

**SALLY MIGUEL, MATILDE ALMIRA, JURINDA AGONCILLO,
ANACORETA AYUDA, PURITA BALINDAN, GILDA BARCO, ZENAIDA
BARTOLO, JOSE BOLANTE, MERCEDES CASING, MYRNA CORDERO,
ALFREDO DAGUNDON, ...**

G.R. NO. 157752. March 16, 2005

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Labor arbiters are required to state the factual and legal bases of their decisions. They thereby conform to the requirement of due process and fair play, because parties to the controversy are informed of why and how such decisions were reached. When no factual findings support the conclusions made in a labor decision, a remand of the case for further proceedings may become necessary.

The Case

Before us is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court, challenging the October 15, 2002 Decision[2] and the March 21, 2003 Resolution[3] of the Court of Appeals (CA) in CA-GR SP No. 51228. The assailed Decision disposed as follows:

“WHEREFORE, the petition is GIVEN DUE COURSE and the assailed decisions of the National Labor Relations Commission and the labor arbiter are ANNULLED and SET ASIDE. Let this case be remanded to the Arbitration Branch of the National Labor Relations Commission for further proceedings.”[4]

The March 21, 2003 Resolution denied reconsideration.

The Facts

The facts are narrated by the CA as follows:

“For several years, Glorious Sun Garment Manufacturing Company (or ‘Glorious Sun’) was a garment exporter until it folded up in October 1994. Thereafter, De Soleil [sic][5] Apparel Manufacturing Corporation [or ‘De Soleil’] and American Inter-Fashion Corporation (or ‘AIFC’) took over Glorious Sun’s manufacturing plant, facilities and equipment and absorbed its employees, including the [petitioners].

“Following the 1986 EDSA Revolution, the Presidential Commission on Good Government (or ‘PCGG’) sequestered De Soleil and AIFC and took over their assets and operations.

“On April 24, 1989, JCT Group, Inc. (or ‘JCT’) and De Soleil, thru its Officer-In-Charge and Head of the PCGG Management Team, executed a Management and Operating Agreement (or ‘MOA’) for the purpose of servicing De Soleil’s export quota to ensure its rehabilitation and preserve its viability and profitability. The MOA, which was for a period of one year commencing on May 1, 1989 and renewable yearly at the option of JCT, expired on May 1, 1990 as it was not renewed.

“In July 1990, De Soleil ceased business operations, effectively terminating [petitioners’] employment.

“In April 1993, [petitioners] filed complaints for illegal dismissal and payment of backwages and other monetary claims before the National Labor Relations Commission (or ‘NLRC’) Arbitration Branch against De Soleil, AIFC, PCGG, Glorious Sun, JCT, Nemesio Co and Vicente Cuevas III (or ‘Cuevas’). The cases were eventually consolidated.

“On May 26, 1993, JCT and Cuevas x x x filed a motion to dismiss founded on lack of jurisdiction over the subject matter of the action because of the absence of [an] employer-employee relationship between them and [petitioners].

“Without resolving the motion to dismiss, Labor Arbiter Vladimir P.L. Sampang rendered a decision dated April 18, 1995 disposing as follows:

‘WHEREFORE, judgment is hereby rendered:

‘1) Declaring [De Soleil, AIFC, PCGG, Glorious Sun, JCT, Nemesio Co and Cuevas] jointly and severally guilty of illegal dismissal and to pay complainants backwages, separation pay, service incentive leave pay, 13th month pay, unpaid salaries as computed by the Research and Information Unit x x x;

‘2) Declaring [De Soleil, AIFC, PCGG, Glorious Sun, JCT, Nemesio Co and Cuevas] liable for the payment of attorney’s fees equivalent to ten (10%) percent of the total awards or P3,691,743.06.

“The monetary award, inclusive of attorney’s fees, aggregated P41,313,094.98 as per computation of the Research and Information Unit. Considering the amount involved, [Respondents JCT and Cuevas] and Glorious Sun filed separate motions with the NLRC for reduction of the appeal bond in order to appeal the labor arbiter’s decision.

“In an order dated September 20, 1995, the NLRC reduced the amount of the appeal bond to P5,000,000.00 [which respondents and Glorious Sun were each required to submit]. [Respondents] filed a motion for reconsideration of said order by way of further reduction of the bond to P500,000.00. However, the motion was denied per order dated April 15, 1996. [Respondents] elevated the matter to the Supreme Court via a petition for certiorari (G.R. No. 125749) but it was denied per resolution dated September 2, 1996. [Respondents’ petition was denied with finality in a resolution dated November 13, 1996.[6]]

“Meanwhile, on May 4, 1995, Glorious Sun and [respondents] appealed the labor arbiter’s decision to the NLRC. [Petitioners] filed a motion to dismiss both appeals on the ground that the same were not perfected for failure to post a bond as required [under] Art. 223 of the Labor Code.

