NEW CITY BUILDERS, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, LEONILO GANDA, NOLITO RICASA AND HERBERT EPIS, RESPONDENTS.

G.R. NO. 149281. June 15, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

Under consideration is this petition for review on certiorari under Rule 45 of the Rules of Court to nullify and set aside the following issuances of the Court of Appeals in CA-G.R. SP No. 50452, to wit:

- Decision dated 31 May 2001,[1] dismissing the petition for certiorari filed by herein petitioner contra the resolution dated April 8, 1998 of the National Labor Relations Commission (NLRC); and

- Resolution dated 30 July 2001,[2] denying petitioner's motion for reconsideration.

As found by the Labor Arbiter and affirmed by both the NLRC and the Court of Appeals, the material facts may be stated, as follows:

Petitioner New City Builders, Inc. is a company engaged in the construction business. One of its projects is the construction of Infinity Tower at De La Costa corner Soliman and Alfaro Streets, Salcedo Village, Makati City. In connection with said project, petitioner hired the services of private respondents Leonilo Ganda as laborer, in December 1993; Nolito Ricasa as carpenter, in November 1994; and Herbert Epis also as laborer, in January 1993.

In the course of their employment, private respondents filed a complaint with the Department of Labor and Employment (DOLE) for alleged labor standards violations committed by the petitioner. On account thereof, petitioner terminated their services on March 6, 1996, prompting respondents to file before the Labor Arbiter an illegal dismissal case against petitioner.

According to petitioner, private respondents were hired not as regular but merely as project employees in connection with the construction of Infinity Tower, adding that they were dismissed from the service due to habitual absences and subsequent abandonment of work. Further, petitioner claimed that it was even defrauded by private respondent Leonilo Ganda by overpricing two (2) pieces of G.I. pipes purchased from Malaya Lumber and Construction Supply, Inc.

After due proceedings, the Labor Arbiter found petitioner to have been unable to adduce evidence to support its claim of habitual absenteeism and abandonment of work on the part of the respondents. The charge of overpricing against respondent Ganda was likewise rejected since the receipt presented by the petitioner in support thereof did not contain any proof that the items subject of the same were indeed overpriced. As regards private respondents' status, the Labor Arbiter ruled that they were not project but regular employees of petitioner because they perform duties which are necessary and desirable to the business of their employer. Accordingly, in her decision[3] of 24 July 1997, the Labor Arbiter ordered petitioner to reinstate private respondents to their former positions without

loss of seniority rights and to pay them their backwages, thus:

> WHEREFORE, premises considered, [petitioner] New City Builders, Inc. is hereby ordered to:
>
> 1) reinstate complainants Leonilo Ganda, Nolito Ricasa and Herbert Epis to their former position without loss of seniority rights; and
>
> 2) pay complainants the amount indicated opposite their respective names, representing their monetary award as above-computed.
>
> LEONILO GANDA – NINETY EIGHT THOUSAND TWO HUNDRED FIFTY FOUR PESOS & 22/100 (P98,254.22)
>
> NOLITO RICASA – EIGHTY TWO THOUSAND EIGHT HUNDRED EIGHTY SIX PESOS & 70/100 (P82,886.70)
>
> HERBERT EPIS – ONE HUNDRED THOUSAND ONE HUNDRED EIGHTY EIGHT PESOS & 62/100 (P100,188.62).
>
> The [petitioner] is further ordered to pay complainants the amount of TWENTY EIGHT THOUSAND ONE HUNDRED THIRTY TWO PESOS & 95/100 (P28,132.95) as and for attorney's fees.
>
> All other claims are DISMISSED for lack of merit.
>
> SO ORDERED.

In time, petitioner went on appeal to the NLRC.

In a resolution[4] dated 8 April 1998, the NLRC affirmed the appealed decision of the Labor Arbiter and dismissed petitioner's appeal for lack of merit.

Thereafter, petitioner elevated the case to the Court of Appeals on a petition for certiorari in CA-G.R. SP No. 50452.

As stated at the outset hereof, the Court of Appeals, in a decision[5] dated 31 May 2001, dismissed petitioner's recourse. In a resolution[6] dated 30 July 2001, the same court denied petitioner's motion for reconsideration.

Undaunted, petitioner is now with us, it being its submissions that -

> I.
>
> THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION THAT PRIVATE RESPONDENT [sic] ARE NOT PROJECT EMPLOYEES BUT REGULAR EMPLOYEES, WHICH DECISION ARE [sic] NOT IN ACCORD WITH THE APPLICABLE DECISION OF THE HONORABLE SUPREME COURT;
>
> II.
>
> SAID DECISION OF THE HONORABLE COURT OF APPEALS AND THE NATIONAL LABOR RELATIONS COMMISSION WERE PREMISED ON THE ABSENCE OF EVIDENCE BUT SUCH FINDINGS ARE CONTRADICTED BY THE EVIDENCE ON RECORD;
>
> III.
>
> PUBLIC RESPONDENTS FAILED TO OBSERVED [sic] THE PRINCIPLES [sic] OF STARE DECISIS.

