, the petitioner was advised by the respondent company's Executive Officer, Angeline Aguilar, not to report for work and just wait for a call from the respondent company regarding his work schedule.

The petitioner patiently waited for the respondent company's call regarding his work schedule. However, he did not receive any call from it. Considering that his family depends on him for support, he asked his wife to call the respondent company and inquire on when he would report back to work. Still, the petitioner was not given any work schedule by the respondent company.

Aggrieved, the petitioner filed a complaint against the respondent company on January 21, 2004 for illegal dismissal with a prayer for the payment of his 13th month pay, service incentive leave pay, holiday pay and separation pay and with a claim for moral and exemplary damages, and attorney's fees. The case was docketed as NLRC NCR Case No. 00-01-00968-2004.

A mandatory conciliation conference was conducted, but to no avail, thus, they were ordered by the Labor Arbiter to submit their respective position papers.

In his Position paper dated March 2, 2004, the petitioner alleged that he was constructively dismissed as he was not given any work assignment for his refusal to sign a new contract of employment. He was dismissed from his work without any valid authorized cause. He was not given any separation pay for the services that he rendered for almost six (6) years that he worked with VSL Service Center. He thus claimed that his termination from employment was effected illegally, hastily, arbitrarily and capriciously.

In its Position paper, dated March 9, 2004, the respondent company vehemently denied the allegation of the petitioner that he was dismissed from employment. The petitioner was still reporting for work with

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the respondent company even after he filed a complaint with the arbitration board of the NLRC up to February 10, 2004. It also denied that the petitioner was its employee since 1997. The truth of the matter, according to the respondent company, was that it employed the petitioner only on August 1, 2003 because the respondent company started its corporate existence only on August 27, 2002 and started its business operation on August 1, 2003. It further averred that respondent Valentin Lozada was not an officer or employee of the respondent company nor (sic) its authorized representative. The respondent company finally claimed that it was the petitioner who severed his relationship with it.[3]

On February 23, 2005, the Labor Arbiter declared the dismissal of the petitioner from employment as illegal, disposing thusly:

> WHEREFORE, premises considered, judgment is rendered declaring the dismissal of complainant as illegal and ordering his reinstatement with full backwages plus payment of his 13th month pay (less ₱500.00 pesos) and service incentive leave pay all computed three years backward, as follows:
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> x x x x x x x x x
>
> SO ORDERED.[4]

LB&C Services Corporation appealed, but the NLRC dismissed the appeal for non-perfection thereof due to failure to deposit the required cash or surety bond. Thus, the Labor Arbiter's decision attained finality on August 4, 2006, and the entry of judgment was issued by the NLRC on August 16, 2006.

The respondent moved for the issuance of the writ of execution, which the Labor Arbiter granted on November 21, 2006.

The petitioner and LB&C Services Corporation filed a motion to quash the writ of execution,[5] alleging that there was no employer-employee relationship between the petitioner and the respondent; and that LB&C Services Corporation "has been

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[3] *Id*. at 150-152.

[4] *Id*. at 152.

[5] *Id*. at 108-110.

closed and no longer in operation due to irreversible financial losses."[6]

The Labor Arbiter denied the motion to quash the writ of execution on April 16, 2007.[7] In due course, the sheriff garnished ₱5,767.77 in the petitioner's deposit under the account of Valor Appliances Services at the Las Piñas Branch of the First Macro Bank.

On November 19, 2007, the Labor Arbiter directed the sheriff to proceed with further execution of the properties of the petitioner for the satisfaction of the monetary award in favor of the respondent.[8]

On December 19, 2007, the sheriff issued to the petitioner a notice of levy upon realty. The sheriff notified the Registry of Deeds of Las Piñas City on the levy made on the petitioner's real property with an area of 31.30 square meters covered by Transfer Certificate of Title No. T-43336 of that office.

LB&C Services Corporation moved for the lifting of the levy because the real property levied upon had been constituted by the petitioner as the family home;[9] and that the decision of the Labor Arbiter did not adjudge the petitioner as jointly and solidarily liable for the obligation in favor of the respondent.

After the Labor Arbiter denied its motion for the lifting of the levy on February 24, 2009,[10] LB&C Services Corporation appealed the denial to the NLRC, which, on May 29, 2009, reversed the Labor Arbiter, as follows:

WHEREFORE, premises considered, respondents' appeal is hereby GRANTED. Accordingly, the order of the labor arbiter is hereby REVERSED and SET ASIDE.

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[6] *Id*. at 109.

[7] *Id*. at 112-114.

[8] *Id*. at 153-154.

[9] *Id*. at 154.

[10] *Id*.

