

PRUDENCIO BANTOLINO, NESTOR ROMERO, NILO ESPINA, EDDIE LADICA, ARMAN QUELING, ROLANDO NIETO, RICARDO BARTOLOME, ELUVER GARCIA, EDUARDO GARCIA AND NELSON MANALASTAS, PETITIONERS,...

G.R. No. 153660. June 10, 2003

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court assailing the Decision of the Court of Appeals[1] dated 21 December 2001 which affirmed with modification the decision of the National Labor Relations Commission promulgated 30 March 2001.[2]

On 15 February 1995 sixty-two (62) employees of respondent Coca-Cola Bottlers, Inc., and its officers, Lipercon Services, Inc., People's Specialist Services, Inc., and Interim Services, Inc., filed a complaint against respondents for unfair labor practice through illegal dismissal, violation of their security of tenure and the perpetuation of the "Cabo System." They thus prayed for reinstatement with full back wages, and the declaration of their regular employment status.

For failure to prosecute as they failed to either attend the scheduled mandatory conferences or submit their respective affidavits, the claims of fifty-two (52) complainant-employees were dismissed. Thereafter, Labor Arbiter Jose De Vera conducted clarificatory hearings to elicit information from the ten (10) remaining complainants (petitioners herein) relative to their alleged employment with respondent firm.

In substance, the complainants averred that in the performance of their duties as route helpers, bottle segregators, and others, they were employees of respondent Coca-Cola Bottlers, Inc. They further maintained that when respondent company replaced them and prevented them from entering the company premises, they were deemed to have been illegally dismissed.

In lieu of a position paper, respondent company filed a motion to dismiss complaint for lack of jurisdiction and cause of action, there being no employer-employee relationship between complainants and Coca-Cola Bottlers, Inc., and that respondents Lipercon Services, People's Specialist Services and Interim Services being bona fide independent contractors, were the real employers of the complainants.[3] As regards the corporate officers, respondent insisted that they could not be faulted and be held liable for damages as they only acted in their official capacities while performing their respective duties.

On 29 May 1998 Labor Arbiter Jose De Vera rendered a decision ordering respondent company to reinstate complainants to their former positions with all the rights, privileges and benefits due regular employees, and to pay their full back wages which, with the exception of Prudencio Bantolino whose back wages must be computed upon proof of his dismissal as of 31 May 1998, already amounted to an aggregate of P1,810,244.00.[4]

In finding for the complainants, the Labor Arbiter ruled that in contrast with the negative declarations of

respondent company's witnesses who, as district sales supervisors of respondent company denied knowing the complainants personally, the testimonies of the complainants were more credible as they sufficiently supplied every detail of their employment, specifically identifying who their salesmen/drivers were, their places of assignment, aside from their dates of engagement and dismissal.

On appeal, the NLRC sustained the finding of the Labor Arbiter that there was indeed an employer-employee relationship between the complainants and respondent company when it affirmed in toto the latter's decision.

In a resolution dated 17 July 2001 the NLRC subsequently denied for lack of merit respondent's motion for consideration.

Respondent Coca-Cola Bottlers appealed to the Court of Appeals which, although affirming the finding of the NLRC that an employer-employee relationship existed between the contending parties, nonetheless agreed with respondent that the affidavits of some of the complainants, namely, Prudencio Bantolino, Nestor Romero, Nilo Espina, Ricardo Bartolome, Eluver Garcia, Eduardo Garcia and Nelson Manalastas, should not have been given probative value for their failure to affirm the contents thereof and to undergo cross-examination. As a consequence, the appellate court dismissed their complaints for lack of sufficient evidence. In the same Decision however, complainants Eddie Ladica, Arman Queling and Rolando Nieto were declared regular employees since they were the only ones subjected to cross-examination.[5] Thus —

x x x (T)he labor arbiter conducted clarificatory hearings to ferret out the truth between the opposing claims of the parties thereto. He did not submit the case based on position papers and their accompanying documentary evidence as a full-blown trial was imperative to establish the parties' claims. As their allegations were poles apart, it was necessary to give them ample opportunity to rebut each other's statements through cross-examination. In fact, private respondents Ladica, Quelling and Nieto were subjected to rigid cross-examination by petitioner's counsel. However, the testimonies of private respondents Romero, Espina, and Bantolino were not subjected to cross-examination, as should have been the case, and no explanation was offered by them or by the labor arbiter as to why this was dispensed with. Since they were represented by counsel, the latter should have taken steps so as not to squander their testimonies. But nothing was done by their counsel to that effect.[6]

Petitioners now pray for relief from the adverse Decision of the Court of Appeals; that, instead, the favorable judgment of the NLRC be reinstated.

