

MELANIE M. LABOG, JENNETTE, F. NOMBRANO, JOSEFINA O. HERNANDEZ, MONALIZA C. GABRIEL, LEIZL B. DOMINGO, MA. ANGELA R. DELIVA, JULIE E. FRESNIDO, JASMIN ELLAINE AND C. MANUEL, CRI...

Ponente: VELOSO, J.

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VELOSO, J.:

Assailed by petitioners in this Petition for Certiorari[1] filed under Rule 65 of the Rules of Court, is the Decision dated April 22, 2013[2] of the Third Division of the National Labor Relations Commission (“NLRC”), as well as its Resolution dated June 19, 2013,[3] rendered in NLRC LAC No. 02-0007016-13 [NLRC RAB-IV-08-01202-11-L, NLRC RAB-IV-08-01203-11-L and NLRC RAB-IV-08—1204-11-L], entitled “Melanie M. Labog, et al., Complainants -versus- Universal Robina Corp., et al., Respondents; Jennete Flores, et al., Complainants -versus- Universal Robina Corp., et al., Respondents; and Cinderella T. Repizo, et al., Complainants -versus- Universal Robina Corp., et al., Respondents”, the dispositive portions of which read:

(1) Decision dated April 22, 2013:

“WHEREFORE, premises considered, complainants' appeal from the Decision dated November 29, 2012 is hereby DISMISSED for lack of merit.

SO ORDERED.”[4]

(2) Resolution dated June 19, 2013:

“ACCORDINGLY, the instant Motion for Reconsideration is hereby DENIED for lack of merit.

No further Motions for Reconsideration shall be entertained.

SO ORDERED.”[5]

The Facts

The facts which led to the parties' dispute are those as narrated by the NLRC in its assailed April 22, 2013 Decision, viz.:

“Complainants were hired by respondent Peerless Integrated Services, Inc. (Peerless for short) and were assigned at respondent Universal Robina Corp. at the Snack Division of its Calamba Plant. The respective dates of their hiring and positions are as follows:

Name Date Hired Position

1. Melanie M. Labog May 26, 2011 Cooling

2. Jennete F. Nombrano June 2, 2011 Packer

3. Josefina O. Hernandez June 2, 2011 Packer
4. Monaliza C. Gabriel June 2, 2011 Packer
5. Liezl B. Domingo June 2, 2011 Packer
6. Ma. Angela R. Deliva June 2, 2011 Packer
7. Julie E. Fresnido June 2, 2011 Packer
8. Jasmin Ellaine C. Manuel June 2, 2011 Cooking
9. Cristina S. Populion April 15, 2011 Line Leader
10. Maricel A. De Lumen May 23, 2011 Packer
11. Leizl C. Donaire June 8, 2011 Packer
12. Rafael A. Recana April 24, 2011 Quality Inspector
13. Cinderella T. Repizo May 21, 2011 Packer
14. Abegail M. Labrador May 23, 2011 Quality Inspector

On July 19, 2011, or barely a month or two of being employed, complainants were pulled out from respondent URC as the production line where they were assigned was discontinued by respondent URC.

Complainants claim that they were illegally dismissed as their services were terminated without just cause and without due process. Further, complainants claim that their real employer is respondent URC and that respondent Peerless is a labor only contractor.

Substantiating their claim that respondent URC is their real employer, complainants allege that their work as production operators are clearly directly related to the main business of respondent URC. That, it is respondent URC that possessed the power of control as to the means and methods of their work and not respondent Peerless.”[6]

On November 29, 2012, Labor Arbiter Remedios Tirad-Capinig, to whom said complaint was assigned, rendered her Decision, dismissing petitioners' complaint for lack of merit.[7] Aggrieved, the petitioners appealed the Arbiter's Decision to the NLRC.[8]

On April 22, 2013, the NLRC rendered its Decision dismissing complainants' appeal for lack of merit.

On May 16, 2013, the petitioners moved for the reconsideration[9] of the NLRC's Decision. However, the same was denied by the NLRC in its June 19, 2013 Resolution for lack of merit.[10]

Hence, this petition.

