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SECOND DIVISION

[G.R. No. 212774. January 23, 2017]

WESLEYAN UNIVERSITY-PHILIPPINES, *petitioner, vs.* **GUILLERMO T. MAGLAYA, SR.,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; COURTS; COURT OF APPEALS; POWER OF THE COURT OF APPEALS TO REVIEW DECISIONS OF THE NATIONAL LABOR RELATIONS COMMISSION (NLRC); WHILE THE DECISION OF THE NLRC BECOMES FINAL AND EXECUTORY AFTER THE LAPSE OF TEN (10) CALENDAR DAYS FROM RECEIPT THEREOF BY THE PARTIES, THE ADVERSE PARTY IS NOT PRECLUDED FROM ASSAILING IT *VIA* PETITION FOR *CERTIORARI* BEFORE THE COURT OF APPEALS AND THEN TO THE SUPREME COURT *VIA* A PETITION FOR REVIEW ON *CERTIORARI*.— Settled is the rule that while the decision of the NLRC becomes final and executory after the lapse of ten calendar days from receipt thereof by the parties under Article 223 (now Article 229) of the Labor Code, the adverse party is not precluded from assailing it *via* Petition for *Certiorari* under Rule 65 before the CA and then to this Court *via* a Petition for Review under Rule 45. This Court has explained and clarified the power of the CA to review NLRC decisions, *viz*.: The power of the Court of Appeals to review NLRC decisions *via* Rule 65 or Petition for *Certiorari* has been settled as early as in our decision in *St. Martin Funeral Home v. National Labor Relations Commission.* This Court held that the proper vehicle for such review was a Special Civil Action for *Certiorari* under Rule 65 of the Rules of Court, and that this action should be filed in the Court of Appeals in strict observance of the doctrine of the hierarchy of courts. Moreover, it is already settled that under Section 9 of *Batas Pambansa Blg.* 129, as amended by Republic Act No. 7902[10] (An Act Expanding the Jurisdiction of the Court of Appeals, amending for the purpose of Section Nine of *Batas Pambansa Blg.* 129 as amended, known as the *Judiciary Reorganization Act of 1980),* the Court of Appeals — pursuant to the exercise of its original jurisdiction over Petitions for *Certiorari* — is specifically given

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the power to pass upon the evidence, if and when necessary, to resolve factual issues. Consequently, the remedy of the aggrieved party is to **timely file a motion for reconsideration as a precondition for any further or subsequent remedy,** and then seasonably avail of the special civil action of *certiorari* under Rule 65, for a period of sixty (60) days from notice of the decision.

2. ID.; SPECIAL CIVIL ACTIONS; PETITION FOR *CERTIORARI*; ALTHOUGH THE 10-DAY PERIOD FOR FINALITY OF THE DECISION OF THE NLRC MAY ALREADY HAVE LAPSED, THE COURT MAY STILL TAKE COGNIZANCE OF THE PETITION FOR *CERTIORARI* ON JURISDICTIONAL AND DUE PROCESS CONSIDERATIONS IF FILED WITHIN THE REGLEMENTARY PERIOD UNDER RULE 65 OF THE RULES OF COURT.— We find that the application of the doctrine of immutability of judgment in the case at bar is misplaced. To reiterate, although the 10-day period for finality of the decision of the NLRC may already have lapsed as contemplated in the Labor Code, this Court may still take cognizance of the petition for *certiorari* on jurisdictional and due process considerations if filed within the reglementary period under Rule 65. From the abovementioned, WUP was able to discharge the necessary conditions in availing its remedy against the final and executory decision of the NLRC. There is an underlying power of the courts to scrutinize the acts of such agencies on questions of law and jurisdiction even though no right of review is given by statute. Furthermore, the purpose of judicial review is to keep the administrative agency within its jurisdiction and protect the substantial rights of the parties.

3. COMMERCIAL LAW; CORPORATIONS; "CORPORATE OFFICER" IS AN OFFICER OF THE CORPORATION WHOSE OFFICE OR POSITION IS CREATED BY THE CHARTER OF THE CORPORATION OR BY-LAWS AND THE OFFICER IS ELECTED BY THE DIRECTORS OR STOCKHOLDERS, WHILE AN "EMPLOYEE" OCCUPIES NO OFFICE AND GENERALLY IS EMPLOYED NOT BY ACTION OF THE DIRECTORS OR STOCKHOLDERS BUT BY THE MANAGING OFFICER OF THE CORPORATION WHO ALSO DETERMINES THE COMPENSATION TO BE PAID TO SUCH EMPLOYEE;

