

LIGHT RAIL TRANSIT AUTHORITY, PETITIONER, VS. PERFECTO H. VENUS, JR., BIENVENIDO P. SANTOS, JR., RAFAEL C. ROY, NANCY C. RAMOS, SALVADOR A. ALFON, NOEL R. SANTOS, MANUEL A. FERR...*G.R. NO. 163782. March 24, 2006*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-163782/>**PUNO, J.,**

Before us are the consolidated petitions of Light Rail Transit Authority (LRTA) and Metro Transit Organization, Inc. (METRO), seeking the reversal of the Decision of the Court of Appeals directing them to reinstate private respondent workers to their former positions without loss of seniority and other rights and privileges, and ordering them to jointly and severally pay the latter their full back wages, benefits, and moral damages. The LRTA and METRO were also ordered to jointly and severally pay attorney's fees equivalent to ten percent (10%) of the total money judgment.

Petitioner LRTA is a government-owned and controlled corporation created by Executive Order No. 603, Series of 1980, as amended, to construct and maintain a light rail transit system and provide the commuting public with an efficient, economical, dependable and safe transportation. Petitioner METRO, formerly Meralco Transit Organization, Inc., was a qualified transportation corporation duly organized in accordance with the provisions of the Corporation Code, registered with the Securities and Exchange Commission, and existing under Philippine laws.

It appears that petitioner LRTA constructed a light rail transit system from Monumento in Kalookan City to Baclaran in Parañaque, Metro Manila. To provide the commuting public with an efficient and dependable light rail transit system, petitioner LRTA, after a bidding process, entered into a ten (10)-year Agreement for the Management and Operation of the Metro Manila Light Rail Transit System from June 8, 1984 until June 8, 1994 with petitioner METRO. [1] The Agreement provided, among others, that —

- Effective on the COMMENCEMENT DATE, METRO shall accept and take over from the AUTHORITY [LRTA] the management, maintenance and operation of the commissioned and tested portion of the [Light Rail Transit] System x x x [par. 2.02];
- The AUTHORITY [LRTA] shall pay METRO the MANAGEMENT FEE as follows x x x [par. 5.01];
- In rendering these services, METRO shall apply its best skills and judgment, in attaining the objectives of the [Light Rail Transit] System in accordance with accepted professional standards. It shall exercise the required care, diligence and efficiency in the discharge of its duties and responsibilities and shall work for the best interest of the [Light Rail Transit] System and the AUTHORITY [LRTA] [par. 2.03];
- METRO shall be free to employ such employees and officers as it shall deem necessary in order to carry out the requirements of [the] Agreement. Such employees and officers shall be the employees of METRO and not of the AUTHORITY [LRTA]. METRO shall prepare a compensation schedule and the corresponding salaries and fringe benefits of [its] personnel in consultation with the AUTHORITY [LRTA] [par. 3.05];

- METRO shall likewise hold the AUTHORITY [LRTA] free and harmless from any and all fines, penalties, losses and liabilities and litigation expenses incurred or suffered on account of and by reason of death, injury, loss or damage to passengers and third persons, including the employees and representatives of the AUTHORITY [LRTA], except where such death, injury, loss or damage is attributable to a defect or deficiency in the design of the system or its equipment [par. 3.06].

Pursuant to the above Agreement, petitioner METRO hired its own employees, including herein private respondents. Petitioner METRO thereafter entered into a collective bargaining agreement with Pinag-isang Lakas ng Manggagawa sa METRO, Inc. — National Federation of Labor, otherwise known as PIGLAS-METRO, INC. — NFL — KMU (Union), the certified exclusive collective bargaining representative of the rank-and-file employees of petitioner METRO.

Meanwhile, on June 9, 1989, petitioners LRTA and METRO executed a Deed of Sale where petitioner LRTA purchased the shares of stocks in petitioner METRO. [2] However, petitioners LRTA and METRO continued with their distinct and separate juridical personalities. Hence, when the above ten (10)-year Agreement expired on June 8, 1994, they renewed the same, initially on a yearly basis, and subsequently on a monthly basis.

