

THE NEW VALLEY TIMES PRESS, REPRESENTED BY TEODORO BASCOS, JR., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND JOSE GOROSPE, RESPONDENTS.

G.R. No. 100482. July 15, 1992

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This petition for certiorari seeks to annul and set aside the resolution issued by the respondent National Labor Relations Commission on November 29, 1990, in NLRC Case No. RAB II-CN-05-00085-88 entitled "Jose Gorospe v. The New Valley Times Press" affirming the decision of the Labor Arbiter except the award of moral damages and attorney's fees dated August 24, 1989, ordering petitioner the New Valley Times Press to reinstate private respondent Jose Gorospe to his former or equivalent position without loss of seniority rights and other privileges, with full backwages in the total sum of P31,589.00; and the resolution dated May 31, 1991, denying the motion for reconsideration for lack of merit.

The antecedent facts are as follows:

Petitioner New Valley Times Press is a duly registered printing press located at Ilagan, Isabela and is represented by its General Manager Teodoro Bascos, Jr. While private respondent Jose Gorospe is a linotype machine operator (linotypist) of petitioner.

Private respondent Gorospe was first employed by the petitioner, then called Valley Times Press, as linotype machine operator in 1981. Sometime in 1983, he resigned. During this period, petitioner was operated and managed by the deceased Teodoro L. Bascos and his wife Maxima Bascos, parents of petitioner Teodoro Bascos, Jr.

On September 28, 1984, the owner-spouses and Macario Evangelista executed a contract of lease with a term of three (3) years renewable for another period upon mutual consent. The contract of lease provided for the lease of the premises of the printing press and the transfer of the operation and management thereof (Rollo, pp. 15-16).

Sometime in 1986, Macario Evangelista re-hired private respondent Gorospe as linotypist.

Upon the expiration of the lease on February 15, 1988, the leased property was reverted back to the possession, management and control of the owner-spouses, who reorganized the business and gave it its present name, The New Valley Times Press.

Under this new set-up, the deceased Bascos rehired some of the employees of Evangelista. However, private respondent Gorospe was not rehired because the deceased Bascos found out that the linotype machine previously being operated by him was not functioning properly.

On May 8, 1988, private respondent Gorospe instituted a complaint against petitioner printing press with the Office of the Labor Arbiter, Regional Arbitration Branch No. II, Tuguegarao, Cagayan for illegal dismissal,

non-payment of emergency cost of living allowance and moral damages.

The Labor Arbiter Gregorio C. Calasan rendered a decision on August 24, 1989, ordering petitioner to reinstate private respondent Gorospe to his former or equivalent position without loss of seniority rights and with full backwages and privileges from the time of his dismissal up to reinstatement amounting to P31,589.00; to pay private respondent P10,000.00 as moral damages and ten percent (10%) of the total judgment sum as attorney's fees.

Hence, the petitioner interposed an appeal to the respondent Commission.

On November 29, 1990, after finding that there existed no sufficient justification to disturb the appealed decision, the respondent Commission rendered a resolution affirming the decision but deleted the award of moral damages and attorney's fees.

The respondent Commission found as follows:

"Respondent premised their defense of lack of employer-employee relationship on their allegation that for four years inclusive of complainant's employment period - the New Valley Times Press, although they are the rightful owners were actually under lease agreement with Macario Evangelista their former and also now their manager. A perusal of the records on hand, however reveal that no evidence was presented by respondent to support claim that a lease agreement was in effect at the time of complainant's second employment. A copy of the contract would have suffice, but no such proof was submitted. Thus, it gave Us the impression that complainant was indeed telling the truth that respondents herein were his employer during his first and second employment with New Valley Times Press. Add to this, the reasoning given by respondent on why allegedly complainant was refused employment by them and this because after ordering him to verify the state of the linotype machine he was to work with, they found out many defects - then put the blame on him for alleged negligence and inefficiency. x x x." (Rollo, pp. 35-36)

Such resolution prompted the petitioner to file a motion for reconsideration.

However, the respondent Commission issued a resolution dated May 31, 1991 denying the motion for reconsideration for lack of merit. It found no compelling reason to disturb the Resolution sought to be reconsidered and refused to give due consideration to the allegation regarding respondent's poor health and old age arguing that the latter was properly represented by counsel. Accordingly, it refused to allow respondent-appellant to introduce evidence at this late stage of the proceedings. It stressed that the rule of procedure does not allow new matters or incidents raised for the first time on appeal or on motion for reconsideration. (Rollo, p. 44)

Hence, this present petition.

Petitioner maintains that the respondent Commission gravely abused its discretion when it disallowed the introduction of contrary evidence for the first time on motion for reconsideration, particularly the lease contract and affidavit executed by Evangelista, to disprove the existence of employer-employee relationship. The petitioner insists that its inability to present evidence before the Labor Arbiter and on appeal is fully justified because of the late Teodoro Bascos' ill health which necessitated medical treatment abroad. Furthermore, his former counsel, Atty. Eusebio Aguirre, who was then in his mid-eighties, is suffering from the debilitations of old age.

Petitioner also stresses that the failure of the present counsel to submit and present the pertinent documentary evidence from the outset of the appeal is justified because such documents were not yet known to him at that time and were in the custody of the late Bascos who was then undergoing medical treatment in the United States.

