

VICENTE LAT, PLAINTIFF AND APPELLANT, VS. PHILIPPINE LONG DISTANCE TELEPHONE CO., INC., H.E. PRATTE AND FELICIANO M. ARMILDEZ, DEFENDANTS AND APPELLEES.

G.R. No. L-25711. October 29, 1975

Ponente: MARTIN, J.

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MARTIN, J.:

Appeal on question of law from the decision of the Court of First Instance of Manila, Branch IV, in Civil Case No. 50136, entitled "Vicente Lat vs. Philippine Long Distance Telephone Co., Inc., H.E. Pratte and Feliciano M. Armildez", dismissing the plaintiff-appellant's complaint for lack of jurisdiction.

Plaintiff Vicente Lat was in the employ of defendant Philippine Long Distance Telephone Company, Inc., as a laborer since September 1956.[1] In or about October 1961, defendant company filed a criminal complaint against him for Estafa in the City Fiscal's Office of Manila.[2] In the course of the preliminary investigation, defendant Feliciano M. Armildez, Plant Superintendent of the defendant company, served upon the plaintiff a memorandum, the substantial portion of which reads:

"On the basis of investigation conducted relative to your accountability for 2-conductor No. 17, drop wire, more specifically for the period May 1-18, 1961, there has been found an indicated shortage of substantial quantities thereof.

We found that you requisitioned a total of 9,000 ft. of drop wire and reported usage of 4,660 ft., which included wire used for service orders completed April 1961. A field inspection of the materials used for the service order for which the drop wire had been requisitioned revealed that only 2,152 ft., of new drop wires had been actually used.[3]

In answer to the foregoing memorandum, counsel for the plaintiff sent the following letter to defendant Armildez:

"Your Inter-Office Memo, dated November 28, 1961, was received by my client, Mr. Vicente Lat, Jr. Repairman Driver B-22, on December 2, 1961 and referred to me for advice.

Since you have filed a criminal complaint against him now under investigation by Assistant City Fiscal Barbosa of Manila, and since any statement he makes may be used against him, I have counselled him not to answer your Memo until after the criminal investigation."[4]

On December 19, 1961, for failure to explain the shortage in his property accountability, defendant Armildez sent notice to the plaintiff advising him that he was being suspended indefinitely effective December 20, 1961.[5] Plaintiff moved for a reconsideration of the order of his suspension but defendant company through its General Operation Supervisor, defendant H.E. Pratte, denied his motion.[6]

On April 14, 1962, after the plaintiff has filed his original complaint against the defendants, he received another letter from them dated April 5, 1962 reiterating what they stated in the first memorandum and informing him that "since you have not satisfactorily accounted for the said shortage to date, we take it that your failure to do so

implies misappropriation of the same. * * *" and that "your services with the company are hereby terminated." [7]

On May 9, 1962, plaintiff filed an amended complaint alleging therein that his suspension and his eventual dismissal were unlawful, unjust, unreasonable, arbitrary and coercive, intended for no other purpose than to compel him to make incriminatory statements which may be used against him in the criminal investigation. He thereby invoked his constitutional right to remain silent and not to answer the memorandum of the defendants. Accordingly, he prayed for reinstatement to his employment with back wages, annulment of the orders of defendant company suspending and dismissing him, and for moral damages and exemplary damages, attorney's fees and to pay the costs. [8]

On May 10, 1962, the defendants moved for the dismissal of the amended complaint of the plaintiff on the ground that the allegations therein did not constitute a valid and sufficient cause of action and that the court a quo had no jurisdiction over the subject matter of the complaint. [9] The plaintiff opposed said motion. [10]

On May 15, 1962 the lower court issued an order holding in abeyance its resolution of the aforesaid motion until after the case is heard on the merits. [11]

On May 25, 1962 defendants filed a motion for a bill of particulars asking the plaintiff to indicate in what way the demand of the defendants for account of the materials involved in the case would incriminate him [12] which motion was denied on November 10, 1962. [13]

