

NESTOR J. BALLADARES, ROLDAN L. GUANIZO, ARNULFO E. MERTO, GERONIMO G. GOBUYAN, EDGARDO O. AVILA, AND EDUARD F. RAMOS, JR., PETITIONERS, VS. PEAK VENTURES CORPORATION/EL TIGRE SE...

G.R. No. 161794. June 16, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

This is a petition for review on certiorari of the decision[1] of the Court of Appeals (CA) dated September 16, 2003 and the resolution[2] denying the motion for reconsideration thereof in CA-G.R. SP No. 67587.

Petitioners Nestor J. Balladares, Roldan L. Guanizo, Arnulfo E. Merto, Geronimo G. Gobuyan, Edgardo O. Avila, and Eduard F. Ramos, Jr. were employed by respondent Peak Ventures Corporation/El Tigre Security and Investigation Agency (Peak Ventures) as security guards and were assigned at the premises of respondent Yangco Market Owners and Administrators Association (YMOAA). They filed a complaint for underpayment of wages against their employer, Peak Ventures, with the Department of Labor and Employment (DOLE).

Acting on the complaint, DOLE conducted an inspection of Peak Ventures on March 4, 1999, and the following violations were noted:

- underpayment of the minimum wage and other auxiliary benefits;
- pertinent employment records (payrolls, daily time records, contract of employment) were not available at the time of inspection.[3]

A Notice of Inspection Result was issued to and received by the Human Resource Department Manager, Ms. Cristina Q. Villacrusis. Peak Ventures was instructed to effect restitution and/or to file its objections within five (5) working days from receipt thereof.

Respondent failed to correct the violations or contest the findings as required; hence, the parties were summoned for hearing. During the scheduled hearing on March 26, 1999, both complainants and Peak Ventures moved to implead its client, YMOAA, represented by its President, Ms. Lao Ti Siok Bee, as party respondent. YMOAA opposed on the ground that it was not the employer of petitioners. On May 25, 1999, Peak Ventures filed a Third-Party Complaint and/or Position Paper with leave of court, alleging that Peak Ventures was entitled to indemnity or subrogation from YMOAA in respect to the monetary claims of petitioners, because the cause of the underpayment of wages, if any, arose from the failure of the YMOAA to pay the security agency the correct amount due petitioners as prescribed by various Wage Orders.[4]

In the Order dated July 21, 1999, Regional Director Maximo Baguyot Lim rendered judgment in favor of petitioners and ruled that the contractor was jointly and severally liable with the principal, pursuant to the law and jurisprudence on the matter.[5] He further stated that:

In view of the respondents' failure to controvert the complainants' contentions and repeated denial to give access to its employment records despite demands by the labor inspector and hearing officer, it is deemed to have waived its constitutional right to due process, therefore, this is an implied admission of the violations discovered, hence, we have no other recourse but to rule in favor of the complainants and compute the salary differentials due them based on their affidavits x x x.

x x x x

WHEREFORE, premises considered, respondents PEAK VENTURES CORP./EL TIGRE SECURITY AND INVESTIGATION AGENCY AND/OR YANGCO MARKET OWNERS AND ADMINISTRATORS ASSOCIATION/MS. LAO TI SIOK BEE are hereby jointly and severally ordered to pay complainants NESTOR BALLADARES AND TEN (10) OTHER SIMILARLY SITUATED EMPLOYEES the sum opposite their names or a total amount of ONE MILLION ONE HUNDRED SIX THOUSAND TWO HUNDRED NINETY EIGHT PESOS AND 07/100 (P1,106,298.07) corresponding to their claims within ten (10) calendar days from receipt hereof, otherwise, WRIT OF EXECUTION shall be issued unless an Appeal shall have been filed within the reglementary period together with a Cash or Surety Bond equivalent to the monetary award.[6]

Respondent Peak Ventures filed a Motion for Reconsideration which was denied for lack of merit.

Respondent appealed the Order to the Office of the Secretary of Labor positing that the Regional Director committed serious errors in awarding the amount of P1,106,298.00 to petitioners, which it alleged to be quite excessive.

