

**DIONISIO ABENAZA, GAUDENCIO CARDONA, QUINTIN BRIONES,
ALFREDO COMPRA AND LUCIO COMPRA, PETITIONERS, VS. THE
HON. COURT OF APPEALS, POMPOSA VDA. DE NATOR AND ALFREDO
TALON, RESPO...**

G.R. No. L-23345. November 27, 1968

Ponente: DIZON, J.

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DIZON, J.:

Petition for a writ of certiorari praying that judgment be rendered -

"x x x x x in favor of the petitioners and against the respondents by upholding its decision dated March 30, 1962 as against the Resolutions of the Honorable respondent Court a quo dated January 16 and 26, 1960 and February 25, 1964, and reiterating and ordering said court a quo to give due course to the plaintiffs (herein private party respondents) appeal from the decision of Civil Case No. R-3238 docketed as CA-G.R. No. 16861-R for its review and decision of said appeal.

"Petitioners, likewise, pray for such other remedy or remedies as may be just, proper and equitable under the premises."

The record discloses that on August 6, 1953, petitioners filed in the Court of First Instance of Cebu an action (Civil Case No. R-3238) against respondents Pomposa Vda. de Nator and Alfredo Talon to recover various sums of money due them as underpayment, overtime pay and separation pay for services rendered by them as "hotel boys" of the establishment known as "La Suerte Hotel", owned and operated in Cebu City by said respondents, together with moral damages and attorney's fees. After due trial the court, on May 20, 1955, rendered, judgment in favor of petitioners. Nator and Talon appealed to the Court of Appeals (C.A.-G.R. No. 16861). While this appeal was pending the Court of Appeals was informed about the loss by fire of the stenographic notes of the testimonial evidence. As a result, on September 24, 1958, the case was remanded to the court a quo for retrial. The latter, however, instead of retrying the case, issued on August 10, 1958 the following order:

"After hearing the arguments of the plaintiffs and it appearing that the demands of the plaintiffs involve the application of the Minimum Wage Law; x x x considering that under the ruling, of the Supreme Court laid down in the case of PAFLU v. Hon. Tan, Judge of the Court of First Instance of Manila, et al., G.R. No. 9115, any case involving the application of the Minimum Wage Law falls within the exclusive jurisdiction of the Court of Industrial Relations; and considering by analogy the rule laid down by the Supreme Court in the case of Castro vs. The Collector of Internal Revenue, et al., Off. Gaz., July 15, 1957, to the effect that a case occurring before the effectivity of the act which gives jurisdictions in the new Court should be decided by the latter under whose jurisdiction it falls.

"HEREBY RESOLVES;

"To declare itself without jurisdiction to retry this case and dismisses it without prejudice and without special pronouncement as to costs."

Plaintiffs in the case (petitioners herein) assailed the above order in a petition for mandamus and prohibition filed with Us on September 29, 1958 (G. R. L-14368) to compel the judge of the court a quo to retry the case, as he had been ordered to do by a higher court; to restrain him from rendering any decision upon the evidence taken anew, and instead to transmit such evidence to the Court of Appeals. The petition, however, was dismissed because We held that appeal in due time from the order of dismissal was the proper remedy.

Due to the foregoing circumstances, petitioners herein (plaintiffs in Civil Case No. 3238) filed a claim with the Court of Industrial Relations on December 5, 1958, against Nator and Talon (Case No. 22-V Cebu) also for underpayment of wage differentials under the Minimum Wage Law, overtime pay, separation pay for having dismissed without due notice and cause, actual and moral damages and attorney's fees. Nator and Talon filed separate answers wherein, after specifically denying material averments of the claim, interposed the following special defenses: (a) lack of cause of action; (b) prescription of the several causes of action making up the claim; and bar by prior judgment based on the order of dismissal issued by the Court of First Instance of Cebu in Civil Case No. R-3238 and by the dismissal of the action for mandamus and prohibition (G.R. No. L-14368) - both mentioned heretofore. Talon likewise interposed a counter-claim for P2,500 for moral damages and attorney's fees.

