

**LEC STEEL MANUFACTURING ASSOCIATED TRADE UNION-ATU,
GLENJOY DAWAL, LORETO ESTONANTO, EDUARDO CABANGON,
NESTOR GUMELA, EDDIE BOY SUMACAL, IRENEO A. BALITE, JIMMY
OTERO, FELIX P. ...**

Ponente: VIDAL, M.D., J.

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VIDAL, M.D., J.:

Before Us is a Petition for Certiorari[1] under Rule 65 of the Revised Rules of Court seeking to annul the Decision[2] dated 31 January 2005 of the public respondent National Labor Relations Commission (hereinafter NLRC), First Division in consolidated cases docketed as NLRC NCR CA No. 040530-04 (NLRC NCR CASE 00-02828-2004) and NLRC NCR CASE No. 00-04-05389-2004 ruling in favor of the Respondent LEC Steel Manufacturing and its subsequent Resolution[3] dated 21 April 2005 denying the Partial Motion for Reconsideration filed by Petitioner Union.

THE FACTS

The controversy arose from a complaint[4] filed by Petitioners LEC Steel Manufacturing Associated Trade Union-ATU, GLENJOY DAWAL, et al. (hereinafter Petitioners) against LEC Steel Manufacturing, LIM ENG GO and JULLY LIM (hereinafter Respondents) for underpayment/non-payment of salaries/wages, overtime pay, holiday pay, premium for holiday and rest days, service incentive leave pay, 13th month pay, unfair labor practice, violation of the collective bargaining agreement and damages and attorney's fees.

LEC Steel Manufacturing (hereinafter LEC) is a corporation organized and existing under Philippine laws. It is engaged in the manufacture of steel and related products.

LIM ENG GO and JULLY LIM (hereinafter Respondents) are the known owners/managers of LEC.

LEC Steel Manufacturing Associated Trade Union-ATU (hereinafter Union) is a legitimate labor union, composed of the rank-and-file employees of the Respondent while the individual petitioners are the officers and members of the union.

The individual petitioners were hired by LEC on different dates, the earliest of which was in 1987 and the latest in 2002, either as welder, fabricator, cutter or painter. They had been working with LEC continuously since the dates they were hired until the present.

On 13 February 2004, the Union filed a Preventive Mediation case with the National Conciliation and Mediation Board which was considered withdrawn when on 26 February 2004 the Union filed or converted the earlier case to a Notice of Strike. The issues in the Notice of Strike were illegal dismissal of union officers and members, harassment, coercion and intimidation.

It was on 27 February 2004 when the Union filed with the NLRC National Capital Region, Office of the Labor Arbiter a complaint[5] docketed as NLRC NCR Case No. 00-02-02828-04 for underpayment of wages, overtime

pay, holiday and premium pay for special holiday and rest day; non-payment of 13th month pay and service incentive leave and unfair labor practice for gross violation of the Collective Bargaining Agreement.

On 6 April 2004, the Respondents filed a Petition to Declare the Strike Illegal,[6] attaching therewith a Motion to Consolidate[7] their Petition with Petitioner's complaint, *supra*.

The Union filed on 22 April 2004 its Opposition to the said Motion with Motion for Extension of Time to File Position Paper[8] which was later submitted[9] to the Labor Arbiter on 7 May 2004. On the same day, the Union filed a Manifestation with Motion for Time to File Reply praying that they be given until 22 May 2004 to file Reply. The latter date being a Saturday, the Union filed on 22 May 2004 a Manifestation with Motion for Extension of Time to File Reply,[10] praying that they be given up to 6 June 2004 within which to file the same. Despite the pendency of the above manifestation/motion, the Labor Arbiter rendered a Decision, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered:

- Dismissing the complaint for money claims and unfair labor practice for lack of merit and factual basis;

- Declaring the strike staged by the respondents at the premises of the petitioner on March 29, 2004 and continuously thereafter, ILLEGAL. Consequently, all the banners, placards and tents at the picket area be removed and the strikers, including Jimmy Otero to cease and desist from picketing at the premises of the company under pain of contempt or arrest;

- The Deputy Sheriff assigned is directed to implement this Decision, who may seek the assistance of the Police for the said purpose.

Jimmy Otero is hereby ordered DISMISSED from his employment.

SO ORDERED.[11]

On 18 June 2004, the Petitioners interposed an appeal[12] to the NLRC. In its Decision[13] dated 31 January 2005, the NLRC First Division dismissed the appeal, the decretal portion of which states:

WHEREFORE, premises considered, the instant Appeal is hereby dismissed for lack of employer-employee relationship between individual complainants-appellants and respondent-appellee LEC Steel Manufacturing.

SO ORDERED.[14]

A Partial Motion for Reconsideration[15] was filed by the Petitioners on 10 March 2005 which was denied by the NLRC in its Resolution of 21 April 2005, *supra*.

Aggrieved thereby, the Petitioners now come to this Court via a Petition for Certiorari raising the following issues:

THE FIRST DIVISION OF THE NLRC GRAVELY ABUSED ITS DISCRETION, AMOUNTING TO LACK OR EXCESS OF JURISDICTION, IN RULING THAT THE PETITIONERS WERE NOT DENIED DUE PROCESS.

