

****Title:****

Mamerto S. Besa vs. Hon. Cresenciano B. Trajano, and Kaisahan ng Manggagawang Pilipino (KAMPIL-Katipunan), G.R. No. L-73031 (1986)

****Facts:****

In January 1985, the Kaisahan ng Manggagawang Pilipino (KAMPIL), a legitimate labor union, filed a Petition for Certification Election in the National Labor Relations Division, docketed as NCR-LRD-M-1-044-85. Mamerto S. Besa, doing business as Besa's Custombuilt Shoes, opposed the petition arguing that:

1. There was no employer-employee relationship between the company and the petitioners.
2. The matter had already been resolved by the now-defunct Court of Industrial Relations (CIR), invoking res judicata.
3. The petition did not comply with mandatory procedural requirements.
4. The Commission lacked jurisdiction over the subject matter and parties.

On June 27, 1985, the Med-Arbiter found that there was an employer-employee relationship, thereby directing that a certification election be conducted. Besa appealed this order to the Director of the Bureau of Labor Relations (BLR), but his appeal was denied on September 27, 1985. The Director upheld the Med-Arbiter's finding of an employer-employee relationship and determined that res judicata did not apply.

While the pre-election conference was ongoing, Besa filed a petition for certiorari with prohibition to the Supreme Court, simultaneously requesting the Med-Arbiter to suspend the pre-election conference. The Supreme Court initially dismissed Besa's petition but reconsidered upon Besa's motion. During the actual certification election at Besa's, 33 out of 49 votes cast were for unionization, including 17 from shoeshiners and 16 from non-shoeshiners. The controversy centered on whether these shoeshiners had the right to vote.

****Issues:****

1. Whether there existed an employer-employee relationship between Besa's Custombuilt Shoes and the shoeshiners.
2. Whether the proceedings were barred by res judicata.
3. Whether the petition for certification election complied with the Labor Code's mandatory requirements.
4. Whether the BLR Director's decision was supported by substantial evidence or was speculative.
5. Whether the Director acted without jurisdiction or with grave abuse of discretion.

****Court's Decision:****

1. ****Employer-Employee Relationship Issue:****

The Supreme Court found that no employer-employee relationship existed between Besa's Custombuilt Shoes and the shoeshiners. Previous rulings by the CIR (dated December 21, 1965) and the Bureau of Working Conditions of the Ministry of Labor and Employment supported this. The shoeshiners were paid directly by their customers and shared proceeds equally with Besa, differing from a typical wage-based relationship where the employer retains substantial control. The Supreme Court applied the control test and found no right to hire, no right to fire, and no control over the shoeshiners' work, characterizing them as partners rather than employees.

2. ****Res Judicata:****

The Court held that res judicata did not apply because the parties and causes of action in the certification election proceedings differed from those decided by the CIR in 1965. Thus, the certification election case was not barred.

3. ****Compliance with Mandatory Requirements:****

Since the shoeshiners were not employees, their participations in the certification process invalidated the election. Without the shoeshiners' votes, the union could not achieve the required majority vote for representation under the law.

4. ****Substantial Evidence:****

The Court found that the Director's decision was not supported by substantial evidence and was based on erroneous assumptions about the nature of the shoeshiners' relationship with Besa.

5. ****Jurisdiction and Grave Abuse of Discretion:****

Given that the basis for the existence of an employer-employee relationship was incorrect, the Court held that the Director of the BLR acted without proper jurisdiction and committed grave abuse of discretion.

****Doctrine:****

The crucial test for determining an employer-employee relationship is the right-of-control test. This doctrine was reiterated, with emphasis on the elements of control over work, hiring, wage payment, and dismissal rights.

****Class Notes:****

- ****Employer-Employee Relationship Elements:**** Right to hire, payment of wages, power to

dismiss, and control over employee conduct.

- **Labor Code Requirements:** For certification election, at least 30% of the employees must support the petition. Union certification requires a majority of valid votes cast.
- **Res Judicata:** The principle applies when the parties and causes of action in current proceedings are identical to those in previous judgments.
- **Control Test:** Most critical in labor disputes to determine employment status.

Historical Background:

The case illustrates the continuity of labor relations jurisprudence from the CIR era through the Ministry of Labor and Employment period into modern times. This period was marked by labor unrest and increasing formalization of labor rights and unionization protocols in the Philippines.