

CONTRACT RAISER NO. 2- SIERRADILE/RACHEL D. FLORENCIO, CONTRACT RAISER NO. 4-RIVERBEND POULTRYVILLE/ MERCEDES D. FLORENCIO AND FADCOR INC. AND/OR ROSENDO “RANDY” O. FLORENCIO, P...

Ponente: VIDAL, M.D., J.

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VIDAL, M.D., J.:

Before Us is a Petition for Certiorari[1] filed by Petitioners CONTRACT RAISER NO. 2-SIERRADILE/RACHEL D. FLORENCIO, CONTRACT RAISER NO. 4- RIVERBEND POULTRYVILLE/ MERCEDES D. FLORENCIO and FADCOR INC. and/or ROSENDO “RANDY” O. FLORENCIO (hereinafter Petitioners) assailing the Resolutions dated 4 September 2003[2] and 16 December 2003[3] of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 027313-01 (NLRC RAB-IV-11-117-54-99-R) entitled CHARLITO R. REBELLON & BERNADETTE D. REBELLON, et al., vs. CONTRACT RAISER NO. 2-SIERRADILE/RACHEL D. FLORENCIO, CONTRACT RAISER NO. 4- RIVERBEND POULTRYVILLE/MERCEDES D. FLORENCIO and FADCOR, INC. and/or ROSENDO “RANDY” D. FLORENCIO.

THE FACTS

Respondents BERNADETTE D. REBELLON, CHARLITO R. REBELLON, JAIME LABAO, EMMANUEL DAYAP, FRANCISCO DAYAP, BENEDICT DAEL, EDDIE DAEL, RYAN LASTIMOSO and RAFAEL EJERA (hereinafter Respondents) instituted a case for Unfair Labor Practice, Illegal Dismissal, Underpayment of Salary and Premium Pay for holidays, overtime pay, rest days, night shift differential and separation pay (NLRC Case No. RAB-IV-9-9351-97-R) against some of the Petitioners in the instant case, i.e.: FADCOR, INC. and ROSENDO FLORENCIO. After summons had been served and position papers had been submitted, Labor Arbiter GERARDO A. YULO (hereinafter Labor Arbiter YULO) rendered judgment, to wit:

After a judicious examination of the contending arguments against the evidence on record, this office finds that there exists no employer-employee relationship between the parties.

The respondents company’s operations consist of selling eggs, grains, animal feeds, feed ingredients, livestock and agricultural goods. Eggs are purchased on a wholesale basis from different farms located in San Mateo. These poultry farms are operated by contract growers who, in turn, hire caretakers and workers to maintain the farm. The respondent company itself does not operate poultry farms but supplies the chickens and feeds to these farms. It appears that the complainant spouses Rebellon were caretakers of one such contract raiser.

The complainants documentary evidence purporting to show the existence of control exercised by an employer over the employee have been sufficiently explained by the respondent company. The supervisory report submitted by Bernadette Rebellon and daily report merely described the quantity of eggs produced for inventory purposes. The audit report prepared by the respondent company is an inventory of chickens supplied by Fadcor to the contract raiser. The disbursement voucher reflects the disbursement of funds advanced by the

respondent company to the contract raiser to pay its workers. In sum, the documentary evidence do not show any employer-employee relationship but merely communications during the course of business transactions.

More important, the complainant's evidence do not reveal the elements of an employer-employee relationship. There is no showing that the respondent company hired the complainants as its own workers. Nor is there any proof to show that they were paid regular wages. Finally, there is no incidence wherein we can discern any control exercised by the respondent company over the complainants.

PREMISES CONSIDERED, for reasons stated in the above disquisition, the complaint is hereby DISMISSED for lack of merit.

SO ORDERED.[4]

Upon appeal, the NLRC affirmed the aforecited decision. Respondents did not challenge said decision and instead, on 29 November 1999, filed another complaint against the Petitioners before the Labor Arbiter for Unfair Labor Practice, Illegal Dismissal, Underpayment of salary, Non-payment of Overtime Pay, Rest day, Night shift differential, docketed as NLRC Case No. RAB-IV-11-11754-99-R.[5]

On 25 January 2000, Petitioners filed a Motion to Dismiss[6] the said complaint on the ground of res judicata, viz: the same had already been threshed out and dismissed by Labor Arbiter YULO and had been subsequently affirmed by the NLRC. Hence, considering that the Respondents did not interpose any appeal, said decision in NLRC Case No. RAB-IV-9-9351-97-R should be deemed final and executory.[7]

In opposition, Respondents argued that in their second complaint, Petitioner FADCOR was sued as indirect employer while Petitioner ROSENDO FLORENCIO was impleaded as agent of the direct employer, i.e., Petitioner Contract Raisers.

