

Title:

Empermaco B. Abante, Jr. vs. Lamadrid Bearing & Parts Corp. and Jose Lamadrid, President, G.R. No. 73102 (2003)

Facts:

****Background****

- Petitioner Empermaco B. Abante, Jr. began employment with Lamadrid Bearing and Parts Corporation as a commission-based salesman in June 1985.
- Abante's commission was 3% of total paid-up sales, primarily covering Mindanao, initially averaging P16,000 monthly, later increased to approximately P20,269.50.
- He was engaged in selling merchandise and collecting payments from customers, with directions frequently given by President Jose Lamadrid.

****Customer Account Issues****

- In 1998, five of Abante's customers issued bad accounts totaling P687,166.62.
- Lamadrid threatened job termination unless Abante produced personal checks covering the bad accounts, which he reluctantly did under the condition they wouldn't be deposited.

****Allegations of Deception****

- Abante claimed he was tricked into signing a Promissory Note and a Deed of Real Estate Mortgage.
- Despite reassurances, Lamadrid later deposited the checks, which were dishonored.

****SSS and Subsequent Events****

- Abante discovered he was not covered by Social Security System (SSS), prompting a confrontation with Lamadrid who subsequently deposited more checks.
- Abante received a demand letter from Lamadrid's counsel pressing him to honor the checks.
- In response to ongoing pressure, Abante expressed willingness to offset the debt against his commissions and continued to work, but was warned by Lamadrid's letter telling customers not to deal with him anymore.

****Procedural History****

- Abante filed a complaint for illegal dismissal and monetary claims against Lamadrid and the corporation before the NLRC in Davao.
- The company countered that Abante was a freelance salesman and not an employee, citing various aspects like the absence of mandatory reporting, salary, benefits, tax withholdings,

and that he worked for other companies.

- The Labor Arbiter ruled in Abante's favor, awarding him P1,336,729.62 in separation pay, back wages, unpaid commissions, and attorney's fees.
- The NLRC reversed the decision on appeal, leading to Abante's petition before the Court of Appeals.
- The Court of Appeals upheld the NLRC's decision, leading to Abante filing an appeal under Rule 45 before the Supreme Court.

Issues:

1. Whether the Court of Appeals erred in modifying the facts, thus making erroneous legal conclusions.
2. Whether the Court of Appeals erred in determining the absence of the essential "control test" element which defines the employer-employee relationship.
3. Whether the Court of Appeals misapplied and misinterpreted the evidence presented, deviating from applicable laws and established rulings on the employer-employee relationship.

Court's Decision:

Reiteration of Legal Principles:

- The Supreme Court reiterated the four-fold test to determine employer-employee relationships: (1) Selection and engagement; (2) Payment of wages; (3) Power of dismissal; and (4) Control over the worker's conduct. The control test, or the right to control the means and methods of work, was emphasized as the most crucial.

Absence of Employer-Employee Relationship:

1. **Control Test:**

- The Court found that the respondent did not impose quotas on sales or specific working conditions on Abante. He was free to manage his own schedule, clients, and sales strategies without direct supervision.
- Abante's occasional conferences in Manila were considered as guides rather than control over his sales activities.

2. **Compensation and Employment Characteristics:**

- Commission-based payments, in themselves, do not establish an employer-employee relationship.
- Abante's lack of regular salary, benefits, or daily reporting requirements pointed to an absence of traditional employment hallmarks.

3. **Other Employment:**

- Evidence showed Abante worked concurrently for other companies, further indicating his status as a freelance salesman rather than a regular employee of Lamadrid.

Conclusion:

- The Court upheld the appellate court's decision, affirming the absence of an employer-employee relationship, and thus, denying Abante's claims.

Doctrine:

- **Control Test:** It is the right to control both the results and the means by which results are achieved that primarily determines the existence of an employer-employee relationship (Encyclopedia Britannica (Philippines), Inc. v. NLRC).

- **Regular and Casual Employment:** Article 280 of the Labor Code delineates regular and casual employment but does not determine employment status where its existence is disputed.

Class Notes:

Key Concepts:

1. **Employer-Employee Relationship:**

- Selection and engagement.
- Payment of wages.
- Power of dismissal.
- Control Test: the presence or absence of the control over work details is decisive.

2. **Commission-Based Work:**

- Commission itself does not define employment status.
- Other factors, like daily duties, benefits, method of reporting, and exclusivity (or lack thereof), must be considered.

3. **Article 280, Labor Code:**

- Definition of regular employment and casual employment.

Historical Background:

Context:

- This case highlights the complexities in distinguishing between employees and independent contractors in the evolving labor market in the Philippines.
- It underscores the need for stringent considerations beyond payment structures (e.g., commissions) and focuses on the nature and quality of control exercised by the company

over the worker.