

**ALPHA INVESTIGATION AND SECURITY AGENCY, INC. (AISA),
PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION,
THIRD DIVISION, AND WILLIAM GALIMBA, NESTOR LOLOQUISEN,
NESTOR IBUYAT,...**

G.R. No. 111722. May 27, 1997

Ponente: ROMERO, J.

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ROMERO, J.:

May the principal of a security service agreement be held jointly and severally liable with the contractor for non-payment of the minimum wage?

The facts are undisputed.

Petitioner Alpha Investigation and Agency, Inc. (AISA) is a private corporation engaged in the business of providing security services to its clients, one of whom is the Don Mariano Marcos State University (DMMSU).

Private respondents were hired as security guards by AISA on February 16, 1990. Five months later, 43 security guards filed before the Regional Office of the Department of Labor and Employment (DOLE) a complaint against AISA for non-compliance with the current minimum wage order. After 24 of the original complainants filed a motion for exclusion from the case, the remaining 19 security guards filed their individual amended complaints impleading DMMSU as party-respondent.

Private respondents have been receiving a monthly salary of P900.00 although the security service agreement between AISA and DMMSU[1] provided a monthly pay of P1,200.00 for each security guard. AISA made representations with DMMSU for an increase in the contract rates of the security guards to enable them to pay the mandated minimum wage rates without compromising its administrative and operational expenses. DMMSU, however, replied that, being a government corporation, it cannot grant said request due to budgetary constraints.

On August 17, 1992, Labor Arbiter Emiliano T. de Asis rendered a decision, the dispositive portion of which reads as follows:

"RESPONSIVE TO THE FOREGOING, judgment is hereby rendered:

a) Ordering the respondent Alpha Investigation and Security Agency and Mariano Marcos State University to pay each complainant the amount of FORTY ONE THOUSAND FOUR HUNDRED FIFTY NINE PESOS AND FIFTY ONE CENTAVOS (P41,459.51) representing salary differential for the period from February 16, 1990 to September 30, 1991, or the total amount of P787,730.69 as follows:

1. Nestor Loloquisen P41,459.51
2. Nestor Ibuyat 41,459.51
3. Jose Acio 41,459.51

4. Cresencio Agres 41,459.51
 5. Wilfred Butay 41,459.51
 6. Carlito Castro 41,459.51
 7. Federico Calunnay 41,459.51
 8. Jaime Fontanilla 41,459.51
 9. William Galimba 41,459.51
 10. Leonardo Ibuyat 41,459.51
 11. Rodrigo Luis 41,459.51
 12. Roman Nalundasan 41,459.51
 13. Ronnie Nino 41,459.51
 14. Jose Perdido 41,459.51
 15. Roger Rambaud 41,459.51
 16. Benedicto Sugui 41,459.51
 17. Mario Sugui 41,459.51
 18. Felipe Tolentino 41,459.51
 19. Edison Valdez 41,459.51
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P787,730.69

- b) Dismissing the claims for 13th month pay for failure to substantiate the same.
- c) Claims of complainants who filed their motion for reconsideration are hereby dismissed.

SO ORDERED."[2]

AISA and DMMSU interposed separate appeals. The NLRC, on May 7, 1993, rendered a decision affirming the solidary liability of AISA and DMMSU and remanding the records of the case to the arbitration branch of origin for computation of the salary differential awarded by the Labor Arbiter.

Only AISA filed a motion for reconsideration, which was denied by the NLRC on July 1, 1993, for lack of merit.

The judgment against DMMSU, finding it jointly and severally liable with AISA for the payment of increase in wages, became final and executory after it failed to file a petition for certiorari with this Court within a reasonable time. "Although Rule 65 does not specify any period for the filing of a petition for certiorari and mandamus, it must, nevertheless, be filed within a reasonable time. In certiorari cases, the definitive rule now is that such reasonable time is within three months from the commission of the complained act." [3]

In this petition, AISA alleges that payment of the wage increases under the current minimum wage order should be borne exclusively by DMMSU, pursuant to Section 6 of Republic Act 6727 (RA 6727) [4] which reads as follows:

"Sec. 6. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed increases in the wage rates of the workers shall be borne by the principals or clients of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client."

It further contends that Articles 106, 107 and 109 of the Labor Code generally refer to the failure of the contractor or sub-contractor to pay wages in accordance with the Labor Code with a mandate that failure to pay such wages would make the employer and contractor jointly and severally liable for such payment. AISA insists that the matter involved in the case at bar hinges on wage differentials or wages increases, as prescribed in the aforequoted Section 6 of RA 6727, and not wages in general, as provided by the Labor Code.