On July 25, 2000, the Union filed a Notice of Strike with the National Conciliation and Mediation Board — National Capital Region against petitioner METRO on account of a deadlock in the collective bargaining negotiation. On the same day, the Union struck. The power supply switches in the different light rail transit substations were turned off. The members of the Union picketed the various substations. They completely paralyzed the operations of the entire light rail transit system. As the strike adversely affected the mobility of the commuting public, then Secretary of Labor Bienvenido E. Laguesma issued on that same day an assumption of jurisdiction order [3] directing all the striking employees "to return to work immediately upon receipt of this Order and for the Company to accept them back under the same terms and conditions of employment prevailing prior to the strike." [4]

In their memorandum, [5] Department of Labor and Employment Sheriffs Feliciano R. Orihuela, Jr., and Romeo P. Lemi reported to Sec. Laguesma that they tried to personally serve the Order of assumption of jurisdiction to the Union through its officials and members on July 26, 2000, but the latter refused to receive the same. The sheriffs thus posted the Order in the different stations/terminals of the light rail transit system. Further, the Order of assumption of jurisdiction was published on the July 27, 2000 issues of the Philippine Daily Inquirer [6] and the Philippine Star. [7]

Despite the issuance, posting, and publication of the assumption of jurisdiction and return to work order, the Union officers and members, including herein private respondent workers, failed to return to work. Thus, effective July 27, 2000, private respondents, Perfecto Venus, Jr., Bienvenido P. Santos, Jr., Rafael C. Roy, Nancy C. Ramos, Salvador A. Alfon, Noel R. Santos, Manuel A. Ferrer, Salvador G. Alinas, Ramon D. Lofranco, Amador H. Policarpio, Reynaldo B. Gener, and Bienvenido G. Arpilleda, were considered dismissed from employment.

In the meantime, on July 31, 2000, the Agreement for the Management and Operation of the Metro Manila Light Rail Transit System between petitioners LRTA and METRO expired. The Board of Directors of petitioner LRTA decided not to renew the contract with petitioner METRO and directed the LRTA management instead to immediately take over the management and operation of the light rail transit system to avert the mass transportation crisis.

On October 10, 2000, private respondents Venus, Jr., Santos, Jr., and Roy filed a complaint for illegal dismissal before the National Labor Relations Commission (NLRC) and impleaded both petitioners LRTA and METRO.

Private respondents Ramos, Alfon, Santos, Ferrer, Alinas, Lofranco, Policarpio, Gener, and Arpilleda followed suit on December 1, 2000.

On October 1, 2001, Labor Arbiter Luis D. Flores rendered a consolidated judgment in favor of the private respondent workers [8] —

WHEREFORE, judgment is hereby rendered in favor of the complainants and against the respondents, as follows:

- Declaring that the complainants were illegally dismissed from employment and ordering their reinstatement to their former positions without loss of seniority and other rights and privileges.
- Ordering respondents Metro Transit Organization, Inc. and Light Rail Transit Authority to jointly and severally pay the complainants their other benefits and full backwages, which as of June 30, 2001 are as follows:

1. Perfecto H. Venus, Jr. P247,724.36
2. Bienvenido P. Santos, Jr. 247,724.36
3. Rafael C. Roy 247,724.36
4. Nancy [C.] Ramos 254,282.62
5. Salvador A. Alfon 257,764.62
6. Noel R. Santos 221,897.58
7. Manuel A. Ferrer 250,534.78
8. Salvador G. [Alinas] 253,454.88
9. Ramon D. Lofranco 253,642.18
10. Amador H. Policarpio 256,609.22
11. Reynaldo B. Gener 255,094.56

TOTAL P2,746,453.52

- Ordering respondents Metro Transit Organization, Inc. and Light Rail Transit Authority to jointly and severally pay each of the complainants the amount of P50,000.00 as moral damages.
- Ordering respondents Metro Transit Organization, Inc. and Light Rail Transit Authority to jointly and severally pay the complainants attorney's fees equivalent to ten percent (10%) of the total money judgment.

SO ORDERED.

The complaint filed by Bienvenido G. Arpilleda, although initially consolidated with the main case, was eventually dropped for his failure to appear and submit any document and position paper. [9]

On May 29, 2002, on appeal, the NLRC found that the striking workers failed to heed the return to work order and reversed and set aside the decision of the labor arbiter. The suit against LRTA was dismissed since "LRTA is a government-owned and controlled corporation created by virtue of Executive Order No. 603 with an original charter" [10] and "it ha[d] no participation whatsoever with the termination of complainants' employment." [11] In fine, the cases against the LRTA and METRO were dismissed, respectively, for lack of jurisdiction and for lack

of merit.