“In a decision dated September 12, 1996, the NLRC modified the labor arbiter’s decision by absolving Glorious Sun from liability and dismissing [respondents’] appeal. x x x

“Aggrieved, [respondents] instituted [a] special civil action for certiorari before the Supreme Court. Conformably with the pronouncement in *St. Martin Funeral Home vs. NLRC* (295 SCRA 494), however, the petition was referred to the [CA] for appropriate action and disposition.”[7]

Ruling of the Court of Appeals

The CA reversed the Decision of the NLRC and remanded the case to the labor arbiter for further proceedings. The appellate court ruled that the circumstances presented factual questions whose resolution had to precede that of the issue of whether private respondents were liable to petitioners. It found no factual basis for the ruling that JCT had become the employer of petitioners after the cessation of operations of Glorious Sun. Similarly, the

Decisions of the NLRC and the labor arbiter failed to explain the reason for holding Cuevas solidarily liable with AIF, De Soleil and JCT.[8]

Hence, this Petition.[9]

The Issue

Petitioners state the issues in this wise:

“1. Whether or not, [the] Court of Appeals committed grave abuse of discretion amounting to lack or x x x excess of jurisdiction in giving due course to x x x respondents’ Petition despite the said x x x respondents’ [failure] to perfect their appeal with the National Labor Relations Commission.

“2. Whether or not, [the] Court of Appeals committed grave abuse of discretion amounting to lack or x x x excess of jurisdiction in giving due course to x x x respondents’ Petition [when] the labor arbiter and the National Labor Relations Commission did not commit grave abuse of discretion in rendering their respective decisions.

“3. Whether or not, [the] Court of Appeals committed grave abuse of discretion amounting to lack or x x x excess of jurisdiction in giving due course to x x x respondents’ Petition despite the [fact that] x x x respondents failed to file a motion for reconsideration [of] the September 12, 1996 Decision of the National Labor Relations Commission.”[10]

The Court’s Ruling

The Petition has no merit.

First Issue:

The NLRC’s Grave Abuse of Discretion

As the second issue is intertwined with the first and the third issues, it will be resolved first. Petitioners contend that the CA should not have remanded the case for further proceedings, because the labor arbiter and the NLRC had committed no grave abuse of discretion in their Decisions.[11]

We disagree.

Grave abuse of discretion implies such capricious and whimsical exercise of judgment as to be equivalent to lack or excess of jurisdiction. That is, power is arbitrarily or despotically exercised by reason of passion, prejudice, or personal hostility; and caprice is so patent or so gross as to amount to an evasion of a positive duty, or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[12]

No Findings of Fact

In the present factual milieu, the labor arbiter and the NLRC gravely abused their discretion when they ruled in favor of herein petitioners without determining the existence of an employer-employee relationship between them and respondents. The Decisions were silent on why JCT and Cuevas were held liable. The following observations of the appellate court are in point:

“In finding for [petitioners], the labor arbiter considered them regular employees for the reason that ‘they performed duties, responsibilities and functions necessary and desirable to the business of garments manufacturing and exportation x x x’ and ‘had been also working x x x for more than one year at the time of the cessation of business operation.’

“Save for his conclusion that [petitioners] were regular employees, the labor arbiter made no determination whether there was employer-employee relationship between [respondents] and [petitioners] and, if so, whether

[respondents] assumed the obligations of [petitioners'] previous employers. There is no dispute that given the nature of their functions and length of services, [petitioners] were regular employees. But the question is: who was/were their employer/s?

“x x x Moreover, it does not appear from the decisions of the NLRC and the labor arbiter that JCT x x x became the employer of [petitioners] by virtue of its MOA with De Soleil.

x x x x x x x x

“The NLRC decision is silent on the basis for its ruling that JCT became the employer of [petitioners] after Glorious Sun ceased operations, save for its conclusion that petitioners ‘were absorbed by, or their work continued under x x x JCT’. Similarly, the NLRC decision, just like that of the labor arbiter, does not state the reason for the decreed solidary liability of Cuevas x x x with JCT, De Soleil and AIF.

