

MRNS SECURITY AGENCY/MARY ROSE SARAZA SORIANO, PETITIONER, V. NATIONAL LABOR RELATIONS COMMISSION AND BIENVENIDO SANTIAGO, RESPONDENTS.

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

For disposition is a Petition for Certiorari[1] filed under Rule 65 of the Rules of Court. The Petition assails the Decision[2] dated May 28, 2012 of the National Labor Relations Commission (“public respondent NLRC” for brevity), which affirmed the Decision[3] dated July 15, 2011 of the Labor Arbiter in NLRC-NCR Case No. 04-05538-10. The Petition also questions public respondent NLRC's Resolution[4] dated July 31, 2012, which denied petitioner's eventual Motion for Reconsideration[5].

Among the salient facts are those as stated in public respondent NLRC's Decision[6] of May 28, 2012, which are as follows:

“Respondent (petitioner MRNS here) MRNS Security Services Agency (MRNS), used to be known as Imus Security Agency (Imus Security) that was then under the management of Rogelio Saraza. Imus Security was known as Saraza Investigation and Security Services Agency xxx. MRNS is managed by Saraza's daughter, Mary Rose N. Saraza (petitioner here). Its business address is at 177 Rizal Avenue Extension, Caloocan City. xxx

During his stint at Saraza Security Agency (Saraza), complainant (private respondent here) was designated on 08 November 1995 as its Security Officer. His employment however started on 05 August 1995 xxx. Imus Security referred to him as its Inspector/Collector on 01 August 2003, the same position that respondent MRNS admitted he started occupying on 15 November 2004 (Employee Identification Cards, xxx). He also served as Accounting Clerk of respondent security agency from the time it was known as Saraza up to its present name of MRNS xxx.

Effective 16 January 2010, complainant severed his employment with MRNS.

xxx

Respondents (petitioners) upon the other hand and by way of controversion allege that respondent MRNS hired complainant (private respondent) only in 2004 as Collector/Inspector. At that time he was already sixty-five (65) years old. In January 2010, he submitted a resignation letter which MRNS accepted. Respondents claim that having voluntarily severed his employment with them, complainant has no cause of action against them.”[7] (Emphasis Supplied)

Private respondent Bienvenido Santiago (“private respondent” for brevity) filed before the Labor Arbiter, a Complaint “for non-payment of overtime pay, service incentive leave, and non-payment of retirement benefits”[8] against petitioners MRNS Security Agency, and Mary Rose Saraza Soriano, the latter being sued in her capacity as owner/operator[9] (“petitioners” for brevity).

On July 15, 2011, the Labor Arbiter rendered a Decision[10], which found that private respondent “started his

employment with respondent agency in 1995 when he was not yet of retirement age, thus until his formal severance of employment he was qualified for retirement”[11]. The dispositive portion of the Decision stated:

“WHEREFORE, judgment is hereby rendered ordering respondents to pay complainant the amount of Php141,750.00, representing his retirement benefits entitlement.

SO ORDERED.”[12]

On May 28, 2012, public respondent NLRC rendered the questioned Decision[13] which dismissed the appeal and affirmed the Labor Arbiter's Decision.

After petitioners' Motion for Reconsideration[14] was denied by public respondent NLRC in its assailed Resolution[15] of July 31, 2012, petitioners filed the Petition at bench praying as follows:

“WHEREFORE, premises considered, it is most respectfully prayed unto the Honorable Court of Appeals to modify the Decision of the National Labor Relations Commission in NLRC LAC No. 01-000226-12 as follows:

1. Declaring private respondent Bienvenido Santiago as employee of petitioner MRNS Security Agency from November 05, 2004 up to January 15, 2010 and not from the year 1995 up to January 15, 2010; and
2. Declaring private respondent to be entitled to his retirement pay amounting to Fifty Thousand Six Hundred Twenty Five Pesos (Php 50,625.00).

Other equitable remedies under the foregoing premises are likewise prayed for.”[16] (Emphasis was made in the original)

Petitioners raised this sole ground:

“WHETHER OR NOT THE NATIONAL LABOR RELATIONS COMMISSION (SIXTH DIVISION) COMMITTED GRAVE ABUSE OF DISCRETION IN AWARDING THE PRIVATE RESPONDENT RETIREMENT PAY COMPUTED FROM THE YEAR 1995 WHEN IN TRUTH PETITIONER STARTED ITS BUSINESS ONLY IN THE YEAR 2004.”[17] (Emphasis was made in the original)

Contrary to petitioners' arguments in their sole ground, private respondent started his employment with petitioners in the year 1995.