On December 3, 2002, the NLRC denied the workers' Motion for Reconsideration "[t]here being no showing that the Commission committed, (and that) the Motion for Reconsideration was based on, palpable or patent errors, and the fact that (the) said motion is not under oath."

On a petition for certiorari however, the Court of Appeals reversed the NLRC and reinstated the Decision rendered by the Labor Arbiter. Public respondent appellate court declared the workers' dismissal as illegal, pierced the veil of separate corporate personality and held the LRTA and METRO as jointly liable for back wages.

Hence, these twin petitions for review on certiorari of the decision of public respondent appellate court filed by LRTA and METRO which this Court eventually consolidated.

In the main, petitioner LRTA argues that it has no employer-employee relationship with private respondent workers as they were hired by petitioner METRO alone pursuant to its ten (10)-year Agreement for the Management and Operation of the Metro Manila Light Rail Transit System with petitioner METRO. Private respondent workers recognized that their employer was not petitioner LRTA when their certified exclusive collective bargaining representative, the Pinag-isang Lakas ng Manggagawa sa METRO, Inc. — National Federation of Labor, otherwise known as PIGLAS-METRO, INC. — NFL — KMU, entered into a collective bargaining agreement with petitioner METRO. Piercing the corporate veil of METRO was unwarranted, as there was no competent and convincing evidence of any wrongful, fraudulent or unlawful act on the part of METRO, and, more so, on the part of LRTA.

Petitioner LRTA further contends that it is a government-owned and controlled corporation with an original charter, Executive Order No. 603, Series of 1980, as amended, and thus under the exclusive jurisdiction only of the Civil Service Commission, not the NLRC.

Private respondent workers, however, submit that petitioner METRO was not only fully-owned by petitioner LRTA, but all aspects of its operations and administration were also strictly controlled, conducted and directed by petitioner LRTA. And since petitioner METRO is a mere adjunct, business conduit, and alter ego of petitioner LRTA, their respective corporate veils must be pierced to satisfy the money claims of the illegally dismissed private respondent employees.

We agree with petitioner LRTA. Section 2 (1), Article IX — B, 1987 Constitution, expressly provides that "[t]he civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters." Corporations with original charters are those which have been created by special law and not through the general corporation law. Thus, in *Philippine National Oil Company — Energy Development Corporation v. Hon. Leogrado*, we held that "under the present state of the law, the test in determining whether a government-owned or controlled corporation is subject to the Civil Service Law is the manner of its creation such that government corporations created by special charter are subject to its provisions while those incorporated under the general Corporation Law are not within its coverage." [12] There should be no dispute then that employment in petitioner LRTA should be governed only by civil service rules, and not the Labor Code and beyond the reach of the Department of Labor and Employment, since petitioner LRTA is a government-owned and controlled corporation with an original charter, Executive Order No. 603, Series of 1980, as amended.

In contrast, petitioner METRO is covered by the Labor Code despite its later acquisition by petitioner LRTA. In *Lumanta v. National Labor Relations Commission*, [13] this Court ruled that labor law claims against

government-owned and controlled corporations without original charter fall within the jurisdiction of the Department of Labor and Employment and not the Civil Service Commission. Petitioner METRO was originally organized under the Corporation Code, and only became a government-owned and controlled corporation after it was acquired by petitioner LRTA. Even then, petitioner METRO has no original charter, hence, it is the Department of Labor and Employment, and not the Civil Service Commission, which has jurisdiction over disputes arising from the employment of its workers. Consequently, the terms and conditions of such employment are governed by the Labor Code and not by the Civil Service Rules and Regulations.

We therefore hold that the employees of petitioner METRO cannot be considered as employees of petitioner LRTA. The employees hired by METRO are covered by the Labor Code and are under the jurisdiction of the Department of Labor and Employment, whereas the employees of petitioner LRTA, a government-owned and controlled corporation with original charter, are covered by civil service rules. Herein private respondent workers cannot have the best of two worlds, e.g., be considered government employees of petitioner LRTA, yet allowed to strike as private employees under our labor laws. Department of Justice Opinion No. 108, Series of 1999, issued by then Secretary of Justice Serafin R. Cuevas on whether or not employees of petitioner METRO could go on strike is persuasive —

We believe that METRO employees are not covered by the prohibition against strikes applicable to employees embraced in the Civil Service. It is not disputed, but in fact conceded, that METRO employees are not covered by the Civil Service. This being so, METRO employees are not covered by the Civil Service law, rules and regulations but are covered by the Labor Code and, therefore, the rights and prerogatives granted to private employees thereunder, including the right to strike, are available to them.