On December 7, 2000, respondent's appeal was dismissed.[7] A subsequent motion for reconsideration was, likewise, denied by the Secretary of Labor in a Resolution dated September 11, 2001.[8]

Undaunted, respondent Peak Ventures elevated the case to the CA, alleging that public respondent Secretary of DOLE acted without, or in excess of, jurisdiction or with grave abuse of discretion.[9]

The CA granted the petition, ruling that the Regional Director had no jurisdiction to hear and decide the case, because the claims of each of the petitioners exceeded P5,000.00, and the power to adjudicate such claims belonged to the Labor Arbiter, pursuant to *Servando's, Inc. v. Secretary of Labor*. [10] The appellate court ratiocinated that this exclusive jurisdiction of the Labor Arbiters was confirmed by Article 129 of the Labor Code, which excludes from the jurisdiction of the Regional Directors or any hearing officer of the DOLE the power to hear and decide claims of employees arising from employer-employee relations exceeding the amount of P5,000.00 for each employee. The dispositive portion of the decision, thus, reads as follows:

WHEREFORE, petition is GRANTED. The Order of public respondent Secretary of Labor and Employment dated December 7, 2000 and the Resolution dated September 11, 2001 are SET ASIDE and declared null and void. The case is REFERRED to the appropriate Labor Arbiter for proper determination.[11]

Petitioners now come to this Court assigning the following errors:

The Court of Appeals, Third Division erred in applying Article 129 of the Labor Code instead of Article 128.

The Court of Appeals, Third Division erred in applying the *Servando's, Inc. versus Secretary of Labor*, which had long been abandoned.[12]

Only Peak Ventures filed its comment. Several resolutions of the Court sent to respondent YMOAA were returned unserved, despite earnest efforts to obtain its current address. Meanwhile, the Court received a letter in the vernacular, dated May 16, 2006, from petitioner Nestor Balladares, for and on behalf of petitioners. Therein, petitioners expressed their apprehension over the sale by Lao Siok Bee of Section 9 of Yangco Market to her

nephew, Kay Ken Wah, which may be detrimental to their cause, with a request for justice in this case. The letter was noted by the Court in the Resolution dated June 28, 2006.[13]

In its comment, Peak Ventures averred that the CA did not err in applying Article 129 and Article 217 of the Labor Code, because the instant case arose from a complaint for recovery of wages, simple money claims and other benefits, and the claims exceeded P5,000.00. It argued that the inspection conducted by the DOLE using the "visitorial and enforcement powers" of the Secretary of Labor and Employment did not, in any way, convert the case to one falling under Article 128, otherwise, there would be no need for Article 129.[14] It reiterated that Article 129[15] and Article 217[16] provide that it is the Labor Arbiter which has jurisdiction over claims arising from employer-employee relations, including those of persons in domestic or household service involving an amount exceeding P5,000.00.

We uphold the jurisdiction of the DOLE Regional Director.

It should be noted that petitioners' complaint involved underpayment of wages and other benefits. In order to verify the allegations in the complaint, DOLE conducted an inspection, which yielded proof of violations of labor standards. By the nature of the complaint and from the result of the inspection, the authority of the DOLE, under Article 128, came into play regardless of the monetary value of the claims involved.[17] The extent of this authority and the powers flowing therefrom are defined and set forth in Article 128 of the Labor Code, as amended by R.A. No. 7730,[18] the pertinent portions of which read as follows:

ART. 128. Visitorial and enforcement power. - (a) The Secretary of Labor or his duly authorized representatives, including labor regulation officers, shall have access to employer's records and premises at any time of the day or night whenever work is being undertaken therein, and the right to copy therefrom, to question any employee and investigate any fact, condition or matter which may be necessary to determine violations or which may aid in the enforcement of this Code and of any labor law, wage order or rules and regulations issued pursuant thereto.

(b) Notwithstanding the provisions of Articles 129 and 217 of this Code to the contrary, and in cases where the relationship of employer-employee still exists, the Secretary of Labor and Employment or his duly authorized representatives shall have the power to issue compliance orders to give effect to the labor standards provisions of this Code and other labor legislation based on the findings of labor employment and enforcement officers or industrial safety engineers made in the course of inspection. The Secretary or his duly authorized representatives shall issue writs of execution to the appropriate authority for the enforcement of their orders, except in cases where the employer contests the finding of the labor employment and enforcement officer and raises issues supported by documentary proofs which were not considered in the course of inspection.

