

MAINLAND CONSTRUCTION, CO., INC., AND/OR LUCITA LU CARABUENA, ROBERT L. CARABUENA, ELLEN LU CARABUENA, AND MARTIN LU, PETITIONERS, VS. MILA C. MOVILLA, ERNESTO MOVILLA, JR., MIL...

G.R. No. 118088. November 23, 1995

Ponente: HERMOSISIMA, JR., J.

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HERMOSISIMA, JR., J.:

Petitioners urge this Court to set aside the Decision of the National Labor Relations Commission (NLRC), dated May 30, 1994, in NLRC-CA No. M-000949-92 for having been rendered with grave abuse of discretion amounting to lack of jurisdiction. This reversed the decision of the Labor Arbiter in Case No. RAB-11-10-99883-91. Petitioners' motion for reconsideration of the NLRC decision was denied in a Resolution, dated August 31, 1994.

Mainland Construction Co., Inc. is a domestic corporation, duly organized and existing under Philippine laws, having been issued a certificate of registration by the Securities and Exchange Commission (SEC) on July 26, 1977, under Registry Number 74691. Its principal line of business is the general construction of roads and bridges and the operation of a service shop for the maintenance of equipment. Respondents on the other hand, are the surviving heirs of complainant, Ernesto Movilla, who died during the pendency of the action with the Labor Arbiter.

Records show that Ernesto Movilla, who was a Certified Public Accountant during his lifetime, was hired as such by Mainland in 1977. Thereafter, he was promoted to the position of Administrative Officer with a monthly salary of P4,700.00.[1]

Ernesto Movilla, recorded as receiving a fixed salary of P4,700.00 a month, was registered with the Social Security System (SSS) as an employee of petitioner corporation. His contributions to the SSS, Medicare and Employees Compensation Commission (ECC) were deducted from his monthly earnings by his said employer.[2]

On April 12, 1987, during petitioner corporation's annual meeting of stockholders, the following were elected members of the Board of Directors, viz: Robert L. Carabuena, Ellen L. Carabuena, Lucita Lu Carabuena, Martin G. Lu and Ernesto L. Movilla.

On the same day, an organizational meeting was held and the Board of Directors elected Ernesto Movilla as Administrative Manager.[3] He occupied the said position up to the time of his death.

On April 2, 1991, the Department of Labor and Employment (DOLE) conducted a routine inspection on petitioner corporation and found that it committed such irregularities in the conduct of its business as:

- "1. Underpayment of wages under R.A. 6727 and RTWPB-XI-01;
2. Non-implementation of Wage Order No. RTWPB-XI-02;

3. Unpaid wages for 1989 and 1990;
4. Non-payment of holiday pay and service incentive leave pay; and
5. Unpaid 13th month pay (remaining balance for "1990." [4]

On the basis of this finding, petitioner corporation was ordered by DOLE to pay to its thirteen employees, which included Movilla, the total amount of P309,435.89, representing their salaries, holiday pay, service incentive leave pay differentials, unpaid wages and 13th month pay.

All the employees listed in the DOLE's order were paid by petitioner corporation, except Ernesto Movilla.

On October 8, 1991, Ernesto Movilla filed a case against petitioner corporation and/or Lucita, Robert, and Ellen, all surnamed Carabuena, for unpaid wages, separation pay and attorney's fees, with the Department of Labor and Employment, Regional Arbitration, Branch XI, Davao City.

On February 29, 1992, Ernesto Movilla died while the case was being tried by the Labor Arbiter and was promptly substituted by his heirs, private respondents herein, with the consent of the Labor Arbiter.

The Labor Arbiter rendered judgment on June 26, 1992, dismissing the complaint on the ground of lack of jurisdiction. Specifically, the Labor Arbiter made the following ratiocination:

"It is clear that in the case at bar, the controversy presented by complainant is intra-corporate in nature and is within the jurisdiction of the Securities and Exchange Commission, pursuant to P.D. 902-A (Phil. School of Business Administration, et al. v. Leano, G.R. No. L--58468, February 24, 1984; Dy et al. v. NLRC, et al., G.R. No. L-68544, October 27, 1986). What Movilla is claiming against respondents are his alleged unpaid salaries and separation pay as Administrative Manager of the corporation for which position he was appointed by the Board of Directors. His claims therefore fall under the jurisdiction of the Securities and Exchange Commission because this is not a simple labor problem; but a matter that comes within the area of corporate affairs and management, and is in fact a corporate controversy in contemplation of the Corporation Code. (Fortune Cement Corporation v. NLRC, et al., G.R. No. 79762, January 24, 1991)." [5]

Aggrieved by this decision, respondents appealed to the National Labor Relations Commission (NLRC). The NLRC ruled that the issue in the case was one which involved a labor dispute between an employee and petitioner corporation and, thus, the NLRC had jurisdiction to resolve the case. The dispositive portion of the NLRC decision reads:

"WHEREFORE, the assailed decision is Reversed and Set Aside. Respondents are ordered to pay the heirs of complainant the following:

1. Unpaid salaries from January 1989 to September 1991 in the sum of P155,100.00;
2. Separation pay in the sum of P65,800.00;
3. Moral damages in the sum of P10,000.00;.
4. Indemnity in the sum of P3,000.00; and,
5. Attorney's fees equivalent to 10% of the total award." [6]

The pivotal issue in this case is which of the two agencies of the government - the NLRC or the SEC - has jurisdiction over the controversy.

