The Appeal in Chile as a Procedural Mechanism restricted to challenging Judicial Decisions in Labour Matters

The appeal, the quintessential means of review in Chile for over a century in both civil and criminal proceedings, has been losing importance since the 2000 reform of criminal procedure and then with the 2014 labour procedural reform, as well as being increasingly restricted in other areas, such as under the Insolvency (Bankruptcy) Law[1]. We will devote the following paragraphs to general issues concerning the appeal, and then focus on the Chilean labour process, where we will see that this remedy has indeed been restricted in its use as a procedural instrument, which has undoubtedly diminished the jurisdiction of the Courts of Appeal in labour matters, especially in declaratory proceedings.

Challenging judicial decisions through appeal in Chile. Challenging judicial decisions through appeal in Chile.

Appeals in Chile are governed by Book I of the Code of Civil Procedure (in force since 1903), and their primary function is to correct, in accordance with the law, judicial rulings issued by a court (whether presided over by a single judge or a panel) that cause harm, with the higher court required to confirm, modify, or revoke such rulings as provided by law[2].

As a procedural act by the aggrieved party, it precludes the court from proceeding ex officio to amend a judicial ruling by way of an officious appeal[3].

Although its characteristics are well known, it is worth recalling them: a) It is a remedy that stems from the jurisdictional powers of the courts of justice. b) As a general rule, it is an ordinary remedy; however, in the new criminal procedure it has ceased to be such, since its application is much more restricted than in civil proceedings. In criminal procedural law, it is an extraordinary remedy that lies against rulings issued by the judge of guarantee, as provided in Article 370 of the CPP, but it is not available in the simplified procedure or against rulings issued by the Oral Criminal Court. c) It is a remedy for error, because it is filed with the same court that issued the challenged ruling, so that the higher court may hear and decide the appeal. d) It has a generic ground called "aggravio," meaning it does not have one or more specific grounds as is the case with Extraordinary Remedies. e) It constitutes the second instance in our legal system, meaning that the same matter is heard twice by two different courts. That

[1]With the civil procedural reform currently lacking any scheduled dates for parliamentary review and debate of the bill introduced in 2012, it appears that our traditional appeal, while retaining some dignity, will be placed at the service of procedural nullity or, at the very least, of grounds similar to the cassation for formal defects regulated by our current Code of Civil Procedure.

[2]Mosquera and Maturana (2010), pp. 117–221; Núñez and Pérez (2015), pp. 67–97; Orellana (2025) in Palomo Vélez and Contreras Rojas, pp. 253 et seq. ORELLANA (2022), pp. 65–106, Vol. IV; ORELLANA (2006), pp. 163–200.

[3]On the powers of the civil judge, see the interesting work by Hunter (2011), pp. 73–101.

ONLY FOR REVIEW

is, by means of an appeal, the second instance is opened. f) It is available in both contentious and non-contentious matters, as provided in Article 822. g) It is a remedy that the parties may waive.

Another point we would like to address is that, although the appeal as an ordinary remedy is available against most judicial rulings (final judgements, interlocutory orders, autos, and decrees), there are various legal grounds that prevent its filing. The reasons why an appeal is not admissible are: a) With regard to the amount at stake, that is, all matters where the amount does not exceed 10 monthly tax units are not subject to appeal. b) With regard to the principle of celerity, the usefulness of the appeal is not great enough to sacrifice this principle. Therefore, the legislator seeks to eliminate all procedural formalities or actions that undermine the prompt administration of justice. c) Regarding the nature of the matter, d) Regarding the legal nature of the judicial decision, e) Regarding the court that issued the decision[4].

If we examine our current Code of Civil Procedure, we find various provisions that do not allow the filing of an appeal: The rulings against which no appeal lies under the Code of Civil Procedure are as follows: a) Article 31, final paragraph. Regarding copies of pleadings. The resolutions issued in accordance with this article shall be final and unappealable. b) Art. 49, para. 2. In proceedings before lower courts. The judge may order that another address be designated within the nearest boundaries without further formality or recourse, if the address is located at a considerable distance from the court's seat. c) Art. 60, final paragraph. At the request of the parties, the court may authorise the performance of judicial proceedings on non-business days and hours when there is an urgent cause, and it shall be the court that assesses the urgency of the cause and rules without further appeal. d) Art. 88, final paragraph. The resolutions issued pursuant to the provisions of this article, insofar as they concern the amount of deposits and fines, are not subject to appeal. e) Art. 90, final paragraph. It refers to certain evidentiary proceedings, such as the evidentiary period, challenges to witnesses and witness lists, and other proceedings.

Evidence taken outside the place where the trial is being held, and the rulings issued in such cases, are not subject to appeal. f) Art. 126, para. 1. The judgement rendered in incidents concerning disqualifications and challenges is, as a general rule, not subject to appeal. g) Art. 159, final paragraph. Orders issued regarding measures to better resolve the matter are not appealable, except in the case of expert testimony. h) Art. 181, second paragraph. The decision denying the motion for reconsideration shall be final and unappealable. i) Art. 188. Orders and decrees are, as a general rule, not subject to appeal. j) Art. 210. Decisions on incidents rendered on second instance are not subject to appeal. k) Art. 326, para. 2. Orders directing the performance of any evidentiary procedure that results in the admission of additional evidence on new facts alleged during the evidentiary period are not appealable. l) Art. 379. Orders directing the admission of evidence on the opposing challenges are not appealable. m) Art. 392. The court's order granting the witness a reasonable period to consult his

[4]CORTEZ (2019). On the inadmissibility of the appeal, see pp. 89–94.

