DENNIS RODRIGUEZ, JIMMY BRAVO, ALLEN MINOZA, JOHNRAY ACEBES, MILICIO RENDON, ERIC RODRIGUEZ, VICENTE RODRIGUEZ, JOSEPH DELA CONCEPCION, RAMIL RODRIGUEZ, RUSTICO CADUNGOG AND LUC...

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

This is a Petition for Certiorari under Rule 65 of the 1997 Rules of Civil Procedure seeking to nullify and set aside the Decision[1] dated 30 July 2010 and the Resolution[2] dated 30 September 2010 rendered by the National Labor Relations Commission.

The facts, as culled from the records, are as follows:

The petitioners alleged that they are employees of private respondent Paint Works Enterprises, Inc. (“Paint Works”) under the following circumstances:

NAME

DATE EMPLOYED

POSITION

SALARY/DAY

1. Acebedes, Johnray

May 24, 2007

Painter

P195.00

2. Buhawe, Lucelito

2005

Painter

210.00

3. Dela Concepcion, Joseph

Oct. 16, 2008

Painter

190.00

4. Cadungog, Rustico

May 24, 2007

Painter

210.00

5. Miñoza, Allen

May 24, 2007

Painter

195.00

6. Rendon, Melecio

May 24, 2007

Painter

175.00

7. Rodriguez, Dennis

May 24, 2007

Painter

260.00

8. Rodriguez, Eric

May 24, 2007

Painter

210.00

9. Rodriguez, Ramil

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May 24, 2007

Painter

210.00

10. Rodriguez, Vicente

May 24, 2007

Painter

210.00

Petitioners said that they were underpaid as their wages were not in accordance with law. They were not granted holiday pay, 13[th] month pay, service incentive leave pay and rest day pay and premium pay when they were required to work during their rest days.

On April 30, 2009, petitioners filed with the Regional Office of the Department of Labor and Employment (DOLE), a complaint for violations of labor standard laws such as non-payment of service incentive leave and holiday pay, underpayment of wages, premium pay for holiday and rest days and for violation of the General Safety and Health Standards. Consequently, the DOLE conducted an inspection of the respondent's premises on May 4, 2009. However, no results were given as the complaint was withdrawn.

The petitioners claimed that when private respondent knew of the complaint filed with the DOLE, the latter retaliated by dismissing the former on May 6, 2009. Hence, this present complaint[3] for illegal dismissal, underpayment of wages, non-payment of holiday pay, premium pay for holiday and rest day, 13[th] month pay, service incentive leave pay, damages and attorney's fees, was filed and docketed as NLRC RAB VII-05-1233-09.

On the other hand, private respondent Paint Works contends that it is not the employer of petitioners. It is not engaged in the business of contracting paint jobs as it is not provided in their Articles of Incorporation. It claims that the petitioners confused the former with Dionisio Mabano (“Mabano”), the actual owner, who frequently buys paints and other paraphernalia from Paint Works for contracted paint projects. Paint Work's relationship with Mabano is that of a vendor of paint products and the latter, a vendee.

Dionisio Mabano voluntarily enters his appearance as a respondent in this case. He is the the proprietor of PWA Construction Services. As such, he hires workers on a project-to-project basis. Petitioners were hired by Mabano sometime in April 2009, to augment his usual pool of workers for the Quest Homes project located in North Reclamation Area, Mandaue City.

On February 26, 2010, the Labor Arbiter issued a Decision[4] finding petitioners as employees of Dionisio Mabano, and not of Paint Works Enterprises, Inc. Petitioners were not able to prove the existence of an employer-employee relationship with Paint Works. The dispositive portion of said Decision states:

> “WHEREFORE, in view of the foregoing, a decision is hereby rendered declaring that no employer-employee relationship exist between herein complainants and respondent Paint Works Enterprises, Inc. Instead, employer-employee relationship exist between herein complainants and Dionisio Mabano, proprietor of PWA Construction Services. Consequently, the complaint for illegal dismissal and other money claims are dismissed, including the claim for moral and exemplary damages and attorney's fees.

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SO ORDERED."

Dissatisfied with the Labor Arbiter's Decision, petitioners filed an appeal[5] to the National Labor Relations Commission (NLRC) docketed as NLRC No. VAC-04-000213-2010.

On July 30, 2010, the National Labor Relations Commission (NLRC) Fourth Division rendered the assailed Decision[6] affirming the Decision of the Labor Arbiter that petitioners failed to prove that they were employees of Paint Works. The dispositive of the assailed Decision provides thus:

"WHEREFORE, premises considered, the decision of the Labor Arbiter, dated 26 February 2010, is, hereby, AFFIRMED.

SO ORDERED."

Dissatisfied with the Decision, petitioners filed a Motion for Reconsideration[7] on October 22, 2008. On September 30, 2010, the NLRC issued the assailed Resolution[8] denying the Motion for Reconsideration.

Aggrieved, petitioners filed this instant petition[9] raising the following issues:

I

WITH DUE RESPECT, THE RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION WHICH AMOUNTED TO LACK OF JURISDICTION IN NOT RULING THAT THE PETITIONERS ARE EMPLOYEES OF PRIVATE RESPONDENT PAINTWORKS.

II

WITH DUE RESPECT, THE RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION WHICH AMOUNTED TO LACK OF JURISDICTION IN RELYING ON THE CASE OF LOPEZ VS. BODEGA CITY IN REJECTING THE IDs ISSUED TO THE PETITIONERS BY PRIVATE RESPONDENT PAINTWORKS.