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As prayed for by the respondents, the levy constituted over such Las Piñas property which is covered by Transfer Certificate of Title No. (sic) is hereby LIFTED.

SO ORDERED.[11]

The respondent assailed the reversal by motion for reconsideration, which the NLRC thereafter denied.

Thence, a petition for *certiorari* was filed in the CA to assail the ruling of the NLRC on the ground of grave abuse of discretion amounting to lack or excess of jurisdiction.

As stated, the CA promulgated the assailed decision on September 28, 2010 granting the petition for *certiorari*, and reinstating the Labor Arbiter's decision. It opined that the petitioner was still liable despite the fact that the Labor Arbiter's decision had not specified his being jointly and severally liable for the monetary awards in favor of the respondent; that LB&C Services Corporation, being an artificial being, must have an officer who could be presumed to be the employer, being the person acting in the interest of the corporate employer;[12] that with LB&C Services Corporation having already ceased its operation, the respondent could no longer recover the monetary benefits awarded to him, thereby rendering the entire procedure and the award nugatory; and that the petitioner was the corporate officer liable by virtue of his having acted on behalf of the corporation.

Hence, this appeal by the petitioner.

**Issue**

Was the petitioner liable for the monetary awards granted to the respondent despite the absence of a pronouncement of his being solidarily liable with LB&C Services Corporation?

**Ruling of the Court**

The appeal is meritorious.

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[11] *Id*. at 155.

[12] *Id*. at 157.

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A corporation, as a juridical entity, may act only through its directors, officers and employees. Obligations incurred as a result of the acts of the directors and officers as the corporate agents are not their personal liability but the direct responsibility of the corporation they represent.[13] As a general rule, corporate officers are not held solidarily liable with the corporation for separation pay because the corporation is invested by law with a personality separate and distinct from those of the persons composing it as well as from that of any other legal entity to which it may be related. Mere ownership by a single stockholder or by another corporation of all or nearly all of the capital stock of a corporation is not of itself sufficient ground for disregarding the separate corporate personality.[14]

To hold a director or officer personally liable for corporate obligations, two requisites must concur, to wit: (1) the complaint must allege that the director or officer assented to the patently unlawful acts of the corporation, or that the director or officer was guilty of gross negligence or bad faith; and (2) there must be proof that the director or officer acted in bad faith.[15]

A perusal of the respondent's position paper and other submissions indicates that he neither ascribed gross negligence or bad faith to the petitioner nor alleged that the petitioner had assented to patently unlawful acts of the corporation. The respondent only maintained that the petitioner had asked him to sign a new employment contract, but that he had refused to do the petitioner's bidding. The respondent did not thereby clearly and convincingly prove that the petitioner had acted in bad faith. Indeed, there was no evidence whatsoever to corroborate the petitioner's participation in the respondent's illegal dismissal. Accordingly, the twin requisites of allegation

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[13] *Polymer Rubber Corporation v. Salamuding,* G.R. No. 185160, July 24, 2013, 702 SCRA 153, 160.

[14] *Ever Electrical Manufacturing, Inc.(EEMI) v. Samahang Manggagawa ng Ever Electrical/NAMAWU Local,* G.R. No. 194795, June 13, 2012, 672 SCRA 562, 569.

[15] *Polymer Rubber Corporation v. Salamuding, supra*, at 161.

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and proof of bad faith necessary to hold the petitioner personally liable for the monetary awards in favor of the respondent were lacking.

The CA reinstated the Labor Arbiter's decision by relying on the pronouncement in *Restaurante Las Conchas v. Llego*,[16] where the Court held that when the employer corporation was no longer existing and the judgment rendered in favor of the employees could not be satisfied, the officers of the corporation should be held liable for acting on behalf of the corporation.[17]

A close scrutiny of *Restaurante Las Conchas* shows that the pronouncement applied the exception instead of the general rule. The Court opined therein that, as a rule, the officers and members of the corporation were not personally liable for acts done in the performance of their duties;[18] but that the exception instead of the general rule should apply because of the peculiar circumstances of the case. The Court observed that if the general rule were to be applied, the employees would end up with an empty victory inasmuch as the restaurant had been closed for lack of venue, and there would be no one to pay its liability because the respondents thereat claimed that the restaurant had been owned by a different entity that had not been made a party in the case.[19]

It is notable that the Court has subsequently opted not to adhere to *Restaurante Las Conchas* in the cases of *Mandaue Dinghow Dimsum House, Co., Inc. v. National Labor Relations Commission-Fourth Division*[20] and *Pantranco Employees Association (PEA-PTGWO) v. National Labor Relations Commission.*[21]

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[16] G.R. No. 119085, September 9, 1999, 314 SCRA 24.