THE FIRST DIVISION OF THE NLRC GRAVELY ABUSED ITS DISCRETIN, AMOUNTING TO LACK OR EXCESS OF JURISDICTION, IN DECLARING THAT NO EMPLOYER-EMPLOYEE RELATIONSHIP EXISTS BETWEEN THE PETITIONERS AND THE PRIVATE RESPONDENTS.[16]

Stated differently, the issues for Our resolution are whether or not the Petitioners were denied due process and

whether or not there is an employer-employee relationship between the Petitioners and the Respondents.

Our Ruling

In the case at bar, the Petitioners claimed denial of due process when they were not allowed to file their reply despite their pending motion, manifesting their intention to file the same.

Denial of due process means the total lack of opportunity to be heard or to have one's day in court. There is no denial of due process where a party has been given an opportunity to be heard and to present his case.[17] What the law prohibits is the absolute lack of opportunity to be heard.

The Labor Arbiter in the Decision dated 25 May 2004 noted that during the subsequent hearings conducted and despite agreement of the parties for the Complainants (herein Petitioners) to submit their Position Paper on 19 April 2004 which was extended to 22 April 2004 until 26 April 2004, it was only on 7 May 2004 when they actually filed their Position Paper.[18] Per the said Decision, "it was agreed that with or without the Position Paper, the issues shall be resolved." [19]

With the foregoing backdrop, We can safely conclude that there was no denial of due process. In fact, records disclosed that the Petitioners were afforded the right to be heard when they were granted extensions in submitting their Position Paper.

The bedrock of the ground relied upon by the Petitioners in the instant Petition is the Decision rendered by the Labor Arbiter sans their reply. Does this then constitute a deprivation of due process?

We rule in the negative.

The import of due process was ratiocinated by the Supreme Court in *Navarro III v. Damasco*, [20] in this wise:

The essence of due process is simply an opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling complained of. A formal or trial type hearing is not at all times and in all instances essential. The requirements are satisfied when the parties are afforded fair and reasonable opportunity to explain their side of the controversy at hand. What is frowned upon is the absolute lack of notice or hearing.

Above pronouncement was echoed by the High Tribunal in the case of *Paat v. Court of Appeals*, [21] thus:

Due process does not necessarily mean or require a hearing, but simply an opportunity or right to be heard. One may be heard, not solely by verbal presentation but also, and perhaps many times more credibly and practicable than oral argument, through pleadings. In administrative proceedings moreover, technical rules of procedure and evidence are not strictly applied; administrative process cannot be fully equated with due process in its strict judicial sense. Indeed, deprivation of due process cannot be successfully invoked where a party was given the chance to be heard on his motion for reconsideration, x x x.

In the instant case, when the Petitioners received a copy of the Labor Arbiter's Decision dated 25 May 2004 on 10 June 2004, they seasonably filed an appeal to the NLRC. Considering that the entire record of a case on appeal is open for review by the NLRC, [22] wherein the Petitioners were afforded a fair opportunity to be heard when they filed the required pleadings and that after receipt of the NLRC Decision, the Petitioners filed a partial motion for reconsideration, *supra*, thus they cannot validly claim that they were deprived of due process under the premises.

From the foregoing factual and legal backdrop, We find no grave abuse of discretion on the part of the NLRC when it ruled that the Petitioners were not denied due process.

In sum, sans any proof that the NLRC gravely abused its discretion or otherwise acted without jurisdiction or in excess of the same, We are bound by its findings. The existence of an employer-employee relationship is a question of fact and the factual findings of the Labor Arbiter and the NLRC shall be accorded not only respect but even finality when supported by substantial evidence.[23] Thus, We need not belabor on the second issue raised by the Petitioner. Succinctly put, factual issues are beyond the ambit of our review.[24]

WHEREFORE, instant Petition is DENIED and the assailed Decision and Resolution of the NLRC stand.

SO ORDERED.

Reyes, and Lampas Peralta, JJ., concur.

[1] Rollo, pp. 2-18

[2] *id.*, pp. 24-35

[3] *id.*, pp. 37-40

[4] *id.*, p. 102

[5] *id.*, p. 102

[6] *id.*, pp. 108-115

[7] *id.*, pp. 106-107

[8] *id.*, pp. 138-145

[9] *id.*, pp. 141-145

[10] *id.*, pp. 146-148

[11] *id.*, pp. 54-56

[12] *id.*, pp. 57-69

[13] *id.*, pp. 24-35

[14] *id.*, p. 34

[15] *id.*, pp. 92-99

[16] *id.*, p.9

[17] *J. D. Legaspi Construction, et al., v. NLRC*, G. R. No. 143161, 2 October 2002; *Development Bank of the Philippines v. NLRC, Ong Peng, et al.*, 218 SCRA 183, 1993.

[18] *id.*, p. 48

[19] *id.*, p. 49

[20] G. R. No. 101875, 14 July 1995

[21] G. R. No. 111107, 10 January 1997, 266 SCRA 167

[22] *Sunrise Manning Agency, Inc. v. National Labor Relations Commission*, G. R. No. 146703, 18 November 2004, 443 SCRA 35

[23] Jose Y. Sonza v. ABS-CBN Broadcasting Corporation, G. R. No. 138051, 10 June 2004, 431 SCRA 583; Abante, Jr. v. Lamadrid Bearing & Parts Corp., G. R. No. 159890, 28 May 2004, 430 SCRA 368.

[24] C & A Construction Co. v. NLRC, et. al., G. R. No. 122279, 22 November 1999; Carlos A. Gothong Lines v. NLRC, et al., G. R. No. 96685, 15 February 1999.

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