

RIZAL SECURITY & PROTECTIVE SERVICES INC., and/or RUFINO S. ANTONIO, JR., Petitioners, vs. HON. DIRECTOR ALEX E. MARAAN, Regional Sheriff of DOLE, Cordillera Administrative Regi...

G.R. No. 124915. February 18, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

The Petition brought before this Court is a special civil action under Rule 65 of the Revised Rules of Court, with petitioners praying for the issuance of a writ of certiorari and a temporary restraining order (TRO) enjoining from execution the Order[1] dated 24 January 1996 issued by public respondent Alex E. Maraán, then Department of Labor and Employment (DOLE) Regional Director for the Cordillera Administrative Region (CAR), in CAR00-9507-CI-25.

Petitioner Rizal Security and Protective Service, Inc. (Rizal Security) is a corporation organized under Philippine laws and is doing business as a security agency. Petitioner Rufino S. Antonio, Jr. (Antonio) is the president of the aforesaid corporation. On the other hand, private respondents were formerly employed by petitioner Rizal Security as security guards detailed at Rainbow End Village in Baguio City.

The instant case arose on 19 May 1995, when private respondents Rico Gomez (Gomez) and Edwin O. Tupas (Tupas), who were then still employed as security guards of petitioner Rizal Security, filed a Complaint with the DOLE-CAR Regional Office, docketed as CAR00-9507-CI-25, to seek assistance regarding petitioners' alleged violation of laws on labor standards, to wit:

- Illegal deduction of wages
- Underpayment of night shift differential
- Underpayment of minimum wage
- Nonpayment of overtime pay and legal holiday pay
- Nonpayment of 13[th] month pay

Pursuant to the visitorial and enforcement powers of the Secretary of Labor and Employment or his duly authorized representative under Article 128 of the Labor Code, as amended, an inspection was conducted on petitioner Rizal Security's establishment by the Labor Inspector on 1 June 1995. The said inspection yielded the following violations as indicated in the Notice of Inspection Results dated 9 October 1995:

- Underpayment of wages
- Underpayment of COLA
- Nonpayment of overtime pay

- Nonpayment of service incentive leave
- Underpayment of Night-Shift Differential
- Frequency of Payment
- Nonpayment of 13th month pay
- No emergency medicines[2]

Hearings were scheduled by the DOLE-CAR to give petitioners the opportunity to present their side.

In the meantime, two significant events apparently took place.

First, private respondents signed and submitted a resignation letter addressed to the personnel manager of petitioner Rizal Security on 10 July 1995, to be effective 1 September 1995.[3]

And second, a notice of Termination of Services dated 25 July 1995 was sent by Dominador N. Valmonte, Jr., Resident Manager of Rainbow End Village to petitioner Antonio, President of co-petitioner Rizal Security.[4] Through the said Notice, Rainbow End Village informed petitioner Rizal Security of the termination of their Security Services also effective 1 September 1995.

In a hearing conducted on 23 October 1995 before the DOLE-CAR Regional Office, petitioner Rizal Security submitted a Manifestation and Motion assailing the jurisdiction of the DOLE-CAR Regional Office over the case. Petitioner Rizal Security alleged that the DOLE-CAR Regional Office had lost its jurisdiction to try the case considering there was no longer any employer-employee relationship between petitioner Rizal Security and private respondents when the latter ceased to be employees of petitioner Rizal Security due to their resignation effective 1 September 1995.

Thereafter, on 24 January 1996, the DOLE-CAR Regional Office, through public respondent Director Maraan, issued the assailed Order denying petitioner Rizal Security's Manifestation and Motion. It further ordered the payment of the deficiencies owing the private respondents amounting to P560,989.70. The Order reads:

WHEREFORE, in the light of the foregoing, the manifestation and motion filed by the respondent, Rizal Security & Protective Service, through Atty. Salvador M. Solis, is hereby DENIED and is hereby ORDERED to pay the computed deficiencies owing to the affected Security Guards in the total amount of FIVE HUNDRED SIXTY THOUSAND, NINE HUNDRED EIGHTY-NINE PESOS & 70/100 (P560,989.70) covering eight (8) guards which is hereto itemized as to the following employees, to wit:

NAME

TOTAL

1. Rico E. Gomez

P99,088.125

2. Rolando Tupas

P110,377.170

3. Detecio S. Vicente

P107,904.92

4. Edwin Tupas

P113,532.67

5. Roberto P. Ruiz

P110,604.92

6. Ronnie Llabres

P 9,608.25

7. Dennis Llabres

P 6,626.60

8. Sandy Figer

P 3,247.05

P560,989.705

This office further holds Mr. Dominador Valmonte, Resident Manager of Rainbow End Village, to be jointly and severally liable pursuant to Articles 107 and 109 of the Labor Code of the Philippines.

In view hereof, respondents Mr. Rufino Antonio of Rizal Security and Protective Service and Mr. Dominador Valmonte, of Rainbow End Village, are directed to pay the above-stated amount within ten (10) calendar days from receipt hereof. Otherwise, this Office shall be constrained to issue a Writ of Execution resulting from non-compliance thereof.[5]

Petitioners deny that a copy of such Order was ever officially sent to their undersigned counsel. According to petitioners' counsel:

Despite the fact that the records of the said case disclose that the appearance of the undersigned as counsel for the petitioner has been duly acknowledged and recognized, no copy of such Order was ever sent officially to the undersigned counsel. The undersigned counsel was able to secure a copy thereof from the DOLE Regional Office in Baguio City only on June 18, 1996.[6]

On 8 May 1996, counsel for petitioners received a copy of the Writ of Execution dated 12 March 1996 issued by public respondent DOLE-CAR Director Maraan ordering the Regional Sheriff to enforce the Order dated 24 January 1996. Pertinent portions of the Writ of Execution are quoted below:

WHEREAS, a copy of said Order was received by respondent on February 1, 1996.

WHEREAS, the period for appeal has already expired without respondent having perfected an appeal from said decision.

WHEREAS, the Order has now become final and executory but respondent has not yet effected the necessary payments of the Monetary Awards due the employee/s concerned.

NOW THEREFORE, pursuant to the provisions of the Labor Code as amended as well as the Rules in the

disposition of Labor Standard Cases in the Regional Office, you are hereby directed to cause Messers. Rufino Antonio/ Dominador Valmonte and/or Rizal Security and Protective Service with business address at 37 Rainbow End Village, Tacay Road, Pinsao Proper, Baguio City or wherever they/he/it may be found to pay the amount of FIVE HUNDRED SIXTY THOUSAND NINE HUNDRED EIGHTY-NINE (P560,989.70) PESOS and 70/100 plus legal fee for execution in the amount of FIVE THOUSAND ONE HUNDRED (P5,100.00) PESOS from the goods, chattels or other properties of the respondent/s and to tender to the concerned employees through the Department of Labor and Employment their claims as aforementioned.[7]

Petitioners are now asking for the issuance of a writ of certiorari and a Temporary Restraining Order to enjoin public respondents from executing the Order of 24 January 1996 and from enforcing the Writ of Execution. Petitioners pray that this Court order that the case be endorsed, on the ground of lack of jurisdiction, from the DOLE-CAR Regional Office to the National Labor Relations Commission (NLRC) and that judgment be rendered annulling and setting aside the 24 January 1996 Order and quashing the 12 March 1996 Writ of Execution.

Petitioners presented the following assignment of errors:

- THE HONORABLE DOLE REGIONAL DIRECTOR GRAVELY ERRED IN ISSUING THE ORDER DATED JANUARY 24, 1996 WITHOUT OR IN EXCESS OF HIS JURISDICTION AND IN NOT ENDORSING THE CASE TO THE APPROPRIATE BRANCH OF THE NATIONAL LABOR RELATIONS COMMISSION FOR HEARING.
- THE HONORABLE DOLE REGIONAL DIRECTOR GRAVELY ERRED IN ISSUING THE WRIT OF EXECUTION AGAINST PETITIONERS PREMATURELY AND CONTRARY TO LAW OR WITHOUT DUE PROCESS OF LAW.
- GRANTING FOR THE SAKE OF ARGUMENT THAT THE ORDER DATED JANUARY 24, 1996 IS VALID, THE HONORABLE DOLE REGIONAL DIRECTOR GRAVELY ERRED IN DECLARING PETITIONER RUFINO ANTONIO AS LIABLE JOINTLY AND SEVERALLY FOR THE PAYMENT OF THE MONETARY CLAIMS OF THE PRIVATE RESPONDENTS.

