

ALVINO AGULAY, PETITIONER, VS. THE NATIONAL LABOR RELATIONS COMMISSION (FIFTH DIVISION), AND CITY FARM AND/OR JOEL KAAMINO, RESPONDENTS.

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

This is a Petition[1] for Certiorari under Rule 65 of the Rules of Court assailing the Resolutions[2], dated 30 September 2009 and 16 December 2009 of the National Labor Relations Commission (NLRC) in NLRC MAC-01-010628-09 (RAB X-02-00151-08) for Illegal Dismissal with Money Claims, granting respondents' appeal and denying petitioner's Motion for Reconsideration[2], respectively. The NLRC Resolution set aside the Decision of the Labor Arbiter finding that Alvin Agulay (petitioner) was an employee of Kaamino (respondent).

Factual Antecedents

The case arose from a complaint for Illegal Dismissal with Money Claims filed by complainants Alvino Agulay and Jun Ric Agulay against respondent(s) City Farm and/or Joel Kaamino.

Complainants' allegations are summarized as follows:

- That their services were engaged by defendant Kaamino sometime in September 2002 as maintenance workers/farmers in Kaamino's seven-hectare-farm known as City Farm located at Entavas, La Fortuna, Impasug-ong, Bukidnon ;
- That they performed activities such as herding of farm animals, cultivating crops and overseeing the farm;
- That they were paid P3,000.00 and P1,000.00 per month and that they were allowed to live inside the farm where Kaamino provided them with rice allowance;
- That beginning June 2007, Kaamino stopped paying their wages and later filed a criminal case against complainant Alvino for estafa before the RTC-Branch 8, Malaybalay City; and
- That, thereafter, they were forced to move out and stop working at the farm.[4]

Defendant Kaamino, on the other hand, denied that the complainants were his employees. He averred the following:

- That complainant Alvino was his business partner in his farm cultivation while complainant Jun Ric, the minor child of Alvino, was merely helping his father;

- That complainants agreed on a crop-sharing of the net harvest, whereby, the proceeds of the net harvested products should be equally divided among them; and

- That complainant Alvino withdrew from the partnership due to inefficiency; and

- That complainant Alvino misappropriated the amount of P18,000.00 entrusted to him for the purchase of a cow; prompting Kaamino to file a case for estafa against complainant Alvino.[5]

Ruling of the Labor Arbiter

On 30 October 2008, the Office of the Regional Arbitration Branch X of Cagayan de Oro City thru Executive Labor Arbiter Talon rendered the decision, viz

“WHEREFORE, foregoing premises considered, the above-complainant for illegal dismissal as to complainant Alvino Agulay is Dismissed for lack of merit. However, individual respondent Joel Kaamino is hereby ordered to pay complainant Alvino Gulay his unpaid salaries, 13[th] month pay and service incentive leave pay in the total amount of P21,774.88. His other money claims are likewise Dismissed for lack of merit.

The above-entitled case as to complainant Jun Ric Agulay is Dismissed for lack of cause of action, or want of jurisdiction.

SO ORDERED.”[6]

The Labor Arbiter relied on Kaamino’s admission in the estafa case before the Office of the Prosecutor that complainant Alvino Agulay was the caretaker of his farm; hence, his employee. Consequently, Kaamino is precluded from claiming that Alvino was his business partner.

On the other hand, in ruling out the claim of illegal dismissal, the Labor Arbiter made reference to the admission of complainants during the conciliation and mediation conference that they voluntarily stopped working for Kaamino.

Respondent Kaamino, thereafter, interposed his appeal before the NLRC. On 30 September 2009, the NLRC reversed and set aside the 30 October 2008 Decision of the Labor Arbiter.

In granting the appeal, the NLRC held that the complainants failed to substantiate by evidence their affirmative allegation of the existence of an employer-employee relationship with Kaamino.

On 28 October 2009, the complainants filed their Motion for Reconsideration[7] of the 30 September 2009 NLRC Resolution.

In a Resolution[8] dated 16 December 2009, the NLRC denied the complainants’ motion for reconsideration.

Hence, this Petition.