[17] *Id*. at p. 32.

[18] *Id*.

[19] *Ever Electrical Manufacturing, Inc.(EEMI) v. Samahang Manggagawa ng Ever Electrical/NAMAWU Local, supra*, note 14, at 570.

[20] G.R. No. 161134, March 3, 2008, 547 SCRA 402.

[21] G.R. Nos. 170689 and 170705, March 17, 2009, 581 SCRA 598.

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In *Mandaue Dinghow Dimsum House, Co., Inc*., the Court declined to follow *Restaurante Las Conchas* because there was showing that the respondent therein, Henry Uytengsu, had acted in bad faith or in excess of his authority. It stressed that every corporation was invested by law with a personality separate and distinct from those of the persons composing it as well as from that of any other legal entity to which it might be related; and that the doctrine of piercing the veil of corporate fiction must be resorted to with caution.[22] The Court noted that corporate directors and officers were solidarily liable with the corporation for the termination of employees done with malice or bad faith; and declared that bad faith did not connote bad judgment or negligence, but a dishonest purpose or some moral obliquity and conscious doing of wrong, or meant a breach of a known duty through some motive or interest or ill will, or partook of the nature of fraud.

In *Pantranco Employees Association,* the Court rejected the invocation of *Restaurante Las Conchas* and refused to pierce the veil of corporate fiction, explaining:

> As between PNB and PNEI, petitioners want us to disregard their separate personalities, and insist that because the company, PNEI, has already ceased operations and there is no other way by which the judgment in favor of the employees can be satisfied, corporate officers can be held jointly and severally liable with the company. Petitioners rely on the pronouncement of this Court in *A.C. Ransom Labor Union-CCLU v. NLRC* and subsequent cases.
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> This reliance fails to persuade. We find the aforesaid decisions inapplicable to the instant case.
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> For one, in the said cases, the persons made liable after the company's cessation of operations were the officers and agents of the corporation. The rationale is that, since the corporation is an artificial person, it must have an officer who can be presumed to be the employer, being the person acting in the interest of the employer. The corporation, only in the technical sense, is the employer. In the instant case, what is being made liable is another corporation (PNB) which acquired the debtor corporation (PNEI).

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[22] *Supra*, note 20, at 414.

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Moreover, in the recent cases *Carag v. National Labor Relations Commission and McLeod v. National Labor Relations Commission*, the Court explained the doctrine laid down in AC Ransom relative to the personal liability of the officers and agents of the employer for the debts of the latter. In *AC Ransom*, the Court imputed liability to the officers of the corporation on the strength of the definition of an employer in Article 212(c) (now Article 212[e]) of the Labor Code. Under the said provision, employer includes any person acting in the interest of an employer, directly or indirectly, but does not include any labor organization or any of its officers or agents except when acting as employer. It was clarified in *Carag* and *McLeod* that Article 212(e) of the Labor Code, by itself, does not make a corporate officer personally liable for the debts of the corporation. It added that the governing law on personal liability of directors or officers for debts of the corporation is still Section 31 of the Corporation Code.

More importantly, as aptly observed by this Court in *AC Ransom,* it appears that Ransom, foreseeing the possibility or probability of payment of backwages to its employees, organized Rosario to replace Ransom, with the latter to be eventually phased out if the strikers win their case. The execution could not be implemented against Ransom because of the disposition posthaste of its leviable assets evidently in order to evade its just and due obligations. Hence, the Court sustained the piercing of the corporate veil and made the officers of Ransom personally liable for the debts of the latter.

Clearly, what can be inferred from the earlier cases is that the doctrine of piercing the corporate veil applies only in three (3) basic areas, namely: 1) defeat of public convenience as when the corporate fiction is used as a vehicle for the evasion of an existing obligation; 2) fraud cases or when the corporate entity is used to justify a wrong, protect fraud, or defend a crime; or 3) alter ego cases, where a corporation is merely a farce since it is a mere alter ego or business conduit of a person, or where the corporation is so organized and controlled and its affairs are so conducted as to make it merely an instrumentality, agency, conduit or adjunct of another corporation. **In the absence of malice, bad faith, or a specific provision of law making a corporate officer liable, such corporate officer cannot be made personally liable for corporate liabilities.**[23] [Bold emphasis supplied]

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[23] *Supra*, note 21, at 614-616.

