

ILIGAN CONCRETE PRODUCTS, AND/OR THE MANAGER, PETITIONER, VS. ANASTACIO MAGADAN, RESPONDENT.

G.R. No. L-67706. January 29, 1988

Ponente: YAP, J.

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YAP, J.:

This petition, denominated as "Brief for the Petitioner", seeks to annul the order of the Ministry of Labor, dated February 28, 1984, the text of which is quoted in full in the petition, as follows:

"Finding no merit in respondent's Motion for Reconsideration of the Order of this Office dated May 13, 1983, the same is hereby denied and the Order sought to be reconsidered stands.

No further motion of similar nature shall be entertained.

Manila, Philippines, February 28, 1984."

The petition alleges that petitioner, being engaged in the business of hauling and delivery of sand and gravel in the City of Iligan, hired private respondent Anastacio Magadan as collector in February, 1971 until his voluntary resignation, effective at the close of office hours on September 15, 1973; that on July 22, 1981, private respondent filed a claim against petitioner with the District Office, Ministry of Labor and Employment, Iligan City, for illegal dismissal, underpayment of wages and underpayment of emergency cost of living allowance; that the Hearing Officer of Iligan District Office, Ministry of Labor and Employment issued an order (date unspecified) granting private respondent's claim, which order was affirmed in toto by the Ministry of Labor; that the Ministry of Labor erred in holding that there existed an employer-employee relationship between petitioner and private respondent from September 15, 1973 to July 15, 1981.

Required to comment on the petition (not to file a motion a dismiss), the Solicitor General, representing public respondent, maintained that the petition was fatally defective for failure to comply with the mandatory requirements of Section 1, Rule 65 of the Rules of Court in that the petition did not allege the facts with certainty and did not attach certified copies of the pertinent orders sought to be reviewed; and that the public respondent did not err, much less act with grave abuse of discretion in affirming the order of the hearing officer finding the existence of an employer-employee relationship between petitioner and private respondent, which finding was supported by substantial evidence.

In his comment, private respondent alleged that petitioner has been accorded full opportunity to present his evidence; that despite private respondent's claim that his name appeared on the payrolls for September 30, 1973 to July 15, 1981, petitioner failed to produce records to refute said allegation; that although he resigned in 1973, he was subsequently re-employed by petitioner, Nap Lluch, the owner-proprietor; that clearly, his dismissal by petitioner was illegal, no clearance for such dismissal having been secured from the Ministry of Labor; that while he was entitled to reinstatement, considering that he opted to receive separation pay, he should be paid such pay as awarded in the order of the Ministry of Labor.

The Court, in its resolution of January 23, 1985, gave due course to the petition and required the parties to submit simultaneous memoranda within thirty (30) days from notice. In compliance with said resolution, the petitioner submitted its memorandum on May 3, 1985, while private respondent filed his memorandum on April 23, 1985. The Solicitor General submitted a manifestation on May 2, 1985, adopting as his memorandum the comment filed on December 20, 1984.

We agree with the Solicitor General's contention that the petition is fatally defective for failure to comply with the provisions of Section 1, Rule 65 of the Rules of Court. Petitioner failed to allege the facts with certainty by not clearly stating in the petition the orders sought to be annulled, nor attaching certified true copies of said orders and pertinent documents. Instead of remedying the omission, petitioner sought to justify the same by claiming that the reproduction of the order dated February 28, 1984, on the first page of the petition was "substantial compliance in lieu of attaching the order of the Minister of Labor sought to be reviewed." Said order, however, merely stated that the petitioner's motion for reconsideration was being denied for lack of merit and that the order dated May 13, 1983 sought to be reconsidered was maintained. While the Court may consider substantial compliance with the Rules of Court as sufficient, in the instant case, it cannot be claimed by petitioner that there was such substantial compliance. Without the text of the orders sought to be annulled, the Court cannot be expected to act on the petition. As we held in *Canete vs. Wislizenus*, 36 Phil. 428, the Court "is not obliged x x x to know what the plaintiff's cause of action is x x x and select what the court presumes the pleader intended to allege."

Accordingly, we recall our resolution dated July 23, 1984 giving due course to the petition and DISMISS the same for being insufficient in form and substance. Costs against petitioner.

SO ORDERED.

Melencio-Herrera, Paras, Padilla, and Sarmiento, JJ., concur.

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