Petitioners had argued as follows:

“xxx It is very much impossible that private respondent has been employed by the petitioner since 1995 since MRNS Security Agency came in to (sic) existence only in the year 2004. This fact is clearly proven and shown by the petitioner in the Mayor's Permit and Certificate of Business Name Registration with the Department of Trade and Industry xxx. These two documents clearly show that the petitioner started in the business only in the year 2004. Private Respondent contends that Saraza Investigation and Security Services Agency and Imus Security Agency are continuations of MRNS Security Agency. However, petitioner strongly argue that Saraza Investigation and Security Services Agency and Imus Security Agency is not and was never a continuation of MRNS Security Agency. This is based on the fact that Saraza Investigation and Security Services Agency is owned by Ronaldo G. Saraza. Imus Security Agency was owned by one Mr. Roman Hipolito, who is not in any way a relative of petitioner Mary Rose Saraza Soriano. This can be seen from the Certificate of Business Name Registration of Saraza Investigation and Security Services Agency and Imus Security Agency xxx

xxx

It is noteworthy to state that Saraza Investigation and Security Services Agency and Imus Security Agency are both sole-proprietor type of business. Hence, the above-mentioned decision of the Supreme Court is very much

applicable in the present case. Since labor contracts are in personam, in the absence of express stipulation from MRNS Security Agency and private respondent Bienvenido Santiago that the former is assuming his labor contract from his two former employers, MRNS Security Agency cannot be held liable to pay private respondent his retirement pay starting from the year 1995. If indeed petitioner is liable to pay the private respondent his retirement pay, the computation should start only from November 05, 2004 up to January 10, 2010 when private respondent resigned from his job.

XXX

In view of the discussions stated above, the number of years of service of private respondent Bienvenido Santiago to MRNS Security Agency should only be five (5) years, two (2) months and ten (10) days – From November 05, 2004 to January 15, 2010. This will be the basis of the computation of private respondent's retirement benefits. As provided for in Paragraph 3 and 4 of Article 287 of the Labor Code:

XXX

Php 13,500.00 – one month salary or Php 450.00/day

Php 6,750.00 – fifteen (15) days salary

+ 1,125.00 – 1/12 of 13th month pay

+ 2,250.00 – 5 days service incentive leave

Php 10,125.00 – 1/2 month salary of complainant-appellee (private respondent)

X 5 – number of years of service

PHP 50,625.00 – RETIREMENT PAY

It is again the humble view of the petitioner that the computation shown above is the proper computation in determining the retirement benefit/retirement pay of the private respondent. He is entitled to retirement pay in the amount of Fifty Thousand Six Hundred Twenty Five Pesos (Php 50,625.00) pursuant to Article 287 of the Labor Code.”[18] (Emphasis and underscoring were made in the original)

Defeating petitioners' arguments however, is that having changed petitioner's business name which is MRNS Security Services Agency (“petitioner MRNS” for brevity), from Imus Security Agency (“Imus” for brevity), and earlier from Saraza Investigation and Security Services Agency (“Saraza” for brevity), did not give rise to a new business entity; neither did it affect petitioner's property, rights, or liabilities.[19] This was as also found by public respondent NLRC in its Decision[20] of May 28, 2012, to wit:

“The records of this case show with clarity that complainant was not hired by MRNS in 2004. The latter is the same agency that hired complainant in 1995 though it had different names. Changing of name from Saraza to Imus to MRNS did not give rise to MRNS as a new business entity. The rule is:

‘The changing of the name of a corporation, either by the legislature or by the incorporators under legislative authority, is no more the creation of a corporation than the changing of the name of a natural person is the begetting of a natural person. The act, in both cases, is what the language imports – a change of name and not a change of being. Nor does it affect the rights of the corporation or lessen or add to its obligations previously acquired or incurred by it. After a corporation has effected a change in its name, it should sue and be sued in its own name (Phil First Insurance Co. Inc. vs. Hartigan 34 SCRA 252 JULY 31, 1970).’

MRNS is the same business entity which initially was known as Saraza and then Imus. Complainant was continuously employed all the time that it has changed its name.”[21] (Emphasis supplied)

That a change in the corporate name, as what petitioner MRNS did, has no effect on the identity of the corporation or on its property, rights or liabilities is pursuant to the following pronouncement of the Supreme Court in Zuellig

Freight Cargo Systems, vs. National Labor Relations Commission and Ronaldo V. San Miguel, G.R. No. 157900, July 22, 2013:

“The consequences, legal and otherwise, of the change of name were similarly dealt with in P.C. Javier & Sons, Inc. v. Court of Appeals, with the Court holding thusly:

From the foregoing documents, it cannot be denied that petitioner corporation was aware of First Summa Savings and Mortgage Bank’s change of corporate name to PAIC Savings and Mortgage Bank, Inc. Knowing fully well of such change, petitioner corporation has no valid reason not to pay because the IGLF loans were applied with and obtained from First Summa Savings and Mortgage Bank. First Summa Savings and Mortgage Bank and PAIC Savings and Mortgage Bank, Inc., are one and the same bank to which petitioner corporation is indebted. A change in the corporate name does not make a new corporation, whether effected by a special act or under a general law. It has no effect on the identity of the corporation, or on its property, rights, or liabilities. The corporation, upon such change in its name, is in no sense a new corporation, nor the successor of the original corporation. It is the same corporation with a different name, and its character is in no respect changed. xxx (Emphasis was made in the original)

In short, Zeta and petitioner remained one and the same corporation. The change of name did not give petitioner the license to terminate employees of Zeta like San Miguel without just or authorized cause. The situation was not similar to that of an enterprise buying the business of another company where the purchasing company had no obligation to rehire terminated employees of the latter. Petitioner, despite its new name, was the mere continuation of Zeta's corporate being, and still held the obligation to honor all of Zeta's obligations, one of which was to respect San Miguel's security of tenure. The dismissal of San Miguel from employment on the pretext that petitioner, being a different corporation, had no obligation to accept him as its employee, was illegal and ineffectual.” (Emphasis supplied)

Given that petitioner MRNS is still the same corporation which hired private respondent since 1995, then, petitioner MRNS is liable to pay private respondent's retirement pay upon the latter's retirement on January 16, 2010[22].

No cogent reason was therefore shown to justify deviation from the following findings of public respondent NLRC, which were pursuant to the facts and the law:

“As correctly found by the Labor Arbiter, complainant (private respondent) was fifty five (55) years old at the time he started his employment with respondent agency. At the time he signified his intention to stop working, he was already seventy one (71) years old and had rendered service for more than sixteen (16) years. Clearly, he is entitled to retirement pay as he had reached sixty five (65) years and was even allowed to continue working up to age seventy one (71). Article 287 of the Labor Code mandates payment of retirement benefits to an employee who has reached retirement age which can be sixty (60) for optional retirement or sixty five (65) for compulsory retirement subject to the condition that the employee has rendered at least five (5) years of service.

Respondents contend that complainant voluntarily resigned thus, he is no longer entitled to retirement benefits. We are not persuaded. Complainant's right to receive retirement benefits even before his resignation has found mooring in the law. Retirement benefits have accrued in his favor and his resignation will not affect his entitlement to them.”[23] (Emphasis supplied)

The rule is settled that the findings of the Labor Arbiter, when affirmed by the NLRC, as in the instant case, are accorded due respect and even finality, and are binding upon the court[24] especially when supported by substantial evidence, as in this case.

After an independent and careful consideration of all the facts, arguments, and issues appearing on the records, as

well as of the pertinent laws and jurisprudence, public respondent NLRC was therefore shown not to have committed grave abuse of discretion, which in turn is meant as such capricious and whimsical exercise of judgment that is equivalent to an excess or lack of jurisdiction.[25]

IN VIEW OF ALL THESE, the Petition is DENIED.

SO ORDERED.

Didican, (Chairperson) and Paredes, JJ., concur.

[1] Rollo, pp. 3-11

[2] Rollo, pp. 15-19

[3] Rollo, pp. 76-80

[4] Rollo, pp. 21-22

[5] Rollo, pp. 23-28

[6] Rollo, pp. 15-19

[7] Rollo, pp. 16-17

[8] Rollo, p. 76

[9] Rollo, pp. 11 & 69

[10] Rollo, pp. 76-80

[11] Rollo, p. 17

[12] Rollo, p. 80

[13] Rollo, pp. 15-19

[14] Rollo, pp. 23-28

[15] Rollo, pp. 21-22

[16] Rollo, p. 9

[17] Rollo, p. 6

[18] Rollo, pp. 7-9

[19] Avon Dale Garments, Inc., vs. National Labor Relations Commission, Lilia Dumantay, et al, G.R. No. 117932 July 20, 1995

[20] Rollo, pp. 15-19

[21] Rollo, pp. 17-18

[22] Rollo, p. 16

[23] Rollo, pp. 17-19

[24] La Union Cement Workers Union & Arnulfo Almoite vs. National Labor Relations Commission and

Bacnotan Cement Corporation (now Holcim Philippines, Inc.), G.R. No. 174621, January 30, 2009

[25] First Women's Credit Corporation, et al. vs. Glicerio Perez, et al., G.R. No. 169026, June 15, 2006.

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