The Petition was initially dismissed by this Court on 24 July 1996 for failure to comply strictly with the Rules of Court in not submitting a certified true copy of the questioned Writ of Execution dated 12 March 1996. However, upon Motion for Reconsideration and compliance with the foregoing requirement, this Court resolved to grant the reconsideration, thus reinstating the Petition.

The pivotal issue to be resolved in this Petition is whether public respondent DOLE-CAR Regional Director Maraon acted without jurisdiction in issuing the Order dated 24 January 1996.

Certiorari being a remedy narrow in its scope and inflexible in character, it is limited to the issue of jurisdiction and grave abuse of discretion.[8] This is the same rule followed in applying the Supreme Court's power to review labor cases which is limited to the issue of jurisdiction and grave abuse of discretion.[9] As this Court has eloquently explained in *Condo Suite Club Travel, Inc. v. National Labor Relations Commission*[10]:

Resort to a special civil action for certiorari under Rule 65 of the Rules of Court is limited to the resolution of jurisdictional issues, that is, lack or excess of jurisdiction and grave abuse of discretion amounting to lack of jurisdiction. The respondent acts without jurisdiction if he does not have the legal power to determine the case. There is excess of jurisdiction where the respondent, being clothed with the power to determine the case, oversteps his authority as determined by law. And there is grave abuse of discretion where the respondent acts in a capricious, whimsical, arbitrary or despotic manner in the exercise of his judgment as to be said to be equivalent to lack of jurisdiction. x x x.

This Court has explained the role and function of Rule 65 as an extraordinary remedy in numerous pronouncements, among which is the case of *Caltex Refinery Employees Association v. Brillantes*[11] citing *Flores v. National Labor Relations Commission*,[12] to wit:

It should be noted, in the first place, that the instant petition is a special civil action for certiorari under Rule 65 of the Revised Rules of Court. An extraordinary remedy, its use is available only and restrictively in truly exceptional cases -- those wherein the action of an inferior court, board or officer performing judicial or quasi-judicial acts is challenged for being wholly void on grounds of jurisdiction. The sole office of the writ of certiorari is the correction of errors of jurisdiction including the commission of grave abuse of discretion amounting to lack or excess of jurisdiction. It does not include correction of public respondent NLRC's evaluation of the evidence and factual findings based thereon, which are generally accorded not only great respect but even finality. (Emphasis supplied.)

After a careful scrutiny of petitioners' arguments, this Court sustains the jurisdiction of public respondent DOLE-CAR Director Maraan over CAR00-9507-CI-25 and, thus, finds that the writ of certiorari does not lie herein.

In support of their position, petitioners call the attention of this Court to the fact that Rule II, Section 3 of the Rules on the Disposition of Labor Standards Cases in the Regional Offices stipulates:

Section 3. Complaints where no employer-employee relationship actually exists. – Where employer-employee relationship no longer exists by reason of the fact that it has already been severed, claims for payment of monetary benefits fall within the exclusive and original jurisdiction of the labor arbiters. Accordingly, if on the face of the complaint, it can be ascertained that employer-employee relationship no longer exists, the case, whether or not accompanied by an allegation of illegal dismissal, shall immediately be endorsed by the Regional Director to the appropriate Branch of the National Labor Relations Commission (NLRC).

It follows, petitioners contend, that where the employer-employee relationship no longer exists by the fact of its severance, claims for payment of monetary benefits fall within the exclusive and original jurisdiction of the Labor Arbiters. Petitioners claim that the supervening event of private respondents' voluntarily resigning from petitioners' employ in the course of the proceedings in CAR00-9507-CI-25 automatically ousted public respondent DOLE-CAR Director Maraan of his jurisdiction to continue to hear and determine said case. Petitioners insist that public respondent DOLE-CAR Director Maraan should have desisted from further handling the case and should have instead indorsed it to the appropriate regional branch of the NLRC for further hearing, since the jurisdiction over the same belongs to the Labor Arbiter.