This interpretation is not acceptable. It is a cardinal rule in statutory construction that in interpreting the meaning and scope of a term used in the law, a careful review of the whole law involved, as well as the intendment of the law, must be made.[5] In fact, legislative intent must be ascertained from a consideration of the statute as a whole, and not of an isolated part or a particular provision alone.[6]

AISA's solidary liability for the amounts due the security guards finds support in Articles 106, 107 and 109 of the Labor Code, to wit:

"ART. 106. Contractor or Sub-Contractor. — Whenever an employer enters into a contract with another person for the performance of the former's work, the employees of the contractor and of the latter's sub-contractor, if any, shall be paid in accordance with the provisions of this code.

In the event that the contractor or sub-contractor fails to pay the wages of his employees in accordance with this Code, the employer shall be jointly and severally liable with his contractor or sub-contractor to such employees to the extent of the work performed under the contract, in the same manner and extent that he is liable to employees directly employed by him. xxx

ART. 107. Indirect employer. — The provisions of the immediately preceding Article shall likewise apply to any person, partnership association or corporation which, nor being an employer, contracts with an independent contractor for the performance of any work, task, job or project.

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 sub-contractor for any violation of any provision of this Code. For purposes of determining the extent of their civil liability under the Chapter, they shall be considered as direct employers."

The joint and several liability of the contractor and the principal is mandated by the Labor Code to ensure compliance with its provisions, including the statutory minimum wage.[7] The contractor is made liable by virtue of his status as direct employer, while the principal becomes the indirect employer of the former's employees for the purpose of paying their wages in the event of failure of the contractor to pay them. This gives the workers ample protection consonant with the labor and social justice provisions of the 1987 Constitution.[8]

In the case at bar, it is not disputed that private respondents are the employees of AISA. Neither is there any question that they were assigned to guard the premises of DMMSU pursuant to the latter's security service agreement with AISA and that these two entities paid their wage increases.

It is to be borne in mind that wages orders, being statutory and mandatory, cannot be waived. AISA cannot escape liability since the law provides for the joint and solidary liability of the principal and the contractor to protect the laborers.[9] Thus, the Court held in the *Eagle Security v. NLRC*: [10]

"The solidary liability of PTSI and EAGLE, however, does not preclude the right of reimbursement from his co-debtor by the one who paid (See Article 1217, Civil Code). It is with respect to this right of reimbursement that petitioners can find support in the aforecited contractual stipulation and Wage Order provision.

The Wage Orders are explicit that payment of the increases are 'to be borne' by the principal or client. 'To be borne', however, does not mean that the principal, PTSI in this case, would directly pay the security guards the wage and allowance increases because there is no privity of contract between them. The security guards' contractual relationship is with their immediate employer, EAGLE. As an employer, EAGLE is tasked, among others, with the payment of their wages. (See Article VII Sec. 3 of the Contract for Security Services, *supra* and *Bautista v. Inciong*, G.R. No. 52824, March 16, 1988, 158 SCRA 556).

Premises considered, the security guards' immediate recourse for the payment of the increases is with their direct employer, EAGLE. However, in order for the security agency to comply with the new wage and allowance rates it has to pay the security guards, the Wage Order made specific provision to amend existing contracts for security services by allowing the adjustments of the consideration paid by the principal to the security agency concerned. What the Wage Orders require, therefore, is the amendment of the contract as to the consideration to cover the service contractor's payment of the increases mandated. In the end, therefore, ultimate liability for the payment of the increases rests with the principal." (Underscoring supplied)

Section 6 of RA 6727 merely provides that in case of wage increases resulting in a salary differential, the liability of the principal and the contractor shall be joint and several. The same liability attaches under Articles 106, 107 and 109 of the Labor Code, which refer to the prevailing standard minimum wage.

The Court finds that the NLRC acted correctly in holding petitioner jointly and severally liable with DMMSU for the payment of the wage increases to private respondents. Accordingly, no grave abuse of discretion may be attributed to the NLRC in arriving at the impugned decision.

WHEREFORE, premises considered, the petition is DISMISSED for lack of merit and the assailed resolution is AFFIRMED. Costs against petitioner.
SO ORDERED.

Regalado, (Chairman), Puno, Mendoza, and Torres, Jr., JJ., concur.

[1] Dated January 1, 1990. The clause on the contract price was modified after one year, and again, in July 1991.

[2] Rollo, pp. 27-28.

[3] *Cruz v. Court of Appeals*, 252 SCRA 599 (1996).

[4] Otherwise known as "The Wage Rationalization Act."

[5] *Chang Rung Fa v. Gianzon*, 97 Phil. 913 (1955).

[6] *Aboitiz Shipping Corporation, et al. v. City of Cebu, et al.*, 13 SCRA 449 (1965).

[7] Article 99, Labor Code.

[8] *Eagle Security Agency, Inc. v. NLRC*, 173 SCRA 479 (1989).

[9] *Philippine Fisheries Development Authority v. NLRC*, 213 SCRA 621 (1992).

[10] 173 SCRA 479 (1989).

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