In this recourse, complainant Alvin Agulay (hereinafter petitioner) submits for resolution the sole issue to wit:

“WHETHER OR NOT PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DECLARED THAT THE NLRC [LABOR ARBITER] HAS NO JURISDICTION FOR LACK OF EMPLOYEE-EMPLOYER RELATIONS BETWEEN THE PETITIONER AND THE PRIVATE RESPONDENT[.]”[9]

Our Ruling

The existence of an employer-employee relationship between the petitioner and the respondent is the core issue for resolution of this petition.

The Labor Arbiter, relying on the admission made by respondent that petitioner was the caretaker of his farm, found the existence of an employer-employee between the parties. On the other hand, the NLRC concluded that petitioner failed to establish by evidence his employment with respondent.

Torn between the conflicting findings of the Labor Arbiter and the NLRC, We are constrained to make a thorough scrutiny of the records at hand and, thereafter, hold that petitioner failed to substantiate by evidence that he was an employee of respondent.

In filing a complaint before the Labor Arbiter for illegal dismissal based on the premise that he was an employee of respondent, it is incumbent upon petitioner to prove the employer-employee relationship by substantial evidence.[10]

The Labor Arbiter, in declaring the existence of an employer-employee relationship, made a sole reliance on respondent's admission that petitioner was the caretaker of his (Kaamino's) farm.

We cannot agree.

The respondent's admission does not relieve petitioner to discharge the burden of proving the existence of the employer-employee relationship. To Our mind, there is still a need to properly characterize the nature of a "farm caretaker" for the purposes of determining whether petitioner is an employee of the respondent.

Consequently, on petitioner lies the burden to pass the well-settled tests to determine the existence of an employer-employee relationship, viz: (1) the selection and engagement of the employee; (2) the payment of wages; (3) the power of dismissal; and (4) the power to control the employee's conduct.[11]

Here, petitioner failed to establish that his relationship with respondent had the attributes of an employer-employee relationship based on the above-mentioned four-fold test. Petitioner could not submit competent proof that respondent engaged his services as an employee; that respondent paid his wages as an employee; or that respondent could dictate what his conduct should be while at work.

In his complaint, petitioner claimed that he was a farmer/worker in respondent's farm. Respondent, on the other hand, admitted that petitioner was the caretaker of his farm. The decisive factor, then, is the control exercised by respondent over petitioner. The records are bereft of any evidence that petitioner and his son were to observe set hours of work; that respondent laid down regulations under which they were supposed to do their work; that they were under the obligation to report for duty to respondent; that respondent prescribed the manner by which they were to perform their duties. Indubitably, there is absence of that degree of control evincive of an employer-employee relationship.

In his Motion for Reconsideration before the NLRC, petitioner invoked the existence of payslips attached to his position paper. The records at hand, however, are bereft of said documents. We, thus, adopt the findings of the NLRC, viz:

"Xxx complainant Alvino did not present any proof, documentary or otherwise, like payroll, salary, voucher receipt, employment contract, appointment Identification Card or SSS registration evidencing that he was in fact an employee of respondent Kaamino from September 2002 until July 2007." [12]

We, therefore, sustain the findings of the NLRC that petitioner failed to establish by evidence that he was an employee of respondent.

WHEREFORE, the Petition is DENIED. The 30 September 2009 and the 16 December 2009 Resolutions of the NLRC are hereby AFFIRMED.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Borja, J., Ch., and Badelles, JJ., concur.

[1] Rollo, pp. 3-16

[2] Rollo, pp. 27-35;41-42

[3] Rollo, pp. 37-39

[4] Rollo, pp. 66-67

[5] Rollo, p. 67

[6] Rollo, p. 70

[7] Rollo, pp. 37-39

[8] Rollo, pp. 41-42

[9] Rollo, p. 8

[10] Martinez v. National Labor Relations Commission, 339 SCRA. 176, 183 (1997)

[11] Avelino Lambo and Vicente Belocura v. NLRC and J.C. Tailor Shop and/or Johnny Co., 375 SCRA 855 (1999), citing Makati Haberdashery, Inc. v. NLRC, 259 SCRA 52 (1989).

[12] Rollo, p. 31

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