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IT IS ONLY WHEN THE OFFICER CLAIMING TO HAVE BEEN ILLEGALLY DISMISSED IS CLASSIFIED AS SUCH CORPORATE OFFICER THAT THE ISSUE IS DEEMED AN INTRA-CORPORATE DISPUTE WHICH FALLS WITHIN THE JURISDICTION OF THE TRIAL COURTS.— For purposes of identifying an intra-corporate controversy, We have defined corporate officers, thus: "Corporate officers" in the context of Presidential Decree No. 902-A are those officers of the corporation who are **given that character by the Corporation Code or by the corporation's by-laws.** There are three specific officers whom a corporation must have under Section 25 of the Corporation Code. These are the president, secretary and the treasurer. The number of officers is not limited to these three. A corporation may have such other officers as may be provided for by its by-laws like, but not limited to, the vice-president, cashier, auditor or general manager. The number of corporate officers is thus limited by law and by the corporation's by-laws. The president, vice-president, secretary and treasurer are commonly regarded as the principal or executive officers of a corporation, and they are usually designated as the officers of the corporation. However, **other officers are sometimes created by the charter or by-laws of a corporation,** or the board of directors may be empowered under the by-laws of a corporation to create additional offices as may be necessary. This Court expounded that an *"office"* is created by the charter of the corporation and the officer is elected by the directors or stockholders, while an *"employee"* usually occupies no office and generally is employed not by action of the directors or stockholders but by the managing officer of the corporation who also determines the compensation to be paid to such employee. From the foregoing, that the *creation* of the position is under the corporation's charter or by-laws, and that the *election* of the officer is by the directors or stockholders must concur in order for an individual to be considered a corporate officer, as against an ordinary employee or officer. It is only when the officer claiming to have been illegally dismissed is classified as such corporate officer that the issue is deemed an intra-corporate dispute which falls within the jurisdiction of the trial courts.

4. ID.; ID.; ID.; ONE WHO IS INCLUDED IN THE BY-LAWS OF A CORPORATION IN ITS ROSTER OF CORPORATE OFFICERS IS AN OFFICER OF SAID CORPORATION

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AND NOT A MERE EMPLOYEE.— It is apparent from the By-laws of WUP that the president was one of the officers of the corporation, and was an honorary member of the Board. He was appointed by the Board and not by a managing officer of the corporation. We held that one who is included in the by-laws of a corporation in its roster of corporate officers is an officer of said corporation and not a mere employee. The alleged "appointment" of Maglaya instead of "election" as provided by the by-laws neither convert the president of university as a mere employee, nor amend its nature as a corporate officer. With the office specifically mentioned in the by-laws, the NLRC erred in taking cognizance of the case, and in concluding that Maglaya was a mere employee and subordinate official because of the manner of his appointment, his duties and responsibilities, salaries and allowances, and considering the Identification Card, the Administration and Personnel Policy Manual which specified the retirement of the university president, and the check disbursement as pieces of evidence supporting such finding.

5. **ID.; ID.; ID.; A CORPORATE OFFICER'S DISMISSAL IS ALWAYS A CORPORATE ACT, OR AN INTRA-CORPORATE CONTROVERSY WHICH ARISES BETWEEN A STOCKHOLDER AND A CORPORATION, AND THE NATURE IS NOT ALTERED BY THE REASON OR WISDOM WITH WHICH THE BOARD OF DIRECTORS MAY HAVE IN TAKING SUCH ACTION.—** A corporate officer's dismissal is always a corporate act, or an intra-corporate controversy which arises between a stockholder and a corporation, and the nature is not altered by the reason or wisdom with which the Board of Directors may have in taking such action. The issue of the alleged termination involving a corporate officer, not a mere employee, is not a simple labor problem but a matter that comes within the area of corporate affairs and management and is a corporate controversy in contemplation of the Corporation Code.

6. **ID.; ID.; ID.; ID.; THE DETERMINATION OF THE RIGHTS OF A CORPORATE OFFICER DISMISSED FROM HIS EMPLOYMENT, AS WELL AS THE CORRESPONDING LIABILITY OF A CORPORATION, IF ANY, IS AN INTRA-CORPORATE DISPUTE SUBJECT TO THE JURISDICTION OF THE REGULAR COURTS.—** The long-established rule is that the jurisdiction over a subject matter is

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conferred by law. Perforce, Section 5 (c) of PD 902-A, as amended by Subsection 5.2, Section 5 of Republic Act No. 8799, which provides that the regional trial courts exercise exclusive jurisdiction over all controversies in the election or appointment of directors, trustees, officers or managers of corporations, partnerships or associations, applies in the case at bar. To emphasize, the determination of the rights of a corporate officer dismissed from his employment, as well as the corresponding liability of a corporation, if any, is an intra-corporate dispute subject to the jurisdiction of the regular courts.

