

CHRIS GARMENTS CORPORATION, PETITIONER, VS. HON. PATRICIA A. STO. TOMAS AND CHRIS GARMENTS WORKERS UNION-PTGWO LOCAL CHAPTER NO. 832, RESPONDENTS.

G.R. No. 167426. January 12, 2009

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Petitioner assails the Resolutions dated February 22, 2005[1] and March 16, 2005[2] of the Court of Appeals in CA-G.R. SP No. 88444, which dismissed its petition for certiorari due to its failure to file a motion for reconsideration from the Decision[3] of the Secretary of the Department of Labor and Employment before filing the petition.

The relevant facts are as follows:

Petitioner Chris Garments Corporation is engaged in the manufacture and export of quality garments and apparel.

On February 8, 2002, respondent Chris Garments Workers Union-PTGWO, Local Chapter No. 832, filed a petition for certification election with the Med-Arbiter. The union sought to represent petitioner's rank-and-file employees not covered by its Collective Bargaining Agreement (CBA) with the Samahan Ng Mga Manggagawa sa Chris Garments Corporation-Solidarity of Union in the Philippines for Empowerment and Reforms (SMCGC-SUPER), the certified bargaining agent of the rank-and-file employees. The union alleged that it is a legitimate labor organization with a Certificate of Creation of Local/Chapter No. PTGWO-832[4] dated January 31, 2002 issued by the Bureau of Labor Relations.[5]

Petitioner moved to dismiss the petition. It argued that it has an existing CBA from July 1, 1999 to June 30, 2004 with SMCGC-SUPER which bars any petition for certification election prior to the 60-day freedom period. It also contended that the union members are not its regular employees since they are direct employees of qualified and independent contractors.[6]

The union countered that its members are regular employees of petitioner since: (1) they are engaged in activities necessary and desirable to its main business although they are called agency employees; (2) their length of service have spanned an average of four years; (3) petitioner controlled their work attitude and performance; and (4) petitioner paid their salaries. The union added that while there is an existing CBA between petitioner and SMCGC-SUPER, there are other rank-and-file employees not covered by the CBA who seek representation for collective bargaining purposes. It also contended that the contract bar rule does not apply.[7]

The Med-Arbiter dismissed the petition. The Med-Arbiter ruled that there was no employer-employee relationship between the parties since the union itself admitted that its members are agency employees. The Med-Arbiter also held that even if the union members are considered direct employees of petitioner, the petition for certification election will still fail due to the contract bar rule under Article 232[8] of the Labor Code. Hence, a petition could only be filed during the 60-day freedom period of the CBA or from May 1, 2004 to June 30, 2004. Nevertheless,

the Med-Arbiter ruled that the union may avail of the CBA benefits by paying agency fees to SMC GC-SUPER.[9]

In a Resolution[10] dated December 27, 2002, the Secretary of Labor and Employment affirmed the decision of the Med-Arbiter. She ruled that petitioner failed to prove that the union members are employees of qualified and independent contractors with substantial capital or investment and added that petitioner had the right to control the performance of the work of such employees. She also noted that the union members are garment workers who performed activities directly related to petitioner's main business. Thus, the union members may be considered part of the bargaining unit of petitioner's rank-and-file employees. However, she held that the petition could not be entertained except during the 60-day freedom period. She also found no reason to split petitioner's bargaining unit.

On May 16, 2003, the union filed a second petition for certification election. The Med-Arbiter dismissed the petition on the ground that it was barred by a prior judgment. On appeal, the Secretary of Labor and Employment affirmed the decision of the Med-Arbiter.[11]

On June 4, 2004, the union filed a third petition for certification election.[12] The Med-Arbiter dismissed the petition on the grounds that no employer-employee relationship exists between the parties and that the case was barred by a prior judgment. On appeal, the Secretary of Labor and Employment granted the petition in a Decision[13] dated January 18, 2005. Thus:

WHEREFORE, the appeal filed by Chris Garment[s] Workers Union-PTGWO is hereby GRANTED. The 7 July 2004 Order of Med-Arbiter Tranquilino B. Reyes is hereby REVERSED and SET ASIDE. Accordingly, let the entire records of the case be remanded to the Regional Office of origin for the immediate conduct of a certification election, subject to the usual pre-election conference, among the regular rank-and-file employees of Chris Garments Corporation, with the following choices:

- Chris Garments Workers Union - PTGWO Local Chapter No. 832;
- Samahan ng Manggagawa sa Chris Garments Corp. - SUPER; and
- No Union.

Pursuant to Section 13(e), Rule VIII of Department Order No. 40-03, the employer is hereby directed to submit to the office of origin, within ten (10) days from receipt hereof, the certified list of its employees in the bargaining unit or when necessary a copy of its payroll covering the same employees for the last three (3) months preceding the issuance of this Decision.

SO DECIDED.[14]

Petitioner received a copy of the decision on January 25, 2005. On February 4, 2005, petitioner filed a petition for certiorari with the Court of Appeals which was dismissed due to its failure to file a motion for reconsideration of the decision before filing the petition.

Incidentally, a certification election was conducted on June 21, 2005 among petitioner's rank-and-file employees where SMC GC-SUPER emerged as the winning union. On January 20, 2006, the Med-Arbiter certified SMC GC-SUPER as the sole and exclusive bargaining agent of all the rank-and-file employees of petitioner.[15]

Petitioner now comes before us arguing that:

I.

