

AZKCON GROUP OF COMPANIES, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, ROGELIO GEBILAGUIN, LABOR ARBITER FRANCISCO A. A. ROBLES, NLRC SHERIFF ANTONIO T. DATU, RENE A. M...

Ponente: DIMARANAN-VIDAL, J.

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DIMARANAN-VIDAL, J.:

In this Petition for Certiorari[1], Petitioner Azkcon Group of Companies (Petitioner hereinafter) is seeking to annul and set aside the 05 February 2004 Decision[2] and 13 December 2004 Resolution[3] of the National Labor Relations Commission (NLRC), Third Division, in NLRC NCR IC NO. 0001130-02, which modified the 16 May 1994 Decision[4] of Labor Arbiter RICARDO C. NORA of the NLRC NCR, Quezon City in Case No. NCR 00-01-00215-95.

THE FACTS

Private Respondent ROGELIO GEBILAGUIN (hereinafter Respondent) was employed by herein petitioner as “buffing” on 28 June 1992 on a piece rate basis, working regularly from 6:00 am to 8:00 pm with an average daily wage of Php 300.00. Respondent with his co-workers were considered as “stay-ins” since they were provided with living quarters within the premises of the company.

On 01 December 1994, at about 10:30 p.m., Respondent engaged in the card game of “pusoy dos” with some of his co-workers in their quarters. After the game, Respondent figured in a fist-fight with one RAMON VILLANUEVA which eventually turned unruly when the latter got hold of a knife and ran after Respondent in a vain attempt to hack him. In the end, cooler heads prevailed and the fight was settled by the parties.

Thereafter, an investigation was conducted by the security officer, OIC RONIE R. PASCUA, who required the Respondent and VILLANUEVA to submit their written explanation[5] concerning the incident. Upon receipt of the respective explanations of both parties, the security officer rendered his report[6] thereon narrating the untoward events which allegedly transpired on the evening of 01 December 1994.

On 03 December 1994, the Respondent and VILLANUEVA were placed under preventive suspension[7] by JAY-AR LAZO, Manager of the Planting Department of the company, and on 16 December 1994, the Respondent was ultimately dismissed[8] by the Petitioner.

On 09 January 1995, the Respondent filed a complaint[9] for illegal dismissal before the NLRC NCR, Quezon City against the Petitioner and JAY-AR LAZO for illegal dismissal and non-payment of 13th month pay during his employment.

In his position paper[10] filed before the Labor Arbiter, Respondent alleged that at the time he and his co-worker played “pusoy-dos” whereupon the quarrel between him and VILLANUEVA ensued, he was off duty; the incident did not cause any harm or damage to the Petitioner much less to Petitioner’s immediate member of the

family or to anyone. Respondent further averred that he was completely deprived of due process, aside from the fact that he was twice^[11] punished for the said incident. Respondent added that, he was never paid his 13th month pay since his employment. Respondent prayed that his termination be declared illegal and that he be reinstated to his former position without loss of seniority rights and be paid back wages from the time of his dismissal until his actual reinstatement as well as be paid of his 13th month pay.

On the other hand, the Petitioner, through its representative Mr. ROBERTO PENAFLORE, averred in its position paper^[12] filed before the Labor Arbiter that the dismissal of the Respondent is valid since he was terminated with just cause. Petitioner further countered that Respondent is not entitled to receive 13th month pay for being a piece-rate worker.

On 24 October 1995, the NLRC NCR Labor Arbiter RICARDO C. NORA issued a Decision^[13] dismissing the Respondent's complaint for "lack of merit".

Unsatisfied with the said Decision, the Respondent appealed before the NLRC, Third Division. In his Memorandum of Appeal, the Respondent maintained that his dismissal was a harsh penalty considering that the incident in question was his first infraction and the same occurred outside his tour of duty. Respondent claimed further that contrary to the findings of the Labor Arbiter, his dismissal was effected without due process of law. And, to his claim for 13th month pay, the Respondent averred that being a "piece-rate" worker, he is covered by Section 3 (e) of the Rules and Regulations Implementing P.D. 851, hence, entitled to the benefits thereunder.