7. REMEDIAL LAW; CIVIL PROCEDURE; JUDGMENTS; A VOID JUDGMENT FOR WANT OF JURISDICTION IS NO JUDGMENT AT ALL; HENCE, IT CAN NEVER BECOME FINAL AND ANY WRIT OF EXECUTION BASED ON IT IS VOID; DECISION OF THE COURT OF APPEALS IS REVERSED.— As held in *Leonor v. Court of Appeals,* a void judgment for want of jurisdiction is no judgment at all. It cannot be the source of any right nor the creator of any obligation. All acts performed pursuant to it and all claims emanating from it have no legal effect. Hence, it can never become final and **any writ of execution based on it is void**. Since this Court is now reversing the challenged decision of the CA and affirming the decision of the LA in dismissing the case for want of jurisdiction, Maglaya is not entitled to collect the amount of ₱2,505,208.75 awarded from the time the NLRC decision became final and executory up to the time the CA dismissed WUP's petition for *certiorari.*

APPEARANCES OF COUNSEL

J.V. Bautista Law Offices for petitioner.
Mariano Jesus S. Averia for respondent.

D E C I S I O N

PERALTA, *J.*:

For this Court's resolution is a petition for review on *certiorari* filed by petitioner Wesleyan University-Philippines *(WUP)*

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assailing the Resolution[1] dated January 20, 2014 of the Court of Appeals *(CA)* which denied its petition for *certiorari.*

The facts are as follows:

WUP is a non-stock, non-profit, non-sectarian educational corporation duly organized and existing under the Philippine laws on April 28, 1948.[2]

Respondent Atty. Guillermo T. Maglaya, Sr. *(Maglaya)* was appointed as a corporate member on January 1, 2004, and was elected as a member of the Board of Trustees *(Board)* on January 9, 2004 — both for a period of five (5) years. On May 25, 2005, he was elected as President of the University for a five-year term. He was re-elected as a trustee on May 25, 2007.[3]

In a Memorandum dated November 28, 2008, the incumbent Bishops of the United Methodist Church *(Bishops)* apprised all the corporate members of the expiration of their terms on December 31, 2008, unless renewed by the former.[4] The said members, including Maglaya, sought the renewal of their membership in the WUP's Board, and signified their willingness to serve the corporation.[5]

On January 10, 2009, Dr. Dominador Cabasal, Chairman of the Board, informed the Bishops of the cessation of corporate terms of some of the members and/or trustees since the by-laws provided that the vacancy shall only be filled by the Bishops upon the recommendation of the Board.[6]

On March 25, 2009, Maglaya learned that the Bishops created an *Ad Hoc* Committee to plan the efficient and orderly turnover

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[1] Penned by Associate Justice Normandie B. Pizarro, with Presiding Justice Andres B. Reyes, Jr. and Associate Justice Manuel M. Barrios, concurring; *rollo,* pp. 30-32.

[2] *Id.* at 53.

[3] *Id.* at 56.

[4] CA *rollo,* p. 227.

[5] *Id.* at 228.

[6] *Rollo,* p. 57.

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of the administration of the WUP in view of the alleged "gentleman's agreement" reached in December 2008, and that the Bishops have appointed the incoming corporate members and trustees.[7] He clarified that there was no agreement and any discussion of the turnover because the corporate members still have valid and existing corporate terms.[8]

On April 24, 2009, the Bishops, through a formal notice to all the officers, deans, staff, and employees of WUP, introduced the new corporate members, trustees, and officers. In the said notice, it was indicated that the new Board met, organized, and elected the new set of officers on April 20, 2009.[9] Manuel Palomo *(Palomo),* the new Chairman of the Board, informed Maglaya of the termination of his services and authority as the President of the University on April 27, 2009.[10]

Thereafter, Maglaya and other former members of the Board *(Plaintiffs)* filed a Complaint for Injunction and Damages before the Regional Trial Court *(RTC)* of Cabanatuan City, Branch 28.[11] In a Resolution[12] dated August 19, 2009, the RTC dismissed the case declaring the same as a nuisance or harassment suit prohibited under Section 1(b),[13] Rule 1 of the Interim Rules

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[7] *Id.*

[8] *Id.* at 57-58.

