

SILVERIO UMBAO, PLAINTIFF AND APPELLEE, VS. SANTIAGO YAP, DEFENDANT AND APPELLANT.

G. R. No. L-8933. February 28, 1957

Ponente: BENGZON, J.

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BENGZON, J.:

This is an appeal from the judgment of the Manila Court of First Instance "ordering the defendant to pay to the plaintiff the sum of P2,298.97, representing plaintiff's unpaid overtime pay while in defendant's employ, plus P300 as attorney's fees, with interest on the amount first mentioned at the rate of 6 per cent per annum from the date of the filing of the complaint on November 4, 1954, until said amount has been paid in full. With costs against the defendant."

The complaint sought enforcement of an arbitration award rendered by the Wage Administration Service in pursuance of the arbitration agreement signed by Silverio Umbao and Santiago Yap to settle their dispute regarding unpaid wages claimed by the first as employee from the second as employer.

The complaint alleged that in June 1954 both had agreed in writing to "submit their case to the Wage Administration Service for investigation" and "to abide by whatever decision (said) office may render on the case" which "they recognized * * * to be final and conclusive." It also alleged, that proper investigation had been conducted by Severo Puncan of the same Service, who after hearing the parties and considering their evidence, declared in a written report, respondent Yap to be liable for unpaid wages in the amount of P2,998.97; that the award had been approved by Ruben Santos, Acting Chief of the Service; and that Yap had refused to abide by and comply with it. The pleading included a copy of the arbitration agreement and of the award.

The defendant's answer did not deny the existence of the covenant and of the award. But it questioned the enforceability of both, x contending mainly that the Service had no legal authority to act as arbitrator, that the procedural requirements of Republic Act No. 602 had not been followed, and that the provisions of Republic Act No. 876 known as the Arbitration Law had been disregarded.

In view of the answer, the plaintiff asked for judgment on the pleadings. And the court, noting non-observance of the procedure outlined in Republic Act No. 876, gave judgment for defendant. However upon motion to reconsider, the judge seeing differently, held the arbitration agreements to be a contract obligatory on the parties under the provisions of the New Civil Code Arts. 2042 et seq. Consequently he rendered judgment against defendant, the dispositive part of which has been quoted above. Hence this appeal.

Defendant argues that the New Civil Code does not apply, because arbitration only takes place where a covenant is entered into "whereby parties litigant by making reciprocal concessions or agreements of facts, avoid a litigation or put an end to one already commenced" which was not the case at bar. The argument evidently assumes that a compromise agreement is the same as an arbitration agreement. Such assumption is error: one is different from the other; they are treated in two separate chapters of the Code.

Again appellant argues that the award should not be executed because the arbitrator had not been appointed in accordance with rules promulgated by the Supreme Court, pursuant to Article 2046 of the New Civil Code.

"Art. 2046. The appointment of arbitrators and the procedure for arbitration shall be governed by the provisions of such rules of court as the Supreme Court shall promulgate."

No rules have been promulgated by this Court. However the Legislature adopted such rules in Republic Act No. 876 known as "The Arbitration Law" effective December 1953.

The question then is: has this arbitration by the Service conformed with the Act? This brings up the appellant's first assignment of error wherein he points out that no application had been filed in court for the appointment of the arbitrator under Republic Act 876, and the court had not appointed Severo Puncan as such.

Said Act was obviously adopted to supplement-not to supplant-the New Civil Code on arbitration. It expressly declares that "the provisions of chapters one and two, Title XIV, Book IV of the Civil Code shall remain in force", (sec. 31) Under the New Civil Code the parties may select the arbitrator without court intervention. And section 8 of the Act impliedly permits them to do so. There is nothing in Republic Act 876 requiring court permission or knowledge or intervention before the arbitrator selected by the parties may perform his assigned work.

True, there is section 5 of the Act which provides:

"Sec. 5. Preliminary procedure.—An arbitration shall be instituted by:

(a) In the case of a contract to arbitrate future controversies by the service by either party upon the other of a demand for arbitration in accordance with the contract. Such demand shall set forth the nature of the controversy, the amount involved, if any, and the relief sought, together with a true copy of the contract providing for arbitration. * * *.

(&) In the event that one party defaults in answering the demand, the aggrieved party may file with the Clerk of Court of First Instance having jurisdiction over the parties, a copy of the demand for arbitration under the contract to arbitrate, * * *.

(c) In the case of the submission of an existing controversy by the filing with the Clerk of the Court of First Instance having jurisdiction, of the submission agreement, setting forth the nature of the controversy, and the amount involved, if any. Such submission may be filed by any party and shall be duly executed by both parties.

(d) In the event that one party neglects, fails or refuses to arbitrate under a submission agreement, the aggrieved party shall follow the procedure prescribed in subparagraphs (a) and (b) of this section."

Paragraph (c) seems, at first glance, to require the institution of court proceedings. But on second thought it will be perceived that court action is needed when one party, after entering into the contract to arbitrate, neglects, fails or refuses to arbitrate as provided in paragraph (d). It may also be applied where the arbitrator has not been selected by the parties who have agreed to arbitrate. The section does not mean there can be no arbitration without a previous court actuation.

The case between herein litigants has not required court intervention from the beginning, because they had named the arbitrator: the Administration Service² and necessarily the proper officer, thereof, Severo Puncan. And this defendant should not be permitted to question the authority of said officer now, because he voluntarily submitted his evidence to him; and he only turned around to deny such authority when the resultant verdict adversely affected his pocket. He even appealed to the Secretary of Labor, and without questioning Puncan's authority, pleaded for exoneration on the merits.³

So much for court initiative, and arbitrator's appointment. As to the arbitration proceedings, Republic Act No. 876 contains provisions about the procedure to be adopted by arbitrators, their oath, the hearings, and the form and contents of the award. Even so, herein appellant asserted no prejudicial departure therefrom.

As already stated, Republic Act No. 876 did not require court intervention (in the case at bar) prior to the award of the arbitrator, no ground for it having arisen, as the parties voluntarily took steps to carry out the settlement process down to the arbiter's decision. It was only after such award, when defendant refused to comply, that judicial action became necessary, thru the means afforded by the statute:

"Sec. 23. Confirmation of award.—At any time within one month after the award is made, any party to the controversy which was arbitrated may apply to the court having jurisdiction, as provided in section twenty-eight, for an order confirming the award; and thereupon the court must grant such order unless the award is vacated, modified or corrected, as prescribed herein. * * *.

Sec. 27. Judgment.—Upon the granting of an order confirming, modifying or correcting an award, judgment maybe entered in conformity therewith in the court wherein said application was filed. * * * (Republic Act 876.)

These provisions, we believe, apply whether or not the court intervened from the very beginning.

Now then, examining the complaint and the judgment entered herein in the li&ht of the above directions, we find substantial conformity therewith; so much so that defendant raised no issue on the same.

Wherefore, the judgment should be, and is hereby affirmed, with costs. So ordered.

Pards, C. H., Padinna, Montemayor, Reyes, A., Bautista Angela, Labrador, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

* Which was authorized by law to act as arbitrator. (Sec. 2059 (d) Rev. Adm. Code, sec 12, Rep. Act No. 602.)
-The Secretary of Labor affirmed the verdict.

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