ONLY FOR REVIEW

documents is not subject to appeal. n) Art. 432. The ruling on the motion for reconsideration of the notice to appear for sentencing is not appealable. Other cases can be found in Articles 487, 649, 715, 723, and 778[5].

Another of its key characteristics in civil matters is that it must be in writing, without forgetting Article 189, paragraph 3, which indicates that, exceptionally, the appeal may be filed orally in all cases where the law provides for oral proceedings. The notice of appeal must be grounded in both fact and law; although the legislator does not expressly state this, it must be more than perfunctory by virtue of Article 189, which concerns oral appeals. According to Professor Bonet Navarro[6]: "the appellant must include in the notice of appeal all arguments demonstrating the injustice of the challenged decision, whether by failing to respect the applicable legal rule or case law, or by failing to adhere to the rules on evidence (burden of proof, assessment, etc.)".

With regard to specific requests, we must understand them to be those pursued by the appeal, that is, that the appealed decision be modified or amended. From the foregoing, one might ask: is it sufficient to request the appeal in this manner? The specific requests must be very precise or concise, leaving no doubt as to what is actually being requested by filing the appeal. Thus, if a party requests that the judgement be affirmed, it must ask that the content of that judgement be confirmed; and if the final judgement is not affirmed, the appeal must request that the complaint be deemed granted in all its parts. Specific requests also limit the court's jurisdiction to rule on the matter before it, since the appellate court may only decide what is set forth in those requests. Therefore, if the court does not adhere to the petitions in its ruling, the latter would be subject to annulment on procedural grounds under causes Nos. 4 and 5 of Article 768. In those cases where the appeal is filed subsidiarily to the motion for reconsideration, it is not necessary to provide grounds or formulate specific requests, provided that the motion for reconsideration meets those requirements (Art. 189)[7].

The right to appeal

Before the year 2000 (the year of the criminal procedural reform), we had a general system of appeals resting on two main pillars: one of amendment—the appeal (apelación), typically heard and decided by the Courts of Appeals (second instance)—and one of annulment—the appeals on points of law (recursos de casación), typically heard and resolved by the Supreme Court (especially the appeal on substantive grounds)—without prejudice to the means of challenge under the Organic Code of Courts known as the Complaint Appeal (Recurso de Queja), which for many years constituted a "third instance" before the Supreme Court, and which

[5]A clear example of the restrictive nature of remedies (procedural appeals) is found in Law 20.720, which replaces the insolvency regime. See ZAÑARTU (2019) on this matter.
[6]BONET (2000).
[7]Sobre las peticiones concretas véase el interesante trabajo de hace unos años atrás de SALAS (1989), pp. 55-59.

ONLY FOR REVIEW

in 1995 (Law 19.374) underwent a major reform to i) strengthen the Supreme Court by increasing the number of justices and establishing specialised chambers, and ii) strengthen the appeal on substantive grounds; and, as expressed in the legislative history, "it was considered that the legal relevance for the interpretation and application of the law is related not to a specific private interest but to society's general interest in legal certainty and a uniform interpretation of the law".[8]

For 20 years since the implementation of the hearing-based procedural system in criminal proceedings, various means of appeal have existed within the "procedural systems" of our country, known as procedural remedies, to challenge the judicial decision we call the "final judgment." In Written Proceedings: Civil Procedure: Appeal and Cassation (Form and Substance[9]); Tax Procedure – 2010 – Written – Appeal and Cassation; – Hearing Proceedings: Criminal proceedings: Motion for annulment[10]—heard by a Court of Appeals and, in certain cases, by the Supreme Court—and, only exceptionally, an appeal against certain final judgements. Labour Procedure: Motion for Annulment and, before the Supreme Court, Motion for Unification of Jurisprudence. In some labour enforcement matters, the appeal is highly exceptional. Family proceedings: Appeals and petitions for review. -Just as in written civil proceedings[11].

Without prejudice to the foregoing and as procedural doctrine has pointed out, especially in recent years—Palomo[12]— The existence of an oral system with judicial immediacy allows for a direct relationship, without intermediaries, between the judge or court, the participants, the parties, and the evidentiary material. And therefore the need arises to give a new "face" to justice… thus, in a procedural framework such as the one currently in force in civil matters, neither appeal nor second instance is possible, since the judge a quo will directly observe the presentation of evidence from a privileged position.

But despite the fact that one cannot disagree with what Palomo has pointed out, we have already seen that this is not entirely true, because in family proceedings—which are based on hearings (orality and immediacy)—there is nevertheless an appeal—a second instance.