[9] *Id.* at 58.

[10] *Id.* at 104.

[11] *Id.* at 52-67.

[12] Penned by Presiding Judge Tomas B. Talavera, *id.* at 68-74.

[13] (b) *Prohibition against nuisance and harassment suits.* – Nuisance and harassment suits are prohibited. In determining whether a suit is a nuisance or harassment suit, the court shall consider, among others, the following:

(1) The extent of the shareholding or interest of the initiating stockholder or member;
(2) Subject matter of the suit;
(3) Legal and factual basis of the complaint;
(4) Availability of appraisal rights for the act or acts complained of; and

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for Intra-Corporate Controversies.[14] The RTC observed that it is clear from the by-laws of WUP that insofar as membership in the corporation is concerned, which can only be given by the College of Bishops of the United Methodist Church, it is a precondition to a seat in the WUP Board.[15] Consequently, the expiration of the terms of the plaintiffs, including Maglaya, as corporate members carried with it their termination as members of the Board.[16] Moreover, their continued stay in their office beyond their terms was only in hold-over capacities, which ceased when the Bishops appointed new members of the corporation and the Board.[17]

The CA, in a Decision[18] dated March 15, 2011, affirmed the decision of the RTC, and dismissed the petition for *certiorari* filed by the plaintiffs for being the improper remedy. The CA held that their status as corporate members of WUP which expired on December 31, 2008 was undisputed. The CA agreed with the RTC that the plaintiffs had no legal standing to question the Bishops' alleged irregular appointment of the new members in their Complaint on May 18, 2009 as the termination of their membership in the corporation necessarily resulted in the conclusion of their positions as members of the Board pursuant to the WUP by-laws.[19]

Thereafter, Maglaya filed on March 22, 2011 the present illegal dismissal case against WUP, Palomo, Bishop Lito C.

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(5) Prejudice or damage to the corporation, partnership, or association in relation to the relief sought.

In case of nuisance or harassment suits, the court may, *motu proprio* or upon motion, forthwith dismiss the case.

[14] *Rollo,* p. 74.

[15] *Id.* at 73.

[16] *Id.*

[17] *Id.* at 72-73.

[18] Penned by Associate Justice Michael P. Elbinias, with Associate Justices Noel G. Tijam and Celia C. Librea-Leagogo, concurring; *id.* at 77-86.

[19] *Rollo,* pp. 83-84.

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Tangonan *(Tangonan),* and Bishop Leo A. Soriano *(Soriano)*.[20] Maglaya claimed that he was unceremoniously dismissed in a wanton, reckless, oppressive and malevolent manner on the eve of April 27, 2009.[21] Tangonan and Soriano acted in evident bad faith when they disregarded his five-year term of office and delegated their protege Palomo as the new university president.[22] Maglaya alleged that he faithfully discharged his necessary and desirable functions as President, and received ₱75,000.00 as basic salary, ₱10,000.00 as cost of living allowance, and ₱10,000.00 as representation allowance. He was also entitled to other benefits such as: the use of university vehicles; the use of a post paid mobile cellular phone in his official transactions; the residence in the University Executive House located at Inday Street, Magsaysay Sur, Cabanatuan City, with free water, electricity, and services of a household helper; and receipt of 13th month pay, vacation leave pay, retirement pay, and shares in related learning experience.[23] On May 31, 2006, his basic salary was increased to ₱95,000.00 due to his additional duty in overseeing the operations of the WUP Cardiovascular and Medical Center.

Maglaya presented the following pieces of evidence: copies of his appointment as President, his Identification Card, the WUP Administration and Personnel Policy Manual which specified the retirement of the university president, and the check disbursement in his favor evidencing his salary, to substantiate his claim that he was a mere employee.[24]

WUP, on the other hand, asseverated that the dismissal or removal of Maglaya, being a corporate officer and not a regular employee, is a corporate act or intra-corporate controversy under the jurisdiction of the RTC.[25] WUP also maintained that since

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[20] *Id.* at 105.

[21] *Id.* at 93-94.

[22] *Id.* at 94.

[23] *Id.* at 93.

[24] *Id.* at 119.

[25] *Id.* at 107.