On November 16, 1962, the defendants filed their answer reiterating therein the lack of jurisdiction of the lower court over the case but after conducting a preliminary hearing on the question of jurisdiction and requiring the parties to submit their respective memoranda thereon, [14] the lower court issued on December 12, 1962 the following order which reads:

"After a careful perusal of the plaintiff's memorandum and the reasons alleged in said motion to dismiss by the defendants, we find that this court has jurisdiction over the subject matter." [15]

The case was then set for hearing. After the plaintiff had rested his case, defendants again filed a motion to dismiss the case [16] on the ground that the lower court has no jurisdiction over the case because the plaintiff's charge against the defendant company was for unfair labor practice which was cognizable only by the then Court of Industrial Relations. Plaintiff opposed the motion to dismiss for the reason that the strike alluded to by the plaintiff while he was being questioned, took place long before his indefinite suspension and eventual dismissal. [17] The trial court overruled the said motion to dismiss and ordered the continuance of the hearing. [18]

After hearing, the trial court rendered its decision, the dispositive portion of which reads as follows:

"In the case under consideration, as already adverted to, the plaintiff is seeking his reinstatement with back wages, aside from the annulment of his indefinite suspension and subsequent dismissal from his work. Such being the case, as the Court believes, it lacks jurisdiction over the matter, but the Court of Industrial Relations." [19]

From said decision plaintiff has taken an appeal to this Court alleging that the lower court erred:

I

"IN HOLDING THAT IT HAS NO JURISDICTION TO HEAR AND DECIDE THE CASE.

II

"IN DISMISSING THE COMPLAINT WITHOUT PRONOUNCEMENT AS TO COSTS AND WITHOUT PREJUDICE TO RENEWING THE SAME ACTION IN THE COURT OF INDUSTRIAL RELATIONS

(NOW NLRC)."

In the case of *Sy Huan vs. Bautista, et al.*, [20] citing *Price Stabilization Corp. vs. CIR*, 108 Phil. 134, the Court enunciated:

"The jurisdiction of the Court of Industrial Relations, under the law and the jurisprudence, extends only to cases involving (a) labor disputes affecting an industry which is indispensable to the national interest and so certified by the President to the Court, Section 10, Republic Act No. 875; (b) controversy about the minimum wage under the Minimum Wage Law, Republic Act No. 602; (c) hours of employment under the Eight-Hour Labor Law, Commonwealth Act No. 444; and (d) unfair labor practice, Section 5(a), Republic Act No. 875 * * *. And such disputes and controversies, in order that they may fall under the jurisdiction of the Court of Industrial Relations, must arise while the employer-employee relationship between the parties exists, or the employee seeks reinstatement."

The foregoing doctrine was restated in a subsequent case [21] as follows:

"* * * for the benefit of the bench and the bar, that in order that the Court of Industrial Relations may acquire jurisdiction over a controversy in the light of Republic Act No. 875, the following circumstances must be present: (a) there must exist between the parties an employer-employee relationship, or the claimant must seek his reinstatement; and (b) the controversy must relate to a case certified by the President to the CIR as one involving national interest, or must have bearing on an unfair labor practice charge, or must arise either under Eight-Hour Labor Law, or under the Minimum Wage Law. In default of any of these circumstances the claim becomes a mere money claim that comes under the jurisdiction of the regular courts."

It is thus clear that it is not merely reinstatement prayed for which constitutes the determining factor in the question of jurisdiction. [22] A "mere action for reinstatement or one coupled with the claim for back wages and/or damages is not enough to confer jurisdiction upon the industrial court. Neither should the claim for reinstatement be related to the Eight-Hour Labor Law or the Minimum Wage Law, * * *, for what is required is that said action for reinstatement must be accompanied by another claim arising out of the Minimum Wage Law or the Eight-Hour Labor Law in order that the case would fall under the jurisdiction of the Court of Industrial Relations." [23] In the case before Us, the plaintiff-appellant merely asked for reinstatement to his former employment. But his claim for reinstatement was not in conjunction with one arising out of the Minimum Wage Law, or of the Eight-Hour Labor Law, or one that has a bearing with unfair labor practice, and therefore, is not a proper case for the Industrial Court to take cognizance of.