It is valid for us to ask at this stage what is more appropriate in civil matters: Nullity or Appeal. Lately, legal scholars have been mounting a more or less constant critique of the role of the Courts of Appeal in hearing and deciding motions for annulment, especially regarding the declaration of inadmissibility based on formalistic and restrictive criteria that limit the right to appeal, which presupposes a review of the grievance raised by the appellant. and who expects a substantive response from the hierarchical superior. Without prejudice to the fact that this criticism may be pertinent in several cases, the appeal in civil matters has also amounted to a restriction of the right to appeal, not because it is inadmissible but rather because it is simply "affirmed," that is, without any

[8]DUCE et al. (2015). See also BORDALÍ (2014), p. 47. Lately, NÚÑEZ AND BRAVO (2017).
[9]Lately, in this field, see the work of DEL RÍO (2020). Furthermore, MATURANA (2010).
[10]DUCE FUENTES NUÑEZ Y RIEGO (2015).
[11]Regarding the recurso de queja in labour proceedings, see the judgement of the Antofagasta Court of Appeals, Case No. 453-2022, dated October 19, 2022.
[12]PALOMO Y LORCA (2017).

ONLY FOR REVIEW

grounds or with grounds that merely repeat what the court a quo or the court of first instance has already said.

Of course, there is no single answer to this question, but I believe the essential thing is to clarify the concepts of "instancia" (instance) and "apelación" (appeal). We have already seen that in the Chilean procedural system the legislator did not emphasise whether the process is written or based on hearings (we have already seen how in Chile appeals still exist in both written proceedings and hearing-based proceedings). Consider even the civil procedure in Spain, with its hearing-based proceedings and the availability of an appeal to the Provincial Courts[13]. If the knowledge of the higher courts of justice is to translate into redressing the grievance or harm caused by a judgement, then the legislature must grant these courts the power—by way of an appeal—to review the judgement rendered by the lower court, conducting a fresh examination of the proceedings carried out; this is the true forum, whether to revoke or confirm the challenged judgement. On the contrary, if the legislator believes that direct contact by the judge or court provides a more effective understanding of the evidence—allowing the alleged facts to be proven through "immediacy," thereby minimising the possibility of burdens or prejudice in the judgment—then the appeal cannot be the legal remedy.

The Appeal in Labour Proceedings

Historical introduction to remedies in the labour process: Historical Introduction to Appeals in Labour Proceedings: Legislative procedures[14]

The first legislative procedure took place in the Chamber of Deputies; the Constitution, Legislation, and Justice Committee was the first to amend the chapter on procedural remedies when it examined the bill sent by the executive branch—dated January 5, 2007—which only suggested a change to Article 453, No. 1, regarding appeals against rulings upholding exceptions of lack of jurisdiction, expiration, and prescription.

In the Commission's first report, dated January 6, 2007, we find the initial elements that will take us from the appeal to the new motion for annulment. With the modifications noted by the commission, it is clear that appeals on points of law in labour proceedings were destined to disappear.

Deputy Juan Bustos, during the debate in the Chamber, analysing the Commission's second report, refers to the appeal as a remedy for annulment, even though, as of that date (October 2007), the bills pending in the National Congress only provided for the appeal.

The second legislative procedure indicates that, as of December 7, 2007, the Senate's Bulletin of Indications records a government signal to replace paragraph V, dedicated to "resources," with a new one that expressly

[13]MONTERO Y FLORS (2008); HERRERO (2011).
[14]See ORELLANA and PÉREZ-RAGONE (2013); and ORELLANA (2009).

ONLY FOR REVIEW

incorporates a new remedy of nullity, but makes no mention of the remedy for the unification of jurisprudence.

Without prejudice to the foregoing, on January 18, 2008, the Senate Committee on Labour and Social Security sent an official communication to the Supreme Court reporting the amendments to the bill; this communication included a new Article 483 regulating the appeal for the unification of jurisprudence (Arts. 483 A, 483 B, and 483 C). In its second report, dated January 21, 2008, the Committee on Labour and Social Security noted that the agreed amendments were intended to address a shortcoming in Law 20.087, which did not specify the procedure for appealing from the labour courts to the Supreme Court.

Therefore, a new remedy—the unification of jurisprudence—is created, which is not a cassation appeal. The purpose of this remedy is to obtain a uniform interpretation from the Supreme Court so that it ultimately establishes the meaning of labour laws.

In this bill, the remedy is governed by Articles 478 through 478(c).

The report also indicates that, notwithstanding the existence of an appeal under Law 20.087, such appeal is in fact a true appeal on points of law, very similar to the motion for annulment in criminal proceedings.

The following was expressly recorded in the Commission: the new appeals regime offers two avenues for challenging decisions in labour proceedings: i) the Motion for Annulment against final, single-instance judgements issued by the labour judge. It is available on grounds that correspond to those currently making the appeal on substantive and procedural grounds admissible. This remedy is heard only by the Courts of Appeals, and against the ruling of that Court the second means of appeal is available; ii) the Recurso de Unificación de Jurisprudencia, which will be heard only by the Supreme Court.

The recursive scheme is therefore as follows: The Labour Judge issues a final judgement in a single instance. At the higher level, the Court of Appeals hears and rules on the Motion for Annulment. And as the final jurisdictional level, the Supreme Court hears and rules on the Appeal for the Unification of Jurisprudence.

Finally, in the third legislative procedure, on March 12, 2008, the current regulation of procedural remedies was approved, and on March 26, 2008, the Constitutional Court issued its judgement, with the law amending the provisions on procedural remedies being published on March 29.

