MARIO DANILO B. VILLAFLORES, PETITIONER, VS. RAM SYSTEM SERVICES, INC. AND ROGELIO U. YAP, RESPONDENTS.

G.R. NO. 166136. August 18, 2006

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Assailed in this Petition for Review on Certiorari is the Decision[1] of the Court of Appeals (CA), 9th Division, in CA-G.R. SP No. 84941 and its Resolution[2] denying the motion for reconsideration thereof.

Petitioner Mario Danilo and Avelita Villaflores filed separate complaints against RAM System Services, Inc. (RSSI) and its President, Rogelio U. Yap, for illegal dismissal and monetary benefits. The complaints were docketed as National Labor Relations Commission (NLRC) NCR Cases Nos. 00-06-04135-97 and 00-66-04136-97, which were eventually ordered consolidated.

According to Mario, he was employed by RSSI on November 2, 1992 as computer coordinator with a basic salary of P20,000.00 a month. For her part, Avelita alleged that she was employed by RSSI on June 1, 1994 as computer instructor with a basic monthly salary of P6,500.00. RSSI terminated their services on June 9, 1997.

In their Position Paper, respondents alleged that Mario was the treasurer and an incorporator of RSSI; he was not its employee. The RSSI entered into a Memorandum of Agreement (MOA) with the Our Lady of Perpetual Succor College (OLOPSC) where the latter pledged to provide computer education curricula. Rogelio Yap, however, signed the MOA in his personal capacity. Thereafter, he and Mario entered into a "loose partnership," and the MOA was renewed from 1994 to 1998. In the meantime, Avelita was not rehired as instructor for the school year 1997-1998. The souring relationship of Yap and Mario took a turn for the worse when the latter accused Yap of being involved in irregularities in the collection of P2,500,000.00 from OLOPSC from June 18, 1996 to December 21, 1996 without his (Mario's) knowledge. This was followed by Mario's demand to be allowed to inspect the books of accounts and other records of the RSSI. When Yap refused, Mario filed a complaint with the Securities and Exchange Commission (SEC). The case was docketed as SEC Case No. 11-97-5827,[3] later transferred to the RTC of Marikina City for resolution pursuant to Republic Act No. 8799. Mario alleged in his SEC complaint that he and Yap received funds from the RSSI from August 1993 to May 1996 as advance distribution of profits over and above their remuneration as teacher-coordinator and coordinator, respectively.

In his Reply to the Position Paper of respondents, Mario insisted that while he was an incorporator, director and treasurer of RSSI, he was also an employee who received a salary of P20,000.00 payable on a bi-monthly basis. He appended photocopies of alleged payroll checks drawn against the account of RSSI and payable to him and his wife during the period of June 29, 1994 to March 25, 1997; and disbursement vouchers showing that the spouses were employees of RSSI.[4] As evidenced by the said checks, Mario had a monthly salary of P15,000.00 in 1994; P15,000.00 from February to July 1995; P18,000.00 from September to December 1995; P18,000.00 from January to May 1996; P20,000.00 from June to December 1996; and P20,000.00 from January to March 1997.[5]

Mario then filed a supplement to his reply appending thereto photocopies of RSSI checks payable to him and Yap during the period from May 3, 1994 to December 1994,[6] and receipts of remittances to him for assorted payments.[7]

Respondents replied that the checks, disbursement vouchers and receipts submitted by the spouses Villaflores to prove that they were employees of RSSI and the amounts of their salary were hearsay and inadmissible; the checks, per se, cannot serve as basis for a finding of an employee-employer relationship.

On October 14, 1998, the Labor Arbiter rendered judgment ordering the dismissal of the two complaints, since complainants were not employees of RSSI. The fallo of the decision reads:

> CONFORMABLY WITH THE FOREGOING, judgment is hereby rendered dismissing NLRC NCR No. 00-06-04135-97 for lack of jurisdiction. While NLRC NCR Case No. 00-06-04136-97 is dismissed for lack of merit.
>
> SO ORDERED.[8]

On appeal, the NLRC rendered judgment on October 29, 1999 affirming the decision of the Labor Arbiter.[9] The spouses Villaflores filed a motion for reconsideration, which the NLRC denied.