Of course, the defendants-appellees submit that at the hearing of the case plaintiff-appellant made reference to his activities in the Free Telephone Workers' Union which could have exposed him to a possible charge of unfair labor practice. The pertinent portion of the testimony of the plaintiff reads as follows:

"ATTY. DIMAANO: (Redirect examination)

Q.

You stated on cross-examination that you are a member of the Free Telephone Workers Union. Has your activities in that union anything to do with your dismissal from the service?

A.

Yes, sir.

Q. In what way?

A.

The company was angry at me because of my active membership in the union.

ATTY. JOSE:

There is no allegation whatsoever with respect to that in the complaint, your Honor.

ATTY. DIMAANO:

That was brought up in the cross-examination.

COURT:

Q.

Did your union intervene in your behalf when you were dismissed by the company?

A.

At first your Honor, they intervened. Later, they did not intervene anymore."[24]

xxx xxx xxx

"ATTY. JOSE: (Recross examination)

Q.

With the permission of the Court, in your previous testimony, you stated that your dismissal from the Philippine Long Distance Telephone Company has something to do with your union activities, is that right?

A. Yes, sir.

Q.

Will you please tell us what union activities did you engage in which had something to do with your dismissal

from the company?

A.

Last time when we had a strike, I was one of the picketeers at the gate of the company compound, and one of the officials wanted to enter inside the company compound. I prevented him from entering the compound.

Q.

When was this strike you mentioned wherein you were one of the picketeers?

A.

That was in 1960, if I am not mistaken."^[25]

xxx xxx xxx

"ATTY. DIMAANO: (Recross examination)

Q.

That Mr. Armildez that you prevented from entering the company compound, what is his relation to this Mr. Armildez appearing in Exhibits "B" and "D"?

A.

The same official who signed my dismissal and my suspension."^[26]

Evidently, the storm center in this controversy is whether from the questioned testimony a conclusion can be drawn that a question of unfair labor practice is involved inspite of the fact that the complaint of the plaintiff-appellant contains no allegation to that effect so as to take the case out of the jurisdiction of the ordinary court. A long array of cases backs up the firmly settled principle that what determines jurisdiction of the court is the allegations in the complaint.^[27] This doctrine has been well adopted in labor cases.^[28] From the case of PAFLU vs. Tan^[29] to Gonzalo Puyat and Sons, Inc. vs. Pedro Labayo and CIR,^[30] this Court has consistently ruled "that the CIR jurisdiction over a case is determined by the allegations in the complaint or by the issues raised by the parties and not by their success or failure in proving their averments in their respective pleadings." Only very recently, this Court speaking through Mr. Justice Felix V. Makasiar has reaffirmed the doctrine "that the allegation of the complaint, not the evidence, determines the jurisdiction of the Court."^[31] In Abo, et al. vs. PHILAME (KG) Employees and Workers Union,^[32] We had occasion to meet the question of whether jurisdiction should be determined on the basis of the allegations of the complaint alone, or whether the allegations can be read in the light of the evidence of the other party, and We resolved the issue by declaring that the basis of the determination of the Industrial Court's jurisdiction shall be the allegations alone and not the evidence. The Abo Case is decisive in this instant appeal and no plausible or cogent reason exists for Us to depart therefrom. A careful perusal of the complaint failed to yield any allegation that plaintiff-appellant was asking for reinstatement in conjunction with his claim arising out of the Minimum Wage Law or of the Eight-Hour Labor Law, or one that has a bearing with unfair labor practice. At most, what was reflected by the questioned testimony of plaintiff-appellant was that his dismissal was due to his supposed union activities and constituted an unfair labor

practice on the part of the defendant company. But there must be an allegation to this effect in the complaint in order to have the case fall under the jurisdiction of the Industrial Court. Besides, based on the allegations of the complaint, the lower court has already acquired jurisdiction over the subject matter of the controversy and once jurisdiction has vested in the Court, it is retained up to the end of the litigation.[33]

IN VIEW OF THE FOREGOING, the decision appealed from is hereby reversed and set aside and the case is remanded to the lower court for proper disposition on the merits.

