

DILY DANY NACPIL, PETITIONER, VS. INTERNATIONAL BROADCASTING CORPORATION, RESPONDENT.*G.R. No. 144767. March 21, 2002*

Ponente: KAPUNAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-144767/>**KAPUNAN, J.:**

This is a petition for review on certiorari under Rule 45, assailing the Decision of the Court of Appeals dated November 23, 1999 in CA-G.R. SP No. 52755[1] and the Resolution dated August 31, 2000 denying petitioner Dily Dany Nacpil's motion for reconsideration. The Court of Appeals reversed the decisions promulgated by the Labor Arbiter and the National Labor Relations Commission (NLRC), which consistently ruled in favor of petitioner.

Petitioner states that he was Assistant General Manager for Finance/Administration and Comptroller of private respondent Intercontinental Broadcasting Corporation (IBC) from 1996 until April 1997. According to petitioner, when Emiliano Templo was appointed to replace IBC President Tomas Gomez III sometime in March 1997, the former told the Board of Directors that as soon as he assumes the IBC presidency, he would terminate the services of petitioner. Apparently, Templo blamed petitioner, along with a certain Mr. Basilio and Mr. Gomez, for the prior mismanagement of IBC. Upon his assumption of the IBC presidency, Templo allegedly harassed, insulted, humiliated and pressured petitioner into resigning until the latter was forced to retire. However, Templo refused to pay him his retirement benefits, allegedly because he had not yet secured the clearances from the Presidential Commission on Good Government and the Commission on Audit. Furthermore, Templo allegedly refused to recognize petitioner's employment, claiming that petitioner was not the Assistant General Manager/Comptroller of IBC but merely usurped the powers of the Comptroller. Hence, in 1997, petitioner filed with the Labor Arbiter a complaint for illegal dismissal and non-payment of benefits.

Instead of filing its position paper, IBC filed a motion to dismiss alleging that the Labor Arbiter had no jurisdiction over the case. IBC contended that petitioner was a corporate officer who was duly elected by the Board of Directors of IBC; hence, the case qualifies as an intra-corporate dispute falling within the jurisdiction of the Securities and Exchange Commission (SEC). However, the motion was denied by the Labor Arbiter in an Order dated April 22, 1998.[2]

On August 21, 1998, the Labor Arbiter rendered a Decision stating that petitioner had been illegally dismissed. The dispositive portion thereof reads:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered in favor of the complainant and against all the respondents, jointly and severally, ordering the latter:

- To reinstate complainant to his former position without diminution of salary or loss of seniority rights, and with full backwages computed from the time of his illegal dismissal on May 16, 1997 up to the time of his actual reinstatement which is tentatively computed as of the date of this decision on August 21, 1998 in the amount of P1,231,750.00 (i.e., P75,000.00 a month x 15.16 months = P1,137,000.00 plus 13[th] month pay

equivalent to 1/12 of P 1,137,000.00 = P94,750.00 or the total amount of P 1,231,750.00). Should complainant be not reinstated within ten (10) days from receipt of this decision, he shall be entitled to additional backwages until actually reinstated.

- Likewise, to pay complainant the following:

- a) P 2 Million as and for moral damages;
- b) P500,000.00 as and for exemplary damages; plus and (sic)
- c) Ten (10%) percent thereof as and for attorney's fees.

SO ORDERED.[3]

IBC appealed to the NLRC, but the same was dismissed in a Resolution dated March 2, 1999, for its failure to file the required appeal bond in accordance with Article 223 of the Labor Code.[4] IBC then filed a motion for reconsideration that was likewise denied in a Resolution dated April 26, 1999.[5]

IBC then filed with the Court of Appeals a petition for certiorari under Rule 65, which petition was granted by the appellate court in its Decision dated November 23, 1999. The dispositive portion of said decision states:

WHEREFORE, premises considered, the petition for Certiorari is GRANTED. The assailed decisions of the Labor Arbiter and the NLRC are REVERSED and SET ASIDE and the complaint is DISMISSED without prejudice.

SO ORDERED.[6]

Petitioner then filed a motion for reconsideration, which was denied by the appellate court in a Resolution dated August 31, 2000.

Hence, this petition.

Petitioner Nacpil submits that:

I.

THE COURT OF APPEALS ERRED IN FINDING THAT PETITIONER WAS APPOINTED BY RESPONDENT'S BOARD OF DIRECTORS AS COMPTROLLER. THIS FINDING IS CONTRARY TO THE COMMON, CONSISTENT POSITION AND ADMISSION OF BOTH PARTIES. FURTHER, RESPONDENT'S BY-LAWS DOES NOT INCLUDE COMPTROLLER AS ONE OF ITS CORPORATE OFFICERS.

II.