III

WITH DUE RESPECT, THE RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION WHICH AMOUNTED TO LACK OF JURISDICTION IN NOT FINDING THAT THE PRIVATE RESPONDENTS ARE GUILTY OF ILLEGAL DISMISSAL AND SHOULD BE LIABLE FOR THE PAYMENT OF THE PETITIONERS' MONEY CLAIMS.[10]

A petition for certiorari under Rule 65 of the Rules of Court is a pleading limited to correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction.[11] It is intended to correct only errors of jurisdiction where the court or tribunal has acted with grave abuse of discretion.[12] The burden is on the part of the petitioner to prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent issuing the impugned order. Mere abuse of discretion is not enough; it must be grave.[13]

An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." The abuse of discretion must be so patent and gross as to amount to an "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility." Furthermore, the use of a petition for certiorari is restricted only to "truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void." From the foregoing definition, it is clear that the special civil action of certiorari under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act

was patent and gross.[14] It is regrettable that in this case, the petitioners failed to substantiate the allegation of grave abuse of discretion against public respondent National Labor Relations Commission.

Nowhere in the petition did petitioners show that the issuance of the Decision dated July 30, 2010 and the Resolution dated September 30, 2010 of the National Labor Relations Commission were patent and gross that would warrant striking it down through a petition for certiorari. Aside from the sweeping allegation of grave abuse of discretion in the general enumeration of the grounds of the petition, petitioners failed to substantiate its imputation of grave abuse of discretion on the part of the NLRC. No argument was advanced to show that the NLRC exercised its judgment capriciously, whimsically, arbitrarily or despotically by reason of passion and hostility. Petitioners did not even discuss how or why the conclusions of the NLRC were made with grave abuse of discretion. Instead, petitioners limited their discussion on their version of the case, which had been already rejected both by the Labor Arbiter and the NLRC. Thus, petitioner failed in their duty to demonstrate with definiteness the grave abuse of discretion that would justify the proper availment of a petition for certiorari under Rule 65 of the Rules of Court.

In this case, the Labor Arbiter found that petitioners were not able to prove their claim of the existence of an employer-employee relationship between the petitioners and respondent Paint Works. The identification cards, which were submitted as the only proof of petitioners' employment were found wanting because the back portion of the cards stated that the cards were issued for access of the clientele per project basis only. The NLRC affirmed the findings of the Labor Arbiter and even applied the four-fold test to this case. The NLRC found that there was no substantial evidence that it was Paint Works who recruited or hired petitioners; no evidence that it was Paint Works who paid their wages; and no evidence that Paint Works had the power of dismissal and control over the petitioners.

Still, petitioners with such doggedness, continue to refute the findings of fact of the Labor Arbiter which was upheld by the NLRC. They reiterated their position that they are employees of Paint Works who were illegally dismissed. For petitioners to question the identical findings of the Labor Arbiter and the NLRC is to raise a question of fact. However, it is settled that questions of fact cannot be raised in an original action for certiorari.[15] Hence, this petition must fail.

We repeat that petitioners have failed to overcome the burden of proving how public respondent may be faulted with having acted with grave abuse of discretion in rendering the assailed orders. It has long been settled that abuse of discretion does not simply arise because the administrative agency ruled in favor of private respondents and against petitioner. The factual findings by quasi-judicial agencies, such as the National Labor Relations Commission, when supported by substantial evidence, are entitled to great respect in view of their expertise in their respective field.[16] Not only are they accorded great respect, but even finality, and are binding upon this Court, unless the petitioner is able to clearly demonstrate that respondent NLRC had arbitrarily disregarded evidence before it or had misapprehended evidence to such an extent as to compel a contrary conclusion if such evidence had been properly appreciated, or if the findings of the Labor Arbiter and the NLRC are contrary to each other. None of these have been shown in this case.

On a final note, Ours is not, through this petition, to determine whether or not public respondent erred in its judgment but to determine whether or not public respondent acted with grave abuse of discretion amounting to lack or excess of jurisdiction.[17]

WHEREFORE, premises considered, the instant Petition for Certiorari is DISMISSED. The Decision dated July 30, 2010 and the Resolution dated September 30, 2010 rendered by the National Labor Relations Commission STAND.

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SO ORDERED.

Ingles,[*] and Lopez, JJ., concur.

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[*] Vice Justice Delos Santos who is on wellness leave, per Office Order No. 13-14-GTI dated June 17, 2014.

[1] Rollo, pp. 37-43.

[2] Rollo, pp. 45-46.

[3] Rollo, pp. 53-74.

[4] Rollo, pp. 47-52 (Penned by Labor Arbiter Arturo M. Camiller).

[5] Rollo, pp. 195-213.

[6] Rollo, pp. 37-43.

[7] Rollo, pp. 242-260.

[8] Rollo, pp. 45-46.

[9] Rollo, pp. 3-35.

[10] Rollo, p. 14.

[11] Tan vs. Antazo, G.R. No. 187208, February 23, 2011 .

[12] Goco vs CA, G.R. No. 157449, April 6, 2010.

[13] Tan vs. Antazo, G.R. No. 187208, February 23, 2011 .

[14] Malayang Manggagawa ng Stayfast Phils., Inc. vs. NLRC, G.R. No. 155306, August 28, 2013.

[15] Korea Technologies Co., Ltd. v. Lerma, 566 Phil. 1, 35 (2008).

[16] Lepanto Consolidated Mining Company vs. The Lepanto Capataz Union, G.R. No. 157086, February 18, 2013.

[17] Paz vs. Republic, G.R. No. 157367, November 23, 2011 (citing the Court of Appeals Decision).

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