The spouses Villaflores filed a petition for certiorari with the CA assailing the decision and resolution of the NLRC. They maintained that they were employees of RSSI. The case was docketed as CA-G.R. SP No. 58836 and raffled to the 16th Division of the court.

On March 28, 2001, the CA rendered judgment[10] in favor of petitioners. The appellate court declared that there was ample evidence to show that Mario Villaflores was, in fact, an employee of RSSI receiving salaries on a bi-monthly basis as proven by the various paychecks in his name covering the period of June 19, 1994 to February 26, 1997; and disbursement vouchers from December 15, 1992 to January 29, 1993. The appellate court noted that the disbursement voucher dated January 29, 1993 even states that the amount of P2,500.00 was for the salary of Mario for the period of January 16 to 30, 1993.[11] The fallo of the decision reads:

> WHEREFORE, the petition is GRANTED. The decisions of Labor Arbiter Melquiades Sol Del Rosario dated October 14, 1998 and the National Labor Relations Commission (First Division) dated October 29, 1999 are REVERSED and SET ASIDE. The termination of petitioners Mario Danilo Villaflores and Avelita Villaflores is hereby declared ILLEGAL. Accordingly, private respondents RAM System Services, Inc. (RSSI) and Rogelio Yap are hereby ORDERED to reinstate herein petitioners to their former positions without loss of seniority and any other benefits, or to pay them their respective separation pay should reinstatement be no longer feasible. Private respondents are, likewise, ordered to pay petitioner full backwages from June 9, 1997 until the date of their actual reinstatement.
>
> SO ORDERED.[12]

Respondents then filed a petition for review on certiorari before this Court, which was, however, denied due course; hence, the decision in CA-G.R. SP No. 58836 became final and executory.

The records were then remanded to the Labor Arbiter for the enforcement of the CA decision. Mario filed a Motion for Execution[13] dated July 29, 2002. The Labor Arbiter required respondents to comment on the motion.

During the pre-execution conference on September 10, 2002, respondents prayed for an extension of time to file their comment on the motion.[14] Respondents then settled Avelita's claims, but the monetary award to Mario remained unpaid. In the meantime, Mario submitted his computation of the monetary award, alleging that the CA

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decision declared his monthly salary to be P20,000.00, thus, he was entitled to a total amount of P1,567,000.00.[15]

In their Joint Comment, respondents prayed that the computation of the monetary award should be done by the Labor Arbiter in direct coordination with the concerned department of the NLRC, and that the same should not be based on the self-serving computation of Mario.[16] Respondents claimed that there is no factual basis for the latter's claim that he received a monthly salary of P20,000.00 from RSSI. Such claim, they insist, is inadmissible and self-serving.

Upon motion by the respondents, the Labor Arbiter set the case anew for pre-execution conference on November 25, 2002.[17] However, the parties failed to appear on the said date. The arbiter, hence, declared the matter submitted for resolution and required the Research and Computation Unit (RCU) of the NLRC to compute the monetary awards of Mario.[18]

On December 10, 2002, the RCU submitted its computation of the award based on Mario's monthly salary of P20,000.00. The total monetary award of Mario was pegged at P1,553,898.00.[19] The RCU computed his separation pay based on one-half month for every year of service. However, he moved that the computation be revised and that his separation pay be based on one-month salary for every year of service.[20]

For their part, respondents moved for the recomputation of the aforesaid award on the ground that nothing in the dispositive portion of the decision of the CA directly state that Mario had a monthly salary of P20,000.00. If ever, respondents submit, such computation should be at par with that of his wife (P6,500.00 a month).[21]

On January 23, 2003, the Labor Arbiter issued an Order[22] affirming the computation of the RCU, considering that it was made in accordance with the decision of the CA, the Court and the Rules of the NLRC.

Respondents appealed the order to the NLRC, which, however, dismissed the appeal on September 30, 2003.[23] On respondents' claim that Mario's backwages should be equal to the salary of his wife, the Commission declared that it was only at this late stage in the case that respondents raised the matter; it was never mentioned in any of their earlier pleadings.

The NLRC declared that the documents on record show that the last two checks for March 1997 submitted in evidence (dated March 11, 1997 and March 25, 1997) were P10,000.00 each. It is thus logical to conclude that Mario had a monthly salary of P20,000.00.[24]

Respondents' motion for the reconsideration of the resolution was also denied by the NLRC.

