

SENTINEL SECURITY AGENCY, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, ADRIANO CABANO JR., VERONICO C. ZAMBO, HELCIAS ARROYO, RUSTICO ANDOY, AND MAXIMO ORTIZ,...

G.R. No. 122468. November 16, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Separately filed before us by Petitioners Sentinel Security Agency, Inc. and Philippine American Life Insurance Company (hereafter referred to as the Agency and the Client, respectively) are two Motions for Reconsideration of this Court's September 3, 1998 Decision in GR Nos. 122468 and 122716.

Petitioner Agency, in its Motion for Reconsideration, merely reiterates the same basic issues and arguments already submitted to the Court, which has sufficiently passed upon them in the assailed Decision. Thus, they cannot warrant a modification, much less a reversal, of our dispositions therein.

On the other hand, Petitioner Client requests a clarification of its own liability. That the complainants' illegal dismissal was the sole responsibility of the Agency was clearly stated by the Court in the assailed Decision, which we quote hereunder:

"xxx [T]here was no suspension of operation, business or undertaking, bona fide or not, that would have justified placing the complainants off-detail and making them wait for a period of six months. xxx The only logical conclusion from the foregoing discussion is that the Agency illegally dismissed the complainants. Hence, as a necessary consequence, the complainants are entitled to xxx back wages. xxxx." [1]

Relevant to this controversy is the recent pronouncement of the Court in *Rosewood v. National Labor Relations Commission*: [2]

"xxx [A]n order to pay back wages and separation pay is invested with a punitive character, such that an indirect employer should not be made liable without a finding that it had committed or conspired in the illegal dismissal."

In the present case, the Court held that the Client was not responsible for the illegal dismissal of the complainants and, thus, not liable for the payment of back wages and separation pay, viz.:

"The Client did not, as it could not, illegally dismiss the complainants. Thus, it should not be held liable for separation pay and back wages." [3]

In sum, while the exoneration of the Client from the payment of separation pay and back wages was clearly stated in the body of our Decision, such fact was not included in the dispositive portion. In this sense, the Motion for Reconsideration has merit.

However, the Decision did not completely exonerate the Client which, as an indirect employer, is solidarily liable

with Petitioner Agency for the complainants' unpaid service incentive leave, pursuant to Articles 106, 107 and 109 of the Code. As clarified by the Court in *Rosewood*:

"xxx Under these cited provisions of the Labor Code, should the contractor fail to pay the wages of its employees in accordance with law, the indirect employer (the petitioner in this case), is jointly and severally liable with the contractor, but such responsibility should be understood to be limited to the extent of the work performed under the contract, in the same manner and extent that he is liable to the employees directly employed by him. This liability of petitioner covers the payment of the workers' performance of any work, task, job or project. So long as the work, task, job or project has been performed for petitioner's benefit or on its behalf, the liability accrues for such period even if, later on, the employees are eventually transferred or reassigned elsewhere."

The complainants' service incentive leave pay accrued to them during the years 1991-1993; that is, before they were illegally dismissed by the Agency on January 16, 1994, as clearly shown in the labor arbiter's computation (see last page of Annex "A" to the Petition; rollo, p. 31).

WHEREFORE, the Motion for Reconsideration filed by the Agency is hereby DENIED, as it (1) raises the same basic issues already sufficiently passed upon in the Court's Decision and (2) fails to submit any substantial argument to warrant reversal or modification thereof insofar as its liabilities are concerned. The Motion for Reconsideration filed by the Client is GRANTED IN PART. We hereby CLARIFY that for complainants' back wages and separation pay, Philippine American Life Insurance Company is ABSOLVED from liability; but for complainants' service incentive leave pay, its solidary liability with the Agency is REITERATED.

SO ORDERED.

Davide, Jr. (Chairman), Bellosillo, Vitug and Quisumbing JJ., concur

[1] Decision, pp. 13-14.

[2] GR Nos. 116476-84, May 21, 1998, p. 22; per Panganiban, J.

[3] Decision, p. 14.

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