

SANTIAGO MERCADO, PETITIONER AND APPELLANT, VS. ELIZALDE & COMPANY, INC., ET AL., RESPONDENTS AND APPELLEES.*G.R. No. L-12654. May 31, 1961*

Ponente: DIZON, J.

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Appellant filed a complaint with the Wage Administration Service, Regional Office No. 6, Department of Labor, with offices in Cebu City, against appellee, Elizalde & Company, Inc. and Manuel Palacio, its Branch Manager, for the recovery of differential and overtime pay. Upon receipt of a written notice requiring their appearance on September 26, 1956 before Regional Labor Inspector, Francisco P. Arnado, appellees advised him in writing that they did not agree to submit the matter for arbitration. When on the date mentioned heretofore they appeared and reiterated their stand, Inspector Arnado made of record that the investigation was "administrative in nature" and if according to the facts disclosed in the course thereof Elizalde & Company, Inc. had committed a violation of labor laws, he will endorse the matter "to the office of the fiscal for purposes of criminal prosecution". Atty. Gaudioso C. Villagonzalo, appellant's counsel, agreed with the Inspector and stated "that the purpose only is to find out the facts as to the proper indorsement to the city fiscal's office" and that, as stated by the Inspector, "the purpose of this investigation is for the criminal aspect". Thereafter appellant presented his evidence, and appellees theirs, which was purely documentary evidence consisting of Cash Disbursement Vouchers showing that appellant had received the sum of P40 every 15 days, and a notice of termination of service. Before resting appellant's case, his counsel stated that he would no longer call on other witnesses whose testimony was merely corroborative, but that he reserved the right to present them "in the fiscal's office * * *, but if this case be brought in the court, we may call those witnesses".

For his part, in offering his documentary evidence, appellees' counsel made the following statement:

"Atty. Pelaez: I will only submit these Exhibits 1 to 5 as evidence for respondent, the vouchers showing the retainer fees, without presenting Mr. Palacio. These documents we have will establish that the claimant was only on retainer basis. I would like to mark this letter which was referred to by claimant as Exhibit '6' which is the notice of termination of his job. And at this juncture we will not submit evidence for this investigation, and we will just wait as soon as this case will be indorsed to the Fiscal's office and there we may have a formal preliminary investigation." (Italics supplied) (tsn. pp. 49-50)

On November 6, 1956 Inspector Arnado rendered his decision. Instead of referring the case to the city fiscal of Cebu for proper prosecution of the violation of law he claimed had been proven, he ordered appellees to pay appellant the total sum of P9,508.60 as differential and overtime pay under the Minimum Wage Law (Republic Act No. 602) and the Eight-Hour Labor Law.

After the denial by Inspector Arnado of the motion for reconsideration filed by appellees, they filed with this Court a petition for certiorari which was dismissed on December 3, 1956 "without prejudice to action, if any, in the Court of First Instance."

On January 29, 1957 appellant commenced the present special proceeding No. 1606 in the Court of First Instance of Cebu for the enforcement of the decision mentioned above, upon the theory that, although the Minimum Wage Law is silent as to the procedure to be followed in enforcing execution of final and executory decisions rendered by the WAS, the one provided on the same matter by the Workmen's Compensation Act should be followed. On the 31st of the same month the clerk of said court served a notice of hearing upon the parties. On February 9, appellees, through counsel, filed a Special Appearance questioning the propriety and regularity of the notice of hearing and of the procedure adopted in the case, upon the following grounds:

"2. That no summons have been properly issued by the Clerk of Court to the respondents and to grant the respondents the 15 days period provided for in the Rules of Court within which to file an answer. (Section 1, Rule 9, Rules of Court).

3. That without the answer of the respondents, the issues shall not be considered joined and the case shall not be included in the trial calendar of the court (Sections 1, 2, and 3, Rule 31, Rules of Court). In the instant case, it is clear indeed that the issue is not joined as the respondent has never been served with the summons and the period to file an answer has not even commenced to run;

4. That the procedure adopted in the present case is entirely irregular and contrary to the Rules of Court that the notice of hearing should be cancelled and set aside."

Upon the above grounds appellees prayed that the hearing set in the notice be cancelled and that the clerk of court be directed to issue the corresponding summons so that they may file their answer within the reglementary period. Appellant filed his answer to the pleading already mentioned claiming, in synthesis, that the Regional Office No. 6, Department of Labor at Cebu City, had jurisdiction over the claim of appellant in accordance with the decision rendered in *Brillantes vs. Castro*, 99 Phil., 497; 56 Off. Gaz., [29] 4621; the appellees remedy against the decision rendered by said office was an appeal by certiorari, either to the Court of First Instance or to the Supreme Court; that they in reality appealed to the Supreme Court by filing therewith a petition for certiorari (G.R. No. L-11592) which, however, was dismissed, the result being that the decision of the Regional Office became, final and executory, with nothing left to be done but its enforcement or execution through the Court of First Instance of Cebu, as provided by law.