SO ORDERED.

Makasiar, Muñoz Palma, and Aquino, JJ., concur.

Teehankee, J., files a brief concurrence.

Esguerra, J., is on leave.

[1] p. 3, Record on Appeal.

[2] Ibid.

[3] p. 4, Record on Appeal.

[4] p. 5, Record on Appeal.

[5] p. 6, Record on Appeal.

[6] p. 6, Record on Appeal.

[7] pp. 7-8, Record on Appeal.

[8] pp. 1-11, Record on Appeal.

[9] pp. 11-23, Record on Appeal.

[10] pp. 23-30, Record on Appeal.

[11] p. 31, Record on Appeal.

[12] pp. 31-34, Record on Appeal.

[13] pp. 38-39, Record on Appeal.

[14] pp. 48-49, Record on Appeal.

[15] p. 50, Record on Appeal.

[16] pp. 51-54, Record on Appeal.

[17] pp. 55-58, Record on Appeal.

[18] p. 59, Record on Appeal.

[19] pp. 60-66, Record on Appeal.

[20] 112 Phil. 941.

[21] Campos, et al. vs. Manila Railroad Company, et al., L-17905, May 25, 1962, 5 SCRA 93.

[22] See also *National Shipyards and Steel Corp. v. CIR*, 20 SCRA 134.

[23] *Ibid.*, p. 139.

[24] pp. 38-39, February 15, 1963, t.s.n.

[25] pp. 2-3, March 8, 1963, t.s.n.

[26] p. 8, *Ibid.*

[27] *Associated Labor Union vs. Ramoleta*, 13 SCRA 582; *Edward J. Nell and Co. vs. Cubacub*, 14 SCRA 419; *Security Bank Employees Union-NATU vs. Security Bank and Trust Co.*, 23 SCRA 503; *Bay View Hotel, Inc. vs. Manila Hotel Workers' Union*, 18 SCRA 946; *Campos Rueda Corp. vs. Bautista*, 6 SCRA 240; *Red V Coconut Products, Ltd. vs. CIR*, 17 SCRA 553; *Associated Labor Unions vs. Borromeo*, 26 SCRA 88; *Progressive Labor Association vs. Atlas Consolidated Mining and Development Corp.*, 33 SCRA 349.

[28] *Ibid.*

[29] 50 O.G. 5836.

[30] 62 SCRA 488, 492.

[31] *National Development Co. vs. NDC Employees and Workers' Union*, G.R. No. L-32387, August 19, 1975.

[32] 13 SCRA 120.

[33] *Pamintuan vs. Tiglao*, 53 Phil. 1; *Phil. Land-Air-Sea Labor Union (PLASLU), Inc. vs. CIR*, 93 Phil. 747; *Tuvera vs. De Guzman*, 13 SCRA 729; and, *Rizal Surety and Insurance Co. vs. Manila Railroad Co., et al.*, 16 SCRA 908.

CONCURRING OPINION

TEEHANKEE, J.:

I concur. It is clear from the record that unfair labor practice is not involved and the complaint admittedly contains no allegation of unfair labor practice. Plaintiff-appellant's complaint questioned his suspension and eventual dismissal on the basis of his contention that he was being made to account for substantial quantity of wire requisitioned by him during the pendency of the preliminary investigation by the city fiscal's office of the criminal charge (arising from the same shortage) filed against self-incrimination and right to remain silent and not to answer the company's demand for an explanation of the shortage.

Jurisdiction over the case therefore properly pertains to the lower court which fully heard and tried the case and received the testimonial and documentary evidence of the parties, only to render its decision after trial dismissing the case for alleged lack of jurisdiction instead of adjudicating it on the merits.

With the remand of the case, the trial court should forthwith render its decision on the merits as may be warranted by the evidence already before it.

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