An order issued by the duly authorized representative of the Secretary of Labor and Employment under this article may be appealed to the latter. In case said order involves 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 Secretary of Labor and Employment in the amount equivalent to the monetary award in the order appealed from.

x x x x

This Court has held in a plethora of cases[19] that reliance on the Servando ruling is no longer tenable in view of the enactment of R.A. No. 7730, amending Article 128 (b) of the Labor Code. The Secretary of Labor or his duly authorized representatives is now empowered to hear and decide, in a summary proceeding, any matter involving the recovery of any amount of wages and other monetary claims arising out of employer-employee relations at the time of the inspection, even if the amount of the money claim exceeds P5,000.00. In *Ex-Bataan Veterans Security Agency, Inc. v. Laguesma*,[20] the Court elucidated:

In *Allied Investigation Bureau, Inc. v. Sec. of Labor*, we ruled that:

While it is true that under Articles 129 and 217 of the Labor Code, the Labor Arbiter has jurisdiction to hear and decide cases where the aggregate money claims of each employee exceeds P5,000.00, said provisions of law do not contemplate nor cover the visitorial and enforcement powers of the Secretary of Labor or his duly authorized representatives. Rather, said powers are defined and set forth in Article 128 of the Labor Code (as amended by R.A. No. 7730) x x x

The aforementioned provision explicitly excludes from its coverage Articles 129 and 217 of the Labor Code by the phrase "(N)otwithstanding the provisions of Articles 129 and 217 of this Code to the contrary x x x" thereby retaining and further strengthening the power of the Secretary of Labor or his duly authorized representatives to issue compliance orders to give effect to the labor standards provisions of said Code and other labor legislation based on the findings of labor employment and enforcement officer or industrial safety engineer made in the course of inspection.

This was further affirmed in our ruling in *Cirineo Bowling Plaza, Inc. v. Sensing*, where we sustained the jurisdiction of the DOLE Regional Director and held that : "the visitorial and enforcement powers of the DOLE Regional director to order and enforce compliance with labor standard laws can be exercised even where the individual claim exceeds P5,000."

However, if the labor standards case is covered by the exception clause in Article 128 (b) of the Labor Code, then the Regional Director will have to endorse the case to the appropriate Arbitration Branch of the NLRC. In order to divest the Regional Director or his representatives of jurisdiction, the following elements must be present: (a) that the employer contests the findings of the labor regulations officer and raises issues thereon; (b) that in order to resolve such issues, there is a need to examine evidentiary matters; and (c) that such matters are not verifiable in the normal course of inspection. The rules also provide that the employer shall raise such objections during the hearing of the case or at any time after receipt of the notice of inspection results.

In this case, the Regional Director validly assumed jurisdiction over the money claims of private respondents even if the claims exceeded P5,000 because such jurisdiction was exercised in accordance with Article 128(b) of the Labor Code and the case does not fall under the exception clause.

The Court notes that EBVSAI did not contest the findings of the labor regulations officer during the hearing or after receipt of the notice of inspection results. It was only in its supplemental motion for reconsideration before the Regional Director that EBVSAI questioned the findings of the labor regulations officer and presented documentary evidence to controvert the claims of private respondent. But even if this was the case, the Regional Director and the Secretary of Labor still looked into and considered EBVSAI's documentary evidence and found that such did not warrant the reversal of the Regional Director's order. The Secretary of Labor also doubted the veracity and authenticity of EBVSAI's documentary evidence. Moreover, the pieces of evidence presented by EBVSAI were verifiable in the normal course of inspection because all the employment records of the employees should be kept and maintained in or about the premises of the workplace, which in this case is in Ambuklao Plant, the establishment where the private respondents were regularly assigned.[21]

Accordingly, we find no sufficient reason to warrant the certification of the instant case to the Labor Arbiter and divest the Regional Director of jurisdiction. Respondent did not contest the findings of the labor regulations officer. Even during the hearing, respondent never denied that petitioners were not paid correct wages and benefits. This was, in fact, even admitted by respondent in its petition filed before the CA.[22] In its defense, respondent tried to pass the buck to YMOAA, which failed to pay the correct wages pursuant to the wage orders. Considering that the liability of the principal and the contractor is joint and solidary, respondent thereby prayed for a re-computation of the awards it claimed to be quite excessive. In the motion for reconsideration filed before

the Regional Director, respondent submitted its own computation of the salary adjustment due petitioners in the amount of P533,220.33 as wage differentials, deducting further the amount of P39,371.52, which was already allegedly received by petitioners, as shown in petitioners' sample pay slips and earning cards.[23] This contention, however, was unacceptable, as the Secretary of Labor ruled:

The arguments of the respondents that the award of the Regional Director is excessive considering that it has only a total amount of P533,220.00 as they have computed, does not warrant consideration.

As correctly pointed out by the Regional Director, "the alleged salary adjustment of the complainants for the years 1996, 1997, 1998 and 1999 failed to show from what source and on what basis have respondent arrived at the said computations. Likewise, the documents presented is not sufficient to re-compute the award."