“Moreover, the computation [of] the monetary award totaling P37,557,317.08 (exclusive of attorney’s fees) covers a period starting on [petitioners'] initial employment (with Glorious Sun), some dating back to 1978. However, the NLRC made no finding that JCT (on the supposition that it became [petitioners'] employer pursuant to the MOA dated April 24, 1989) had assumed the obligations of petitioners’ previous employers, i.e., Glorious Sun, AIF and De Soleil.

“Given the factual backdrop of the case, several nagging questions have not been resolved. Among them: x x x Was there [an] employer-employee relationship between JCT and [petitioners] and, if so, when should such relationship be reckoned? x x x Why was Cuevas adjudged solidary liable with AIF, De Soleil and JCT?”[13]

The facts and the law on which decisions are based must be clearly and distinctly expressed.[14] The failure of the labor arbiter and the NLRC to express the basis for their Decisions was an evasion of their constitutional duty, an evasion that constituted grave abuse of discretion.

Relevant to the present case is *Saballa v. National Labor Relations Commission*,[15] which explained how the decision of an administrative body must be drawn:

“This Court has previously held that judges and arbiters should draw up their decisions and resolutions with due care, and make certain that they truly and accurately reflect their conclusions and their final dispositions. x x x. The same thing goes for the findings of fact made by the NLRC, as it is a settled rule that such findings are entitled to great respect and even finality when supported by substantial evidence; otherwise, they shall be struck down for being whimsical and capricious and arrived at with grave abuse of discretion. It is a requirement of due process and fair play that the parties to a litigation be informed of how it was decided, with an explanation of the factual and legal reasons that led to the conclusions of the court. A decision that does not clearly and distinctly state the facts and the law on which it is based leaves the parties in the dark as to how it was reached and is especially prejudicial to the losing party, who is unable to pinpoint the possible errors of the court for review by a higher tribunal.”[16]

Remand for
Further Proceedings

Where a judgment fails to make findings of fact, the case may be remanded to the lower tribunal to enable it to determine them.[17] It is necessary to remand the present case for further proceedings, because the labor arbiter and the NLRC failed to make the factual findings needed to resolve the controversy.

The defense of respondents is anchored on an alleged lack of employer-employee relationship with petitioners as stipulated in the former’s MOA with De Soleil.[18] JCT further claims that any relationship with De Soleil and

the latter's employees was severed upon the termination of that Agreement.[19] It is therefore imperative to determine the nature of the MOA -- whether or not it partook only of a consultancy agreement, in which no employer-employee relationship existed between respondents and petitioners.

The test for determining an employer-employee relationship hinges on resolving who has the power to select employees, who pays for their wages, who has the power to dismiss them, and who exercises control in the methods and the results by which the work is accomplished.[20] The last factor, the "control test," is the most important.[21] In resolving the status of an MOA, the test for determining an employer-employee relationship has to be applied.[22]

Indeed, the only way to find out whether Respondents JCT and Cuevas are liable to petitioners is by remanding the case to the lower court. To uphold the Decisions of the labor arbiter and the NLRC at this stage would amount to depriving respondents of property without due process. In sum, the CA did not commit reversible error in finding grave abuse of discretion on the part of the NLRC and the labor arbiter for their failure to state the facts upon which their conclusions had been based.

Remand in Recognition of the Policy Favoring Employees

To repeat, a decision with nothing to support it is a patent nullity.[23] It should be struck down and set aside as void.[24] Acting with utmost regard for the rights of petitioners, however, the CA did not outrightly set aside the Decisions of the NLRC and the labor arbiter. Instead, the CA remanded the case for further proceedings to allow petitioners to prove their claim of illegal dismissal. The remand of the case, instead of the dismissal of the Complaint, was beneficial to petitioners and was made in consideration of the policy to protect and promote the general welfare of employees.

Second Issue: Alleged Procedural Infirmities

The first and the third issues raised by petitioners refer to alleged procedural infirmities. They argue that because respondents allegedly failed to post the appeal bond, the latter failed to perfect their appeal to the NLRC.[25] Petitioners also argue that because respondents also failed to file a motion for reconsideration of the NLRC's Decision,[26] the latter's Petition for Certiorari filed with the CA should have been denied outright.

Posting of an Appeal Bond

Article 223 of the Labor Code regulates the posting of an appeal bond. The pertinent portion states as follows:

In case of a judgment involving a monetary award, an appeal by the employer may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Commission, in the amount equivalent to the monetary award in the judgment appealed from.