In conformity with the petitioner's position, the Solicitor General argues that technical rules of evidence are not binding in labor cases. Thus, it was grave error for respondent Commission to brush aside the evidence submitted by petitioner which would conclusively disprove the existence of an employer-employee relationship.

On the contrary, respondent Commission contends that its denial of the petitioner's presentation of evidence for the first time on motion for reconsideration is not tantamount to grave abuse of discretion. It emphasizes that petitioner was amply represented by counsel in all stages of the proceedings and therefore bound by the action of its counsel.

In addition, it notes that the petitioner has been given several opportunities to present evidence and assuming *arguendo* that petitioner was allowed to present evidence, the same will not affect the outcome of the case because there was a clear indication that private respondent Gorospe was among the retained or rehired employees of petitioner.

After a careful review of the records of this case, the Court finds the petition meritorious and holds that the respondent Commission gravely abused its discretion when it disallowed the presentation of petitioner's evidence for the first time on motion for reconsideration.

The belated presentation of the evidence notwithstanding, respondent Commission should have considered them just the same. As correctly pointed out by the Solicitor General, who has impartially taken a contrary view vis-a-vis that portion of said decision of respondent Commission which he is supposed to defend, technical rules of evidence are not binding in labor cases. Labor officials should use every and reasonable means to ascertain the facts in each case speedily and objectively, without regard to technicalities of law or procedure, all in the interest of due process (*Philippine Telegraph and Telephone Corporation v. NLRC*, G.R. No. 80600, March 21, 1990, 183 SCRA 451, 457).

Thus, even assuming that the lease contract, affidavit executed by Evangelista and other pertinent evidence were not submitted to the labor arbiter and later on appeal to the respondent Commission, the fact that they were submitted on motion for reconsideration is cogent basis for the respondent Commission to consider and admit said evidence, instead of falling back on the mere technicality that said evidence can no longer be considered and admitted on motion for reconsideration. Respondent Commission exercises quasi-judicial functions wherein the rules of technicality should give way to equity and fairness.

It is noteworthy that the admission of the lease contract, charge invoices, official receipts, payroll and the affidavit executed by Evangelista readily disproves the existence of employer-employee relationship between private respondent Gorospe and petitioner and shows instead the employer-employee relationship between Evangelista and private respondent Gorospe.

The pertinent portion of the lease contract provides:

"9. That the LESSEE can employ new employees or fill the staff of the Valley Times at his own initiative in order to ensure the timely release of the Valley Times publication x x x." (Rollo, p. 16)

Furthermore, in an affidavit executed by Evangelista dated February 27, 1990, he admitted that he operated, managed and controlled the printing press and that private respondent Gorospe was his employee. The Affidavit is hereunder quoted as follows, to wit:

"AFFIDAVIT"

"I, MACARIO E. EVANGELISTA, of legal age, Filipino, married, businessman and a resident of Ilagan, Isabela, after having been duly sworn to in accordance with law, hereby depose and state:

"1. That on September 28, 1984, I ran and operated the printing press known as the 'Valley Times Press' in Ilagan, Isabela, and owned by the spouses Teodoro Bascos and Maxima Bascos, by virtue of a 'Contract of Lease' executed between me and Teodoro Bascos which lasted until February 14, 1988;

"2. That during the term of said lease, I and my wife Francisca Evangelista had the exclusive management, operation and control of the said printing press, including the hiring and firing of employees;

"3. That sometime in April 1986, I employed JOSE GOROSPE to work as my linotypist in the leased 'Valley Times Press' with his knowledge and understanding that as such employee I was the one to pay all his wages or salaries, and that he was to be under my exclusive control and supervision insofar as his work as linotypist was concerned for the entire duration of my aforementioned lease contract with the spouses Bascos;

"4. That Jose Gorospe was my own employee in the 'Valley Times Press' up to the time my aforesaid lease contract expired on February 14, 1988, and not of the spouses Teodoro Bascos and Maxima Bascos or of the latter's newly organized 'The New Valley Times Press';

"5. That I am executing this affidavit only in the interest of truth and nothing else.

"IN WITNESS WHEREOF, I have hereunto set my hand this 27 (th) day of February (,) 1990 at Ilagan, Isabela, Philippines." (Rollo, p. 38)

Thus, it is evident from the evidence presented that no employer-employee relationship existed between petitioner and private respondent. Instead, private respondent was really an employee of Evangelista.

Since petitioner had no obligation to absorb the employees of the former management and to continue employing them when it re-assumed the operation of the printing press in 1988, it is only logical to conclude that there could possibly be no illegal dismissal.

All premises considered, the Court is convinced that the assailed resolutions of the respondent Commission are tainted with arbitrariness that amounted to grave abuse of discretion. Respondent Commission's refusal to allow the introduction of contrary evidence for the first time on motion for reconsideration led it to the erroneous conclusion that the labor arbiter did not err in ruling that there existed an employer-employee relationship between the parties and that private respondent was illegally dismissed.

ACCORDINGLY, the petition is GRANTED and the decision of the Labor Arbiter and the resolutions of the respondent Commission are hereby SET ASIDE.

SO ORDERED.

Cruz, (Chairman), Grino-Aquino, and Bellosillo, JJ., concur.

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