Moreover, as noted by Secretary Benjamin E. Diokno, of the Department of Budget and Management, in his letter dated February 22, 1999, the employees of METRO are not entitled to the government amelioration assistance authorized by the President pursuant to Administrative Order No. 37 for government employees, because the employees of METRO are not government employees since Metro, Inc. "could not be considered as GOCC as defined under Section 3 (b) of E.O. 518 x x x" [14]

Indeed, there was never an intention to consider the employees of petitioner METRO as government employees of petitioner LRTA as well — neither from the beginning, nor until the end. Otherwise, they could have been easily converted from being employees in the private sector and absorbed as government employees covered by the civil service when petitioner LRTA acquired petitioner METRO in 1989. The stubborn fact is that they remained private employees with rights and prerogatives granted to them under the Labor Code, including the right to strike, which they exercised and from which the instant dispute arose.

We likewise hold that it is inappropriate to pierce the corporate veil of petitioner METRO. In *Del Rosario v. National Labor Relations Commission*, we ruled that "[u]nder the law a corporation is bestowed juridical personality, separate and distinct from its stockholders. But when the juridical personality of the corporation is used to defeat public convenience, justify wrong, protect fraud or defend crime, the corporation shall be considered as a mere association of persons, and its responsible officers and/or stockholders shall be held individually liable. For the same reasons, a corporation shall be liable for the obligations of a stockholder, or a corporation and its successor-in-interest shall be considered as one and the liability of the former shall attach to the latter. But for the separate juridical personality of a corporation to be disregarded, the wrongdoing must be clearly and convincingly established. It cannot be presumed." [15] In *Del Rosario*, we also held that the "substantial identity of the incorporators of the two corporations does not necessarily imply fraud." [16]

In the instant case, petitioner METRO, formerly Meralco Transit Organization, Inc., was originally owned by the Manila Electric Company and registered with the Securities and Exchange Commission more than a decade

before the labor dispute. It then entered into a ten-year agreement with petitioner LRTA in 1984. And, even if petitioner LRTA eventually purchased METRO in 1989, both parties maintained their separate and distinct juridical personality and allowed the agreement to proceed. In 1990, this Court, in *Light Rail Transit Authority v. Commission on Audit*, even upheld the validity of the said agreement. [17] Consequently, the agreement was extended beyond its ten-year period. In 1995, METRO's separate juridical identity was again recognized when it entered into a collective bargaining agreement with the workers' union. All these years, METRO's distinct corporate personality continued quiescently, separate and apart from the juridical personality of petitioner LRTA.

The labor dispute only arose in 2000, after a deadlock occurred during the collective bargaining between petitioner METRO and the workers' union. This alone is not a justification to pierce the corporate veil of petitioner METRO and make petitioner LRTA liable to private respondent workers. There are no badges of fraud or any wrongdoing to pierce the corporate veil of petitioner METRO.

On this point, the Department of Justice Opinion No. 108, Series of 1999, issued by then Secretary of Justice Serafin R. Cuevas is once again apropos:

Anent the issue of piercing the corporate veil, it was held in *Concept Builders, Inc. v. NLRC* (G.R. No. 108734, May 29, 1996, 257 SCRA 149, 159) that the test in determining the applicability of the doctrine of piercing the veil of corporate fiction is as follows:

"1. Control, not mere majority or complete stock control, but complete domination, not only of finances but of policy and business practice in respect to the transaction attacked so that the corporate entity as to this transaction had at the time no separate mind, will or existence of its own;

2. Such control must have been used by the defendant to commit fraud or wrong, to perpetuate the violation of a statutory or other positive legal duty, or dishonest and unjust act in contravention of plaintiff's legal rights; and

3. The aforesaid control and breach of duty must proximately cause the injury or unjust loss complained of.

The absence of any one of these elements prevents 'piercing the corporate veil.' In applying the 'instrumentality' or 'alter ego' doctrine, the courts are concerned with reality and not form, with how the corporation operated and the individual defendant's relationship to that operation."

Here, the records do not show that control was used to commit a fraud or wrong. In fact, it appears that piercing the corporate veil for the purpose of delivery of public service, would lead to a confusing situation since the outcome would be that Metro will be treated as a mere alter ego of LRTA, not having a separate corporate personality from LRTA, when dealing with the issue of strike, and a separate juridical entity not covered by the Civil Service when it comes to other matters. Under the Constitution, a government corporation is either one with original charter or one without original charter, but never both. [18]

In sum, petitioner LRTA cannot be held liable to the employees of petitioner METRO.