Procedural resources in the Labour Code. Procedural remedies in the Labour Code

Procedural remedies have been regulated by the labour legislator in paragraph 5 of Chapter II, Title I of Book V of the Labour Code. Specifically, it mentions the remedy of reconsideration, the remedy of appeal, the remedy of nullity, and the remedy of unification of jurisprudence.

ONLY FOR REVIEW

Furthermore, by express reference to Book I of the CPC made in Article 474 of the CT, we must understand that the action for clarification, rectification, or amendment regulated in Articles 182 to 185 is fully applicable.

Article 474 of the Labour Code expressly states: The remedies shall be governed by the rules set forth in this Paragraph (referring to Paragraph 5), and, on a supplementary basis, by the rules set forth in Book One of the Code of Civil Procedure.

On the appeal

Introduction Introduction

This remedy is governed by Article 476 of the Labour Code and, subsidiarily, by Articles 186 to 230 of the Code of Civil Procedure. It is a manifestation of the principle of double review, enabling higher courts to remedy, in whole or in part, the grievances incurred by lower courts, and has been restricted in labour proceedings. It no longer applies to final judgements, except in certain exceptions; it only applies to judicial rulings that have the legal nature of interlocutory judgements.

On the rule of degree or hierarchy

This rule aims to determine, from the outset of the proceedings, a second-instance court that will hear the matter should any legal remedy be sought. Once the appellate court has been determined, this designation may never be altered. Article 110 of the Code of Organic Tribunals establishes that "Once the jurisdiction of a lower court to hear a particular matter in first instance has been established in accordance with the law, the jurisdiction of the higher court that must hear the same matter on appeal is likewise established."

This general rule of jurisdiction has been linked by legal scholars to two fundamental concepts in procedural law: the court of first instance and the appeal. Notwithstanding the fact that the appeal has been restricted in labour proceedings, this rule remains in effect in labour procedural law. Therefore, the rule of degree or hierarchy is intended to determine the appellate court that will hear the second instance, and it is a rule of public order and cannot be waived. Consequently, there can be no extension of jurisdiction in the second instance.

Without prejudice to the foregoing, with the creation of the nullity remedy provided for in the Labour Code (which is a means of challenging validity, not a remedy intended to modify the facts alleged in the case), jurisdiction over it is vested in the labour judge's hierarchical superior: the respective Court of Appeals. It is not an application of the rule of degree regulated by our Code of Civil Procedure, but it is a rule for determining the hierarchical superior.

Elements for the degree or hierarchy rule to operate Elements for the degree or hierarchy rule to apply

The elements that must be present for this application in labour proceedings are as follows:

ONLY FOR REVIEW

a. That the matter is legally pending before a labour judge of first instance.
b. That an appeal is admissible against the rulings issued by the labour court judge of first instance.

Rationale Rationale

The application of the rule of degree or hierarchy is based on the pyramidal hierarchical structure of the courts. In accordance with the foregoing, the respective Court of Appeals hears appeals and motions to set aside rulings issued by the labour court judge (Article 63, No. 3, letter a of the Code of Organisation of the Courts).

Object of the appeal Object of the appeal

Before the 2008 amendment (Law No. 20,260). The procedural labour legislator had been very strict in defining the scope of the appeal.

Indeed, former Article 477 of the Labour Code provided that the labour appeal may only be brought for the purpose of: 1) reviewing the judgement of first instance when it was rendered in violation of constitutional guarantees or legal provisions that substantially affect the operative part of the ruling. 2) Review the facts declared as proven by the court of first instance when it is evident that, in their determination, the rules on the assessment of evidence according to the principles of sound judgement have been manifestly infringed. 3) Alter the legal classification of the facts without altering the lower court's factual findings. With that legal amendment, the general rule of the appeal remedy regulated in the CPC was restored: the purpose remains to correct judicial rulings that have been issued to the detriment or prejudice of one or both parties to the proceedings.

Deadline, formalities, admissibility, and processing Time limit, formalities, admissibility, and processing

The rules contained in the CPC must be applied. The deadline for filing the appeal is five business days. The appeal must be granted in the devolutive effect only, and therefore the appellant must deposit with the court the funds for the certified copies. It must be based on the facts and the law and contain specific requests.

In the second instance, the appeal must be considered "on the record," unless the parties request oral argument.

Finally, according to Article 453 No. 1, the judgement upholding the exceptions of lack of jurisdiction, expiration, and prescription at the preliminary hearing is subject to appeal, which must be filed at the hearing, will be taken into account, and is granted with both suspensive and devolutive effect[15].

According to the Labour Code, Article 476, only the following are subject to labour appeal:

[15]Copiapó Court of Appeals, Case No. 18-2008, dated November 10, 2008; and Copiapó Court of Appeals, Case No. 22-2008, dated November 3, 2008.

ONLY FOR REVIEW

a) Interlocutory judgements that terminate the proceedings or make their continuation impossible[16]. Examples of such cases include the following:

Incompetence. On this point, Article 447 of the Labour Code provides that the judge must, ex officio, declare his incompetence (absolute or relative). In such cases, the judge shall state in his judicial ruling that he lacks jurisdiction and shall indicate the court he believes to be competent, also sending the relevant records to that court.