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Maglaya's appointment was not renewed, he ceased to be a member of the corporation and of the Board; thus, his term for presidency has also been terminated.[26]

Meanwhile, this Court, in a Resolution dated June 13, 2011, denied the petition for review on *certiorari* filed by Maglaya and the other former members of the Board for failure to show any reversible error in the decision of the CA. The same became final and executory on August 24, 2011.[27]

In a Decision[28] dated September 20, 2011, the Labor Arbiter *(LA)* ruled in favor of WUP. The LA held that the action between employers and employees where the employer-employee relationship is merely incidental is within the exclusive and original jurisdiction of the regular courts.[29] Since he was appointed as President of the University by the Board, Maglaya was a corporate officer and not a mere employee. The instant case involves intra-corporate dispute which was definitely beyond the jurisdiction of the labor tribunal.[30] The dispositive portion of the decision reads:

> WHEREFORE, premises considered, the instant complaint is hereby dismissed for lack of jurisdiction.
>
> SO ORDERED.[31]

In a Decision[32] dated April 25, 2012, the National Labor Relations Commission *(NLRC)* in NLRC-LAC No. 01-000470-12, reversed and set aside the Decision of the LA ruling that the illegal dismissal case falls within the jurisdiction of the

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[26] *Id.* at 96.

[27] *Id.* at 87.

[28] Penned by Labor Arbiter Leandro M. Jose; *id.* at 90-100.

[29] *Rollo,* p. 99.

[30] *Id.* at 100.

[31] *Id.*

[32] Penned by Commissioner Teresita D. Castillon-Lora, with Presiding Commissioner Raul T. Aquino, concurring; *id.* at 102-125.

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labor tribunals. Since the reasons for his termination cited by WUP were not among the just causes provided under Article 282[33] (now Article 297) of the Labor Code, Maglaya was illegally dismissed. The NLRC observed that the Board did not elect Maglaya, but merely appointed him. Maglaya was appointed for a fixed period of five (5) years from May 7, 2005 to May 6, 2010, while the period of his appointment as member of the corporation was five (5) years from January 2004.[34] The decretal portion of the decision reads:

WHEREFORE, premises considered, the appealed decision is hereby REVERSED and SET ASIDE, declaring:

(a) jurisdiction over this case by virtue of the employer-employee relation of the parties
(b) the illegality of the dismissal of [respondent] by [petitioner]

[Petitioner] therefore [is] hereby ordered to pay [respondent]:

1. separation pay	-	[₱] 375,000.00
2. full backwages	-	1,252,462.50
3. retirement pay	-	500,000.00
4. moral damages	-	100,000.00
5. exemplary damages	-	50,000.00
6. 10% of the above as attorney's fees	-	227,746.25
TOTAL AWARDS	-	[₱]2,505,208.75

based on the attached computation of this Commission's Computation Unit.

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[33] Article 297. [282] *Termination by Employer.* – An employer may terminate an employment for any of the following causes:

(a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
(b) Gross and habitual neglect by the employee of his duties;
(c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
(d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representatives; and
(e) Other causes analogous to the foregoing.

[34] *Rollo,* p. 116.

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SO ORDERED.[35]

Ruling in favor of Maglaya, the NLRC explicated that although the position of the President of the University is a corporate office, the manner of Maglaya's appointment, and his duties, salaries, and allowances point to his being an employee and subordinate.[36] The control test is the most important indicator of the presence of employer-employee relationship. Such was present in the instant case as Maglaya had the duty to report to the Board, and it was the Board which terminated or dismissed him even before his term ends.[37]

Thereafter, the NLRC denied the motion for reconsideration filed by WUP in a Resolution[38] dated February 11, 2013.

In a Resolution, the CA dismissed the petition for *certiorari* filed by WUP. The CA noted that the decision and resolution of the NLRC became final and executory on March 16, 2013.[39] WUP's attempt to resurrect its lost remedy through filing the petition would not prosper since final and executory judgment becomes unalterable and may no longer be modified in any respect.[40] Thus:

WHEREFORE, the petition is DENIED for lack of merit.

SO ORDERED.[41]

Upon denial of his Motion for Reconsideration, WUP elevated the case before this Court raising the issue:

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[35] *Id.* at 124-125.

[36] *Id.* at 118.

[37] *Id.* at 118-119.

[38] Penned by Commissioner Teresita D. Castillon-Lora, with Presiding Commissioner Joseph Gerard E. Mabilog, concurring, and Commissioner Dolores M. Peralta-Beley, dissenting; *id.* at 128-136.

[39] NLRC Entry of Judgment, *CA rollo,* p. 433.

[40] *Rollo,* pp. 31-32.

[41] *Id.* at 32.