In open session, Labor Arbiter NIEVES V. DE CASTRO (hereinafter Labor Arbiter DE CASTRO) issued an order denying the abovementioned motion to dismiss, to wit:

It appears that respondents are being sued in different capacities distinct from the case previously filed/resolved by L.A. Yulo and/or the NLRC.

Wherefore, parties are hereby directed to file their respective position papers on or before March 16, 2000 at 2:00 p.m. Should respondents failed to file position paper as directed, the Motion to Dismiss shall be treated as their position paper. Should complainants fail to submit their position paper, their complaint shall be dismissed for failure to prosecute. No extension should be allowed.[8]

On 28 July 2000, Labor Arbiter DE CASTRO rendered a resolution, the decretal portion thereof provides:

WHEREFORE, all respondents herein are jointly held liable for illegal dismissal; to reinstate them in their former position as caretakers within ten (10) days from receipt hereof; to pay them their full backwages of P1, 682, 222.40 in accordance with the minimum wage prevailing; to pay them their salary differentials in the amount of P371,330.09.

SO ORDERED.[9]

Aggrieved thereby, Petitioners appealed to the NLRC.

In its Resolution dated 4 September 2003, the NLRC affirmed Labor Arbiter DE CASTRO's decision in this wise:

WHEREFORE, premises considered, the assailed decision is hereby affirmed. This appeal is dismissed for lack of merit.

SO ORDERED.[10]

On 16 December 2003, the NLRC denied[11] the subsequent motion for reconsideration[12] filed by the Petitioners.

Hence, the instant petition.

THE ISSUES

For Our consideration are the following errors assigned by the Petitioners:

I

WHETHER OR NOT PUBLIC RESPONDENT NLRC GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF JURISDICTION IN NOT NULLIFYING THE DECISION OF THE LABOR ARBITER BY THRUSTING ASIDE OR IGNORING THE WELL SETTLED PRINCIPLE OR DOCTRINE OF “RES JUDICATA”[;]

II

WHETHER OR NOT PUBLIC RESPONDENT NLRC, GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT SUSTAINED THE DECISION OF THE LABOR ARBITER BY ACCEPTING HOOK LINE AND SINKER THE BARE AND SELF SERVING ALLEGATIONS OF PRIVATE RESPONDENTS AND IN DISREGARDING OR THRUSTING ASIDE THE EVIDENCE AND JURISPRUDENCE PROPITIOUS TO THE PETITIONERS.[13]

In substance, the principal legal question raised in this petition is whether or not the present case (NLRC Case No. RAB-IV-11-11754-99-R) is barred by res judicata in the light of the final and executory decision in NLRC Case No. RAB-IV-9-9351-97-R.[14]

OUR RULING

Res Judicata forbids the reopening of a matter once judicially determined by competent authority.[15] Its elements are:

- (1) the previous judgment has become final;
- (2) the prior judgment was rendered by a court having jurisdiction over the subject matter and the parties;
- (3) the first judgment was made on the merits; and
- (4) there was substantial identity of parties, subject matter and causes of action, as between the prior and subsequent actions.[16]

Anent the 1st element, a judgment becomes final and executory by operation of law, not by judicial declaration. It becomes final upon the lapse of the reglementary period for appeal, if no appeal is perfected.[17]

Certainly, decisions, orders, and resolutions of the NLRC are clothed with a judicial character as they are, in fact, reviewable by Us. Hence, in the instant case, the failure of the Respondents to challenge the first judgment, i.e, the NLRC decision in NLRC Case No. RAB-IV-9-9351-97-R, rendered the same final and executory.

Equally present in the case at bar are the 2nd and 3rd elements.

The Labor Code vests upon the Labor Arbiter the jurisdiction to hear and decide, inter alia, cases on unfair labor practice, termination disputes and money claims.[18] On the other hand, basic is the rule that the NLRC has the power to review cases passed upon by the Labor Arbiter.[19]

A judgment on the merits is one rendered after argument and investigation, and when there is determination which party is right.[20] Thus, undeniably, with the showing that the parties had submitted their respective affidavits and position papers, the prior judgment, *supra*, is an adjudication on the merits.

