

**AIR SERVICES COOPERATIVE, AND CAPT. ANTONIO S. SARAEL, PETITIONERS, VS. THE COURT OF APPEALS (SPECIAL SECOND DIVISION, HONORABLE LEONOR T. SUMCAD, REGIONAL TRIAL COURT, BRANCH 9...***G.R. No. 118693. July 23, 1998*

Ponente: ROMERO, J.

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The instant petition presents a question of procedure: May a decision of the Labor Arbiter allegedly rendered without jurisdiction over the subject matter be annulled in a petition before the Regional Trial Court?

The records disclose that petitioner Air Services Cooperative (the “Cooperative”) is a duly registered entity[1] involved in the aviation business. It primarily services rural areas in the transportation of farm products, control of crop infestation, transport of patients and other rural air services. Both the cooperative’s co-petitioner, Capt. Antonio S. Sarael,[2] and respondent Capt. Recarido Batican are members of the said cooperative being its original cooperators.[3]

In the course of the operation of the cooperative’s business, however, it appears that respondent was allegedly reported to have been illegally draining aviation fuel from the aircraft assigned to him by the cooperative’s client Stanfilco (Dole Philippines, Inc.) for which reason Capt. Sarael issued a memorandum[4] dated January 20, 1993 calling his attention and directing him to cease and desist from said practice. Apparently, the warning fell on deaf ears, thus, prompting the cooperative’s Board of Directors itself to issue a memorandum[5] on February 22, 1993 this time giving a final warning that respondent’s services would be terminated should he be found guilty of illegally draining aviation fuel again. Shortly thereafter, Capt. Sarael required respondent in a memorandum[6] dated March 1, 1993 to explain within forty-eight hours why no disciplinary action should be taken against him on account of the reported acts of repeated pilferage despite prior warning. On March 8, 1993, after considering respondent’s explanation and conducting a thorough investigation on the matter, the cooperative’s Board of Directors resolved to cancel and revoke respondent’s membership in the cooperative.[7] After respondent’s expulsion, the cooperative’s client Stanfilco likewise filed a formal criminal complaint for qualified theft against him on March 26, 1993 for which a warrant of arrest had been subsequently issued.[8]

Aggrieved by his expulsion, respondent filed before the National Labor Relations Commission (NLRC) a complaint[9] on May 18, 1993, both against the cooperative and Capt. Sarael for illegal dismissal, reimbursement of the value of six (6) shares of stock, vacation/sick leave conversion, unpaid commission for the month of February and non-payment of the 13th month pay.

On September 21, 1994, the Labor Arbiter hearing the case promulgated his decision[10] in favor of respondent declaring the latter’s dismissal from the cooperative illegal and directing the cooperative through Capt. Sarael to pay respondent the monetary awards set forth therein.

Instead of interposing an appeal from said adverse decision to the NLRC, petitioners, however, filed a Petition for Certiorari, Prohibition and Annulment of Judgment[11] before the Regional Trial Court, Branch 9, in Davao City and docketed as Special Civil Case No. 23, 239-94. Petitioners assailed the Labor Arbiter's decision on the ground that jurisdiction did not pertain to the latter.

On November 10, 1994, the trial court *motu proprio* dismissed the foregoing petition for lack of jurisdiction. It explained that a petition for certiorari before it is not a substitute for an appeal to the NLRC which recourse is specifically provided for under Article 223 of the Labor Code. Furthermore, the trial court stressed that it is cautious against issuing injunctions in cases growing out of labor disputes or ordering prohibition where administrative remedies have not yet been exhausted and there are yet adequate remedies available to the petitioners.[12]

From this adverse decision, petitioners elevated the matter to the Court of Appeals on November 23, 1994 through a Petition for Certiorari with prayer for Preliminary Injunction and/or Temporary Restraining Order[13] seeking to set aside and annul both the order of the trial court in Special Civil Case No. 23, 239-94 and the decision of the Labor Arbiter in Case No. RAB-11-03-00261-93. Without necessarily giving due course to the petition, the appellate court, in a resolution[14] of November 25, 1994, required respondent to comment thereto while at the same time temporarily restraining the conduct of further proceedings in the two aforementioned cases on appeal.

The Comment having been filed, the appellate court promulgated its decision[15] dated January 25, 1995 denying due course to the petition and stressing that an appeal to the NLRC should be the proper recourse, petitioners not having shown that such an appeal would be inadequate or ineffectual under the premises. It further ruled that being the administrative agency especially tasked with the review of labor cases, the NLRC is in a far better position to determine whether petitioner's grounds for certiorari are meritorious. Finally, the appellate court opined that the Labor Arbiter's decision does not appear tinged with grave abuse of discretion, thus, rendering certiorari unavailing.

Hence, the present recourse.

In this Court's resolution of February 25, 1995, we required respondent to file its Comment to which it complied arguing in the main that the decision of the Labor Arbiter already became final and executory after the lapse of ten (10) days from receipt of a copy thereof due to petitioners' failure to file a seasonable appeal to the NLRC. Moreover, respondent faults petitioners for being in estoppel as they have allegedly voluntarily submitted to the jurisdiction of the Labor Arbiter and for engaging in forum-shopping.[16]

In their Reply,[17] petitioners vehemently refuted respondent's allegations essentially contending that it was neither in estoppel nor did the Labor Arbiter's decision become final and executory since it was null and void in the first place, the Labor Arbiter not having acquired jurisdiction over the nature of the dispute.