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The Court of Appeals committed an error of law when it summarily dismissed the special civil action for *certiorari* raising lack of jurisdiction of the NLRC filed by [WUP] where it was very clear that the NLRC had no jurisdiction over the case involving a corporate officer and where the nature of the controversy is an intra-corporate dispute.

We find the instant petition impressed with merit.

WUP alleges that while the NLRC decision became final and executory on March 16, 2013, it did not mean that the said decision had become immutable and unalterable as the CA ruled. WUP maintains that the remedy of the aggrieved party against a final and executory decision of the NLRC is the filing of the petition for *certiorari* under Rule 65 of the Rules of Court. As such, it was able to meet the conditions set forth in filing the said remedy before the CA.

Settled is the rule that while the decision of the NLRC becomes final and executory after the lapse of ten calendar days from receipt thereof by the parties under Article 223[42] (now Article 229) of the Labor Code, the adverse party is not precluded from assailing it *via* Petition for *Certiorari* under Rule 65 before the CA and then to this Court *via* a Petition for Review under Rule 45.[43]

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[42] Article 229. [223] *Appeal.*— Decisions, awards, or orders of the Labor Arbiter are final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards, or orders. Such appeal may be entertained only on any of the following grounds:

(a) If there is *prima facie* evidence of abuse of discretion on the part of the Labor Arbiter;

(b) If the decision, order or award was secured through fraud or coercion, including graft and corruption;

(c) If made purely on questions of law; and

(d) If serious errors in the findings of facts are raised which would cause grave or irreparable damage or injury to the appellant.

x x x x x x x x x

The decision of the Commission shall be final and executory after ten (10) calendar days from receipt thereof by the parties.

x x x x x x x x x

[43] *Panuncillo v. CAP Philippines, Inc.,* 544 Phil. 256 (2007).

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This Court has explained and clarified the power of the CA to review NLRC decisions, *viz.*:

> The power of the Court of Appeals to review NLRC decisions *via* Rule 65 or Petition for *Certiorari* has been settled as early as in our decision in *St. Martin Funeral Home v. National Labor Relations Commission*. This Court held that the proper vehicle for such review was a Special Civil Action for *Certiorari* under Rule 65 of the Rules of Court, and that this action should be filed in the Court of Appeals in strict observance of the doctrine of the hierarchy of courts. Moreover, it is already settled that under Section 9 of *Batas Pambansa Blg.* 129, as amended by Republic Act No. 7902[10] (An Act Expanding the Jurisdiction of the Court of Appeals, amending for the purpose of Section Nine of *Batas Pambansa Blg.* 129 as amended, known as the *Judiciary Reorganization Act of 1980),* the Court of Appeals — pursuant to the exercise of its original jurisdiction over Petitions for *Certiorari* — is specifically given the power to pass upon the evidence, if and when necessary, to resolve factual issues.[44]

Consequently, the remedy of the aggrieved party is to **timely file a motion for reconsideration as a precondition for any further or subsequent remedy,** and then seasonably avail of the special civil action of *certiorari* under Rule 65, for a period of sixty (60) days from notice of the decision.[45]

Records reveal that WOP received the decision of the NLRC on May 12, 2012, and filed its motion for reconsideration on May 24, 2012.[46] WUP received the Resolution dated February 11, 2013 denying its motion on March 12, 2013.[47] Thereafter, it filed its petition for *certiorari* before the CA on March 26, 2013.[48]

We find that the application of the doctrine of immutability of judgment in the case at bar is misplaced. To reiterate, although

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[44] *PICOP Resources, Incorporated (PRI) v. Tañeca,* G.R. No. 160828, August 9, 2010, 627 SCRA 56, 65-66. (Citation omitted).

[45] *St. Martin Funeral Home v. National Labor Relations Commission,* 356 Phil. 811 (1998). (Emphasis supplied).

[46] CA *rollo,* p. 383.

[47] *Id.* at 4.

[48] *Id.* at 3.

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the 10-day period for finality of the decision of the NLRC may already have lapsed as contemplated in the Labor Code, this Court may still take cognizance of the petition for *certiorari* on jurisdictional and due process considerations if filed within the reglementary period under Rule 65.[49] From the abovementioned, WUP was able to discharge the necessary conditions in availing its remedy against the final and executory decision of the NLRC.

There is an underlying power of the courts to scrutinize the acts of such agencies on questions of law and jurisdiction even though no right of review is given by statute.[50] Furthermore, the purpose of judicial review is to keep the administrative agency within its jurisdiction and protect the substantial rights of the parties.[51]

Now on the issue of whether or not the NLRC has jurisdiction over the illegal dismissal case filed by Maglaya.

