

CITIBANK, N. A., PETITIONERS, VS. COURT OF APPEALS (THIRD DIVISION), AND CITIBANK INTEGRATED GUARDS LABOR ALLIANCE (CIGLA) SEGATUPAS/FSM LOCAL CHAPTER NO. 1394, RESPONDENTS.

G.R. No. 108961. November 27, 1998

Ponente: PARDO, J.

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PARDO, J.:

The case before the Court is a petition for review on certiorari seeking to reverse and set aside the decision of the Court of Appeals[1] and its resolution denying reconsideration[2], ruling that it is the labor tribunal, not the regional trial court, that has jurisdiction over the complaint for injunction and damages filed by petitioner with the regional trial court.

The Facts

In 1983, Citibank and El Toro Security Agency, Inc. (hereafter El Toro) entered into a contract for the latter to provide security and protective services to safeguard and protect the bank's premises, situated at 8741 Paseo de Roxas, Makati, Metro Manila. Under the contract, El Toro obligated itself to provide the services of security guards to safeguard and protect the premises and property of Citibank against theft, robbery or any other unlawful acts committed by any person or persons, and assumed responsibility for losses and/or damages that may be incurred by Citibank due to or as a result of the negligence of El Toro or any of its assigned personnel.[3]

Citibank renewed the security contract with El Toro yearly until 1990. On April 22, 1990, the contract between Citibank and El Toro expired.

On June 7, 1990, respondent Citibank Integrated Guards Labor Alliance-SEGA-TUPAS/FSM (hereafter CIGLA) filed with the National Conciliation and Mediation Board (NCMB) a request for preventive mediation citing Citibank as respondent therein giving as issues for preventive mediation the following:

- a) Unfair labor practice;
- b) Dismissal of union officers/members; and
- c) Union busting.

On June 10, 1990, petitioner Citibank served on El Toro a written notice that the bank would not renew anymore the service agreement with the latter. Simultaneously, Citibank hired another security agency, the Golden Pyramid Security Agency, to render security services at Citibank's premises.

On the same date, June 10, 1990, respondent CIGLA filed a manifestation with the NCMB that it was converting its request for preventive mediation into a notice of strike for failure of the parties to reach a mutually acceptable settlement of the issues, which it followed with a supplemental notice of strike alleging as supplemental issue the mass dismissal of all union officers and members.

On June 11, 1990, security guards of El Toro who were replaced by guards of the Golden Pyramid Security Agency considered the non-renewal of El Toro's service agreement with Citibank as constituting a lockout and/or

a mass dismissal. They threatened to go on strike against Citibank and picket its premises.

In fact, security guards formerly assigned to Citibank under the expired agreement loitered around and near the Citibank premises in large groups of from twenty (20) and at times fifty (50) persons.

On June 14, 1990, respondent CIGLA filed a notice of strike directed at the premises of the Citibank main office.

Faced with the prospect of disruption of its business operations, on June 5, 1990, petitioner Citibank filed with the Regional Trial Court, Makati, a complaint for injunction and damages.[4] The complaint sought to enjoin CIGLA and any person claiming membership therein from striking or otherwise disrupting the operations of the bank.

On June 18, 1990, respondent CIGLA filed with the trial court a motion to dismiss the complaint. The motion alleged that:

- a) The Court had no jurisdiction, this being labor dispute.
- b) The guards were employees of the bank.
- c) There were pending cases/labor disputes between the guards and the bank at the different agencies of the Department of Labor and Employment (DOLE).
- d) The bank was guilty of forum shopping in filing the complaint with the Regional Trial Court after submitting itself voluntarily to the jurisdiction of the different agencies of the DOLE.

By order dated August 19, 1990, the trial court denied respondent CIGLA's motion to dismiss. The relevant portion of the order reads as follows:

"Plaintiff in its Opposition alleged that jurisdiction of the court is determined by the allegations of the complaints. In the plaintiff's complaint there are allegations, which negate any employer-employee relationship between it and the CIGLA members; however the Court could not dismiss the case and lift the restraining order without first threshing out the same at the trial of the case.