Finding merit in the appeal, the NLRC (Third Division) rendered its 28 February 1997 Decision^[14] reversing the Decision of Labor Arbiter RICARDO C. NORA and ruled in favor of the Respondent. In said NLRC Decision, the Petitioner was "declared guilty of illegally dismissing"^[15] the Respondent and was ordered to reinstate the latter "to his former position without loss of seniority rights and other privileges appurtenant thereto with full backwages from the time his salary was withheld from him until actually reinstated"^[16]. The Decision further directed the Petitioner to pay the Respondent "his 13th month pay in the amount of Php 23,400.00"^[17]

On 17 April 1997, the Petitioner filed a Motion for Reconsideration^[18] of the NLRC's 28 February 1997 Decision claiming that the NLRC erred in finding that the playing of "pusoy-dos" and fist-fighting within the company premises are not valid grounds for dismissal. Furthermore, Petitioner averred that it was not furnished a copy of the Respondent's Appeal before the NLRC which is in direct violation of due process. Petitioner further alleged that the NLRC erred when it ordered payment of 13th month pay to Respondent. However, said Motion was denied by the NLRC for "lack of merit" per Resolution^[19] dated 22 April 1997.

Subsequently, on 02 May 2002, Petitioner filed NLRC NCR IC No. 0001130-02 before the NLRC (Third Division) a Petition for Relief from Judgment (with Special Prayer for Temporary Restraining Order), on the grounds of fraud and mistake, alleging that "Azkcon Group of Companies" is not a registered corporation or partnership, hence it is not a juridical person which may be sued in the NLRC NCR Case No. 00-01-00215-95.^[20] The Petitioner claimed that Labor Arbiter FLORES acted with gross and evident mistake, if not fraud, in proceeding to implement his writ of execution through the Respondent Sheriffs. Said Petition however was denied by the NLRC in its 05 February 2004 Decision^[21], the dispositive portion thereof reads;

"WHEREFORE, the instant petition is hereby DENIED for lack of merit. Corollarily, the Labor Arbiter is hereby directed to resolve Philippine Metal and Alloy Corporation's Motion to Declare Null and Void the entire proceedings of NLRC NCR Case No. 00-01-00215-95, Third Party Claim and Motion to Quash Writ of Execution within thirty (30) days from receipt hereof. The Labor Arbiter is further directed to determine the validity of respondent Gebilaguin's claim that he had not received the judgment award while respondent Sheriffs are directed to submit proof of the receipt of the levied/sold properties or the proceeds of the auction sale by respondent Gebilaguin within the same period

SO ORDERED.”

Petitioner filed on 05 March 2004 a Motion for Reconsideration[22] of the abovementioned decision which was denied “for lack of merit” by the NLRC in its 13 December 2004 Resolution[23].

Hence, this petition. The grounds advanced by the Petitioner may be synthesized as follows:

- The NLRC has no jurisdiction over the “AZKCON GROUP OF COMPANIES” as this is not a corporation or a partnership and has no juridical personality of its own;
- The NLRC erred in holding that complainant GEBILAGUIN was an employee of “Azkcon Group of Companies”, there being no documentary evidence presented to that effect.

OUR RULING

The Petition is devoid of merit.

Anent the first issue, petitioner avers that “Azkcon Group of Companies” has not been registered with the SEC either as a corporation or a partnership and as such, has no legal or juridical personality of its own and, is incapable of suing or being sued. On the basis thereof, the Petitioner claims that jurisdiction over “Azkcon Group of Companies” was never acquired by the NLRC and by reason thereof, the latter may not render judgment holding it liable to pay the claims of the Respondent. This argument is clearly misplaced.

Art 218 (c) of the Labor Code, as amended by R.A. 6715 provides for the specific power of the NLRC to correct, amend, or waive any error, defect or irregularity whether in the substance or in the form of the proceedings before it, to wit:

“(c) To conduct investigation for the determination of a question, matter or controversy within its jurisdiction, proceed to hear and determine the disputes in the absence of any party thereto who has been summoned or served with notice to appear, conduct its proceedings or any part thereof in public or in private, adjourn its hearings to any time and place, refer technical matters or accounts to an expert and to accept his report as evidence after hearing of the parties upon due notice, direct parties to be joined in or excluded from the proceedings, correct, amend, or waive any error, defect or irregularity whether in substance or in form, give all such directions as it may deem necessary or expedient in the determination of the dispute before it, and dismiss any matter or refrain from further hearing or from determining the dispute or part thereof, where it is trivial or where further proceedings by the Commission are not necessary or desirable; xxx” (Underscoring supplied.)

In the case before us, Petitioner cannot negate their liability by hiding behind their lack of formal corporate existence. What is material is the receipt of notices, summonses, pleadings and decisions at the principal business address of the Petitioner duly received by its representative ROBERTO PENAFLOR[24].