In essence, petitioners argue that the Court of Appeals should not have given weight to respondent's claim of failure to cross-examine them. They insist that, unlike regular courts, labor cases are decided based merely on the parties' position papers and affidavits in support of their allegations and subsequent pleadings that may be filed thereto. As such, according to petitioners, the Rules of Court should not be strictly applied in this case specifically by putting them on the witness stand to be cross-examined because the NLRC has its own rules of procedure which were applied by the Labor Arbiter in coming up with a decision in their favor.

In its disavowal of liability, respondent commented that since the other alleged affiants were not presented in court to affirm their statements, much less to be cross-examined, their affidavits should, as the Court of Appeals rightly held, be stricken off the records for being self-serving, hearsay and inadmissible in evidence. With respect to Nestor Romero, respondent points out that he should not have been impleaded in the instant petition since he already voluntarily executed a Compromise Agreement, Waiver and Quitclaim in consideration of P450,000.00. Finally, respondent argues that the instant petition should be dismissed in view of the failure of petitioners[7] to sign the petition as well as the verification and certification of non-forum shopping, in clear violation of the principle laid down in *Loquias v. Office of the Ombudsman*. [8]

The crux of the controversy revolves around the propriety of giving evidentiary value to the affidavits despite the failure of the affiants to affirm their contents and undergo the test of cross-examination.

The petition is impressed with merit. The issue confronting the Court is not without precedent in jurisprudence. The oft-cited case of *Rabago v. NLRC*[9] squarely grapples a similar challenge involving the propriety of the use of affidavits without the presentation of affiants for cross-examination. In that case, we held that "the argument that the affidavit is hearsay because the affiants were not presented for cross-examination is not persuasive because the rules of evidence are not strictly observed in proceedings before administrative bodies like the NLRC where decisions may be reached on the basis of position papers only."

In *Rase v. NLRC*, [10] this Court likewise sidelined a similar challenge when it ruled that it was not necessary for the affiants to appear and testify and be cross-examined by counsel for the adverse party. To require otherwise would be to negate the rationale and purpose of the summary nature of the proceedings mandated by the Rules and to make mandatory the application of the technical rules of evidence.

Southern Cotabato Dev. and Construction Co. v. NLRC [11] succinctly states that under Art. 221 of the Labor Code, the rules of evidence prevailing in courts of law do not control proceedings before the Labor Arbiter and the NLRC. Further, it notes that the Labor Arbiter and the NLRC are authorized to adopt reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law and procedure, all in the interest of due process. We find no compelling reason to deviate therefrom.

To reiterate, administrative bodies like the NLRC are not bound by the technical niceties of law and procedure and the rules obtaining in courts of law. Indeed, the Revised Rules of Court and prevailing jurisprudence may be given only stringent application, i.e., by analogy or in a suppletory character and effect. The submission by respondent, citing *People v. Sorrel*, [12] that an affidavit not testified to in a trial, is mere hearsay evidence and has no real evidentiary value, cannot find relevance in the present case considering that a criminal prosecution requires a quantum of evidence different from that of an administrative proceeding. Under the Rules of the Commission, the Labor Arbiter is given the discretion to determine the necessity of a formal trial or hearing. Hence, trial-type hearings are not even required as the cases may be decided based on verified position papers, with supporting documents and their affidavits.

As to whether petitioner Nestor Romero should be properly impleaded in the instant case, we only need to follow the doctrinal guidance set by *Periquet v. NLRC* [13] which outlines the parameters for valid compromise agreements, waivers and quitclaims —

Not all waivers and quitclaims are invalid as against public policy. If the agreement was voluntarily entered into and represents a reasonable settlement, it is binding on the parties and may not later be disowned simply because of a change of mind. It is only where there is clear proof that the waiver was wangled from an unsuspecting or gullible person, or the terms of settlement are unconscionable on its face, that the law will step in to annul the questionable transaction. But where it is shown that the person making the waiver did so voluntarily, with full understanding of what he was doing, and the consideration for the quitclaim is credible and reasonable, the transaction must be recognized as a valid and binding undertaking.