This requirement is intended to discourage employers from using an appeal to delay or even evade their obligation to satisfy their employees' just and lawful claims.[27] Such a requirement has been relaxed in several cases, however, following the rule that substantial justice is better served by allowing appeals on the merits.[28] The policy of labor laws is to liberally construe rules of procedure[29] and settle controversies according to their merits, not to dismiss them by reason of technicalities.[30]

In the present case, the Decision of the labor arbiter is a patent nullity, because it failed to state the factual and legal bases for its conclusions. The award granted -- the basis for the appeal bond -- was a staggering

P37,557,359.08,[31] for which no factual findings against respondents had been made. On April 26, 1995, the latter filed with the NLRC an Urgent Motion for the Reduction of the Bond. The Motion was later elevated to this Court, which decided on it with finality only on November 13, 1996. Under the circumstances, the CA did not err in liberally construing the provision of the law requiring the filing of a bond and in holding that the NLRC should have given respondents ample time to post the appeal bond.

Filing of a Motion for Reconsideration

The requirement of a motion for reconsideration, as a prerequisite to the filing of a petition for certiorari, is waived under any of the following conditions: where the decision is a patent nullity, where the issue raised is one purely of law, or where the questions raised are exactly the same as those already squarely presented to and passed upon by the court *quo*. [32] Taken together, the circumstances of the present controversy place the case within the exceptions to the rule requiring a motion for reconsideration. As the Court has declared above, the NLRC Decision is a patent nullity and would, if sustained, violate respondents' right to due process.

Final Observation

The Court observes that the CA made a finding that the Decisions of the labor arbiter and the NLRC had included a monetary award for individuals who were not signatories to the Complaint. [33] Those individuals are not parties to the case and must thus be dropped therefrom.

The Arbitration Branch of the National Labor Relations Commission must determine whether there was an employer-employee relationship between the JCT Group, Inc., and Vicente Cuevas on the one hand and, on the other, petitioners who had signed the Complaint; and, if there was, when respondents' liability should commence and when it should end.

WHEREFORE, the Petition is DENIED and the assailed Decision AFFIRMED. Costs against petitioners.

SO ORDERED.

Sandoval-Gutierrez, Corona, Carpio-Morales, and Garcia, JJ., concur.

* The Petition impleaded the Court of Appeals as a respondent. However, under §4, Rule 45 of the Rules of Court, the CA should no longer be made a respondent in a petition for review on certiorari. For this reason, the JCT Group, Inc., and Vicente Cuevas will henceforth be referred to as "respondents," not "private respondents."

[1] Rollo, pp. 10-37.

[2] *Id.*, pp. 39-51. Thirteenth Division. Penned by Justice Edgardo P. Cruz, with the concurrence of Justices Oswaldo D. Agcaoili (Division chairman) and Amelita G. Tolentino.

[3] *Id.*, p. 38.

[4] Assailed Decision, p. 13; rollo, p. 51.

[5] It appears that the CA, NLRC, and labor arbiter committed a typographical error. As stated on p. 5 of respondents' Memorandum (rollo, p. 179), the correct spelling is "Soleil" -- a French word meaning "sun."

[6] SC Resolution, dated February 26, 1997; rollo, p. 74.

[7] Assailed Decision, pp. 3-6; rollo, pp. 41-44.

[8] *Id.*, pp. 11 & 49.

[9] The case was deemed submitted for decision on June 10, 2004, upon this Court's receipt of respondents' Memorandum, signed by Attys. Rafael A. L. Aquino and Benjamin C. Santos. The Court received petitioners' Memorandum, signed by Atty. Jose C. Evangelista, on June 7, 2004.

[10] Petitioners' Memorandum, p. 8; rollo, p. 169. The issue "grave abuse of discretion" that petitioners raised is really a ground for a petition for certiorari under Rule 65 of the Rules of Court. Nevertheless, in recognition of the policy to afford compassion to employees, the Court resolved to treat this ground as a "reversible error," so that it would be appropriate for a petition for review on certiorari under Rule 45 of the Rules of Court.

[11] *Id.*, pp. 11 & 172.

[12] *Madrigal Transport, Inc. v. Lapanday Holdings Corporation*, GR No. 156067, August 11, 2004; *Cuison v. Court of Appeals*, 351 Phil. 1089, 1102, April 15, 1998; *Lalican v. Vergara*, 276 SCRA 518, 528, July 31, 1997; *Pure Foods Corporation v. NLRC*, 171 SCRA 415, 426, March 21, 1989; *Palma v. Q & S, Inc.*, 123 Phil. 958, 960, May 19, 1966.

