

EDMUNDO GRACELLA, PLAINTIFF AND APPELLANT, VS. EL COLEGIO DEL HOSPICIO DE SAN JOSE, INC., DEFENDANT AND APPELLEE.

G. R. No. 15152. January 31, 1963

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

Appeal from an order of the Court of First Instance of Manila dismissing, on the basis of res judicata and lack of jurisdiction, plaintiff's complaint for unpaid wages and overtime pay against his former employer, El Colegio del Hospicio de San Jose, Inc., (referred to herein, for brevity, either as defendant or the Hospicio).

It appears that in 1952, defendant hired plaintiff as a laborer (later as cook) at a monthly salary of P120.00 plus food and lodging. Five years later, defendant dismissed plaintiff, for reasons not stated in the record.

On February 28, 1959 , Gracella sued his former employer in the Regional Office No. 3 of the Department of Labor. During his employment, he alleged in his complaint, he received less than the salary agreed upon, and rendered overtime work without the corresponding extra pay. He, therefore, demanded the sum of P5,162.50 representing the balance of his unpaid wages, and the amount due for overtime work already rendered.

On April 16, 1958 , the Hospicio moved to dismiss the complaint for lack of jurisdiction. After hearing, the Regional Office on June 16, 1958 , sustained the motion and quashed the litigation. It held that the Hospicio was a charitable institution, and therefore, not subject to the pertinent labor laws. Plaintiff filed a notice of appeal; however, it was not given due course, for failure to present it on time.

Thereafter, on October 29, 1958 , Gracella filed another complaint, this time in the Court of First Instance of Manila, against the same defendant, the Hospicio. He demanded, as damages, the payment to him of P4,392.00 with interest, for the same unpaid overtime work, and wages not received during his employment, plus P1,000.00 as attorney's fees.

The Manila court, on November 25, 1958 , dismissed the complaint for lack of jurisdiction. And then, upon plaintiff's motion for reconsideration, it added a new ground: res judicata.

Hence this appeal by the plaintiff.

As to the second ground of dismissal, it appears that the lower court held that plaintiff's failure in the Regional Labor Office precluded the presentation of this complaint, res judicata having, supervened.

We do not agree. It is true, at the behest of the defendant, the Regional Office dismissed the complaint for want of jurisdiction; but it is now well established that a dismissal on the ground, lack of jurisdiction, does not constitute res judicata.[1]

Now, in disclaiming jurisdiction over the complaint, the Manila judge, after citing cases decided by this Court, concluded:

"In all these cases, the rule is that claims for overtime pay and under-payment under Republic Act 602 and Commonwealth Act 444, the proper court which has original jurisdiction is the Court of Industrial Relations. Consequently, the ordinary court has no jurisdiction. * * *"

We have explained in several decisions, however, that disputes under the Minimum Wage Law and the Eight-Hour Labor Law, fall within the jurisdiction of the Court of Industrial Relations, if they arise while the employer-employee relationship between the parties exists, or if a former employee seeks reinstatement.[2]

In a recent opinion, we succinctly announced the rule thus:

"We may, therefore, restate, for the benefit of the bench and the bar, that in order that the Court of Industrial Relations may acquire jurisdiction over a controversy in the light of Republic Act No. 875, the following-circumstances must be present: (a) there must exist between the parties an employer-employee relationship, or the claimant must seek reinstatement; and (b) the controversy must relate to a case certified by the President to the CIR as one involving national interest, or must have a bearing on an unfair labor practice charge, or must arise either under the Eight-Hour Labor Law, or under the Minimum Wage Law. In default of any of these circumstances, the claim becomes a mere money claim that comes under the jurisdiction of the regular courts.[3]"

At the time this complaint was filed, the employer-employee relationship between herein defendant and plaintiff no longer existed; and he asked for no reinstatement. He prayed merely for the payment of the above-mentioned wages plus interest, and attorney's fees. Therefore, his was a money claim properly filed in the ordinary courts, like the court below.

Consequently, the order dismissing this complaint should be, as it is hereby, set aside. And this record is remanded to the court a quo for further proceedings. Without costs. So ordered.

Padilla, Bautista Angelo, Labrador , Concepcion , Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

[1] Montinola et al. vs. Barrido, et al., G. R. No. L-14438, prom. March 24, 1962 ; Bañas vs. Phil Veterans Board, G. R. No. L-18398, prom. Oct. 20, 1959; Bayot vs. Zurbito, 89 Phil. 650.

[2] San Miguel Brewery, Inc. vs. Floresca, et al. G. R. No. L-15427, prom. April 26, 1962 , and cases therein.

[3] Campos et al. vs. Manila Railroad Co., G. R. No. L-17905, prom. May 25, 1962: see also Dy vs. Court of Industrial Relations, G. R. No. L-17788, prom. May 25, 1962.

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