Respondents filed a petition for certiorari with the CA, seeking to reverse the NLRC resolutions on the following ground:

> Public respondent NLRC (1st Division) acted with manifest error and grave abuse of discretion in affirming the computation made by the NLRC-NCR Research and Computation Unit which was approved by Labor Arbiter Melquiades Sol Del Rosario, in particular, the monetary award granted to respondent Mario Danilo Villaflores, as it transgressed petitioners' sacrosanct right to due process.[25]

On August 31, 2004, the CA rendered judgment granting the petition and reversed the assailed NLRC resolution. The fallo of the decision reads:

> WHEREFORE, premises considered, petition for certiorari is hereby GIVEN DUE COURSE and the January 23, 2003 Order of the Labor Arbiter in NLRC NCR Case Nos. 00-06-04135-97 and 00-06-04136-97, and the September 30, 2003 Resolution and June 8, 2004 Order of the National Labor Relations Commission, are hereby REVERSED and SET ASIDE, and the matter of computation of monetary awards for Mario Danilo

> Villaflores is hereby REMANDED to the Labor Arbiter and he is hereby DIRECTED to recompute the monetary award due Mario Danilo Villaflores based on P6,500.00 "salary" as computer instructor, just like his wife's "salary" which shall be different from what constitutes "other compensation as officer and as stockholder."
>
> SO ORDERED.[26]

The CA denied the motion of Mario for the reconsideration of the decision.

Mario, hence, filed a petition for review on certiorari alleging that:

> THE COURT OF APPEALS COMMITTED GRAVE ERROR IN SETTING ASIDE THE FINDING OF THE NLRC WHICH WAS SUPPORTED BY SUBSTANTIAL EVIDENCE OF (SIC) RECORD.[27]

Petitioner avers that the CA erred when it granted respondents' petition for certiorari. He argues that the NLRC did not commit grave abuse of discretion as its finding was, in fact, based on the substantial evidence on record. The dispositive portion of the decision to be executed expressly states that petitioner is to be paid his backwages and separation pay. While it does not state the amount thereof, its basis is found in the findings of fact of the decision itself, which, likewise, cites the evidence on record, including the vouchers and paychecks.

In determining the true intent and meaning of a decision, the same must be considered in its entirety. The judgment must be treated not in isolation or as a separate item, but in connection with other portions of the decision. Thus, in order to prove petitioner's salary, it behooved respondents to produce the payroll which under the Labor Code is required to be kept by an employer; they chose not to do so. Such concealment of best evidence raises the presumption that it would be adverse to them. It must be stressed that the burden of proof to establish petitioner's salary falls on respondent RSSI, as employer.[28]

Petitioner maintains that respondents even admitted having appealed the said computation and, as such, they were duly heard on the matter. They appealed and ventilated their side, thus, due process was observed.[29] Contrary to the ruling of the CA, respondents were not denied the right to due process when the award was computed by the Labor Arbiter. In fact, they were furnished a copy of the computation and were given an opportunity to comment thereon. They even questioned the computation as to the rate of separation pay (computed at one-half month for every year of service instead of the one month prescribed by jurisprudence).

In its Decision, the CA declared that other checks on file as evidence were different from the two P10,000.00 checks for March 1997. This would show that P20,000.00 do not constitute the fixed "salary" of petitioner as an employee. There are, moreover, indications that he earned only P6,500.00, just like that of his wife who was a computer instructor. Further, the Labor Arbiter failed to hold independent hearings to determine how the RCU arrived at the total monetary award. The former just relied on the RCU, which is not even a quasi-judicial body entrusted by law with jurisdiction. The computation should have been based on evidence presented before the Labor Arbiter after due hearings. The determination of what constitutes the salary of an employee, and his other income as officer and stockholder, would necessitate the "exercise of that jurisdiction" assumed by the Labor Arbiter which cannot be delegated to the RCU. The CA, moreover, ruled that there is no basis for the finding of the RCU and the Labor Arbiter that petitioner had a salary of P20,000.00 per month; there is no employment contract between respondent RSSI and petitioner which shows the monthly salary of the latter; the only evidence adduced to prove that petitioner's salary was P20,000.00 were the two checks dated March 11, 1997 and March 25, 1997 with a face value of P10,000.00 each; and that no other checks were adduced in evidence.