As enunciated by the Supreme Court in *Pison-Arceo Agricultural and Development Corp. vs. NLRC, et. al.*[25], thus:

“xxx

Also, it is undisputed that summons and all notices of hearing were duly served upon Jose Edmundo Pison. Since Pison is the administrator and representative of petitioner in its property (Hacienda Lanutan) and recognized as such by the workers therein, we deem the service of summons upon him as sufficient and substantial compliance with the requirements for service of summons and other notices in respect of petitioner corporation. Insofar as the complainants are concerned, Jose Edmundo Pison was their employer and/or their employer’s representative. In view of the peculiar circumstances of this case, we rule that Jose Pison’s knowledge of the labor case and effort to resist it can be deemed knowledge and action of the corporation.

Indeed, to apply the normal precepts on corporate fiction and the technical rules on service of summons would be to overturn the bias of the Constitution and the laws in favor of labor.

Hence, it is fair to state that petitioner, through its administrator and manager, Jose Edmundo Pison, was duly notified of the labor case against it and was actually afforded an opportunity to be heard. That it refused to take advantage of such opportunity and opted to hide behind its corporate veil will not shield it from the encompassing application of labor laws.

xxx”

In another case[26], the Supreme Court had the occasion to rule on the principle of liberality in the application of procedural rules in labor cases, thus:

“It is of course also sound and settled rule that administrative agencies performing quasi-judicial functions are unfettered by the rigid technicalities of procedure observed in the courts of law, and this is so that disputes brought before such bodies may be resolved in the most expeditious and inexpensive manner possible.” (fn: Rizal Workers Union vs. Ferrer-Calleja, 186 SCRA 431).

Likewise, in the case of Adamson & Adamson, Inc. vs. Amores[27], the High Tribunal eloquently explained that the rigid requirements of procedural laws are not strictly enforceable in administrative proceedings, to wit:

“Moreover, since the proceeding was not judicial but merely administrative, the rigid requirements of procedural laws were not strictly enforceable. It is settled that --

While the administrative tribunals exercising quasi-judicial powers are free from the rigidity of certain procedural requirements they are bound by law and practice to observe the fundamental and essential requirements of due process in justiciable cases presented before them. However, the standard of due process that must be met in administrative tribunals allows a certain latitude as long as the element of fairness is not ignored.”

Applying the aforecited jurisprudence in the case at bar, although “Azkcon Group of Companies” is not formally organized and registered as a corporation or partnership in accordance with the Philippine laws, the fact remains that it may still be sued as such since it is under such name which made itself known to its workers. In so far as the Respondent is concerned, his employer was “Azkcon Group of Companies”.

When the Petitioner was impleaded as a respondent before the labor arbiter and the NLRC, despite the fact that the former was not formally incorporated under such name, such circumstance does not justify the outright nullity of the proceedings and subsequent decisions rendered by said tribunal. “An action may be entertained, notwithstanding the failure to include an indispensable party where it appears that the naming of the party would be a formality”.[28]

As aptly held by the NLRC,[29] it is undisputed that “Azkcon Group of Companies” was impleaded and adequately heard in the proceedings before the Labor Arbiter and the NLRC, through its representative ROBERTO PENAFLOR. During the entire proceedings before the Labor Arbiter and the NLRC, the issues regarding the legal personality of the petitioner to sue and be sued as well as the non-existence of an employer-employee relationship between the parties were never raised.

Petitioner’s subsequent denial of PENAFLOR’s authority to represent them in said cases, as raised in its Petition for Relief from Judgment (with Special Prayer for TRO) filed before the NLRC, is viewed by this Court as a mere feeble excuse devised to serve its interest and ultimately evade its liabilities to the Respondent. To deny the authority of PENAFLOR on the ground that the Petitioner could not give such authority simply because it is not a juridical person merits no consideration from this Court for being a very convenient self-serving defense coiled to

advance its own interest.

As shown by the records of this case[30], J.P. RAMOY ST., BO. TALIPAPA, CALOOCAN CITY is the same address used by PENAFLO in the cases before the Labor Arbiter and the NLRC which was likewise the same address used by the Petitioner “Azkcon Group of Companies” as represented by Mr. ANTONIO Z. KING in the instant petition. Clearly, it is the same address reflected in the respective pleadings filed by both parties before the Labor Arbiter and the NLRC. Thus, Petitioner cannot deny having received notices of the aforementioned labor case since the records of the NLRC reflects that the same notices of hearing, decisions, orders and processes in the said labor case addressed to the Petitioner were served to “The president/Manager, Azkcon Group of Companies, J.P. Ramoy St., Bo. Talipapa, Caloocan City, Metro Manila” and were all received accordingly. In its assailed 05 February 2004 Decision, the NLRC held[31], to wit:

“xxx

In the light of the return cards on file with the records of NLRC NCR Case No. 00-01-00215-95 showing that the notices, orders, decisions and processes in this case were served upon the “The president/Manager, Azkcon Group of Companies, J.P. Ramoy St., Bo. Talipapa, Caloocan City” and received, we cannot simply concede to petitioner’s bare insistence that it did not receive any notice at all. Thus, even granting that Roberto penaflor was never authorized by petitioner to represent it in the NLRC NCR Case NO. 00-01-00215-95, the fact still remains that due processes was duly observed by the service of separate notices and processes upon petitioner’s “President/Manager” in the same address indicated in the instant petition

xxx”

Undoubtedly therefore, the Petitioner, through its representative Mr. ROBERTO PENAFLO, was duly notified of the labor case against it and was afforded the sufficient opportunity to be heard. Thus, this Court finds no grave abuse of discretion on the part of the NLRC in this regard.