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The records of this case do not warrant the application of the exception. The rule, which requires malice or bad faith on the part of the directors or officers of the corporation, must still prevail. The petitioner might have acted in behalf of LB&C Services Corporation but the corporation's failure to operate could not be hastily equated to bad faith on his part. Verily, the closure of a business can be caused by a host of reasons, including mismanagement, bankruptcy, lack of demand, negligence, or lack of business foresight. Unless the closure is clearly demonstrated to be deliberate, malicious and in bad faith, the general rule that a corporation has, by law, a personality separate and distinct from that of its owners should hold sway. In view of the dearth of evidence indicating that the petitioner had acted deliberately, maliciously or in bad faith in handling the affairs of LB&C Services Corporation, and such acts had eventually resulted in the closure of its business, he could not be validly held to be jointly and solidarily liable with LB&C Services Corporation.

The CA imputed bad faith to LB&C Services Corporation in respect of the cessation of its operations because it still filed an appeal to the NLRC,[24] which the CA construed as evincing its intent to evade liability. For that reason, the CA deemed it mandatory to pierce the corporate fiction and then identified the petitioner as the person responsible for the payment of the respondent's money claims. However, the CA pointed out nothing else in the records that showed the petitioner as being responsible for the acts complained of. At the very least, we consider it to be highly improbable that LB&C Services Corporation deliberately ceased its operations if only to evade the payment of the monetary awards adjudged in favor of a single employee like the respondent.

In reinstating the decision of the Labor Arbiter, the CA, although conceding that the petitioner was not among those who should be liable for the monetary award, still went on to pierce the veil of corporate fiction and to declare as follows:

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[24] *Rollo,* p. 156.

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Undoubtedly, respondent Lozada cannot be absolved from his liability as corporate officer. Although, as a rule, the officers and members of a corporation are not personally liable for the acts done in the performance of their duties, this rule admits of exceptions one of which is when the employer corporation is no longer existing and is unable to satisfy the judgment in favor of the employee. The corporate officer in such case should be held for acting on behalf of the corporation. Here, the respondent company already ceased its business operation.

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x x x The petitioner's claim that respondent Lozada was the real owner of the LB & C Corporation is thus correct and tenable. The conclusion is bolstered by the fact that the respondent company never revealed who were the officers of the LB & C Corporation if only to pinpoint responsibility in the closure of the company that resulted in the dismissal of the petitioner from employment. Respondent Lozada is, therefore, personally liable for the payment of the monetary benefits due to the petitioner, its former employee.[25]

The Labor Arbiter did not render any findings about the petitioner perpetrating the wrongful act against the respondent, or about the petitioner being personally liable along with LB&C Services Corporation for the monetary award. The lack of such findings was not assailed by the respondent. On its part, the NLRC did not discuss the matter at all in its decision of May 31, 2006, which ultimately attained finality. To hold the petitioner liable after the decision had become final and executory would surely alter the tenor of the decision in a manner that would exceed its terms.

Moreover, by declaring that the petitioner's liability as solidary, the Labor Arbiter modified the already final and executory February 23, 2005 decision. The modification was impermissible because the decision had already become immutable, even if the modification was intended to correct erroneous conclusions of fact and law. The only recognized exceptions to the immutability of the decision are the corrections of clerical errors, the making of so-called *nunc*

[25] *Id*. at 158-159.

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*pro tunc* entries that cause no prejudice to any party, and where the judgment is void.[26] None of such exceptions applied herein.

It is fully warranted, therefore, that we quash and lift the *alias* writ of execution as a patent nullity by virtue of its not conforming to, or of its being different from and going beyond or varying the tenor of the judgment that gave it life. To insist on its validity would be defying the constitutional guarantee against depriving any person of his property without due process of law.

In sum, there was no justification for holding the petitioner jointly and solidarily liable with LB&C Services Corporation to pay to the respondent the adjudged monetary award. To start with, the respondent had not alleged the petitioner's act of bad faith, whether in his complaint or in his position paper, or anywhere else in his other submissions before the Labor Arbiter, that would have justified the piercing of the veil of corporate identity. Hence, we reverse the CA.

**WHEREFORE,** the Court **GRANTS** the petition for review on *certiorari*; **REVERSES** and **SETS ASIDE** the decision promulgated by the Court of Appeals on September 28, 2010; **ANNULS** and **SETS ASIDE** the order issued on April 16, 2007 by Labor Arbiter Antonio R. Macam; **QUASHES** and **LIFTS** the *alias* writ of execution; and **DIRECTS** the National Labor Relations Commission Labor Arbiter to implement with utmost dispatch the final and executory decision rendered on May 31, 2006 against the assets of LB&C Services Corporation only.

No pronouncement on costs of suit.

**SO ORDERED.**

*Leonardo-de Castro, Perlas-Bernabe,* and *Caguioa, JJ.,* concur.

*Sereno, C.J.,* on leave.

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[26] *Alba v. Yupangco,* G.R. No. 188233, June 29, 2010, 622 SCRA 503, 508.