The said issue revolves around the question on whether Maglaya is a corporate officer or a mere employee. For purposes of identifying an intra-corporate controversy, We have defined corporate officers, thus:

> "Corporate officers" in the context of Presidential Decree No. 902-A are those officers of the corporation who are **given that character by the Corporation Code or by the corporation's by-laws.** There are three specific officers whom a corporation must have under Section 25 of the Corporation Code. These are the president, secretary and the treasurer. The number of officers is not limited to these three. A corporation may have such other officers as may be provided for by its by-laws like, but not limited to, the vice-president, cashier, auditor or general manager. The number of corporate officers is thus limited by law and by the corporation's by-laws.[52]

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[49] *St. Martin Funeral Home v. National Labor Relations Commission, supra* note 45.

[50] *Id.*

[51] *Id.*

[52] *Garcia v. Eastern Telecommunications Phils., Inc.,* 603 Phil. 438 (2009). (Citation omitted).

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The president, vice-president, secretary and treasurer are commonly regarded as the principal or executive officers of a corporation, and they are usually designated as the officers of the corporation. However, **other officers are sometimes created by the charter or by-laws of a corporation,** or the board of directors may be empowered under the by-laws of a corporation to create additional offices as may be necessary. This Court expounded that an *"office"* is created by the charter of the corporation and the officer is elected by the directors or stockholders, while an *"employee"* usually occupies no office and generally is employed not by action of the directors or stockholders but by the managing officer of the corporation who also determines the compensation to be paid to such employee.[53]

From the foregoing, that the *creation* of the position is under the corporation's charter or by-laws, and that the *election* of the officer is by the directors or stockholders must concur in order for an individual to be considered a corporate officer, as against an ordinary employee or officer. It is only when the officer claiming to have been illegally dismissed is classified as such corporate officer that the issue is deemed an intra-corporate dispute which falls within the jurisdiction of the trial courts.[54]

In its position paper before the LA, WUP presented its amended By-Laws[55] dated November 28, 1988 submitted to the SEC to prove that Maglaya, as the University President, was a corporate officer whose rights do not fall within the jurisdiction of the labor tribunal. It also presented the Resolution dated August 19, 2009 of the RTC, and the Decision dated March 15, 20 11 of the CA to show that the earlier case was filed by Maglaya and others, as members of the Board, questioning the Bishops' appointment of the new members without their recommendation.

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[53] *Tabang v. NLRC,* 334 Phil. 424 (1997). (Emphasis supplied).

[54] *Cosare v. Broadcom Asia, Inc.,* 726 Phil. 316 (2014).

[55] *Rollo,* pp. 43-51.

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The relevant portions of the amended By-Laws provide:

ARTICLE VI. BOARD OF TRUSTEES

x x x x x x x x x

Section 2. *Membership* – (a) The Board of Trustees shall be composed of Ten (10) members of the corporation from among themselves provided, that six (6) shall come from the Ministry and Laity of the United Methodist [C]hurch in the Philippines, three (3) shall be non-Methodist, friends and sympathizers of the Wesleyan University-Philippines and of the United Methodist Church, and one (1) representative of the Wesleyan Alumni Association, as provided in section 1 (c), Article IV hereof, and (b) provided further that the incumbent area bishop and the President of the Wesleyan University-Philippines shall be honorary members of the Board.

x x x x x x x x x[56]

ARTICLE VIII. OFFICERS

Section 1. *Officers* – The officers of the Board of Trustees shall be:

(a) Chairman
(b) Vice-Chairman
(c) Secretary
(d) Treasurer

x x x x x x x x x

Section 6. The President of Wesleyan University-Philippines – The President of the University, who must be an active member of the United Methodist Church in the Philippines at the time of his election shall be in-charge of and be responsible for the administration of the University and other institutions of learning that [m]ay hereafter be established by the corporation, and

(a) May, with the Board of Trustees;

(1) Organize and/or reorganize the administrative set up of the Wesleyan University-Philippines to effect efficiency and upgrade institutional administration and supervision;

(2) Employ, suspend, dismiss, transfer or replace personnel and prescribe and enforce rules and regulations for their proper conduct in the discharge of their duties;

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[56] *Id.* at 45. (Underscoring supplied).

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(3) Shall make reports during the different annual conference of the United Methodist Church and to such agencies as may be deemed necessary on the operations of the university and related matters;

(4) Shall prescribe and enforce rules and regulations for the promotion and maintenance of discipline in the proper conduct and discharge of the functions and duties of subordinate administrative officers, professors, teachers, employees and students and other personnel.