Petitioners' reliance on Rule II, Section 3 of the Rules on the Disposition of Labor Standards Cases in the Regional Offices is inappropriate.

While it is true that the quoted provision states that where employee-employer relations have been severed, complaints or claims for payment of monetary benefits fall within the exclusive and original jurisdiction of Labor Arbiters; however, such is not the case in the present Petition. To emphasize, at the time private respondents instituted CAR00-9507-CI-25 by filing a complaint with the DOLE-CAR Regional Office, they were still employees of petitioners.

Private respondents Gomez and Tupas filed the Complaint on 19 May 1995 before the DOLE-CAR Regional Office, seeking a routine inspection to be conducted on petitioner Rizal Security relative to underpayment in wages and nonpayment of other benefits under the Labor Code. At the time of filing of the Complaint on said date, the employer-employee relationship between private respondents and petitioner Rizal Security had not yet been severed. As alleged by petitioner Rizal Security itself, deemed as an admission on its part, the employer-employee relations between petitioner Rizal Security and private respondents were terminated on 1

September 1995, or more than three months after the institution of CAR00-9507-CI-25 before the DOLE Regional Office.

Well-settled is the rule that the jurisdiction of a court over the subject matter of an action is determined by the allegations of the complaint at the time of its filing, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein.[13] Time and again, this Court has held that the allegations in the complaint determine the nature of the action and, consequently, the jurisdiction of the courts.[14]

It is but axiomatic that the jurisdiction of a tribunal, including a quasi-judicial officer or government agency, over the nature and subject matter of a petition or complaint is determined by the material allegations therein, the character of the relief prayed for, and the law existing at the time of the filing of the complaint or petition.[15]

It has already been established in a plethora of cases that once jurisdiction is vested, the same is retained up to the end of litigation.[16] Neither can it be ousted by subsequent events, although of a character which would have prevented jurisdiction from attaching in the first instance. Even subsequent legislation vesting jurisdiction over such proceedings in another tribunal will not affect such jurisdiction.[17]

Considering that it is uncontroverted that there still existed an employer-employee relationship between petitioner Rizal Security and private respondents at the time of filing of the complaint on 19 May 1995, and that the case is one involving violations of labor standard provisions of the Labor Code, this Court finds that DOLE-CAR Director Maraan properly retained jurisdiction to hear and decide CAR00-9507-CI-25 and issue the assailed Order dated 24 January 1996, pursuant to the power vested in him by Article 128(b) of the Labor Code, which states:

Art. 128. Visitorial and Enforcement Power. –

x x x x

(b) Notwithstanding the provisions of Articles 129 and 217 of this Code to the contrary, and in cases where the relationship of employer-employee still exists, the Secretary of Labor and Employment or his duly authorized representatives shall have the power to issue compliance orders to give effect to the labor standards provisions of this Code and other labor legislation based on the findings of labor employment and enforcement officers or industrial safety engineers made in the course of inspection. The Secretary or his duly authorized representatives shall issue writs of execution to the appropriate authority for the enforcement of their orders, except in cases where the employer contests the findings of the labor employment and enforcement officer and raises issues supported by documentary proofs which were not considered in the course of inspection.

Secondary to the issue of jurisdiction is the issue of whether or not public respondent DOLE-CAR Director Maraan acted without or in excess of his jurisdiction in issuing the Writ of Execution dated 12 March 1996.

Petitioners insist that the issuance of the said Writ of Execution was unlawful and premature, without legal basis or due process of law, and implemented against a person not a party litigant.

Petitioners maintain that since the DOLE-CAR Regional Office never furnished petitioners' counsel a copy of the 24 January 1996 Order, then the said Order never became final with respect to them, and cannot be the subject of a Writ of Execution.