Resolving the issue arising from the pleadings mentioned heretofore, the lower court issued its order of April 10, 1957 wherein it held that the WAS did not acquire jurisdiction to hear and render decision on the claim for wages filed by the petitioner (herein appellant) and, as a corollary, that said decision (Appendix A) was of no force and effect. As a result, it dismissed the proceeding, without costs.

To reverse the order of dismissal appellant now claims that the lower court committed the following errors:

"I. The Court of First Instance of Cebu (court a quo) before whom the petition was filed erred in holding that 'nowhere in the law may be deduced that, unless the parties are willing to submit the case for arbitration, the Service (WAS) can hear and decide complaints for recovery of wages which decision shall be binding, final and conclusive between the parties.

II. The court a quo erred in basing its decision or order dismissing the petition only on the following portion of the decision of the WAS:

'When this case was called for hearing, respondent thru his counsel manifested that he is not going to enter into an arbitration agreement and refused to submit his evidence before the undersigned investigator.'

III. The court a quo erred in dismissing the petition and by not giving due course to the said petition."

Under the provisions of the Minimum Wage Law and those of Section 9 of the Code of Rules and Regulations of

the Wage Administration Service, approved by the Secretary of Labor, the WAS may entertain complaints for differential and overtime pay either for the purpose of determining whether a violation of labor laws had been committed and, in the affirmative, refer the case to the corresponding city or provincial fiscal for prosecution, or to investigate and decide the claim if the parties agree to submit the case for arbitration by the Service. Such agreement is required to be made in writing and signed by the parties before the Claims Investigator or Claims Attorney.

On the other hand, Section 14 of the aforesaid Code of Rules and Regulations, provides the following:

"SEC. 14. In the event that mediation fails and the parties are not willing to arbitrate, the claims shall immediately be assigned to a claims attorney, who will investigate the claimant and his witnesses to find out if such claim is meritorious or not. If meritorious, the attorney will prepare the corresponding complaint and the petition for indigency for court action, as the case may be, within one week after receiving the case."

In the present case the record is conclusive of the fact that appellees had refused to submit the case for arbitration by the WAS and the case was investigated by Inspector Arnado only for the determination of the criminal aspect of the case. In fact, in his decision said Inspector states that "When this case was called for hearing, respondent, through his counsel, manifested that he is not going to enter into an arbitration agreement and refused to submit his evidence before the undersigned inspector".

The circumstances indicated above sufficiently show that the decision rendered by Inspector Arnado, which appellant subsequently sought to enforce through the Court of First Instance of Cebu, was void ab initio.

It is claimed, however, that the decision may be sustained on the strength of the decision in *Brillantes vs. Castro* (Supra), and on the further ground that by presenting exhibits 1 to 6 in the course of the investigation made by Inspector Arnado, appellees had waived their objections to the proceedings and had submitted the matter for arbitration.

The decision relied upon is not applicable to the present because in the *Brillantes* case the parties had agreed to submit the matter for arbitration by the WAS and bound themselves to abide by the latter's decision.

With respect to appellees' documentary evidence (Exhibits 1 to 6) it is obvious that the same was introduced for the exclusive purpose of showing that there had been no violation of any labor law and that the case should not be referred to the city fiscal of Cebu City for prosecution. Appellees, therefore, did not thereby agree—even impliedly—to have appellant's claim for wages submitted for arbitration.

Lastly, appellant contends that the lower court, instead of dismissing the proceeding upon the grounds relied upon in appellees' Special Appearance, should have tried the case on the merit and rendered the proper decision.

The proceeding commenced below was merely for the enforcement of the decision rendered by Inspector Arnado. Appellant's own view is that the same had become executory and nothing was left to be done but its execution. There was, therefore, nothing at all to try on the merits.

On the other hand, we are of the opinion that the lower court did the right thing in disregarding technicalities and in considering appellee's Special Appearance as a motion to dismiss appellant's petition. In view of the conclusion it had reached—that Inspector Arnado's decision was an absolute nullity (with which we agree)—there was nothing else for said court to do but dismiss the aforesaid petition. It must be borne in mind that, the proceeding commenced below being *sui generis*, the Rules of Court do not provide for any specific procedure to be followed in its disposition. Consequently, pursuant to the provisions of Section 6, Rule 124 of the Rules of Court, the lower court was authorized to dispose of it following any procedure suitable for the purpose and conformable to the spirit of the rules.

Wherefore, the decision appealed from is affirmed, without costs.

Bengzon, C.J., Padilla, Bautista Angelo, Concepcion, Reyes, J.B.L., Paredes, De Leon, and Natividad, JJ., concur.

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