After due hearing, the Court of Industrial Relations rendered judgment in favor of the claimants as follows:

"IN VIEW WHEREOF, the respondents are hereby ordered jointly and severally to pay petitioners Dionisio Abenaza, Gaudencio Cardona, Alfredo Compra and Lucio Compra the sums of P1,312.22, P1,312.22, P1,400.23 and P1,215.16, respectively, plus interest thereon at the rate of 6% annually from the time of the filing of this case on December 5, 1958 and until the above amounts are fully paid to the satisfaction of said petitioners."

Nator and Talon appealed to Us from the above decision of the Court of Industrial Relations (G. R. L-16671) raising anew the questions of prescription of the action (claim) and bar by prior judgment. In our decision promulgated on March 30, 1962 We ruled against Nator and Talon on both issues, and, to straighten the complexities of the already long delayed case, we said the following, *inter alia*:

"Under the above set of facts, therefore, it is clear that respondents' causes of action are legally maintainable. However, during the pendency of the case, this Court has made pronouncements which affect the present controversy. Thus, in the case of *Naric Workers' Union v. The CIR and NARIC*, G.R. No. L-14999, Dec. 30, 1961, We said:

'Under the law and jurisprudence the Court of Industrial Relations' jurisdiction extends only to cases involving (a) labor disputes affecting an industry which is indispensable to the national interest and so certified by the President to the Court (Sec. 10, Rep. Act No. 875); (b) controversy about the minimum wage under the Minimum Wage Law, Rep. Act No. 602; (c) hours of employment, under the Eight Hour Labor Practice (Sec. 5/a. Rep. Act No. 875), and such disputes, to fall under the jurisdiction of the CIR, must arise while the employer-employee relationship between the parties exists or the employee seeks reinstatement. When such relationship is over and the employee does not seek reinstatement all claims become money claims that fall under the jurisdiction of the regular Courts (*Sy Huan v. Judge Bautista, et al.*, G.R. No. L-16116, Aug. 29, 1961, and cases cited therein).'

'x x x. In the recent case of *National Labor Union v. Insular Yebana Tobacco Corporation*, L-15363, July 31, 1961, it was ruled that in the absence of unfair labor practice, the CIR has no power to grant remedy under its general powers of mediation and conciliation, such as reinstatement or back wages. x x x (G. R. No. L-16031, *C. Cagalawan v. Customs Canteen, et al.*, Oct. 31, 1961).'

"Respondents in this case never asked for reinstatement, nor was there any allegation of unfair labor practice

committed by the petitioners. Their case, therefore, is properly cognizable by the Court of First Instance of Cebu which Court has already rendered judgment in their favor but for circumstances heretofore mentioned, it had declared itself without jurisdiction. To affirm the judgment of the CIR would in effect be legalizing an act which, under existing jurisprudence, said court has no right to exercise.

"Because of the conclusions reached, We deem it unnecessary to discuss the question of whether the appeal taken is premature.

"We hereby return the case to, and direct, the CFI of Cebu, to conduct a hearing as ordered by the Court of Appeals in the Resolution dated February 24, 1958, in case CA-G.R. No. 16861-R for the purpose of retaking the portions of the testimonies in the case which were lost, after which to forward the same to the Court of Appeals for decision. Without specific pronouncement as to costs."

In connection with C.A.-G.R. No. 16861-R (appeal from the decision of the Court of First Instance of Cebu in Civil Case No. 3238 mentioned heretofore), it appears that, resolving a motion filed by the therein plaintiffs-appellees (petitioners herein), the Court of Appeals issued on February 24, 1964 a resolution of the following tenor -

"No. 20 CA-G.R. No. 16861-R, Dionisio Abenaza et al., vs. Pomposa vda. de Nator, et al.,

"The plaintiffs-appellees thru counsel filed a motion praying, on the grounds therein alleged, 'that this Court resume consideration of the defendants-appellants appeal as above-docketed, with all the records now reconstituted; or clarify the present status of the above-entitled case, whether it has considered the above-entitled case before this Honorable Court totally and finally dismissed or the due course which had been given to the defendants-appellants appeal shall be resumed.'