The CA declared that, in the five years from 1992-1997, or a total of 120 paydays, the use of only two checks as basis (representing two paydays in March 1997) would not constitute preponderance of evidence to show that

petitioner was, indeed, receiving the "salary" of P20,000.00 on a regular basis. The appellate court emphasized that petitioner even admitted that he received varying amounts in the said 120 paydays. These different amounts were suppressed in order to conceal that they were, in fact, not paid as such but as "allowances and advances" to petitioner. Petitioner also admitted that he was paid for services in other capacities other than as employee, but as officer or as stockholder of the corporation. Such admissions, the CA declared, are binding on him. Since petitioner was an officer and a stockholder of the RSSI, there was a need to verify the amounts paid to him that constitute salary as an employee and what amounts constitute payment to him as officer or as a stockholder of the corporation. No further proof is required that he received compensation in different forms and for his different roles in the corporation. He already admitted that he was an officer and a stockholder of the corporation and, in corporation law, are separate and distinct from each other. Thus, the NLRC gravely erred in fixing all amounts paid to him as salary and disregarding his admitted role and income as an officer and as a stockholder of the corporation. The CA lamented that the Labor Arbiter did not afford respondents any hearing on the "salary" issue, and that he merely relied completely on the computation of the RCU.

The threshold issue is whether, under the decision in CA-G.R. SP No. 58836, petitioner is entitled to backwages and separation pay based on a monthly salary of P20,000.00 as of March 1997, based on the computation of the RCU as approved by the Labor Arbiter and affirmed by the NLRC. But intertwined with it is the issue of whether the Ninth Division of the CA had jurisdiction over the petition for certiorari of respondents in CA-G.R. SP No. 84941.

The petition is meritorious.

The CA should have dismissed outright the petition for certiorari of respondents (petitioners in CA-G.R. SP No. 84941) for lack of jurisdiction.

The Court notes that the Labor Arbiter resolved to dismiss the complaint of petitioner and his wife, holding that they were not employees of respondent RSSI. The NLRC affirmed the decision of the Labor Arbiter. However, these rulings were reversed by the CA in CA-G.R. SP No. 58836. When this decision became final and executory, the appellate court remanded the records to the Labor Arbiter for the enforcement of its decision; respondents were ordered to reinstate petitioner to his former position without loss of seniority rights, to pay him separation pay in case reinstatement is no longer feasible and full backwages from June 9, 1997 until an order for his actual reinstatement is issued. In obedience to the decision of the CA, the Labor Arbiter issued a writ of execution and ordered the RCU to compute petitioner's separation pay and backwages. In his enforcement and implementation of the CA decision, the Labor Arbiter was under the control and supervision of the Sixteenth Division of the CA, with the right to determine every question of fact and law which may be involved in the execution.[30]

It bears stressing that although its decision had become final and executory, the Sixteenth Division of the CA retained jurisdiction over the case to the exclusion of all other divisions, and to control, in furtherance of justice, the conduct of the Labor Arbiter in the enforcement of its decision. A case on appeal to the CA, and in which an order of execution has been issued, is considered as still pending, so that all proceedings on the execution are proceedings in the suit. Thus, the proceedings in CA-G.R. SP No. 58836 had not been terminated, and no other court had jurisdiction to hear and decide questions incidental to the enforcement of the decision of the CA, or its award in favor of petitioner by the Labor Arbiter.[31] The various divisions of the CA are, in a sense, coordinate courts, and a division of the appellate court should not interfere with the enforcement of the decision of the other divisions of the court, otherwise confusion could ensue and might seriously hinder the administration of justice.[32]

In the present case, respondents insisted before the Labor Arbiter that the CA, in CA-G.R. SP No. 58836, did not

