

7K CORPORATION, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, RENE A. CORONA, AND ALEX B. CATINGAN,RESPONDENTS.

G.R. NO. 148490. November 22, 2006

Ponente: AUSTRIA-MARTINEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-148490/>

AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on Certiorari assailing the Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 56597 dated September 29, 2000 as well as its Resolution[2] dated May 25, 2001.

The antecedents are as follows:

In February of 1997, 7K Corporation (petitioner) and Universal Janitorial and Allied Services (Universal) entered into a service contract where Universal bound itself to provide petitioner with drivers at the rate of P4,637.00 per driver a month.

Sometime in March and April of 1997, Rene A. Corona and Alex B. Catingan (private respondents) were interviewed by petitioner. Corona then started working with petitioner on March 7, 1997 while Catingan started on April 11, 1997. Pursuant to the service contract, petitioner paid Universal the sum of P4,637.00 per driver. As to overtime pay however, petitioner directly paid the private respondents.

A controversy arose when the overtime paid by the accounting department of petitioner was short of the actual overtime rendered by the private respondents. Private respondents' time- cards reflected overtime of up to 70 hours, however, the accounting personnel reduced them to only 20 hours. After their grievances were repeatedly ignored, respondents filed separate complaints for illegal dismissal, payment of salary differentials, unpaid overtime, and reinstatement with backwages, against Universal and/or petitioner before the Labor Arbiter (LA). The cases, docketed as RAB-11-11-01127-97 and RAB-11-12-01138-97, were consolidated and tried jointly.[3] Only petitioner and the private respondents filed their position papers.[4]

On November 20, 1998, LA Antonio M. Villanueva rendered a Decision declaring Universal as the employer of the private respondents. He also held that the respondents were illegally dismissed, thus entitled to backwages and separation pay. He gave weight to the service contract between petitioner and Universal which provided that:

The Contractor [Universal] shall continue to be the employer of the workers assigned to the client's [petitioner's] premises and shall assume all responsibilities of an employer as provided for under the Labor Code of the Philippines, and shall be solely responsible to its employees for labor laws, rules and regulations, particularly those relating to minimum wage, overtime pay, holiday pay, thirteenth month pay and similar labor standards...The Contractor shall exercise in full its power of control and supervision over the workers assigned. The Contractor shall monitor the conduct of its workers in their working conditions.[5]

The LA disposed of the case as follows:

IN VIEW OF ALL THE FOREGOING, judgment is hereby rendered:

- (1.) Declaring the Universal Janitorial & Allied Services as the employer of complainants;
- (2.) Declaring the termination of complainants as illegal and awarding them six months backwages plus separation pay in the total amount of P52,650.00 (R. Corona – P26,325.00 & A. Catingan – P26,325.00);
- (3.) Awarding to complainants their holiday pay, 13th month pay (prop.) and salary differentials in the total amount of P8,080.74 (R. Corona – P4,040.37 & A. Catingan – P4,040.37);
- (4.) 10% attorney's fees of the total award or in the amount of P6,073.07; and
- (5.) Dismissing all the other claims for lack of merit.

TOTAL AWARD: P66,803.81[6]

Universal appealed to the National Labor Relations Commission (NLRC) claiming that it is petitioner which is the employer of the private respondents because: it was petitioner which hired and accepted the two as its drivers; it was petitioner which had direct control and supervision over the two; petitioner may select, replace, and dismiss the driver whose services are found to be unsatisfactory; and petitioner directly paid the private respondents their overtime pay. Universal also claimed that private respondents were not illegally dismissed, thus they are not entitled to backwages and reinstatement.[7]

On March 30, 1999, the NLRC issued a Resolution[8] modifying the LA's Decision, thus:

WHEREFORE, the decision of the Labor Arbiter is Modified. The award for backwages is ordered Deleted in view of the findings that complainants were not illegally dismissed. However, Universal Janitorial and Allied Services and 7K Corporation are jointly and severally liable to pay complainants their salary differentials, proportionate 13th month pay and holiday pay which are maintained in this decision.

SO ORDERED.[9]

The NLRC found that Universal is a labor-only contractor since it does not have substantial capital or investment in the form of tools, equipments, machineries and the like, and the workers recruited are performing activities which are directly related to the principal business of the employer. The NLRC further held that since Universal is a labor-only contractor, petitioner as the principal employer, is solidarily liable with Universal for all the rightful claims of private respondents. There was also no illegal dismissal as the LA failed to identify who dismissed the complainants.[10]

Both petitioner and the private respondents filed their respective motions for reconsideration.