With regard the issue of illegal dismissal, petitioner METRO maintains that private respondent workers were not illegally dismissed but should be deemed to have abandoned their jobs after defying the assumption of jurisdiction and return-to-work order issued by the Labor Secretary. Private respondent workers, on the other hand, submit that they could not immediately return to work as the light rail transit system had ceased its operations.

We find for the private respondent workers. In *Batangas Laguna Tayabas Bus Co. v. National Labor Relations Commission*, [19] we said that the five-day period for the strikers to obey the Order of the Secretary of Justice and return to work was not sufficient as "some of them may have left Metro Manila and did not have enough time to return during the period given by petitioner, which was only five days." [20] In *Batangas Laguna Tayabas Bus*

Co., [21] we further held —

The contention of the petitioner that the private respondents abandoned their position is also not acceptable. An employee who forthwith takes steps to protest his lay-off cannot by any logic be said to have abandoned his work.

For abandonment to constitute a valid cause for termination of employment, there must be a deliberate, unjustified refusal of the employee to resume his employment. This refusal must be clearly established. As we stressed in a recent case, mere absence is not sufficient; it must be accompanied by overt acts unerringly pointing to the fact that the employee simply does not want to work anymore.

In the instant case, private respondent workers could not have defied the return-to-work order of the Secretary of Labor simply because they were dismissed immediately, even before they could obey the said order. The records show that the assumption of jurisdiction and return-to-work order was issued by Secretary of Labor Bienvenido E. Laguesma on July 25, 2000. The said order was served and posted by the sheriffs of the Department of Labor and Employment the following day, on July 26, 2000. Further, the said order of assumption of jurisdiction was duly published on July 27, 2000, in the Philippine Daily Inquirer and the Philippine Star. On the same day also, on July 27, 2000, private respondent workers were dismissed. Neither could they be considered as having abandoned their work. If petitioner METRO did not dismiss the strikers right away, and instead accepted them back to work, the management agreement between petitioners LRTA and METRO could still have been extended and the workers would still have had work to return to.

IN VIEW WHEREOF, the Decision of public respondent Court of Appeals is AFFIRMED insofar as it holds Metro Transit Organization, Inc. liable for the illegal dismissal of private respondents and orders it to pay them their benefits and full back wages and moral damages. Further, Metro Transit Organization, Inc. is ordered to pay attorney's fees equivalent to ten percent (10%) of the total money judgment. The petition of the Light Rail Transit Authority is GRANTED, and the complaint filed against it for illegal dismissal is DISMISSED for lack of merit.

SO ORDERED.

Sandoval-Gutierrez, Corona, Azcuna, and Garcia, JJ., concur.

[1]Rollo, G.R. No. 163782, pp. 35 — 72, 384 — 421.

[2] Id., pp. 339 — 342.

[3] Id., G.R. No. 163881, pp. 214 -215.

[4] Ibid.

[5] Id., G.R. No. 163881, p. 216.

[6] Business Section, p. B2.

[7] Business Section, p. 19.

[8] Decision of the Labor Arbiter, pp. 15 — 16.

[9] Id., pp. 14 — 15.

[10] Decision of the First Division of the NLRC, penned by Presiding Commissioner Roy V. Señeres and concurred in by Commissioners Vicente S.E. Veloso and Alberto R. Quimpo, p. 6.

[11]Ibid.

[12] G.R. No. 58494, 5 July 1989, 175 SCRA 26, 30. See also *Tanjay Water District v. Gabaton*, G.R. No. 63742, 17 April 1989, 172 SCRA 253, and *Republic v. Court of Appeals*, G.R. No. 87676, 20 December 1989, 180 SCRA 428.

[13] G.R. No. 82819, 8 February 1989, 170 SCRA 79.

[14] *Rollo*, G.R. No. 163782, p. 423.

[15] G.R. No. 85416, 24 July 1990, 187 SCRA 777, 780.

[16] *Id.*, p. 781.

[17] *Light Rail Transit Authority v. Commission on Audit*, G.R. No. 88365, 9 January 1990.

[18] *Rollo*, G.R. No. 163782, p. 424.

[19] G.R. No. 101858, 21 August 1992, 212 SCRA 792.

[20] *Id.*, p. 800.

[21] *Ibid.*

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