"This was considered. The Court RESOLVED to deny the said motion, this case having been dismissed by this Court in its resolution of Jan. 26, 1960 and the same was remanded on Jan. 20, 1964. The case CA-G.R. No. 17289-R, was dismissed by this Court in its resolution of May 7, 1957 And remanded on Aug. 12, 1957."

From the above resolution it appears that CA-G.R. L-16861 had been dismissed by the Court of Appeals since January 26, 1960, the reasons therefore not appearing of record.

Going back now to the order of the Court of First Instance of Cebu dismissing the case remanded to it for retrial, it appears that on July 25, 1959, herein petitioners filed with the Court of Appeals a petition for certiorari against said court assailing the validity of said order. However, by resolution of August 3 of the same year the Court of Appeals dismissed said action upon the ground that the main case CA-G.R. No. 16861-R was within the exclusive jurisdiction of the Court of Industrial Relations.

According to the foregoing the real issue before Us now is whether or not the Court of First Instance of Cebu erred in dismissing Civil Case R-3238 of its docket (Appealed to the Court of Appeals as G.R. 16861) remanded to it by the Court of Appeals for retrial in accordance with its resolution of February 24, 1958 in CA-G.R. 16861; and whether or not the Court of Appeals likewise erred in dismissing the aforesaid case CA-G.R. 16861 as per its resolution of January 26, 1960.

After a careful review of the record and the complicated circumstances involved, we have arrived at the conclusion that both courts erred.

The Court of First Instance of Cebu erred because under the resolution of the Court of Appeals of February 24, 1958 and our decision in G.R. No. L-16671 of March 30, 1962, it had absolutely no authority and no discretion to dismiss the case remanded to it expressly for the purpose of conducting the "hearing as ordered by the Court of Appeals in the resolution dated February 24, 1958, in case CA-G.R. No. 16861-R for the purpose of retaking the

portions of the testimonies in the case which were lost, after which to forward the same to the Court of Appeals for decision". Its only duty, therefore, was to retake the testimony of the witnesses the stenographic notes of whose testimonies had been lost by fire. Instead of doing this, it dismissed the case for lack of jurisdiction.

Similarly, the Court of Appeals erred in dismissing the case G.R. 16861 when it should have ordered the Court of First Instance of Cebu to proceed to retry the case under the conditions heretofore mentioned. Both courts, in this manner, rendered nugatory and virtually set aside our decision in G. R. L-16671.

We, therefore, hold that both orders of dismissal are void and of no legal effect whatsoever.

The petition under consideration alleges - and this has not been denied by respondents - that subsequent and pursuant to our decision in G. R. No. L-16671, the Court of First Instance of Cebu took the testimonies and other evidence presented by the opposing parties and thereafter elevated the record to the Court of Appeals to enable the latter to decide CA-G.R. No. 16861-R, but that the Clerk of said Court returned the record to the court of origin on the ground that said appealed case had already been dismissed by the Court of Appeals in its resolutions of January 16 and 26, 1960. Having arrived at the conclusion that the aforesaid resolutions are void and of no legal effect whatsoever, it is clear that it is now the duty of the Court of appeals to act accordingly in the premises.

WHEREFORE, judgment is hereby rendered: (a) setting aside and declaring void the resolutions of the Court of Appeals complained of in the petition under consideration; (b) ordering said court to reinstate the case known as CA-G.R. No. 16861, and thereafter, after proper proceedings, to render judgment therein.

With costs against the private respondents.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Sanchez, Castro, Fernando, and Capistrano, JJ., concur.

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