Finally, on the 4th element, a cursory review of the records would immediately manifest that all these cases (NLRC Case No. RAB-IV-9-9351-97-R and NLRC Case No. RAB-IV-11-11754-99-R) refer to unfair labor practice, illegal dismissal and money claims. However, as aptly observed by the NLRC, the parties therein do not represent the same interest. The NLRC ruled in this wise:

x x x We would like to point out a fact regarding the identity of parties in the present case and in the case decided by Labor Arbiter Gerardo A. Yulo in NLRC OCW Case No. RAB IV-9-9351-97-R. In the present case and in the other case just cited, there is identity of parties with respect to parties-complainants. However, with respect to parties-respondents, the parties are not exactly identical. The parties-respondents in the case before Labor Arbiter Yulo are Fadcor, Inc. and/or Rosendo D. Florencio Production Manager. In the present case the respondents are not only Fadcor Inc. and/or Rosendo “Randy” D. Florencio but Contract Raiser No. 2-Sierradile/ Rachel D. Florencio, Contract Raiser No. 4 – Riverbend Poultryville/ Mercedes D. Florencio.

It is clear that as far as Contract Raiser No. 2 – Sierradile/ Rachel D. Florencio, Contract Raiser No. 4 – Riverbend Poultry Ville/ Mercedes D. Florencio are concerned they were not parties in the case before Labor Arbiter Yulo so that the principle of *res judicata* can not be invoked by them. On the other hand while Fadcor Inc. and/or Rosendo Randy D. Florencio are parties both in this and in the other case, they are sued in different capacity or personality. In the case before Labor Arbiter Yulo they were sued as the direct employer while in the present case they are sued as indirect employer. This came about when the Decision rendered by Labor Arbiter Yulo declared the non-existence of an employer-employee relationship between complainants and Fadcor, Inc. and /or Rosendo D. Florencio.²¹ (Underscoring supplied)

It is worthy to mention that the jurisprudence cited by the Petitioners, i.e., *Villa Esperanza Development Corp. vs. Court of Appeals, et al.*[22], finds no application in the case at bar considering that said case had such peculiar antecedents which led the Supreme Court to apply the principle of *res judicata*. It involved a non-inclusion as party in the second case the co-plaintiff in the first case who had identical interest with the plaintiff in the second case. In the first case, both of them were seeking one and the same relief, i.e., specific performance. Obviously, the Supreme Court in said *Villa Esperanza* case considered such identity of interest to have met the substantial requisite of identity of parties.

On the other hand, although impleaded in the first judgment, Petitioners FADCOR and ROSENDO FLORENCIO were dragged into the second case by the Respondents as indirect employers, the degree of liability of which is completely different from the capacity for which they were impleaded in the first case, that is as direct employers.

It bears stressing that it is because of the findings in the first judgment (NLRC Case No. RAB-IV-9-9351-97-R), i.e., after ascertaining who their direct employers were that Respondents filed the instant case (NLRC Case No. RAB-IV-11-11754-99-R) against the Petitioners. In other words, the first judgment was the moving force which prompted the Respondents to file the instant case.

Evidently and indubitably, therefore, there is no identity of parties between the first judgment, *supra*, and the present case.

In this line, the pronouncement of the Supreme Court in *Bartolome Macaraeg vs. Court of Appeals*[23] is enlightening:

[T]he [substantial] identity [of the parties] is an indispensable requisite of the doctrine of *res judicata*.

Ergo, considering that the last element is wanting, We uphold the NLRC’s findings re the non-applicability of the

aforesaid doctrine in the instant case.

WHEREFORE, premises considered, the instant petition is DENIED. Accordingly, the challenged Resolutions are hereby AFFIRMED in toto.

SO ORDERED.

Reyes, and Lampas Peralta, JJ., concur.

[1] Rollo, pp 2-20

[2] Rollo, pp 21-36

[3] Rollo, pp 37-38

[4] Rollo, pp 4-5

[5] Rollo, page 7

[6] Rollo, pp 143-145

[7] Rollo, pp 7-8

[8] Rollo, page 208

[9] Rollo, page 21

[10] Rollo, page 36

[11] Rollo, page 8

[12] Rollo, pp 196-200

[13] Rollo, page 9

[14] Rollo, page 9

[15] Glicerio Mangoma vs. Court of Appeals, GR No. 99375, 1 February 1995

[16] Rolando Diwa vs. Arnold L. Donato, GR No. 97547, 29 July 1994

[17] Commissioner of Internal Revenue vs. Visayan Electric Co., GR No. L-24921, 31 March 1967

[18] Article 217, Labor Code of the Philippines

[19] Article 223, Labor Code of the Philippines

[20] Diwa vs. Donato, *supra*.

[21] Rollo, page 30

[22] GR No. 97179, 3 February 1993

[23] GR No. 48008, 20 January 1989

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