THE COURT OF APPEALS WENT BEYOND THE ISSUE OF THE CASE WHEN IT SUBSTITUTED THE NATIONAL LABOR RELATIONS COMMISSION'S DECISION TO APPLY THE APPEAL BOND REQUIREMENT STRICTLY IN THE INSTANT CASE. THE ONLY ISSUE FOR ITS DETERMINATION IS WHETHER NLRC COMMITTED GRAVE ABUSE OF DISCRETION IN DOING THE SAME.[7]

The issue to be resolved is whether the Labor Arbiter had jurisdiction over the case for illegal dismissal and non-payment of benefits filed by petitioner. The Court finds that the Labor Arbiter had no jurisdiction over the same.

Under Presidential Decree No. 902-A (the Revised Securities Act), the law in force when the complaint for illegal dismissal was instituted by petitioner in 1997, the following cases fall under the exclusive of the SEC:

- a) Devices or schemes employed by or any acts of the board of directors, business associates, its officers or partners, amounting to fraud and misrepresentation which may be detrimental to the interest of the public

and/or of the stockholders, partners, members of associations or organizations registered with the Commission;

b) Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the State insofar as it concerns their individual franchise or right to exist as such entity;

c) Controversies in the election or appointment of directors, trustees, officers, or managers of such corporations, partnerships or associations;

d) Petitions of corporations, partnerships, or associations to be declared in the state of suspension of payments in cases where the corporation, partnership or association possesses property to cover all of its debts but foresees the impossibility of meeting them when they respectively fall due or in cases where the corporation, partnership or association has no sufficient assets to cover its liabilities, but is under the Management Committee created pursuant to this decree. (Emphasis supplied.)

The Court has consistently held that there are two elements to be considered in determining whether the SEC has jurisdiction over the controversy, to wit: (1) the status or relationship of the parties; and (2) the nature of the question that is the subject of their controversy.[8]

Petitioner argues that he is not a corporate officer of the IBC but an employee thereof since he had not been elected nor appointed as Comptroller and Assistant Manager by the IBC's Board of Directors. He points out that he had actually been appointed as such on January 11, 1995 by the IBC's General Manager, Ceferino Basilio. In support of his argument, petitioner underscores the fact that the IBC's By-Laws does not even include the position of comptroller in its roster of corporate officers.[9] He therefore contends that his dismissal is a controversy falling within the jurisdiction of the labor courts.[10]

Petitioner's argument is untenable. Even assuming that he was in fact appointed by the General Manager, such appointment was subsequently approved by the Board of Directors of the IBC.[11] That the position of Comptroller is not expressly mentioned among the officers of the IBC in the By-Laws is of no moment, because the IBC's Board of Directors is empowered under Section 25 of the Corporation Code[12] and under the corporation's By-Laws to appoint such other officers as it may deem necessary. The By-Laws of the IBC categorically provides:

XII. OFFICERS

The officers of the corporation shall consist of a President, a Vice-President, a Secretary-Treasurer, a General Manager, and such other officers as the Board of Directors may from time to time does fit to provide for. Said officers shall be elected by majority vote of the Board of Directors and shall have such powers and duties as shall hereinafter provide (Emphasis supplied).[13]

The Court has held that in most cases the "by-laws may and usually do provide for such other officers,"[14] and that where a corporate office is not specifically indicated in the roster of corporate offices in the by-laws of a corporation, the board of directors may also be empowered under the by-laws to create additional officers as may be necessary.[15]

An "office" has been defined as a creation of the charter of a corporation, while an "officer" as a person elected by the directors or stockholders. On the other hand, an "employee" occupies no office and is generally employed not by action of the directors and stockholders but by the managing officer of the corporation who also determines the compensation to be paid to such employee.[16]

As petitioner's appointment as comptroller required the approval and formal action of the IBC's Board of

Directors to become valid,[17] it is clear therefore holds that petitioner is a corporate officer whose dismissal may be the subject of a controversy cognizable by the SEC under Section 5(c) of P.D. 902-A which includes controversies involving both election and appointment of corporate directors, trustees, officers, and managers.[18] Had petitioner been an ordinary employee, such board action would not have been required.

Thus, the Court of Appeals correctly held that:

Since complainant's appointment was approved unanimously by the Board of Directors of the corporation, he is therefore considered a corporate officer and his claim of illegal dismissal is a controversy that falls under the jurisdiction of the SEC as contemplated by Section 5 of P.D. 902-A. The rule is that dismissal or non-appointment of a corporate officer is clearly an intra-corporate matter and jurisdiction over the case properly belongs to the SEC, not to the NLRC.[19]

As to petitioner's argument that the nature of his functions is recommendatory thereby making him a mere managerial officer, the Court has previously held that the relationship of a person to a corporation, whether as officer or agent or employee is not determined by the nature of the services performed, but instead by the incidents of the relationship as they actually exist.[20]