The Court finding the grounds alleged in the defendant's motion well taken, the motion is hereby denied.

SO ORDERED."

In due time, respondent CIGLA filed with the trial court a motion for reconsideration of the above-mentioned order. On October 1, 1990, the trial court denied the motion.

Subsequently, respondent CIGLA filed with the trial court its answer to the complaint, and averred as special and affirmative defense lack of jurisdiction of the court over the subject matter of the case. Treating the averment as motion to dismiss, on April 27, 1991, the lower court issued an order denying the motion. The lower court stated:

"The Court noted in defendant's Memorandum of Authorities that they made no mention who among the parties - the plaintiff bank or the defendants union - paid their wages or salaries and who has the power to dismiss them.

Defendants also alleged that the complaint states no valid cause of action as plaintiff's allegations are purely anchored on conjectures and conclusions and not based on ultimate facts.

Plaintiff in its Opposition alleged that it is a well-settled rule, that in a motion to dismiss based on the ground that the complaint fails to state a cause of action, the question submitted to the court for determination is the sufficiency of the allegation in the complaint itself. Plaintiff also alleged that the defendants disputed the jurisdiction of the court, the parties having employer-employee relationship; this mere allegation did not serve to automatically deprive the court of its jurisdiction duly conferred by the allegations of the complaint; in the opinion of the defendants, a labor dispute exists, the court is duty bound to find out if such circumstances really exist.

The Court weighing the evidence and jurisprudence in support of the respective contention of the parties, and finding that in the case at bar, plaintiff seeks to recover pecuniary damages, the Court gives more credence to the decisions cited by the plaintiff, hence the special and affirmative defenses alleged in the answer treated as a 'Motion to Dismiss' is hereby denied."

On May 24, 1991, respondent CIGLA filed with the Court of Appeals a petition for certiorari with preliminary injunction^[5] assailing the validity of the proceedings had before the regional trial court.

After due proceedings, on March 31, 1992, the Court of Appeals promulgated its decision in CIGLA's favor, the dispositive portion of which states:

"WHEREFORE, the Writ of Certiorari is GRANTED, and the proceedings before respondent Judge more particularly the challenged orders are declared null and void and respondent Judge is enjoined from taking any further action in Civil Case No. 90-1612 except for the purpose of dismissing it. Following, however, the disposition in *San Miguel Corporation Employees Union vs. Bersamira*, the status quo ante declaration of strike shall be observed pending the proceedings in the National Conciliation and Mediation Board, Department of Labor and Employment, National Capital Region (Annex A of Petition). No Costs.

SO ORDERED."

On April 29, 1992, petitioner Citibank filed a motion for reconsideration of the decision. On February 12, 1993, the Court of Appeals denied the motion, finding that the arguments in the motion for reconsideration are but a rehash, if not a repetition, of the arguments in its comments, which had been considered by the Court in its decision.

Hence, the petitioner's recourse to this Court.

The Issue

The basic issue involved is whether it is the labor tribunal or the regional trial court that has jurisdiction over the subject matter of the complaint filed by Citibank with the trial court.

Petitioner's Submission

Petitioner Citibank contends that there is no employer-employee relationship between Citibank and the security guards represented by respondent CIGLA and that there is no "labor dispute" in the subject controversy. The security guards were employees of El Toro security agency, not of Citibank. Its service contract with Citibank had expired and not renewed.

The Court's Ruling

We sustain the petitioner's contention. This Court has held in many cases that "in determining the existence of an employer-employee relationship, the following elements are generally considered: 1) the selection and engagement of the employee; 2) the payment of wages; 3) the power of dismissal; and 4) the employer's power to control the employee with respect to the means and methods by which the work is to be accomplished".^[6] It has been decided also that the Labor Arbiter has no jurisdiction over a claim filed where no employer-employee relationship existed between a company and the security guards assigned to it by a security service contractor.^[7] In this case, it was the security agency El Toro that recruited, hired and assigned the watchmen to their place of work. It was the security agency that was answerable to Citibank for the conduct of its guards.