On August 23, 1999, the NLRC issued its Resolution denying the motions for reconsideration, thus:

Records show that Universal's appeal was regularly filed x x x

x x x

The Commission's findings in its challenged resolution that Universal was a "labor-only" contractor stemmed from the latter's failure to allege and prove that it has substantial capital or investment in the form of tools, equipment and machineries to qualify it as a labor contractor. It cannot be presumed. It must alleged (sic) and prove this fact by substantial and competent evidence, otherwise, the only inescapable conclusion is that it is a "labor only" contractor.

In "labor only" contracting, the employer-employee relationship is established by law between the principal employer, in this case, 7K Corporation, and the employees of the labor-only contractor, that is the complainants.

The Commission did not exceed its jurisdiction when it modified the Labor Arbiter's decision. The Commission merely defined the relationship between complainants and the respondent firms in accordance with the provisions of Articles 107 and 109 in relation to Article 106 of the Labor Code. The fact that complainants did not appeal therefrom will not deprive the Commission from entertaining the appeal of Universal.

The cases cited by 7K Corporation[11] to buttress its argument that the NLRC cannot modify the award granted to the employee who did not interpose an appeal from the Labor Arbiter's decision is to say the least specious. Significantly, in this (sic) cases, the NLRC erroneously modified the Labor Arbiter's decision for giving additional awards to the employee who did not appeal, more than what the Labor Arbiter awarded. Such is not the case here. The Labor Arbiter's decision was modified because of the Commission's conclusion that complainants were not illegally dismissed. Hence, the deletion of the Labor Arbiter's award for separation pay and backwages as only illegally separated employees are entitled to such awards. The other awards granted by the Labor Arbiter were maintained. However, in view of the Commission's finding that Universal was a "labor only" contractor, the provision of Article 206 of the Labor Code finds application in the relationship between the principal and the employees. There is, therefore, no cogent reason to disturb our resolution.

PREMISES considered, the motion for reconsideration is hereby DENIED for want of merit.

SO ORDERED.[12]

Petitioner went to the CA on a petition for certiorari claiming that the NLRC gravely abused its discretion when it implicated petitioner which was not a party to the appealed case, and by ignoring the fact that the LA decision has already become final and executory.

The CA dismissed the petition and ruled that: Universal's appeal to the NLRC was regularly filed; petitioner failed to substantiate its claim that the LA decision had become final and executory; petitioner's claim that the LA's decision was already final with respect to them and the private respondents is without merit, because when a party files a seasonable appeal, in this case Universal, the whole case goes up to the appellate court for review and all the parties below automatically become parties on appeal; the cases cited by petitioner to support its argument that the NLRC can not modify the award granted to an employee who did not appeal the decision of the LA are not applicable to the case at bar since in the said cases, the NLRC modified the LA's decision and gave additional awards to employees who did not appeal; in this case, there was no additional award given and some of the awards granted by the LA were even deleted; Universal is a labor-only contractor as defined under Art. 106, par. 4 of the Labor Code; Universal admitted such fact in its appeal memorandum when it stated that the power of control over complainants was vested in and exercised by petitioner; petitioner filed out of time its petition before the CA because the petition for certiorari[13] assailing the same NLRC Resolution earlier filed with the Supreme Court was dismissed in its Resolution dated November 22, 1999, and did not toll the running of the period to appeal.[14]

Petitioner now comes before this Court alleging that the CA gravely erred:

I

x x x IN NOT HOLDING THAT THE NATIONAL LABOR RELATIONS COMMISSION HAD NO JURISDICTION TO ENTERTAIN THE BELATED APPEAL OF UNIVERSAL JANITORIAL & ALLIED SERVICES AS THE DECISION OF THE LABOR ARBITER ALREADY BECAME FINAL AND EXECUTORY.

II

x x x IN NOT HOLDING THAT THE NATIONAL LABOR RELATIONS COMMISSION DID NOT

ACQUIRE JURISDICTION OVER THE PERSON OF PETITIONER IN NLRC CA NO. M-004588 CONSIDERING THAT PETITIONER WAS NEITHER AN APPELLANT NOR AN APPELLEE IN THE SAID CASE.