As we stated earlier, it is of course the contention of petitioners that the NLRC committed grave abuse of discretion when it nullified the decision of the Labor Arbiter which dismissed the complaint of Movilla for unpaid

wages, separation pay and attorney's fees on the ground of lack of jurisdiction. Petitioners take the position that, since Ernesto Movilla was a corporate officer, the controversy as to his compensation is within the jurisdiction of the SEC as mandated by P.D. 902-A and not with the NLRC.

We find for the respondents, it appearing that petitioners' contention is bereft of merit.

In order that the SEC can take cognizance of a case, the controversy must pertain to any of the following relationships: a) between the corporation, partnership or association and the public; b) between the corporation, partnership or association and its stockholders, partners, members or officers; c) between the corporation, partnership or association and the State as far as its franchise, permit or license to operate is concerned; and d) among the stockholders, partners or associates themselves.[7] The fact that the parties involved in the controversy are all stockholders or that the parties involved are the stockholders and the corporation does not necessarily place the dispute within the ambit of the jurisdiction of SEC. The better policy to be followed in determining jurisdiction over a case should be to consider concurrent factors such as the status or relationship of the parties or the nature of the question that is the subject of their controversy.[8] In the absence of any one of these factors, the SEC will not have jurisdiction. Furthermore, it does not necessarily follow that every conflict between the corporation and its stockholders would involve such corporate matters as only the SEC can resolve in the exercise of its adjudicatory or quasi-judicial powers.[9]

In the case at bench, the claim for unpaid wages and separation pay filed by the complainant against petitioner corporation involves a labor dispute. It does not involve an intra-corporate matter, even when it is between a stockholder and a corporation. It relates to an employer-employee relationship which is distinct from the corporate relationship of one with the other. Moreover, there was no showing of any change in the duties being performed by complainant as an Administrative Officer and as an Administrative Manager after his election by the Board of Directors. What comes to the fore is whether there was a change in the nature of his functions and not merely the nomenclature or title given to his job.

Indeed, Ernesto Movilla worked as an administrative officer of the company for several years and was given a fixed salary every month. To further sustain this assertion Movilla also submitted a joint affidavit executed by Juanito S. Malubay and Delia S. Luciano, Project Engineer and Personnel-In-Charge, respectively, of petitioner corporation, attesting that they personally knew Movilla and that he was employed in the company. A Premium Certification issued by an authorized representative of petitioners was also presented to show his actual monthly earnings as well as his monthly contributions to the SSS, Medicare and ECC.[10] Movilla's registration in the SSS by petitioner corporation added strength to the conclusion that he was petitioner corporation's employee as coverage by the said law is predicated on the existence of an employer-employee relationship.[11] Furthermore, petitioner corporation failed to present evidence which showed that, after his election as Administrative Manager, he was excluded from the coverage of the SSS, Medicare and ECC.

He also presented, appearing to be relevant to the issue, the result of the investigation conducted by DOLE which found that petitioner corporation has transgressed several labor standard laws against its employees.

As correctly ruled by the NLRC:

"The claims for unpaid salaries/monetary benefits and separation pay are not a corporate conflict as respondents presented them to be. If complainant is not an employee, respondent should have contested the DOLE inspection report. What they did was to exclude complainant from the order of payment x x x and worse, he was not both given responsibilities and paid his salaries for the succeeding months x x x. This is a clear case of constructive dismissal without due process x x x." [12]

The existence of an employer-employee relationship is a factual question and public respondent's findings are

accorded great weight and respect as the same are supported by substantial evidence.[13] Hence, we uphold the conclusion of public respondent that Ernesto Movilla was an employee of petitioner corporation.

It is pertinent to note that petitioner corporation is not prohibited from hiring its corporate officers to perform services under a circumstance which will make him an employee.[14] Moreover, although a director of a corporation is not, merely by virtue of his position, its employee, said director may act as an employee or accept duties that make him also an employee.[15]

Since Ernesto Movilla's complaint involves a labor dispute, it is the NLRC, under Article 217 of the Labor Code of the Philippines, which has jurisdiction over the case at bench.

WHEREFORE, the petition is DISMISSED for lack of showing of any grave abuse of discretion on the part of public respondent NLRC. The assailed decision of public respondent is thus AFFIRMED.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

[1] Rollo, p. 17.

[2] Annex "F" Respondents' Position Paper.

[3] Rollo, p. 28.

[4] Id., p. 16.

[5] Rollo, pp. 29-30.

[6] Rollo, p. 18.

[7] Magalad v. Premiere Financing Corporation, 209 SCRA 260 [1992].

[8] Torio v. Court of Appeals, 230 SCRA 626 [1994].

[9] Viray v. Court of Appeals, 191 SCRA 308 [1990].

[10] Annex "F" Private Respondents' Position Paper.

[11] Cosmopolitan Funeral Homes, Inc. v. Maalat, 187 SCRA 108 [1990]; Flores v. Nuestro, 160 SCRA 568 [1988].

[12] Rollo, p.18.

[13] Cathedral School of Technology v. NLRC, 214 SCRA 551 [1992].

[14] See Gregorio Araneta University Foundation v. Teodoro, 167 SCRA 79 [1988]; Agpalo, Comments on the Corporation Code of the Philippines, 1st Edition [1994] p. 116.

[15] 18 B Am Jur 1346.

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