[13] Assailed Decision, pp. 9-12; rollo, pp. 47-50.

[14] §14, Art. VIII, 1987 Philippine Constitution.

[15] 260 SCRA 697, August 22, 1996.

[16] *Id.*, p. 706, per Panganiban, J. Also cited in *San Jose v. National Labor Relations Commission*, 355 Phil. 759, 768, August 17, 1998; *Anino v. National Labor Relations Commission*, 352 Phil. 1098, 1110, May 21, 1998; *Caltex Refinery Employees Association v. Brillantes*, 344 Phil. 624, 651, September 16, 1997.

[17] See *St. Martin Funeral Home v. National Labor Relations Commission*, 356 Phil. 811, 824, September 16, 1998. See also *Ungson v. Basco*, 29 Phil. 575, 577, February 23, 1915; *Alindogan v. Insular Government*, 15 Phil. 168, 169, February 10, 1910.

[18] Private respondents' Memorandum, pp. 22-23; rollo, pp. 196-197.

Private respondents allege that under the MOA, JCT could perform functions with respect to personnel management (to hire, pay, supervise, promote, transfer, and discipline) only upon the approval of De Soleil. Moreover, the MOA allegedly stipulated that JCT would not be the employer of De Soleil or of the latter's own employees; and that the conduct, as well as the salaries and benefits to which such employees are entitled, would be the sole responsibility of De Soleil. *Ibid.*

[19] *Id.*, pp. 31 & 205.

[20] *Sonza v. ABS-CBN Broadcasting Corporation*, GR No. 138051, June 10, 2004, *Abante v. Lamadrid Bearing & Parts Corp.*, GR No. 159890, May 28, 2004; *Trader's Royal Bank v. National Labor Relations Commission*, 378 Phil. 1081, 1086, December 22, 1999; *Ruga v. National Labor Relations Commission*, 181 SCRA 266, 273, January 22, 1990.

[21] *Ibid.*

[22] *Insular Life Assurance Co., Ltd. v. National Labor Relations Commission*, 350 Phil. 918, 926, March 12, 1998.

[23] *Alliance of Democratic Free Labor Organization v. Laguesma*, 325 Phil. 13, 28, March 11, 1996; *Gelmart Industries (Phils.), Inc. v. Leogardo Jr.*, 155 SCRA 403, 409, November 5, 1987; *Ang Tibay v. Court of Industrial*

Relations, 69 Phil. 635, 642, February 27, 1940.

[24] Velarde v. Social Justice Society, GR No. 159357, April 28, 2004; Yao v. Court of Appeals, 344 SCRA 202, 220, October 24, 2000.

[25] Petitioners' Memorandum, p. 9; rollo, p. 170.

[26] Id., pp. 12 & 173.

[27] Coral Point Development Corporation, 383 Phil. 456, 463, February 28, 2000; Viron Garments Manufacturing Co., Inc. v. National Labor Relations Commission, 207 SCRA 339, 342, March 18, 1992.

[28] Rosewood Processing, Inc. v. National Labor Relations Commission, 352 Phil. 1013, 1029, May 21, 1998; Mabuhay Development Industries v. National Labor Relations Commission, 351 Phil. 227, 235, March 25, 1998; Star Angel Handicraft v. National Labor Relations Commission, 236 SCRA 580, 585, September 20, 1994; Blancaflor v. National Labor Relations Commission, 218 SCRA 366, 371, February 2, 1993; YBL v. National Labor Relations Commission, 190 SCRA 160, 164, September 28, 1990.

[29] Cosico Jr. v. National Labor Relations Commission, 338 Phil. 1080, 1089-1090, May 23, 1997.

[30] UERM-Memorial Medical Center v. National Labor Relations Commission, 336 Phil. 66, 71, March 3, 1997; Ruga v. National Labor Relations Commission, *supra*, p. 272.

[31] NLRC Order, dated September 20, 1995, p. 4; rollo, p. 69.

[32] Chas Realty and Development Corporation v. Talavera, 397 SCRA 84, 91, February 6, 2003; Philippine National Construction Corporation v. National Labor Relations Commission, 354 Phil. 274, 281, July 10, 1998. See also Matute v. Court of Appeals, 136 Phil. 157, 191-192, January 31, 1969.

[33] Assailed Decision, p. 8; rollo, p. 46.

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