III

x x x IN NOT HOLDING THAT THE NATIONAL LABOR RELATIONS COMMISSION EXCEEDED ITS AUTHORITY IN DECLARING THAT UNIVERSAL JANITORIAL & ALLIED SERVICES IS A "LABOR-ONLY CONTRACTOR." [15]

Petitioner argues that: private respondents and petitioner did not appeal from the decision of the LA in RAB-11-10-01127-97 and RAB-11-12-01138-97, thus such decision had long become final and executory as to them; it is presumed that private respondents agreed in toto with the said decision as they did not appeal the decision of the LA and they even filed a motion for execution of said judgment; even with respect to Universal, the LA decision had already become final and executory as its appeal to the NLRC was filed out of time in violation of Section 3, Rule VI of the NLRC New Rules of Procedure relating to the requisites for perfecting an appeal; [16] considering that the LA's decision has become final and executory as far as petitioner and private respondents are concerned and considering that Universal failed to perfect its appeal with the NLRC, the latter had no jurisdiction to decide said appeal; as Universal did not file a position paper with the LA, its right to appeal with the NLRC should be deemed foreclosed; NLRC did not acquire jurisdiction over petitioner considering that petitioner was neither an appellant nor an appellee in the appealed case; a judgment cannot bind persons not parties to it; as the LA found that Universal admitted that private respondents were their employees, such finding by the LA, which had first-hand evidence of the controversy, should be given great respect; by acquiescing with the decision of the LA, private respondents are estopped from taking a position inconsistent with the terms of the decision; Universal is not a "labor-only contractor" because there is nothing on record which shows that it does not have substantial capital or investment in the form of tools, equipment, machineries, and the like. [17]

In their Comment, private respondents pointed out that petitioner failed to file its petition before the CA on time. They also expressed that they did not appeal from the decision of the LA and are willing to abide by whatever decision the Court would render on whether or not Universal is a labor-only contractor as the issue of which entity will pay private respondents' claims are matters which have become the concern of petitioner and Universal. [18]

In its Reply to Comment, petitioner contends that while it filed its petition before the CA beyond the reglementary period, courts should give due course to appeals perfected out of time when doing so would serve the demands of substantial justice; and that the reason why private respondents declined to make any further comment on the petition is the fact that they are amenable to the decision rendered by the LA. [19]

We find the petition bereft of merit.

First of all, the admission of petitioner in its Reply to Comment that it filed its petition with the CA beyond the reglementary period, sustains the CA findings on the matter, and therefore, the CA did not err in dismissing the petition. There is no showing that substantial justice would have been served had the CA given due course to the petition.

However, the Court opts to resolve the issues raised by petitioner on the present petition to clarify once and for all the liability of petitioner.

The contention of petitioner that the appeal of Universal before the NLRC was filed out of time is not supported by the records. Universal received the LA decision on December 15, 1998 and filed its appeal with the NLRC also on the same day. [20] The NLRC also categorically held that Universal's appeal was regularly filed. [21] Absent

any proof to the contrary, the Court is constrained to uphold such finding.

Also without merit is the contention that since petitioner and private respondents did not appeal the LA's decision, then the LA decision has become final as far as they are concerned.

Records show that Universal filed a timely appeal before the NLRC and therefore the decision of the LA has not yet become final and executory, notwithstanding the choice of petitioner and private respondents not to file any appeal.

Equally unavailing is the contention of petitioner that NLRC did not acquire jurisdiction over its person since it was neither an appellant nor an appellee in the case before it. As aptly stated by the CA, when an appeal is seasonably filed by a party, the whole case goes up to the appellate court/tribunal for review and all the parties below automatically become parties on appeal either as appellants or as appellees.

Further, Universal's failure to categorically implead petitioner as an appellee in Universal's appeal before the NLRC, while unfortunate, is not a fatal procedural flaw, as petitioner was not deprived of opportunity to ventilate its arguments and challenge Universal through counsel before the NLRC.[22] Administrative tribunals exercising quasi-judicial powers are unfettered by the rigidity of certain procedural requirements subject to the observance of fundamental and essential requirements of due process.[23] In this case, petitioner was properly furnished by Universal of its appeal memorandum where Universal alleged that it is petitioner which should be held liable for respondents' claims. Petitioner was also able to submit its Motion for Reconsideration to the March 30, 1999 Resolution of the NLRC where petitioner was able to sufficiently argue its case. Finally, the NLRC, in its Resolution dated August 23, 1999, adequately addressed the issues raised by petitioner thus meeting the requirements of due process.

Petitioner also claims that the NLRC and the CA erred in finding Universal as a labor-only contractor.

We disagree.

Factual findings of quasi-judicial bodies, like the NLRC are accorded great respect if supported by substantial evidence and passed upon and upheld by the CA.[24] Unless the aggrieved party establishes that grave abuse of discretion amounting to excess or lack of jurisdiction was committed, such factual findings are conclusive on this Court.[25]

No such grave abuse of discretion was shown by petitioner in this case.