In light of this judicial ruling, which in my view is an interlocutory judgement that renders further proceedings impossible, an appeal lies pursuant to Article 476 of the Labour Code.

Expiration. Article 447 also refers to expiration. In this case, the court will, ex officio, dismiss the filed complaint containing a cause of action that has expired. Please note that the court's power to act ex officio extends only to expiration, not to prescription. In light of this judicial ruling, which in my view is an interlocutory judgement that renders further proceedings impossible, an appeal is warranted under Article 476 of the Labour Code.

Lack of documents. We noted above that, exceptionally and before suing a Social Security or Social Welfare Institution, a claim must be filed with the respective institution and its final decision obtained on the matter to be litigated. We must attach this final resolution to the complaint. If it is not filed together with the complaint, the judge must dismiss the complaint outright. As in the previous cases involving this judicial decision, which in my view is an interlocutory judgement that makes further proceedings impossible, an appeal lies pursuant to Article 476 of the Labour Code[17].

Legal defect in the manner of filing the lawsuit. Pursuant to Article 256 of the CPC (and by supplementary application of these provisions, as per Article 432 of the CT), if the complaint fails to meet the first three requirements (subjective requirements), the court shall, ex officio, refuse to admit it. In response to this judicial ruling, which in my view is an interlocutory judgement that renders further proceedings impossible, an appeal lies pursuant to Article 476 of the Labour Code. This is without prejudice to the plaintiff's right to remedy the formal defects.

For the foregoing reasons, the order rejecting the motion to nullify all proceedings for lack of service is unappealable, as it is not covered by the cases set forth in Article 476 of the Labour Code[18].

Exception of lack of jurisdiction, forfeiture, and prescription. It also lies against judicial rulings that uphold the exception provided for in Article 453(1) of the Labour Code. The ruling on the exceptions of lack of jurisdiction, expiration, and prescription must be reasoned, and only a ruling that upholds them is appealable. This appeal must be filed at the hearing. If the appeal is

[16]Punta Arenas Court of Appeals, Case No. 25-2008, dated December 26, 2008

[17]Antofagasta Court of Appeals, Case No. 172-2012, dated January 16, 2013; and Antofagasta Court of Appeals, Case No. 82-2013, dated July 24, 2013.

[18]Corte de Apelaciones de Concepción, Rol N° 310-2024, de fecha 16 de mayo de 2024.

ONLY FOR REVIEW

granted, it is granted with both suspensive and devolutive effect and is taken into account by the Court (Article 453 No. 1).

b) Those that rule on provisional measures, both those that grant them and those that deny their lifting[19], and
c) Those that determine the amount of benefit settlements or recalculations of social security benefits[20].
d) Exceptionally, an appeal lies against a final judgement in the case of Article 470 in the enforcement of final judgements[21].

Without prejudice to the foregoing, if the enforcement procedure has been initiated in accordance with Article 466, paragraph 1, of the Labour Code, the provisions of Article 472 in conjunction with Article 470 of the same Code are fully applicable to it; therefore, since there is an express provision regarding the admissibility of the appeal in labour enforcement matters, the appeal against the order rejecting the objection to the liquidation is inadmissible[22].
The Constitutional Court and its rulings on the appeal in labour matters. The Constitutional Court and its rulings on the appeal in labour matters

[19]Copiapó Court of Appeals, Case No. 31-2008, dated December 17, 2008; Santiago Court of Appeals, Case No. 1981-2024, dated July 24, 2024; and Puerto Montt Court of Appeals, Case No. 247-2024, dated July 23, 2024.

[20]A fairly strict criterion has been applied in this regard, as set forth by the Concepción Court of Appeals in Case No. 114-2009 of October 26, 2009, third consideration: "Furthermore, it should be noted that Article 426 of the Labour Code provides that only in the absence of an express provision in that Code or in special laws shall the provisions of Books I and II of the Code of Civil Procedure apply on a supplementary basis; thus, since in the present case there is a provision specifically designating which rulings are appealable, as set forth in the foregoing analysis, no application may be given to the provisions of the Code of Civil Procedure, as the appellant erroneously contends." San Miguel Court of Appeals, Case No. 21-2010, May 14, 2010; Santiago Court of Appeals, Case No. 761-2009, February 5, 2009; Supreme Court, Case No. 240-2009, February 26, 2009.

[21]Punta Arenas Court of Appeals, Case No. 27-2008, dated December 31, 2008. Regarding the restrictive nature of this rule, see the Judgement of the Santiago Court of Appeals, Case No. 1252-2018, dated June 26, 2018.

[22]Antofagasta Court of Appeals, Case No. 585-2022, dated November 29, 2022: "SECOND: From the record in Case No. 564-2022, it is observed that the appealed order is dated October 27, 2022, and resolved: "Noting that the Court has detected an error in the liquidation carried out on October 19 of this year, insofar as the 'Deposits and Partial Payments' table indicates a payment date of October 17 of this year, whereas the payment made by the jointly and severally liable defendant Minera Escondida was made on August 4 of this year, as evidenced by the electronic transfer payment receipt submitted by the jointly and severally liable defendant at folio 119; pursuant to Article 469 of the Labour Code, the objection to the liquidation filed by the jointly and severally liable defendant is sustained; and, consequently, the record shall be forwarded for a new liquidation of the debt." The plaintiff appealed the ruling, which was granted on November 8 of this year. THIRD: That from the record in the case it is clear that the enforcement proceeding was initiated pursuant to Article 466, paragraph 1, of the Labour Code, and that the provisions of Article 472 in conjunction with Article 470 of the same Code are fully applicable; therefore, since there is an express provision regarding the admissibility of an appeal in labour enforcement matters, the appeal against the order rejecting the objection to the liquidation is inadmissible, and the present appeal must be granted.