In closely examining the subject agreements, we find that on their face the Compromise Agreement [14] and Release, Waiver and Quitclaim [15] are devoid of any palpable inequity as the terms of settlement therein are fair and just. Neither can we glean from the records any attempt by the parties to renege on their contractual agreements, or to disavow or disown their due execution. Consequently, the same must be recognized as valid and binding transactions and, accordingly, the instant case should be dismissed and finally terminated insofar as concerns petitioner Nestor Romero.

We cannot likewise accommodate respondent's contention that the failure of all the petitioners to sign the petition as well as the Verification and Certification of Non-Forum Shopping in contravention of Sec. 5, Rule 7, of the Rules of Court will cause the dismissal of the present appeal. While the Loquias case requires the strict observance of the Rules, it however provides an escape hatch for the transgressor to avoid the harsh consequences of non-observance. Thus —

x x x x We find that substantial compliance will not suffice in a matter involving strict observance of the rules. The attestation contained in the certification on non-forum shopping requires personal knowledge by the party who executed the same. Petitioners must show reasonable cause for failure to personally sign the certification. Utter disregard of the rules cannot justly be rationalized by harking on the policy of liberal construction (underscoring supplied).

In their Ex Parte Motion to Litigate as Pauper Litigants, petitioners made a request for a fifteen (15)-day extension, i.e., from 24 April 2002 to 8 May 2002, within which to file their petition for review in view of the absence of a counsel to represent them.[16] The records also reveal that it was only on 10 July 2002 that Atty. Arnold Cacho, through the UST Legal Aid Clinic, made his formal entry of appearance as counsel for herein petitioners. Clearly, at the time the instant petition was filed on 7 May 2002 petitioners were not yet represented by counsel. Surely, petitioners who are non-lawyers could not be faulted for the procedural lapse since they could not be expected to be conversant with the nuances of the law, much less knowledgeable with the esoteric technicalities of procedure. For this reason alone, the procedural infirmity in the filing of the present petition may be overlooked and should not be taken against petitioners.

WHEREFORE, the petition is GRANTED. The Decision of the Court of Appeals is REVERSED and SET ASIDE and the decision of the NLRC dated 30 March 2001 which affirmed in toto the decision of the Labor Arbiter dated 29 May 1998 ordering respondent Coca-Cola Bottlers Phils., Inc., to reinstate Prudencio Bantolino, Nilo Espina, Eddie Ladica, Arman Queling, Rolando Nieto, Ricardo Bartolome, Eluver Garcia, Eduardo Garcia and Nelson Manalastas to their former positions as regular employees, and to pay them their full back wages, with the exception of Prudencio Bantolino whose back wages are yet to be computed upon proof of his dismissal, is REINSTATED, with the MODIFICATION that herein petition is DENIED insofar as it concerns Nestor Romero who entered into a valid and binding Compromise Agreement and Release, Waiver and Quitclaim with respondent company.

SO ORDERED.

Quisumbing, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Penned by Associate Justice Martin S. Villarama, Jr., concurred in by Associate Justices Conchita Carpio Morales and Sergio L. Pestano, former Ninth Division, Court of Appeals.

[2] Penned by Commissioner Victoriano Calaycay, Second Division, NLRC, concurred in by Presiding Commissioner Raul T. Aquino and Commissioner Angelita A. Gacutan.

[3] Original Records, p. 41.

[4] Id. at 545.

[5] Rollo, p. 26.

[6] Id. at 32.

[7] Of the seven (7) petitioners only Ricardo Bartolome signed the verification and certification of non-forum shopping

[8] G.R. No. 139396, 15 August 2000, 338 SCRA 62.

[9] G.R. No. 82868, 5 August 1991, 200 SCRA 158.

[10] G.R. No. 110637, 7 October 1994, 237 SCRA 523.

[11] G.R. No. 121582, 16 October 1997, 280 SCRA 853.

[12] G.R. No. 119332, 29 August 1997, 278 SCRA 368.

[13] G.R. No. 91298, 22 June 1990, 186 SCRA 724.

[14] Rollo, p. 82, Annex "A."

[15] Id. at 84, Annex "B."

[16] Petitioners' counsel of record, Atty. Armando Ampil, had signified his intention to withdraw from the case in view of his commitment in other equally important cases.

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