Issues

The petitioners argue in this petition that:

“THE NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN RULING THAT THERE IS ABSENCE OF EMPLOYER-EMPLOYEE RELATIONSHIP BETWEEN THE PETITIONERS AND THE RESPONDENT UNIVERSAL ROBINA CORPORATION (URC); AND THAT PEERLESS INTEGRATED IS A LEGITIMATE JOB CONTRACTOR.

THE NLRC COMMITTED GRAVE ABUSE OF DISCRETION IN RULING THAT PETITIONERS ARE

NOT ENTITLED TO THE RELIEFS AGAINST URC.

ASSUMING IN ARGUMENTI, PEERLESS IS THE REAL EMPLOYER OF HEREIN PETITIONERS, THE NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN RULING THAT PETITIONERS WERE NOT ILLEGALLY DISMISSED BY PEERLESS, BUT MERELY PLACED ON FLOATING STATUS, AND ARE ENTITLED ONLY TO REINSTATEMENT WITHOUT BACKWAGES AS RELIEF.”[11]

Such are the issues which We shall resolve in this case.

Our Ruling

Anent the first issue, the NLRC opined that private respondent Peerless Integrated Services (“Peerless”) is a “legitimate job contractor” as it is registered with DOLE. As such, and as “correctly found by the Labor Arbiter, it is respondent Peerless that exercised control over complainants” (now petitioner).[12]

On the other hand, the petitioners argue in their petition, viz.:

“DO 18-A is the governing laws of the case with the following salient and applicable provisions:

‘(m) “Trilateral Relationship” refers to the relationship in a contracting or subcontracting arrangement where there is a contract for a specific job, work or service between the principal and the contractor, and a contract of employment between the contractor and its workers. There are three (3) parties involved in these arrangements: the principal who decides to farm out a job, work or service to a contractor; – the contractor who has the capacity to independently undertake the performance of the job, work or service; and the contractual workers engaged by the contractor to accomplish the job, work or service. (underscoring ours)

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‘Section 4. Legitimate contracting or subcontracting. Contracting or subcontracting shall be legitimate if all the following circumstances concur:

(a) The contractor must be registered in accordance with these Rules and carries a distinct and independent business and undertakes to perform the job, work or service on its own responsibility, according to its own manner and method, and free from control and direction of the principal in all matters connected with the performance of the work except as to the results thereof;

(b) The contractor has substantial capital and/or investment; and

(c) The Service Agreement ensures compliance with all the rights and benefits under Labor Laws.

THE JURISPRUDENCE:

‘A person is considered engaged in legitimate job contracting or subcontracting if the following conditions concur:

(a) The contractor carries on a distinct and independent business and undertakes the contract on his account under his own responsibility according to his own manner and method, free from the control and direction of his employer or principal in all matters connected with the performance of his work except as to the results thereof.

(b) The contractor has substantial capital or investment; and

(c) The agreement between the principal and the contractor or subcontractor assures the contractual employees' entitlement to all labor and occupational safety and health standards, free exercise of the right to self-organization, security of tenure, and social welfare benefits.’

EMPHASIS ON THE WORD 'CONCUR'

The law and jurisprudence require concurrence of three conditions to establish PEERLESS as legitimate job contractor, which means that if one condition is absent, there is absence of a legal conclusion that respondents are legitimate job contractor.

In this case, the three conditions imposed by law to establish PEERLESS as legitimate job contractor are not extant, and the elements of labor only contracting are present in this case.”[13] (emphasis and italics supplied)

To be sure, the last paragraph of Article 106 of the Labor Code provides:

“There is 'labor-only' contracting where the person supplying workers to an employer does not have substantial capital or investment in the form of tools, equipment, machineries, work premises, among others, and the workers recruited and placed by such person are performing activities which are directly related to the principal business of such employer. In such cases, the person or intermediary shall be considered merely as an agent of the employer who shall be responsible to the workers in the same manner and extent as if the latter were directly employed by him.”