ONLY FOR REVIEW

Finally, let us note that the Constitutional Court has ruled on both Articles 472 and 470 of the Labour Code in inapplicability proceedings. And unfortunately, there has been no uniform standard, as more than ten challenges have declared Article 472 inapplicable; however, that trend has recently been reversed by Judgements Rol 12.165-2021 and 14.256-2023, which specifically stated, "as in Judgement Rol No. 9127-20-INA, whose argumentative sequence we proceed to follow in this majority opinion, the limitation of the right of appeal is a legislative policy option that must be grounded in the rationality of the measure and aligned with legitimate ends: 'the Constitution does not establish a single model of due process but grants the legislator discretion to establish rational and fair procedures (Article 63, No. 3, in conjunction with Article 19, No. 3, paragraph 6, both constitutional) (…) moreover, the Political Charter did not establish a set of elements that must always be present in each and every procedure of varying nature that the legislator must regulate." Faced with the impossibility of determining which set of guarantees must be present in every procedure, Article 19, paragraph 3, sixth subparagraph of the Constitution opted for a different model: it mandated the legislator to ensure that, in regulating procedures, they always meet the natural requirements that rationality and justice impose in each specific process. Therefore, "the legal procedure must be rational and fair." Rational in establishing a logical process free from arbitrariness. And precisely to orient it towards a sense that safeguards the fundamental rights of participants in a proceeding. This establishes the need for an impartial judge, for rules that prevent defencelessness, for a substantive, reasoned, and public decision subject to review by a higher court, and for the necessary inviolability that guarantees the legal security and certainty inherent in the rule of law[23].

And with respect to Article 470, something similar has occurred, as there are rulings upholding the inapplicability of that provision, such as in Cases 9184-20, 12063-21, and 14099-23. For their part, the Constitutional Court rejects the inapplicability in cases 9885-20, 13.046-22, and 13274-22.

Conclusions

1. In Chile, appeals are governed by Book I of the Code of Civil Procedure (in force since 1903), and their primary function is to correct, in accordance with the law, judicial rulings issued by a court (whether presided over by a single judge or a panel) that cause harm, with the higher court required to affirm, modify, or revoke such rulings in accordance with the law.

2. Spanish context: 1. The appeal in Chile is governed by Book I of the Code of Civil Procedure (in force since 1903), and its primary function is to correct, in accordance with the law, judicial rulings issued by a court (whether presided over by a single judge or a panel) that cause harm, with the higher court required to confirm, modify, or revoke such rulings as provided by law. 3. Although the appeal, as an ordinary remedy, is available against most judicial rulings (final

[23]Tribunal Constitucional, Rol N° 12.165-21, de fecha 4 de agosto de 2022 y Tribunal Constitucional, Rol N° 14.256-23, de fecha 23 de noviembre de 2023

ONLY FOR REVIEW

judgements, interlocutory orders, rulings, and decrees), there are various legal grounds that bar its filing. Although the appeal as an ordinary remedy is available against most judicial decisions (final judgements, interlocutory orders, rulings, and decrees), there are various legal grounds that prevent its filing.

3. In labour matters, the appeal is governed by Article 476 of the Labour Code and, on a supplementary basis, by Articles 186 to 230 of the Code of Civil Procedure. In labour matters, the appeal is governed by Article 476 of the Labour Code and, on a supplementary basis, by Articles 186 to 230 of the Code of Civil Procedure.

4. In labour matters, the appeal is governed by Article 476 of the Labour Code and, on a supplementary basis, by Articles 186 to 230 of the Code of Civil Procedure. Labour appeal is a materialisation of the principle of double instance, enabling higher courts of justice to remedy, in whole or in part, the grievances incurred by lower courts, and

5. The labour appeal is a materialisation of the principle of double instance, enabling higher courts to remedy, in whole or in part, the grievances incurred by lower courts; and 6. In labour matters, it has been restricted in the proceedings because it no longer lies against final judgements, except in certain exceptions; it is only available against judicial rulings that have the legal nature of interlocutory judgements. In labour matters, its scope has been restricted in the proceedings because it no longer applies to final judgements, except in certain exceptions; it only applies to judicial rulings that have the legal nature of interlocutory judgements.

Bibliographic references

BONET NAVARRO, Ángel (2000): Los Recursos en el Proceso Civil (España, La Ley).