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make any specific findings, either in the decretal portion of its decision or in the body thereof, that the monthly salary of petitioner, as of the time he was dismissed by respondent RSSI, was P20,000.00. The Labor Arbiter ruled that the monthly salary can be found in the records of CA-G.R. SP No. 58836 which the appellate court likewise referred to in its decision. Hence, there was factual basis for computing the backwages and separation pay of petitioner based on the monthly salary of P20,000.00. The question therein between respondents, on the one hand, and the Labor Arbiter and petitioner, on the other, involved the enforcement of the decision of the CA in CA-G.R. SP No. 58836 which itself had the exclusive jurisdiction to resolve. Thus, the remedy of respondents to assail the resolution of the NLRC, approving the RCU's computation, was to file the appropriate motion for clarification before the Sixteenth Division of the CA in CA-G.R. SP No. 58836. In fine, respondents should not have filed a separate petition for certiorari in the CA which was later docketed as CA-G.R. SP No. 84941 and raffled to its Ninth Division. Worse, the Ninth Division of the CA set aside the assailed NLRC resolution, and in delving into the validity of the rulings of the Labor Arbiter, the NLRC, and the verity of the computation of the RCU, arrogated unto itself the jurisdiction vested solely in the Sixteenth Division.

The issue of whether or not the Ninth Division of the CA had jurisdiction to resolve questions or issues related to the enforcement of the decision of the Sixteenth Division of the CA in CA-G.R. No. 58836 was not raised by the parties in their pleadings. However, issues or errors not raised by the parties may be resolved by this Court where, as in this case, the issue is one of jurisdiction; it is necessary in arising at a just decision; and the resolution of the issues raised by the parties depend upon the determination of the unassigned issue or error, or is necessary to give justice to the parties.[33]

The consequence of this holding is that the petition should be granted and the decision of the CA reversed, without prejudice of the right of respondent herein to file the appropriate pleading (before the Sixteenth Division of the CA in CA-G.R. No. 58836) for the clarification of its decision, more specifically, on the amount of monthly salary of petitioner when his employment was terminated by respondent RSSI. Indeed, the fallo or the body of the decision in CA-G.R. SP No. 58836 did not state that when the employment of petitioner was terminated by respondent RSSI in July 1997, petitioner had a monthly salary of P20,000.00.

IN LIGHT OF ALL THE FOREGOING, the petition is GRANTED. The Decision and Resolution of the Ninth Division of the Court of Appeals in CA-G.R. SP No. 84941 are SET ASIDE AND NULLIFIED.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez and Chico-Nazario, JJ., concur.

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[1] Penned by Associate Justice Vicente Q. Roxas, with Associate Justices Salvador J. Valdez, Jr. and Juan Q. Enriquez, Jr., concurring; rollo, pp. 34-48.

[2] Rollo, p. 51.

[3] Records, pp. 309-320.

[4] Id. at 146-179.

[5] Id. at 146-159.

[6] Id. at 206-211.

[7] Id. at 213-216.

[8] Id. at 341.

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[9] Id. at 570-576.

[10] Penned by Associate Justice Remedios Salazar-Fernando, with Associate Justices Romeo A. Brawner and Salvador R. De Guia, concurring; rollo, pp. 54-65.

[11] Rollo, pp. 59-60.

[12] Id. at 64-65.

[13] Records, pp. 602-604.

[14] Id. at 633-635.

[15] Id. at 613.

[16] Id. at 646.

[17] Id. at 641.

[18] Id. at 650.

[19] Id. at 652-653.

[20] Id. at 658-660.

[21] Id. at 673-679.

[22] Id. at 680-681.

[23] Id. at 786-788.

[24] Id. at 786-787.

[25] CA rollo, pp. 7-8.

[26] Id. at 95-96.

[27] Rollo, p. 25.

[28] Id. at 27.

[29] Id. at 28.

[30] Vda. De Paman v. Señeris, G.R. No. L-37632, July 30, 1982, 115 SCRA 709, 714.

[31] Mondejar v. Javellana, G.R. No. 116883, September 22, 1998, 295 SCRA 699, 712.

[32] Darwin v. Tokonaga, G.R. No. 54177, May 27, 1991, 197 SCRA 442, 449-450.

[33] Velarde v. Social Justice Society, G.R. No. 159357, April 28, 2004, 428 SCRA 283; Golangco v. Villanueva, A.M. No. RTJ-96-1355, September 4, 1997, 278 SCRA 414; Aspi v. Court of Appeals, G.R. No. 83527, September 1, 1994, 294 SCRA 94.

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