Rule II, Section 4 of the Rules on the Disposition of Labor Standards Cases in the Regional Offices provides that notices and copies of orders shall be served on the parties or their duly authorized representatives at their last known office or home addresses or, if they are represented by counsel, through the latter.

This procedure on service of Orders and Decisions as provided under the Rules on the Disposition of Labor

Standards Cases in the Regional Offices is in line with the established rule that notice to counsel is notice to party and when a party is represented by counsel, notices should be made upon the counsel of record at his given address to which notices of all kinds emanating from the court should be sent.

Petitioners' counsel never received an official copy of the 24 January 1996 Order and was only able to personally secure a copy thereof from the DOLE-CAR Regional Office in Baguio City on 18 June 1996.[18] The records support this allegation. The following is a quote from an internal DOLE correspondence attached to the records of the case:

Is it okay with you if we will schedule this for another hearing despite the Dismissal of respondents' petition for certiorari?

In the interest of justice respondents did not receive a copy of our Order dated 1/24/96 as it was "returned to sender" by the post office.[19]

A Notice and a copy of the Order dated 24 January 1996 was sent by the DOLE-CAR Regional Office through registered mail to the address of petitioners' then counsel-of-record Atty. Salvador Solis (Atty. Solis) on 29 January 1996. However, the same was not received by Atty. Solis. Indicated on the envelope containing the Notice of the Order dated 24 January 1996 were the following notations by the post office on 5 February 1996:

RTS[20] for better address

No #5 at Sto. Nino Street

Not at ... (illegible)

No such number #5 at Sto. Nino St.

2-5-96

This Court notes that prior notices of the hearings were all sent to the very same address and were received always by petitioners' counsel. It is a source of no little wonder, therefore, why the post office reported that there was "[n]o such number #5 at Sto. Niño St." We could only conclude, at this time, that the notice was not received by the petitioners not through their fault. Thus, we say that the post office failed to deliver the Notice and copy of the 24 January 1996 Order thereto. This fact was admitted by public respondent.[21]

Private respondents further argue that petitioners may already be deemed notified of the contents of the 24 January 1996 Order for it merely reiterated the findings in the report on the inspection conducted on 1 June 1995 which was served and duly received by petitioners. This Court is very much aware that the nature of proceedings before the DOLE Regional Office shall be summary and non-litigious in nature, and that the technicalities of law and procedure and the rules governing admissibility and sufficiency of evidence obtaining in the courts of law do not strictly apply thereto, subject, only to the requirements of due process.[22]

However, the foregoing is obviously not the notice contemplated under the Labor Code. The inspection report is undeniably a distinct and separate document from the Order dated 24 January 1996. More than merely re-stating the findings on the inspection report, the Order of 24 January 1996 ruled on the Manifestation and Motion of the petitioners assailing the jurisdiction of the DOLE-CAR Regional Office by refusing to dismiss and retaining jurisdiction over CAR00-9507-CI-25.

Procedural rules are tools designed to facilitate the adjudication of cases and not defeat justice.[23] While the Court, in some instances, allows a relaxation in the application of the rules, it was never intended to forge a bastion for a violation of due process. And although it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to insure an orderly and speedy administration of justice.

The essence of due process is to provide an opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain one's side or seek a reconsideration of the action or ruling complained of.

Rule III, Section 17 of the Rules on the Disposition of Labor Standards Cases in the Regional Offices provides that an aggrieved party may file a motion for reconsideration of the Order of the Regional Office within seven calendar days from receipt by him of a copy of said Order. The judgment becomes "final and executory" when the reglementary period to appeal lapses, and no appeal is perfected within such period. In this case, petitioners never had the opportunity to contest the Order of 24 January 1996 considering that they never received a notice of the issuance thereof nor were they provided with a copy of the same.

Without receipt by the petitioners of the notice and copy of the Order dated 24 January 1996, the same has not yet become final and executory and the Writ of Execution issued pursuant thereto on 12 March 1996 was premature and without legal basis. This renders the Writ of Execution fatally defective and, thus, null.

Finally, the Court declines from addressing at this point the question of petitioner Antonio's solidary liability with co-petitioner Rizal Security for the payment of the monetary awards granted to the private respondents.