After the parties had submitted their respective Memoranda,[18] the Court then considered the case submitted for decision.

As stated at the outset, at the heart of this controversy is the issue of whether it is procedurally sound to impugn and seek the annulment of the Labor Arbiter's decision over the dispute herein mentioned before the Regional Trial Court. It is petitioners' unwavering stance that said recourse was a proper one and justified it thus:

"Jurisdictional errors can be the subject of certiorari. It is an extraordinary remedy available in extraordinary cases where a tribunal, board or officer, among others, completely acted without jurisdiction. That means that the proceedings of such tribunal, board or officer is absolutely null and void *ab initio*, as in the instant case where the respondent labor arbiter was without jurisdiction to take over the functions of the Cooperative

Development Authority (CDA).

If the error committed by the respondent labor arbiter in taking cognizance of disputes between cooperative members is mere error of judgment, then appeal would have been the proper remedy. But not an error in jurisdiction, where certiorari would lie. As errors of jurisdiction and not errors of judgment are reviewable in certiorari proceedings (*Herderson vs Tan*, L-3223, October 10, 1950).”

As regards the supposed inadequacy of appeal before the NLRC, petitioners assert that:

“Contrary to public respondent Court of Appeals’ contention, the respondent labor arbiter is not in a better position to determine whether petitioner’s grounds for certiorari are meritorious because it does not involve any labor dispute. Appeal to the Commission (NLRC) would also be not be speedy (sic) decided within twenty (20) days as pretended by the respondent Court (CA Decision, Annex “A”, par. 1, p. 4) for it is candidly a common knowledge and experience to legal practitioners and the Courts that the Commission (NLRC) decides appealed cases before it in two (2) years time or more.

Truly, while certiorari will not lie as a substitute for an appeal, such general rule, is not absolute and may be disregarded where the broader interest of justice requires, where the order or judgment is completely null and void, or appeal is not considered the appropriate remedy (*Telephone Engineering & Services, Co., Inc. vs. Workmen’s Compensation Commission*, 104 SCRA 354). In the instant case, appeal is inadequate and ineffectual to nullify the void judgment precipitately sought to be executed by the respondent thus rendering the issues herein moot and academic.”

We deny the petition.

A reading of petitioners’ discussion will readily indicate that in seeking recourse to the Regional Trial Court to have the Labor Arbiter’s decision annulled, petitioners consistently stress that the Labor Arbiter was bereft of jurisdiction to hear the dispute between the cooperative and/or Capt. Sarael, on the one hand, and Capt. Batican, another member of the said cooperative, on the other, because according to them it was the Cooperative Development Authority (CDA) which should have taken cognizance thereof. On account of this supposed lack of jurisdiction by the Labor Arbiter, petitioners conclude that his decision was null and void and may be impugned as such pursuant to the certiorari power granted to the trial court. This reasoning of the petitioners is, of course, flawed.

To begin with, we do not consider it important at this point to determine the merit of petitioners’ contention as to whether Capt. Batican’s complaint should have been filed in the first place before the Labor Arbiter or the CDA. This is because regardless of the correctness of petitioners’ theory regarding the body with which Capt. Batican’s complaint should have been filed, the crucial issue remains whether in questioning the alleged erroneous assumption of jurisdiction by the Labor Arbiter, the petitioners had recourse to the correct forum to have such error rectified, if there be any. On this score, this Court believes that petitioners failed.

Indeed, we find it odd that petitioners should entertain the notion that the Labor Arbiter’s decision may be assailed in the trial court when the law clearly provides for the proper manner by which a party may have such decision reviewed. Hence, in Article 223 of Presidential Decree No. 442, as amended, otherwise known as “The Labor Code of the Philippines,” we find that:

“

ART. 223. Appeal. --- Decisions, awards, or orders of the Labor Arbiter are final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards, or orders...” [Underscoring supplied].

Also, in Article 217 (b), the same Code states:

“ART. 217. Jurisdiction of Labor Arbiters and the Commission. ---

xxx xxx xxx

(b) The Commission shall have exclusive appellate jurisdiction over all cases decided by Labor Arbiters.”  
[Underscoring supplied].

From our understanding of petitioners’ pleadings, petitioners are of the view that since they are squarely putting at issue a jurisdictional question and not merely an error of judgment, it is the extraordinary remedy of certiorari, and not just an appeal as provided in the Code, which should be availed of. Be that as it may, still recourse to the trial court by the petitioners was not called for. For one thing, as we have stated earlier, we do not deem it necessary at this stage to settle the issue of jurisdiction on which petitioners’ theory on the nullity of the questioned decision of the Labor Arbiter hinges. Also, while the title of Article 223 seems to provide only for the remedy of appeal as that term is understood in procedural law and as distinguished from the office of certiorari, nonetheless, a closer reading thereof reveals that it is not as limited as understood by the petitioners. Said provision provides:

“ART. 223. Appeal. --- xxx Such appeal may be entertained only on any of the following grounds:

(a) If there is prima facie evidence of abuse of discretion on the part of the Labor Arbiter;” [Underscoring supplied].