BORDALÍ SALAMANCA, Andrés (2014): "Cuestiones Preliminares", en: Bordalí, Andrés, Cortez, Gonzalo y Palomo, Diego, Proceso civil. El juicio ordinario de mayor cuantía, procedimiento sumario y tutela cautelar (Santiago, Thomson Reuters), pp. 7-118

CORTEZ MATCOVICH, Gonzalo (2019): "Recurso de Apelación", en: Bordalí, Andrés, Cortez, Gonzalo y Palomo, Diego, Proceso Civil. Los recursos y otros medios de impugnación (Santiago, Thomson Reuters), pp. 89-94

CONTRERAS ROJAS, Cristián. "La pervivencia del recurso de apelación en el proceso civil" en: Palomo, Diego (Director), Recursos Procesales Problemas Actuales (Santiago, Ediciones DER), pp. 265-294

DEL RÍO FERRETTI, Carlos (2020): "Rechazo in limine de recurso de casación (ar. 782 inc. 2° CPC) y normas decisoria litis", en: Revista de Derecho (Valdivia) (Vol. XXXIII, junio), pp. 297-318

DUCE, Mauricio.; FUENTES, Claudio.; NÚÑEZ, Raúl. y RIEGO, Cristian. (2015): "El derecho a un recurso y el proceso civil", en: El Mercurio Legal. Disponible en: https://www.elmercurio.com/legal/movil/detalle.aspx?Id=904422&Path=/0D/CC/ [visitado el 1 de agosto de 2024].

ONLY FOR REVIEW

FUENTES MAUREIRA, Claudio y RIEGO RAMÍREZ, Cristian (2017): "Los alcances del derecho al recurso y el recurso de nulidad", en: Palomo, Diego (Director), Recursos Procesales Problemas Actuales (Santiago, Ediciones DER), pp. 401-426

HERRERO PEREZAGUA, Juan Francisco (2011): "Las resoluciones procesales en el orden civil", en: Revista General de Derecho Procesal (N° 24), pp. 75-98.

HUNTER AMPUERO, Ivan (2011): "Rol y Poderes del Juez Civil: Una mirada desde la eficiencia del Proceso", en: Revista de Derecho de la Universidad Católica del Norte (Año 18, N° 2), pp. 73-101.

MATURANA MIQUEL, Cristian (2010): "Presencia del Recurso de Casación en Chile durante el siglo XXI", en: Revista de Estudios de la Justicia REJ (N° 12), pp. 315. 349

MARTÍN PASTOR, José (2008): Los recursos en el proceso civil de ejecución (Madrid, La Ley, Las Rozas).

MOSQUERA RUIZ, Mario y MATURANA MIQUEL, Cristian (2010) Los Recursos Procesales (Chile, Editorial Jurídica)

MONTERO AROCA, Juan y FLORS MATÍES, José (2005): Tratado de los recursos en el proceso civil (Valencia, Tirant lo Blanch).

NÚÑEZ OJEDA, Raúl y PÉREZ RAGONE, Álvaro (2015): Manual de Derecho Procesal Civil: Los Medios de Impugnación (ciudad, Thomson Reuters/La Ley).

NÚÑEZ OJEDA, Raúl y BRAVO HURTADO, Pablo (2017): "Hacia una reforma global del sistema de recursos ante las Cortes de Apelaciones", en: Palomo, Diego (Director), Recursos Procesales Problemas Actuales (Santiago, Ediciones DER), pp. 89-105

ORELLANA TORRES, Fernando (2006): "Medios de impugnación y recursos procesales en la ejecución de condenas no dinerarias", en: Revista Ius et Praxis (Vol. 12, N° 2), pp. 163-200. Disponible en: https://scielo.conicyt.cl/scielo.php?script=sci_arttext&pid=S0718-00122006000200007 [visitado el 1 de agosto de 2024].

ORELLANA TORRES, Fernando (2009): Comentarios al Nuevo proceso Laboral (Santiago, Librotecnia).

ORELLANA TORRES, Fernando (2022): Manual de Derecho Procesal (Santiago, Librotecnia), tomo IV.

ORELLANA TORRES, Fernando y PÉREZ-RAGONE, Alvaro (2013): Derecho Procesal y Justicia Laboral (Santiago, Librotecnia).

PALOMO VÉLEZ, Diego y LORCA POBLETE, Nelson (2017): "Sistema recursivo en los modelos reformados de la justicia chilena ¿un avance o un retroceso", en: Palomo, Diego (Director), Recursos Procesales Problemas Actuales (Santiago, Ediciones DER), pp 25-87

ORELLANA TORRES, Fernando en PALOMO VELEZ – CONTRERAS ROJAS (2025) Justicia Laboral Reformada: Una revisión a 15 años de su puesta en Marcha. Editorial Tirant Lo Blanch, Valencia.

SALAS VIVALDI, Julio (1989): "La formulación de peticiones concretas como requisito de admisibilidad de la apelación", en: Revista de Derecho de la Universidad de Concepción (N° 185), pp. 55-59

WALTER DÍAZ, Rodolfo y LANATA FUENZALIDA, Gabriela (2008): Régimen legal del nuevo proceso laboral chileno (Santiago, Legal Publishing).

ZAÑARTU GOMIEN, Simón (2019): "El recurso de reposición en la Audiencia Inicial del Juicio de Oposición regulado en la ley N° 20.720 sobre reorganización y liquidación de activos de empresas y personas", en: Revista jurídica Digital U. Andes (Vol. 3), pp. 27-39 Disponible en: http://rjd.uandes.cl/index.php/rjduandes/article/view/66/74 [visitado el 1 de agosto de 2024].