Also, Article 107 of the Code provides:

“ART. 107. Indirect Employer. – The provisions of the immediately preceding article shall likewise apply to any person, partnership, association or corporation which, not being an employer, contracts with an independent contractor for the performance of any work, task, job or project.”

It is clear from the foregoing that contrary to what both the NLRC and the petitioners argue, control has no bearing on the question of whether a contractor is a labor-only contractor or a job contractor. For, involved here is an employer-employee relationship by fiction of law.

Neither would its being an independent contractor matter because Article 107 mandates that the provisions of “labor-only contracting” as provided in Article 106 of the Labor Code “shall likewise apply to any person, partnership, association or corporation which, not being an employer, contracts with an independent contractor for the performance of any work, task, job or project”.

Thus, what matters here is the question of whether the contractor suffers from any of the twin handicaps in law, namely: (1) the person supplying workers to (a principal) does not have substantial capital; or (2) it “does not have substantial xxx investment in the form of tools, equipment, machineries, work premises, among others”.[14] We consequently have to defer to facts on record, or jurisprudence, involving Peerless.

As argued by petitioners, the Supreme Court in Coca-Cola Bottlers Philippines, Inc. vs. Ricky E. Dela Cruz, et al.[15] already held that “Peerless” is a “mere supplier of labor who had no sufficient capitalization and equipment to undertake sales and distribution of softdrinks as independent activities separate from the manufacture of softdrinks xxx”. The employees of the contractor “cannot but be (considered as) regular company employees”.

Anent the second issue of whether or not “the NLRC committed grave abuse of discretion in ruling that petitioners are not entitled to the reliefs against URC”, Article 279 (now Art. 291) of the Labor Code, provides:

“ART. 279. Security of Tenure. – In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement (As amended by Section 34, Republic Act No. 6715, March 21, 1989).”

Considering that there has been no actual dismissal here by private respondent Universal Robina Corporation (“URC”), the Court deems it proper to merely award the petitioners with the relief of reinstatement. Our directing URC to additionally pay petitioners full backwages would tantamount to Our depriving it of property without due process of law which is a violation of Section 1, Article III of the Constitution. For, while Article 106 of the Labor Code allows them to be considered regular employees by fiction of law, Article 279 of the Code does not warrant Our treating them as having been dismissed also by fiction of law.

Besides, in *Rosewood Processing, Inc. vs. NLRC*,^[16] the Supreme Court already held that despite the provision in Article 109 of the Code, viz.:

“ART. 109. Solidary liability. – The provisions of existing laws to the contrary notwithstanding, every employer or indirect employer shall be held responsible with his contractor or subcontractor for any violation of any provision of this Code. For purposes of determining the extent of their civil liability under this Chapter, they shall be considered as direct employers.” ,

the same will not apply to dismissals unless “the principal employer had conspired with the contractor in the acts giving rise to the illegal dismissal”, as the law on labor-only contracting applies only to questions of wages, Article 106 being a part of Book III, Title II on wages.

Regarding the third issue, the same is deemed academic with Our holding that petitioners are now regular employees.

WHEREFORE, the petition is partly granted. Private respondent Universal Robina Corporation is hereby directed to reinstate the petitioners without backwages.

SO ORDERED.

Lantion, and Antonio-Valenzuela JJ., concur.

[1] Rollo, pp. 3-42.

[2] *Ibid.*, pp. 586-598.

[3] *Ibid.*, pp. 634-636.

[4] Rollo, p. 597.

[5] *Ibid.*, pp. 635-636.

[6] Rollo, pp. 588-589.

[7] *Ibid.*, p. 538.

[8] *Ibid.*, pp. 539-581.

[9] Rollo, pp. 599-633.

[10] *Ibid.*, p. 635.

[11] *Ibid.*, p. 4.

[12] Rollo, pp. 595-596.

[13] Rollo, pp. 11-13.

[14] Sy, et al. vs. Fairland Knitcrafts Co., Inc., G.R. Nos. 182915 & 189658, December 12, 2011.

[15] G.R. No. 184977, December 7, 2009.

[16] 290 SCRA 408, 426-427 (1998).

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