The question arises. Is there a labor dispute between Citibank and the security guards, members of respondent CIGLA, regardless of whether they stand in the relation of employer and employees? Article 212, paragraph 1 of the Labor Code provides the definition of a "labor dispute". It "includes any controversy or matter concerning terms or conditions of employment or the association or representation of persons in negotiating, fixing,

maintaining, changing or arranging the terms and conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee."

If at all, the dispute between Citibank and El Toro security agency is one regarding the termination or non-renewal of the contract of services. This is a civil dispute[8]. El Toro was an independent contractor. Thus, no employer-employee relationship existed between Citibank and the security guard members of the union in the security agency who were assigned to secure the bank's premises and property. Hence, there was no labor dispute and no right to strike against the bank.

It is a basic rule of procedure that "jurisdiction of the court over the subject matter of the action is determined by the allegations of the complaint, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. The jurisdiction of the court can not be made to depend upon the defenses set up in the answer or upon the motion to dismiss, for otherwise, the question of jurisdiction would almost entirely depend upon the defendant." [9] "What determines the jurisdiction of the court is the nature of the action pleaded as appearing from the allegations in the complaint. The averments therein and the character of the relief sought are the ones to be consulted." [10]

In the complaint filed with the trial court, petitioner alleged that in 1983, it entered into a contract with El Toro, a security agency, for security and protection service. The parties renewed the contract yearly until April 22, 1990. Petitioner further alleged that from June 11, 1990, until the filing of the complaint, El Toro security guards formerly assigned to guard Citibank premises loitered around the bank's premises in large groups and threatened to stage a strike, which would hamper its operations and the normal conduct of its business and that the bank would suffer damages should a strike push through.

On the basis of the allegations of the complaint, it is safe to conclude that the dispute involved is a civil one, not a labor dispute.[11] Consequently, we rule that jurisdiction over the subject matter of the complaint lies with the regional trial court.

Relief

WHEREFORE, the Court hereby GRANTS the petition for review on certiorari. We REVERSE and SET ASIDE the decision of the Court of Appeals and its resolution denying reconsideration in CA-G. R. SP No. 25584, and REMAND the records of the case to the Regional Trial Court, Makati, for further proceedings in line with the ruling herein that jurisdiction over the subject matter of the complaint in Civil Case No. 90-1612, is vested therein.

No pronouncement as to costs.

SO ORDERED.

Narvasa, C.J., Romero, and Purisima, JJ., concur.

Kapunan, J., no part. He was a signatory of its CA decision appealed from.

[1] CA-G.R. No. SP 25584, promulgated on March 31, 1992.

[2] Adopted on February 12, 1993

[3] Petition, Annex "A", Rollo, pp. 37- 42.

[4] Civil Case No. 90-1612.

[5] CA-G.R. SP No. 25584.

[6] Sandigan Savings and Loan Bank, Inc. v. National Labor Relations Commission, 254 SCRA 126; See also Victorias Milling Co., Inc. v. National Labor Relations Commission, 262 SCRA 623; Filipinas Broadcasting Network, Inc. v. NLRC and Simeon Mapa, Jr., G.R. No. 118892, March 11, 1998.

[7] Philippine Airlines, Inc. v. National Labor Relations Commission, 263 SCRA 638; Georg Grotjahn GMBH & Co. vs. Isnani, 235 SCRA 216.

[8] Cf. Liwayway Publications, Inc. v. Permanent Concrete Workers Union, 108 SCRA 161; Trade Union of the Philippines & Allied Services v. Coscolluela, 140 SCRA 302 [1985].

[9] Serdoncillo v. Benolirao, G.R. No. 118328, October 8, 1998, citing cases; San Miguel Corp. v. National Labor Relations Commission, 255 SCRA 133.

[10] Serdoncillo v. Benolirao, supra, citing Banayos v. Susana Realty, Inc., 71 SCRA 557 [1976]

[11] National Mines and Allied Workers Union v. Vera, 133 SCRA 259; Peñalosa v. Villanueva, 177 SCRA 778.

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