In the same vein, We find no merit in the second issue posits by the Petitioner that the Respondent was not its employee, in the absence of any documentary evidence presented in support thereof.

Significantly, in the proceedings before the Labor Arbiter, as well as in the subsequent Appeal before the NLRC, Petitioner never raised the issue re the absence of employer-employee relationship between the parties. During the proceedings before the offices a quo, the Petitioner even admitted that the Respondent was indeed their employee which they terminated for a just cause[32]. Likewise, in the instant petition, the petitioner grossly failed to refute the findings of fact[33] as determined by the NLRC declaring the existence of an employer-employee.

Jurisprudence is replete with decisions wherein findings of facts by the NLRC are accorded with great respect and are deemed conclusive and will not be disturbed absent a clear showing of a grave abuse of discretion. In point is the ruling of the Supreme Court in *George R. Palencia vs. NLRC*[34], thus:

“Following a long line of decisions this Court has consistently declined to disturb the findings of fact of the then Court of Industrial Relations whose functions the NLRC now performs. The findings of fact are conclusive and will not be disturbed in the absence of a showing that there has been grave abuse of discretion[35] and there being no indication that the findings are unsubstantiated by evidence.”[36]

In the case at bar, We find no grave abuse of discretion on the part of the NLRC to disturb its Judgment.

In sum, there is nothing in the Petition that would show that the NLRC committed grave abuse of discretion when it denied Petitioner’s “Petition for Relief from Judgment (with Special Prayer for TRO)”. There is grave abuse of discretion when the respondent acts in a capricious, whimsical, arbitrary or despotic manner in the exercise of his judgment as to be said to equivalent to lack of jurisdiction[37]. In the instant case, the NLRC is not guilty of any

of these grounds. Thus, We accord due respect to the NLRC's exercise of sound discretion and hold that the same should not be disturbed.

WHEREFORE, premises considered, Petition is hereby DISMISSED and the assailed NLRC Decision and Resolution are hereby AFFIRMED in toto.

SO ORDERED.

Reyes, (Chairman) and Lampas-Peralta, JJ., concur.

- [1] Rollo, pp.8-36
- [2] Rollo, pp. 75-85
- [3] Rollo, pp. 94-97
- [4] Rollo, pp. 40-47
- [5] Rollo, pp. 118-119
- [6] Rollo, pp .120
- [7] Rollo, pp. 121
- [8] Rollo, pp. 122
- [9] Rollo, pp. 39
- [10] Rollo, pp. 123-125
- [11] Rollo, pp. 124
- [12] Rollo, pp. 113-117
- [13] Rollo, pp. 40-47
- [14] Rollo, pp. 48-59
- [15] Rollo, pp. 58
- [16] Rollo, pp. 58
- [17] Rollo, pp. 58
- [18] Rollo, pp 154-156
- [19] Rollo, pp. 157-159
- [20] Rollo, pp. 40-59
- [21] Rollo, pp. 75-85
- [22] Rollo, pp. 87-93
- [23] Rollo, pp. 94-97
- [24] Rollo, pp. 82-83

[25] G.R. No. 117890, 18 September 1997

[26] Rizal Workers Union vs. Ferrer-Calleja, 186 SCRA 431

[27] 152 SCRA 237

[28] Baguio vs. Rodriguez, L-11078, May 27, 1959

[29] Rollo, p. 80

[30] Rollo, pp. 82-83

[31] Rollo, pp. 82-83

[32] Rollo, pp. 114

[33] Rollo, pp. 80-82

[34] G.R. No. 75763, August 2, 1987

[35] Philippine Educational Institution v. MLQSEA Faculty Association, 26 SCRA 272, 276

[36] University of Pangasinan Faculty Union v. University of Pangasinan and NLRC, G.R. No. 63122, February 20, 1984, 127 SCRA 694, 704

[37] See Abad Santos vs. Prov. Of Tarlac, 66 Phil. 480; Alafriz vs. Nable, 62 Phil. 278

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