As we see it, the pivotal issue is whether or not the Court of Appeals erred in dismissing the petition for certiorari

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thereat filed by the petitioner and in affirming the findings of fact and the conclusions reached by both the Labor Arbiter and the NLRC.

We rule in the negative.

Then as now, petitioner insists that respondents are not its regular but merely project employees whose employment is coterminous with the project for which they were employed. Corollary thereto, petitioner argues that as the services of the respondents were no longer required at the project because the phase thereof for which their services were availed of has been completed, they also ceased to be its employees. Ergo, there is simply no basis, so petitioner argues, to hold it liable for illegal dismissal.

Inarguably, the resolution of the issue raised by petitioner requires us to inquire into the sufficiency of the evidence presented, including the credibility of the witnesses, a course of action which this Court will not do, consistent with our repeated holding that this Court is not a trier of facts. This principle applies with greater force in labor cases. So it is that in Manila Water Company, Inc. vs. Pena, et al.,[7] we wrote:

> As a rule, the Supreme Court is not a trier of facts, and this applies with greater force in labor cases. Hence, factual findings of quasi-judicial bodies like the NLRC, particularly when they coincide with those of the Labor Arbiter and if supported by substantial evidence, are accorded respect and even finality by this Court.

Likewise, in Stamford Marketing Corporation, et al. vs. Julian, et al.,[8] we held:

> For the same reasons, we likewise affirm the Court of Appeals in upholding the findings of both the NLRC and the Labor Arbiter regarding the validity or invalidity of quitclaims and the award of other monetary claims. Questions on whether the quitclaims were voluntarily executed or not are factual in nature. Thus, petitioners' appeal for us to re-examine certain pieces of documentary evidence concerning monetary claims cannot now be entertained. Factual findings of labor officials, who are deemed to have acquired expertise in matters within their respective jurisdiction, are generally accorded not only respect but even finality, and bind us when supported by substantial evidence. It is not our function to assess and evaluate the evidence all over again, particularly where the findings of both the Arbiter and the Court of Appeals coincide. (Underscoring supplied)

For sure, with the three (3) offices a quo coming out with the same finding vis a vis private respondents' status as regular employees of the petitioner, with all the more reasons must this Court refrain from reevaluating the facts of this case.

We are very much aware that the rule to the effect that this Court is not a trier of facts admits of exceptions. As we have stated in Insular Life Assurance Company, Ltd. vs. CA:[9]

> [i]t is a settled rule that in the exercise of the Supreme Court's power of review, the Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial of the case considering that the findings of facts of the CA are conclusive and binding on the Court. However, the Court had recognized several exceptions to this rule, to wit: (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.

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We have, however, carefully examined the records before us and found nothing therein to warrant our departure from the common findings of the three (3) offices below as regards respondents' status as petitioner's regular employees. And being such, their services can only be terminated if the following requisites concur: (a) the dismissal must be for any of the causes expressed in Article 282 of the Labor Code;[10] and (b) the employee must be accorded due process, basic of which is the opportunity to be heard and to defend himself.[11]

Here, all the three (3) offices below found non-compliance on the part of the petitioner with the two (2) requisites for a valid dismissal. Consequently, and pursuant to Article 279 of the Labor Code, respondents are entitled to "reinstatement without loss of seniority rights and other privileges and to full backwages, inclusive of allowances, and to other benefits or their monetary equivalent computed from the time (their) compensation was withheld from up to the time of (their) actual reinstatement".

WHEREFORE, for lack of merit, the instant petition is DENIED and the assailed decision and resolution of the Court of Appeals AFFIRMED.

Costs against petitioner.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

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[1] Penned by then Associate (now Presiding) Justice Romeo A. Brawner, with Associate Justices Remedios Salazar-Fernando and Rebecca de Guia-Salvador, concurring.

[2] Rollo, p. 34.

[3] Rollo, pp. 69-76.

[4] Rollo, pp. 99-104.

[5] Rollo, pp. 27-32.

[6] Rollo, p. 34.

[7] G.R. No. 158255, 434 SCRA 53, 58 [2004] citing Tres Reyes vs. Maxim's Tea House, 398 SCRA 288, 298 [2003].

[8] G.R. No. 145496, 24 February 2004 citing Abalos vs. Philex Mining Corporation, 441 Phils. 386, 395 [2002].

[9] G.R. No. 126850, 28 April 2004.

[10] ART. 282. Termination by Employer – An employer may terminate an employment for any of the following causes:

[a] Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
[b] Gross and habitual neglect by the employee of his duties;
[c] Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
[d] Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and
[e] Other causes analogous to the foregoing.

[11] ACD Investigation Security Agency, Inc. vs. Daquera, G.R. No. 147473, 30 March 2004.

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