The fact that the service contract entered into by petitioner and Universal stipulated that private respondents shall be the employees of Universal, would not help petitioner, as the language of a contract is not determinative of the relationship of the parties.[26] Petitioner and Universal cannot dictate, by the mere expedient of a declaration in a contract, the character of Universal's business, i.e., whether as labor-only contractor, or job contractor, it being crucial that Universal's character be measured in terms of and determined by the criteria set by statute.[27]

Art. 106 of the Labor Code provides that there is "labor-only" contracting where (1) the person supplying workers to an employer does not have substantial capital or investment in the form of tools, equipment, machineries, work premises, among others, and (2) the workers recruited and placed by such person are performing activities which are directly related to the principal business of such employer.

Sec. 4 (f), Rule VIII-A, Book III of the Omnibus Rules Implementing the Labor Code further defines "labor-only contracting" as follows:

- (f) "Labor-only contracting" prohibited under this Rule is an arrangement where the contractor or subcontractor merely recruits, supplies or places workers to perform a job, work or service for a principal, and

the following elements are present:

- i) The contractor or subcontractor does not have substantial capital or investment to actually perform the job, work or service under its own account and responsibility; and
- ii) The employees recruited, supplied or placed by such contractor or subcontractor are performing activities which are directly related to the main business of the principal.

That private respondents are performing activities which are directly related to the principal business of such employer are not questioned by any of the parties.

Petitioner's main argument is that since there is no proof that Universal does not have substantial capital, then Universal should be considered as a legitimate job contractor and not a labor-only contractor. Such contention is incorrect.

The presumption is that a contractor is a labor-only contractor unless such contractor overcomes the burden of proving that it has substantial capital, investment, tools and the like.[28] The employees, in this case, private respondents, should not be expected to prove the negative fact that the contractor does not have substantial capital, investment and tools to engage in job-contracting.[29]

Since neither petitioner nor Universal was able to adduce evidence that Universal had any substantial capital, investment or assets to perform the work contracted for, the presumption that Universal is a labor-only contractor stands.

Thus, petitioner, the principal employer, is solidarily liable with Universal, the labor-only contractor, for the rightful claims of the employees.[30] Under this set-up, Universal, as the "labor-only" contractor, is deemed an agent of the principal, herein petitioner, and the law makes the principal responsible to the employees of the "labor-only" contractor as if the principal itself directly hired or employed the employees.[31]

Petitioner is therefore solidarily liable with Universal for the payment of holiday pay, 13[th] month pay and salary differentials in the amount of P4,040.37 per respondent, as awarded by the NLRC and affirmed by the CA.

Even granting en arguendo that Universal is a legitimate job contractor and not a labor-only contractor, still petitioner cannot escape liability because even without a direct employer-employee relationship between the principal employer and the employees, the former is still jointly and severally liable with the job contractor for the employees' monetary claims[32] following Arts. 106, 107 and 109 of the Labor Code, to wit:

Art. 106. Contractor or subcontractor. – Whenever an employer enters into a contract with another person for the performance of the former's work, the employees of the contractor and the latter's subcontractor, if any, shall be paid in accordance with the provisions of this Code.

In the event that the contractor or subcontractor fails to pay the wages of his employees in accordance with this Code, the employer shall be jointly and severally liable with his contractor or subcontractor to such employees to the extent of the work performed under the contract, in the same manner and extent that he is liable to employees directly employed by him.

x x x

Art. 107. Indirect employer. – The provisions of the immediately preceding Article shall likewise apply to any person, partnership, association or corporation which, not being an employer contracts with an independent contractor for the performance of any work, task, job or project.

x x x

Art. 109. Solidary liability. - The provisions of existing laws to the contrary notwithstanding, every employer or indirect employer shall be held responsible with his contractor or subcontractor for any violation of any provision of this Code. For purposes of determining the extent of their civil liability under this Chapter, they shall be considered as direct employers.

As explained by the Court in *San Miguel Corporation v. MAERC Integrated Services, Inc.*[33]

In legitimate job contracting, the law creates an employer-employee relationship for a limited purpose, i.e., to ensure that the employees are paid their wages. The principal employer becomes jointly and severally liable with the job contractor only for the payment of the employees' wages whenever the contractor fails to pay the same. Other than that, the principal employer is not responsible for any claim made by the employees.