"With regard to the salary differentials paid to eight guards for the period covering June 30, 1997 as evidenced by the payment, but unfortunately nowhere in their annexes can we find a clear indication of such payment. However, complainants admitted having received such salary differentials from respondents, but the same was intended as wage adjustments under Wage Order No. 1, No. NCR-03. Their claims in this instant case are backpay for Wage Order Nos. NCR-04, NCR-5 and NCR-6. Hence, the amount of P39,371.52 cannot be deducted from the computed monetary award of P1,106,298.00."

We find no cogent reason to deviate from the foregoing.[24]

It bears stressing that this petition clearly involves a labor standards case, and it is in keeping with the law that "the worker need not litigate to get what legally belongs to him, for the whole enforcement machinery of the DOLE exists to insure its expeditious delivery to him free of charge." [25] We, therefore, sustain the jurisdiction of the DOLE Regional Director in this case.

WHEREFORE, the petition is GRANTED. The Decision of the Court of Appeals dated September 16, 2003 is REVERSED and SET ASIDE. The decision of the Secretary of Labor is REINSTATED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Velasco, Jr., and Peralta, JJ., concur.

[1] Penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justices Eubolo G. Verzola and Edgardo F. Sundiam, concurring; rollo, pp. 50-59.

[2] Id. at 61-62.

[3] Id. at 43.

[4] CA Decision, rollo, p. 52.

[5] Eagle Security Agency, Inc. v. NLRC, G.R. No. 81314, May 18, 1989, 173 SCRA 479; Labor Code of the Philippines., Arts. 106, 107, and 109

[6] Rollo, pp. 45-48.

[7] Id. at 20.

[8] Id.

[9] Id. at 54.

[10] G.R. No. 85840, June 5, 1991, 198 SCRA 156.

[11] Rollo, p. 28.

[12] Id. at 6.

[13] Id. at 105.

[14] Id. at 73-74.

[15] ART. 129. Recovery of wages, simple money claims and other benefits. - Upon complaint of any interested party, the regional director of the Department of Labor and Employment or any of the duly authorized hearing officers of the Department is empowered, through summary proceeding and after due notice, to hear and decide any matter involving the recovery of wages and other monetary claims and benefits, including legal interest, owing to an employee or person employed in domestic or household service or househelper under this Code, arising from employer-employee relations: Provided, That such complaint does not include a claim for reinstatement: Provided further, That the aggregate money claims of each employee or househelper do not exceed five thousand pesos (P5,000.00). x x x

[16] ART. 217. Jurisdiction of Labor Arbiters and the Commission. - (a) Except as otherwise provided under this Code, the Labor Arbiter shall have original and exclusive jurisdiction to hear and decide, within thirty (30) calendar days after the submission of the case by the parties for decision without extension, even in the absence of stenographic notes, the following cases involving all workers, whether agricultural or non-agricultural:

- Unfair labor practice cases;
- Termination disputes;
- If accompanied with a claim for reinstatement, those cases that workers may file involving wages, rates of pay, hours of work and other terms and conditions of employment;
- Claims for actual, moral, exemplary and other forms of damages arising from the employer-employee relations;
- Cases arising from any violation of Article 264 of this Code, including questions involving the legality of strikes and lockouts; and
- Except claims for Employees Compensation, Social Security, Medicare and maternity benefits, all other claims, arising from employer-employee relations, including those of persons in domestic or household service, involving an amount exceeding five thousand pesos (P5,000.00) regardless of whether accompanied with a claim for reinstatement.

x x x x

[17] V.L. Enterprises v. Court of Appeals, G.R. No. 167512, March 12, 2007, 518 SCRA 174, 181.

[18] Cirineo Bowling Plaza, Inc. v. Sensing, G.R. No., January 14, 2005, 448 SCRA 175, 186.

[19] Bay Haven, Inc. v. Abuan, G.R. No. 160859, July 30, 2008, 560 SCRA 457; V.L. Enterprises v. Court of Appeals, supra; EJR Crafts Corporation v. Court of Appeals, G.R. No. 154101, March 10, 2006, 484 SCRA 340; Cirineo Bowling Plaza, Inc. v. Sensing, supra; Batong Buhay Gold Mines, Inc. v. Dela Serna, G.R. No. 86963, August 6, 1999, 312 SCRA 22.

[20] G.R. No. 152396, November 20, 2007, 537 SCRA 651,652.

[21] Id. at 662-664.

[22] CA records, p. 8.

[23] Id. at 53-54.

[24] Id. at 15-16.

[25] Batong Buhay Gold Mines, Inc. v. Dela Sern, supra note 18.

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