Abuse of discretion is admittedly within the ambit of certiorari and its grant of review thereof to the NLRC indicates the lawmakers’ intention to broaden the meaning of appeal as that term is used in the Code. For this reason, petitioners cannot argue now that the NLRC is devoid of any corrective power to rectify a supposed erroneous assumption of jurisdiction by the Labor Arbiter and justify recourse to the trial court.

That this is the rule is not without reason. In *Balais v. Velasco*,<sup>[19]</sup> this Court declared:

“Well-settled is the principle that regular courts have no jurisdiction to hear and decide questions which arise and are incidental to the enforcement of decisions, orders or awards rendered in labor cases by appropriate officers and tribunals of the Department of Labor and Employment. To hold otherwise, is to sanction split jurisdiction which is obnoxious to the orderly administration of justice. As this rule has ripened into dogma, it, thus, commands adherence not breach by the parties concerned.” [Underscoring supplied].

In the same vein, we clarified in *Asuncion v. National Labor Relations Commission*<sup>[20]</sup> that if a party complains of a decision as being void, then “the proper remedy would have been to appeal said judgment to the NLRC.” [Underscoring supplied].

Moreover, we subscribe to the appellate court’s reasoning that:

We do not see how appeal would have been inadequate or ineffectual under the premises. On the other hand, being the administrative agency especially tasked with the review of labor cases, it is in a far better position to determine whether petitioners’ grounds for certiorari are meritorious. Neither is there any cause for worry that appeal to the Commission would not be speedy as the Labor Code provides that the Commission shall decide cases before it, within twenty (20) calendar days from receipt of the Answer of Appellee (Article 223, Labor Code).”

One final note. This Court recognizes the significance of the jurisdictional issue posed by petitioners and they obviously invite the Court to give a definite pronouncement thereon.<sup>[21]</sup> We do not feel, however, that the instant petition presents an opportune time for such kind of pronouncement as it does not actually go into the required

resolution of the case. As it is, whether petitioners are correct in arguing that it is the CDA and not the Labor Arbiter which should have taken cognizance of the case at the very beginning, the fact remains that for their failure to correctly appeal to the NLRC instead of the Regional Trial Court, the Labor Arbiter's judgment has already become final and executory. Thus, it is said: *Interest rei publicae ut finis sit litum*. Public interest requires that by the very nature of things there must be an end to a legal controversy. In *Johnson & Johnson (Phils.), Inc. v. Court of Appeals, et al.*,<sup>[22]</sup> we declared emphatically:

“We take this occasion to reiterate the ruling of this Court in an early case that litigations must end and terminate sometime and somewhere, it being essential to the effective and efficient administration of justice that once a judgment has become final, the winning party be not, through a mere subterfuge, deprived of the fruits of the verdict... Furthermore, public policy and sound practice demand that at the risk of occasional errors, judgments of courts should become final and irrevocable at some definite date fixed by law...”

WHEREFORE, the petition is hereby DENIED. The decision of the Court of Appeals in CA-G. R. SP No. 35774 promulgated on January 25, 1995 is AFFIRMED in toto.

Costs against petitioners.

SO ORDERED.

Narvasa, C.J., (Chairman), and Kapunan, J., concur.

Purisima, J., no part.

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[1] The cooperative has been registered with the Cooperative Development Authority (CDA) under Registration No. RN-1102-DVO dated December 10, 1991.

[2] In a Manifestation dated May 10, 1996, counsel for petitioners informed this Court that Capt. Antonio S. Sarael died in a plane crash in Davao City and that his death notwithstanding, Air Services Cooperative still wishes to pursue the case.

[3] Rollo, pp. 44-48.

[4] *Id.*, p. 50.

[5] *Id.*, p. 51.

[6] *Id.*, p. 52.

[7] *Id.*, p. 53.

[8] *Id.*, pp. 54-55.

[9] *Id.*, p. 56.

[10] *Id.*, pp. 35-43.

[11] *Id.*, pp. 57-67.

[12] CA Rollo, pp. 14-17.

[13] *Id.*, pp. 1-13.

[14] *Id.*, p. 56.

[15] Rollo, pp. 26-29-A. Decision penned by Associate Justice Fidel P. Purisima; Rasul and Adefuin-de la Cruz, JJ., concurring.

[16] Id., pp. 93-102.

[17] Id., pp. 103-108.

[18] Id., pp. 112-133; 143-145; 147-153.

**[19] 252 SCRA 707; 721 (1996).**

**[20] 273 SCRA 498; 502 (1997).**

[21] Petition, Rollo, p. 2.

[22] 262 SCRA 298; 311-312 (1996). See also *Asuncion v. National Labor Relations Commission, et al.*, 273 SCRA 498 (1997) citing *Enriquez v. Court of Appeals*, 202 SCRA 487 (1991) and *San Juan v. Cuento*, 160 SCRA 277 (1988).

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