

NAZARIO M. PONCE, FERMIN ZACATE, JESUS B. RICO, ANICETO B. ESTO AND JOHN GERMAN B. LIMBAGO, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, P&R PARTS MACHINERIES CORPORATI...

G.R. No. 124643. September 29, 1998

Ponente: VITUG, J.

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VITUG, J.:

For resolution by the Court is the motion for reconsideration filed by private respondent P & R Parts and Machineries Corporation ("P & R"). Movant submits that the factual conclusions in the assailed judgment of public respondent National Labor Relations Commission ("NLRC") are supported by substantial evidence and there is nothing so capricious or arbitrary in its decision as to warrant a finding of grave abuse of discretion. At most, movant continues, any error which may be attributable to the NLRC would be just an error of judgment which cannot aptly be the subject matter of the special civil action for certiorari.

This Court's decision, dated 30 July 1998, sought to be reconsidered, has annulled and set aside the decision and resolution of the NLRC and reinstated that of the Labor Arbiter's judgment decreeing -

"WHEREFORE, premises considered, the following orders are hereby entered:

"1. Declaring the existence of employer-employee relationship between herein respondent P & R Parts & Machineries Corporation and complainants Nazario Ponce, Fermin Zacate, Jesus Rico, Aniceto Esto and John Herman Limbago;

"2. Declaring the termination of herein complaints illegal;

"3. Ordering respondent P & R Parts & Machineries Corporation to reinstate complaints Nazario Ponce, Fermin Zacate, Jesus Rico, Aniceto Esto and John Herman Limbago to their former positions with full status and rights of a (sic) regular employees;

"4. Ordering respondent P & R Parts & Machineries Corporation and impleaded party respondent BRGT Agency to pay, jointly and severally, unto the complainants the amount appearing below as and for payment of their backwages and wage differentials:

"1. Nazario Ponce P35,101.00

"2. Fermin Zacate 35,368.00

"3. Jesus Rico 40,280.00

"4. Aniceto Esto 34,151.00

"5. John Herman (Limbago) 32,226.00

"Total 177,126.00

and the amount of P17,712.60 as and for attorney's fees.

"5. All other claims are hereby dismissed for lack of merit."[1]

The Court adopted, in effect, the findings of the Labor Arbiter on the existence of an employer-employee relationship between movant and petitioners and noted in the process the proscription, under Article 106 of the Labor Code, against the practice of "labor-only contracting." The Court held:

"It would indeed appear that BRGT Agency was not so licensed to operate as an independent contractor nor was it properly bonded in connection with its job contract with P & R. No substantial evidence was given to indicate that BRGT Agency had been possessed of substantial capital or investment in the form of tools, equipment, machineries, work premises and other materials; or that it had its own work methods; or that it carried on business operations separate and distinct from that it had with private respondent P & R. BRGT Agency's role apparently had been merely to get persons or employees to work for P & R Parts under the latter's control and supervision. (It might be noteworthy that private respondent BRGT Agency disclaimed, in its 29 October 1994 Appeal and Memorandum, not only the contractual relationship with private respondent P & R, but also the supervision and control over petitioners.) Petitioners were never given work assignment at any place other than at the work premises of P & R. Petitioners were required to observe all rules and regulations of P & R pertaining, among other things, to the quality of job performance, regularity of job output and security and safety of the job. The nature of work performed by each of the petitioners - buffing, quality control, assembler, and lathe machine operation - hardly were said to be directly unrelated to private respondent P & R's business of steel and metal fabrication of machine spare parts.

"From the view of the Court, the NLRC, given the circumstances, did commit grave abuse of discretion when it completely discarded the findings of the Labor Arbiter." [2]

Movant would remind the Court that the case at bar was supposedly a mere offshoot of an earlier related case involving the same parties and arising out of the same strike that had been the root cause of the controversy in NLRC Case No. RAB-IV-6-6720-94-RI, decided by the Labor Arbiter Arthur Amansec on 07 September 1995 which the NLRC later sustained on appeal, calling for an application of the doctrine of "res judicata."

The Court is not unaware of the decision in NLRC Case No. RAB-IV-6-6720-94-RI, where the striking workers have been declared terminated for cause due to serious misconduct. There, the Labor Arbiter has said:

"There is no dispute, in fact complainants admit in their Complaint, that in the morning of November 9, 1993, complaints, except seven (7) who joined the strike later, in concert, stopped working and blocked and detained a vehicle that was supposed to transport company products, with the vehicle being able to move only several hours later.

"Complainants' action is clearly illegal, as they had no right whatsoever to stop the truck from going to its destination or from detaining the same and its driver. They suspected that the Company was initiating a run-away shop but this remains to be suspicion that is not founded on any competent evidence. They engaged in the illegal act without priorly filing a Notice of Strike; but even if the act was done after the obligatory filing of said Notice, still the same was not cured of its illegality, as even during a procedurally correct strike, the commission of illegal acts is prohibited." [3]

The above ascription of illegal acts obviously did not cover petitioners. Indeed, the NLRC itself has observed:

"x x x. Truth to tell is that there was no dismissal of the appellees. What happened was that appellees abandonment (sic) their job and joined the strike of the regular employees and workers of appellant. And so, when there were cases of sabotage and were asked to explain, appellees never explained but they filed a case for illegal dismissal. If appellees were indeed employees of the appellant, they would have been included in the strike case filed by the workers/employees against appellant now pending before the Honorable Arbiter. The Labor Arbiter below can take note of the employees who went on strike." [4] (Underscoring ours).

Movant's justification for severing ties with petitioners was because the latter were not its employees but those of

BRGT Agency. Respondent NLRC accepted this position in overturning the Arbiter's finding; thus:

"Clearly, We find grave abuse of discretion on the part of the Labor Arbiter in holding that there was employee-employer relationship between appellees and appellant. The Labor Arbiter should have given respect to the job contract between appellees and respondent BRGT Agency, firstly, because appellees were only hired to work in the painting, rusting and rubbing which job(s) are not necessarily connected with the steel and metal fabrication of appellant. These type(s) of work do not require machine tools as the same can be done by simple hand tools such as brush and scrapers. Secondly, when asked to help appellant to pinpoint the workers who committed (the) act of sabotage, they left their work and join(ed) the strike. This act of appellees could have served as cue that they are not employees, but under an independent contractor." [5]

It might be noted that the alleged job contract referred to, which covered only a period of five months, commenced on 16 August 1993; whereas, petitioners had already been working with, and employed by, P & R since 1992.

Finally, movant entreats this Court to be practical in perspective, especially amidst the economic crisis plaguing the entire Asian region which has pushed movant to implement its retrenchment program, and to open its eyes to the reality that employers can generate employment only if employees would refrain from destroying their very source of employment. This Court is indeed perturbed by the grim economic scenario evidently facing the world today but the Court does not see fully well the proposed turnabout of its decision in this case to be the solution to that great problem.

WHEREFORE, the Court is constrained to DENY with finality the instant motion for reconsideration.

SO ORDERED.

Davide, Jr., Bellosillo, Panganiban, and Quisumbing, JJ., concur.

[1] Rollo, p. 72.

[2] Rollo, pp. 241-242.

[3] Rollo, pp. 253.

[4] Rollo, p. 34.

[5] Rollo, pp. 32-33.

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