It is likewise of no consequence that petitioner's complaint for illegal dismissal includes money claims, for such claims are actually part of the perquisites of his position in, and therefore linked with his relations with, the corporation. The inclusion of such money claims does not convert the issue into a simple labor problem. Clearly, the issues raised by petitioner against the IBC are matters that come within the area of corporate affairs and management, and constitute a corporate controversy in contemplation of the Corporation Code.[21]

Petitioner further argues that the IBC failed to perfect its appeal from the Labor Arbiter's Decision for its non-payment of the appeal bond as required under Article 223 of the Labor Code, since compliance with the requirement of posting of a cash or surety bond in an amount equivalent to the monetary award in the judgment appealed from has been held to be both mandatory and jurisdictional.[22] Hence, the Decision of the Labor Arbiter had long become final and executory and thus, the Court of Appeals acted with grave abuse of discretion amounting to lack or excess of jurisdiction in giving due course to the IBC's petition for certiorari, and in deciding the case on the merits.

The IBC's failure to post an appeal bond within the period mandated under Article 223 of the Labor Code has been rendered immaterial by the fact that the Labor Arbiter did not have jurisdiction over the case since as stated earlier, the same is in the nature of an intra-corporate controversy. The Court has consistently held that where there is a finding that any decision was rendered without jurisdiction, the action shall be dismissed. Such defense can be interposed at any time, during appeal or even after final judgment.[23] It is a well-settled rule that jurisdiction is conferred only by the Constitution or by law. It cannot be fixed by the will of the parties; it cannot be acquired through, enlarged or diminished by, any act or omission of the parties.[24]

Considering the foregoing, the Court holds that no error was committed by the Court of Appeals in dismissing the case filed before the Labor Arbiter, without prejudice to the filing of an appropriate action in the proper court.

It must be noted that under Section 5.2 of the Securities Regulation Code (Republic Act No. 8799) which was signed into law by then President Joseph Ejercito Estrada on July 19, 2000, the SEC's jurisdiction over all cases enumerated in Section 5 of P.D. 902-A has been transferred to the Regional Trial Courts.[25]

WHEREFORE, the petition is hereby DISMISSED and the Decision of the Court of Appeals in CA-G.R. SP No. 52755 is AFFIRMED.

SO ORDERED.

Davide, Jr., C.J., (Chairman), and Ynares-Santiago, JJ., concur.
Puno, J., on official leave.

[1] Intercontinental Broadcasting Corporation, Petitioner, vs. National Labor Relations Commission and Dily Daly Nacpil, Respondents.

[2] Rollo, p. 28.

[3] Decision of the Labor Arbiter in Case No. NLRC-NCR 00-05-03798-97, Id., at 56-57.

[4] Resolution of the National Labor Relations Commission, Second Division, dated March 2, 1999, Id., at 64-69.

[5] Id., at 29.

[6] Id., at 32.

[7] Id., at 14.

[8] Saura vs. Saura, Jr., 313 SCRA 465 (1999); Lozano vs. De los Santos, 274 SCRA 452 (1997).

[9] Petition, Rollo, p. 14.

[10] Id., at 14-17.

[11] See Minutes of the Annual Stockholders' Meeting of the IBC on January 17, 1997, Id., at 108.

[12] Section 25 of the Corporation Code explicitly states:

SECTION 25. Corporate officers, quorum.—Immediately after their election, the directors of a corporation must formally organize by the election of a president, who shall be a director, a treasurer who may or may not be a director, a secretary who shall be a resident and citizen of the Philippines, and such other officers as may be provided for in the by-laws xxx

[13] Rollo, p. 117.

[14] Union Motors vs. NLRC, 314 SCRA 531, 539 (1999).

[15] Tabang vs. NLRC, 266 SCRA 462 (1997).

[16] Ibid.

[17] See Article XII of the By-laws of IBC, supra Note 13.

[18] Ongkingco vs. NLRC, 270 SCRA 613 (1997).

[19] Rollo, p. 31.

[20] Fortune Cement Corporation vs. NLRC, 193 SCRA 258 (1991).

[21] Cagayan de Oro Coliseum, Inc. vs. Office of the MOLE, 192 SCRA 315 (1990).

[22] Petition, Rollo, pp. 18-22.

[23] Union Motors Corporation vs. NLRC, supra.

[24] Tolentino vs. Court of Appeals, 280 SCRA 226 (1997).

[25] Section 5.2 of the Securities Regulation Code provides:

The Commission's jurisdiction over all cases enumerated under Section 5 of Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Court: Provided, That the Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over the cases. The Commission shall retain jurisdiction over pending cases involving intra-corporate disputes submitted for final resolution which should be resolved within one (1) year from the enactment of this Code. The Commission shall retain jurisdiction over pending suspension of payments/rehabilitation cases filed as of 30 June 2000 until finally disposed. (Emphasis supplied.)

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.