On the other hand, in labor-only contracting, the statute creates an employer-employee relationship for a comprehensive purpose: to prevent a circumvention of labor laws. The contractor is considered merely an agent of the principal employer and the latter is responsible to the employees of the labor-only contractor as if such employees had been directly employed by the principal employer. The principal employer therefore becomes solidarily liable with the labor-only contractor for all the rightful claims of the employees.[34]

In legitimate job contracting, the law creates an employer-employee relationship for a limited purpose, to ensure that the employees are paid their wages. In such an arrangement, the principal employer becomes jointly and severally liable with the job contractor for the payment of the employees' wages whenever the contractor fails to pay the same.[35] As the claim of private respondents in this case involve only monetary claims that fall within the purview of wages, petitioner, even if found as the principal employer in a legitimate job contracting, is still liable to them for the payment of such claims.

The Court finds no error in the assailed decision of the Court of Appeals.

WHEREFORE, the petition is DENIED for lack of merit.

Costs against petitioner.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 29-39, penned by Associate Justice Wenceslao I. Agnir, Jr. (ret.) and concurred in by Associate Justices Fermin A. Martin, Jr. (ret.) and Oswaldo D. Agcaoili (ret.).

[2] Id. at 42-43.

[3] Records, Vol. I, pp. 261-268 (Labor Arbiter Decision), see also CA Decision, rollo, pp. 30-31.

[4] Id. at 260-261 (Labor Arbiter Decision).

[5] Id. at p. 269.

[6] Records, Vol. I, pp. 271-272.

[7] Records, Vol. II, pp. 7-8 (Universal's Appeal Memorandum).

[8] Per Presiding Commissioner Salic B. Dumarpa and concurred in by Commissioners Oscar N. Abella and Leon G. Gonzaga, Jr.

[9] Records, Vol. II, pp. 87-88.

[10] Records, Vol. II, pp. 86-87.

[11] SMI Fish Industries, Inc. v. National Labor Relations Commission, 213 SCRA 448-449; Makati Haberdashery Inc. v. National Labor Relations Commission, 179 SCRA 455; Dizon, Jr. v. National Labor Relations Commission, 181 SCRA 472 and Atlantic Gulf and Pacific Company of Manila, Inc. v. Court of Appeals, 247 SCRA 607.

[12] Records, Vol. II, pp. 163-164.

[13] Docketed as G.R. No. 140256 and entitled: "7K Corporation v. NLRC, et al."

[14] Rollo, pp. 32-38.

[15] Rollo, pp. 14-15.

[16] To wit: (a) it shall be filed within the reglementary period; (b) it shall be under oath with proof of payment of the required appeal fee; (c) appellant should post cash or surety bond; (d) it shall be accompanied by memorandum of appeal; and (e) proof of service on the other party of such appeal; id. at 16.

[17] Rollo, pp. 15-19.

[18] Id. at 54-55.

[19] Id. at 69-70.

[20] Records, Vol. II, p. 1, 27.

[21] Id. at 163.

[22] See De Los Santos and Buklod Manggagawa ng Camara v. National Labor Relations Commission, 423 Phil. 1020, 1034 (2001).

[23] De Los Santos v. National Labor Relations Commission, supra note 22.

[24] Acevedo v. Advanstar Co. Inc., G.R. No. 157656, November 11, 2005, 474 SCRA 656, 664; San Miguel Corporation v. MAERC Integrated Services. Inc., 453 Phil. 543, 557 (2003).

[25] Acevedo v. Advanstar Co., supra.

[26] San Miguel Corporation v. Aballa, G.R. No. 149011, June 28, 2005, 461 SCRA 392, 422.

[27] De Los Santos v. National Labor Relations Commission, supra.

[28] Coca-Cola Bottlers, Phils. Inc. v. Hingpit, 356 Phil. 90, 103 (1998); Guarin v. National Labor Relations Commission, G.R. No. 86010, October 3, 1989, 178 SCRA 267, 273.

[29] Guarin v. National Labor Relations Commission, supra.

[30] See Acevedo v. Advanstar Co. Inc., supra ; San Miguel Corp. v. Aballa, supra.

[31] San Miguel Corporation v. Aballa, supra ; De Los Santos v. National Labor Relations Commission, supra; Philippine Airlines Inc. v. National Labor Relations Commission, 357 Phil. 217, 237 (1998); National Power Corporation v. Court of Appeals, 355 Phil. 643, 651 (1998); Tiu v. National Labor Relations Commission, 324 Phil. 202, 211 (1996).

[32] Filipinas Synthetic Fiber Corporation v. National Labor Relations Commission, 327 Phil. 144, 150 (1996).

[33] Supra note 24.

[34] Supra note 25.

[35] San Miguel Corporation v. Aballa, supra; New Golden City Builders & Development Corp. v. Court of Appeals, 463 Phil. 821, 831-832 (2003).

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.