ONLY FOR REVIEW

Cited case law

"Lorca con Grossi" 2008. Corte de Apelaciones de Copiapó, Rol N° 22-2008, de fecha 3 de noviembre de 2008, Recurso de Apelación. https://oficinajudicialvirtual.pjud.cl/indexN.php.

"Alarcón con Comercial e Industrial Abu" 2008. Corte de Apelaciones de Punta Arenas, Rol N° 25-2008, de fecha 26 de diciembre de 2008, Recurso de Apelación. https://oficinajudicialvirtual.pjud.cl/indexN.php.

"Illanes con Vecchiola" 2008. Corte de Apelaciones de Copiapó, Rol N° 31-2008, de fecha 17 de diciembre de 2008, Recurso de Apelación. https://oficinajudicial virtual.pjud.cl/indexN.php.

"Tapia con TVN" 2008. Corte de Apelaciones de Copiapó, Rol N° 18-2008, de fecha 10 de noviembre de 2008, Recurso de Nulidad. https://oficinajudicialvirtual.pjud.cl/indexN.php.

"Soler con Tribunal Laboral" 2008. Corte de Apelaciones de Punta Arenas, Rol N° 27-2008, de fecha 31 de diciembre de 2008, Recurso de Hecho. https://oficinajudicial virtual.pjud.cl/indexN.php.

"García con Las Lomas" 2009. Corte de Apelaciones de Concepción, Rol N° 114-2009, de 26 de octubre de 2009. Recurso de Apelación. https://oficinajudicial virtual.pjud.cl/indexN.php.

"Ingeniería ECM con Dirección del Trabajo" 2009. Corte de Apelaciones de Santiago, Rol N° 761-2009, de 5 de febrero de 2009. Recurso de Apelación. https://oficinajudicialvirtual.pjud.cl/indexN.php.

"Transportes Cometa con Dirección del Trabajo". 2009 Corte Suprema, Rol N° 240-2009, de 26 de febrero de 2009. Recurso de casación en el Fondo. https://oficinajudicialvirtual.pjud.cl/indexN.php

"Riquelme con Sociedad Educacional" 2010. Corte de Apelaciones de San Miguel, Rol N° 21-2010, de 14 de mayo de 2010. Recurso de Apelación. https://oficina judicialvirtual.pjud.cl/indexN.php.

"Constructora Los Castaños con Inspección del Trabajo" 2012. Corte de Apelaciones de Antofagasta, Rol N° 172-2012, de fecha 16 de enero de 2013. Recurso de Apelación. https://oficinajudicialvirtual.pjud.cl/indexN.php.

"Compañía Minera con Dirección del Trabajo" 2013. Corte de Apelaciones de Antofagasta, Rol N° 82-2013, de fecha 24 de julio de 2013. Recurso de Apelación. https://oficinajudicialvirtual.pjud.cl/indexN.php.

"Mera con Juzgado de Cobranza Laboral". 2018. Corte de Apelaciones de Santiago, Rol N° 1252-2018, de fecha 26 de junio de 2018. Recurso de Hecho. https://oficinajudicialvirtual.pjud.cl/indexN.php.

"Sociedad RZ con Juzgado de Letras del Trabajo de Antofagasta". 2022. Corte de Apelaciones de Antofagasta, Rol N° 585-2022, de fecha 29 de noviembre de 2022. Recurso de Hecho https://oficinajudicialvirtual.pjud.cl/indexN.php.

"Ecometales con López". 2022. Corte de Apelaciones de Antofagasta, Rol N° 453-2022, de 19 de octubre de 2022. Recurso de Queja. https://oficinajudicialvirtual.pjud.cl/indexN.php.

"Hidalgo con Asenjo". 2024 Corte de Apelaciones de Concepción, Rol N° 310-2024, de fecha 16 de mayo de 2024. Recurso de Apelación. https://oficinajudicialvirtual.pjud.cl/indexN.php.

ONLY FOR REVIEW

"Fundación Educacional con Tribunal del Letras del Trbajo de Puerto Montt". 2024. Corte de Apelaciones de Puerto Montt Rol N° 247-2024, de fecha 23 de julio de 2024. Recurso de Hecho. https://oficinajudicialvirtual.pjud.cl/indexN.php.

"Sindicato Nacional Inter-empresas con Consorcio" 2024. Corte de Apelaciones de Santiago Rol N° 1981-2024, de fecha 24 de julio de 2024. Recurso de Hecho. https://oficinajudicialvirtual.pjud.cl/indexN.php.

"Ferrovial Construcción Chile S.A." 2022. Tribunal Constitucional, Rol N° 12.165-21, de fecha 4 de agosto de 2022. Requerimiento de Inaplicabilidad. https://tramitacion.tcchile.cl/tc/download/190848?inlineifpossible=true

"Alfonso Segundo Cortez Fernández". 2023. Tribunal Constitucional, Rol N° 14.256-23, de fecha 23 de noviembre de 2023. Requerimiento de Inaplicabilidad. https://tramitacion.tcchile.cl/tc/download/280509?inlineifpossible=true

ONLY FOR REVIEW