Considering that the Order dated 24 January 1996 has not yet attained finality and the Writ of Execution dated 12 March 1996 has been quashed by reason thereof, to resolve the last issue now would be injudicious and would pre-empt whatever action public respondent DOLE-CAR Director Maraan may still take on CAR00-9507-CI-25. The underlying principle of the rule on exhaustion of administrative remedies rests on the presumption that when the administrative body, or grievance machinery, is afforded a chance to pass upon the matter, it will decide the same correctly. Thus, for reasons of comity and convenience, our courts of justice will shy away from a dispute until the system of administrative redress has been completed and complied with so as to give the administrative agency every opportunity to correct its error and to dispose of the case.[24]

WHEREFORE, premises considered, the Court PARTIALLY GRANTS the instant Petition and ISSUES a Writ of Certiorari to quash the Writ of Execution dated 12 March 1996 for being issued prematurely. The Department of Labor and Employment Cordillera Administrative Region is further DIRECTED to proceed with CAR00-9507-CI-25 with DISPATCH. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Reyes, JJ., concur.

[1] Records, pp. 69-75.

[2] Id. at 40.

[3] Id. at 51.

[4] Id. at 52.

[5] Id. at 69-70.

[6] Rollo, p. 11-12.

[7] Id. at 45.

[8] *San Miguel Foods, Inc. Cebu B-Meg Feed Plant v. Hon. Laguesma*, 331 Phil. 356, 376 (1996).

[9] Id.

- [10] 380 Phil. 660, 667 (2000).
- [11] G.R. No. 123782, 16 September 1997, 279 SCRA 218, 227.
- [12] 323 Phil. 589, 593 (1996).
- [13] Encarnacion v. Amigo, G.R. No. 169793, 15 September 2006, 502 SCRA 172, 178.
- [14] Tolosa v. National Labor Relations Commission, 449 Phil. 271, 280 (2003).
- [15] Guiang v. Court of Appeals, G.R. No. 169372, 6 December 2006, 510 SCRA 568, 584-585; Municipality of Sogod v. Rosal, G.R. No. 38204, 24 September 1991, 201 SCRA 632, 637.
- [16] Bernarte, v. Court of Appeals, 331 Phil. 643, 660 (1996), citing the following:; People v. Paderna, 130 Phil. 317, 323 (1968); Firemans's Fund Insurance Co. v. Compania General de Tabacos de Filipinos, 126 Phil. 246, 250-251 (1967); Insurance Co. of North America v. U.S. Lines Co., 123 Phil. 1138, 1140 (1966); Rizal Surety and Ins. Co. v. Manila Railroad Co., 123 Phil. 788, 790 (1966); Tuvera v. de Guzman, 121 Phil. 706, 709 (1965); Lumpay v. Moscoso, 105 Phil. 968, 972 (1959); Detective and Protective Bureau, Inc. v. Guevarra, 101 Phil. 1234 (1957); Philippine Land-Air-Sea Labor Union (PLASLU), Inc. v. Court of Industrial Relations, 93 Phil. 747, 752 (1953); Alejandro v. Francisco, 70 Phil. 749 (1940); People v. Pegarum, 58 Phil. 715, 717 (1933); Vda. De Pamintuan v. Tiglao, 53 Phil. 1, 4 (1929).
- [17] A recognized exception to this rule is when the statute expressly provides, or is construed to the effect that it is intended to operate upon actions pending before its enactment. Where such retroactive effect is not provided for, statutes altering the jurisdiction of a court cannot be applied to cases already pending prior to their enactment.
- [18] Rollo, p. 12.
- [19] Records, p. 130.
- [20] Meaning Return-to-Sender.
- [21] Records, p. 130.
- [22] Rule II, Section 12 of the Rules on the Disposition of Labor Standards Cases in the Regional Offices.
- [23] Casolita, Sr. v. Court of Appeals, 341 Phil. 251, 260 (1997), citing Garbo v. Court of Appeals, 327 Phil. 780, 784 (1996).
- [24] Laguna CATV Network, Inc. v. Maraan (DOLE), 440 Phil. 734 (2002).

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