(b) Shall make reports and recommendations to the Board of Trustees or to the Chairman of the Board of Trustees on matters pertaining to the institution as he may find necessary;

(c) Shall countersign all checks drawn by the Treasurer from the depository of the University, and

(d) Shall exercise, perform and discharge all such other powers, functions and duties as are interest in the office of the President.

x x x x x x x x x[57]

It is apparent from the By-laws of WUP that the president was one of the officers of the corporation, and was an honorary member of the Board. He was appointed by the Board and not by a managing officer of the corporation. We held that one who is included in the by-laws of a corporation in its roster of corporate officers is an officer of said corporation and not a mere employee.[58]

The alleged "appointment" of Maglaya instead of "election" as provided by the by-laws neither convert the president of university as a mere employee, nor amend its nature as a corporate officer. With the office specifically mentioned in the by-laws, the NLRC erred in taking cognizance of the case, and in concluding that Maglaya was a mere employee and subordinate official because of the manner of his appointment, his duties and responsibilities, salaries and allowances, and considering the Identification Card, the Administration and Personnel Policy

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[57] *Id.* at 47-48.

[58] *Garcia v. Eastern Telecommunications Phils., Inc., supra* note 52.

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Manual which specified the retirement of the university president, and the check disbursement as pieces of evidence supporting such finding.

A corporate officer's dismissal is always a corporate act, or an intra-corporate controversy which arises between a stockholder and a corporation, and the nature is not altered by the reason or wisdom with which the Board of Directors may have in taking such action.[59] The issue of the alleged termination involving a corporate officer, not a mere employee, is not a simple labor problem but a matter that comes within the area of corporate affairs and management and is a corporate controversy in contemplation of the Corporation Code.[60]

The long-established rule is that the jurisdiction over a subject matter is conferred by law.[61] Perforce, Section 5 (c) of PD 902-A, as amended by Subsection 5.2, Section 5 of Republic Act No. 8799, which provides that the regional trial courts exercise exclusive jurisdiction over all controversies in the election or appointment of directors, trustees, officers or managers of corporations, partnerships or associations, applies in the case at bar.[62]

To emphasize, the determination of the rights of a corporate officer dismissed from his employment, as well as the corresponding liability of a corporation, if any, is an intra-corporate dispute subject to the jurisdiction of the regular courts.[63]

As held in *Leonor v. Court of Appeals,*[64] a void judgment for want of jurisdiction is no judgment at all. It cannot be the source of any right nor the creator of any obligation. All acts

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[59] *Tabang v. NLRC, supra* note 53.

[60] *Okol v. Slimmers World International,* 623 Phil. 13 (2009).

[61] *Union Motors Corp. v. National Labor Relations Commission,* 373 Phil. 310 (1999).

[62] *Okol v. Slimmers World International, supra* note 60.

[63] *Id.*

[64] 326 Phil. 74 (1996).

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performed pursuant to it and all claims emanating from it have no legal effect. Hence, it can never become final and **any writ of execution based on it is void**.[65]

Since this Court is now reversing the challenged decision of the CA and affirming the decision of the LA in dismissing the case for want of jurisdiction, Maglaya is not entitled to collect the amount of ₱2,505,208.75 awarded from the time the NLRC decision became final and executory up to the time the CA dismissed WUP's petition for *certiorari.*

In sum, this Court finds that the NLRC erred in assuming jurisdiction over, and thereafter in failing to dismiss, Maglaya's complaint for illegal dismissal against WUP, since the subject matter of the instant case is an intra-corporate controversy which the NLRC has no jurisdiction.

WHEREFORE, the petition for review on *certiorari* filed by petitioner Wesleyan University-Philippines is hereby **GRANTED**. The assailed Resolution dated January 20, 2014 of the Court of Appeals in CA-G.R. SP No. 129196 is hereby **REVERSED** and **SET ASIDE**. Respondent Atty. Guillermo T. Maglaya, Sr. is hereby **ORDERED** to **REIMBURSE** the petitioner the amount of ₱2,505,208.75 awarded by the National Labor Relations Commission.

SO ORDERED.

Carpio (Chairperson), Mendoza, Leonen, and *Jardeleza,*[*] *JJ.,* concur.

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[65] *Leonor v. Court of Appeals, supra.* (Emphasis supplied).

[*] Designated Additional Member per Special Order No. 2416, dated January 4, 2017.