THE COURT OF APPEALS SERIOUSLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION IN DISMISSING THE PETITION [FOR CERTIORARI] ON THE SOLE GROUND THAT THE COMPANY DID NOT FILE A MOTION FOR RECONSIDERATION DESPITE SECTION 21, RULE

VIII OF DEPARTMENT ORDER NO. 43-03, . . . SERIES OF 2003, [WHICH] PROHIBITS THE FILING OF A MOTION FOR RECONSIDERATION FROM A DECISION OF THE SECRETARY OF LABOR.

II.

THE COURT OF APPEALS SERIOUSLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION IN REFUSING TO RESOLVE THE MERITS OF THE PETITION AS IT DISMISSED THE SAME BY MERE, ALBEIT, BASELESS TECHNICALITY WHICH ONLY FRUSTRATED RATHER THAN PROMOTED SUBSTANTIAL JUSTICE . . .

III.

PUBLIC RESPONDENT SERIOUSLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION IN REVERSING THE DECISION OF THE MED-ARBITER AND GIVING [DUE] COURSE TO THE PETITION FOR CERTIFICATION ELECTION FILED BY PRIVATE RESPONDENT CGWU-PTGWO DESPITE THE ABSENCE OF ANY EMPLOYER-EMPLOYEE RELATIONSHIP BETWEEN THE COMPANY AND ITS MEMBERS.

IV.

PUBLIC RESPONDENT SERIOUSLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION IN REVERSING THE FINDINGS OF THE MED-ARBITER THAT THE PETITION FOR CERTIFICATION ELECTION WAS BARRED BY RES JUDICATA AND/OR THE PRINCIPLE OF CONCLUSIVENESS OF JUDGMENT.

V.

PUBLIC RESPONDENT SERIOUSLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION IN NOT DISMISSING OUTRIGHT THE APPEAL OF PRIVATE RESPONDENT FOR FAILURE TO SUBMIT A CERTIFICATION AGAINST FORUM SHOPPING.[16]

The principal issues are: (1) Is a motion for reconsideration necessary before a party can file a petition for certiorari from the decision of the Secretary of Labor and Employment? (2) Is the case barred by res judicata or conclusiveness of judgment? and (3) Is there an employer-employee relationship between petitioner and the union members?

First. It is settled that the filing of a motion for reconsideration is a prerequisite to the filing of a special civil action for certiorari to give the lower court the opportunity to correct itself.[17] This rule, however, admits of exceptions, such as when a motion for reconsideration would be useless under the circumstances.[18]

Under Department Order No. 40-03, Series of 2003,[19] the decision of the Secretary of Labor and Employment shall be final and executory after ten days from receipt thereof by the parties and that it shall not be subject of a motion for reconsideration.

In this case, the Decision dated January 18, 2005 of the Secretary of Labor and Employment was received by petitioner on January 25, 2005. It would have become final and executory on February 4, 2005, the tenth day from petitioner's receipt of the decision. However, petitioner filed a petition for certiorari with the Court of Appeals on even date. Clearly, petitioner availed of the proper remedy since Department Order No. 40-03 explicitly prohibits the filing of a motion for reconsideration. Such motion becomes dispensable and not at all necessary.

Second. The doctrine of res judicata provides that a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits on points and matters determined in the former suit.[20] The elements of res judicata are: (1) the judgment sought to bar the new

action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be a judgment on the merits; and (4) there must be as between the first and second action, identity of parties, subject matter, and causes of action.[21]

Res judicata has a dual aspect: first, "bar by prior judgment" which is provided in Rule 39, Section 47(b)[22] of the 1997 Rules of Civil Procedure and second, "conclusiveness of judgment" which is provided in Section 47(c)[23] of the same Rule.

There is "bar by prior judgment" when, as between the first case where the judgment was rendered, and the second case that is sought to be barred, there is identity of parties, subject matter, and causes of action.[24] In this instance, the judgment in the first case constitutes an absolute bar to the second action. Otherwise put, the judgment or decree of the court of competent jurisdiction on the merits concludes the litigation between the parties, as well as their privies, and constitutes a bar to a new action or suit involving the same cause of action before the same or any other tribunal.[25]

On the other hand, the doctrine of "conclusiveness of judgment" provides that issues actually and directly resolved in a former suit cannot again be raised in any future case between the same parties involving a different cause of action. Under this doctrine, identity of causes of action is not required but merely identity of issues. Otherwise stated, conclusiveness of judgment bars the relitigation of particular facts or issues in another litigation between the same parties on a different claim or cause of action.[26]

In the instant case, there is no dispute as to the presence of the first three elements of res judicata. The Resolution dated December 27, 2002 of the Secretary of Labor and Employment on the first petition for certification election became final and executory. It was rendered on the merits and the Secretary of Labor and Employment had jurisdiction over the case. Now, is the fourth element - identity of parties, subject matter, and causes of action between the first and third petitions for certification election - present? We hold in the negative.

The Secretary of Labor and Employment dismissed the first petition as it was filed outside the 60-day freedom period. At that time therefore, the union has no cause of action since they are not yet legally allowed to challenge openly and formally the status of SMCGC-SUPER as the exclusive bargaining representative of the bargaining unit. Such dismissal, however, has no bearing in the instant case since the third petition for certification election was filed well within the 60-day freedom period. Otherwise stated, there is no identity of causes of action to speak of since in the first petition, the union has no cause of action while in the third, a cause of action already exists for the union as they are now legally allowed to challenge the status of SMCGC-SUPER as exclusive bargaining representative.

Third. The matter of employer-employee relationship has been resolved with finality by the Secretary of Labor and Employment in the Resolution dated December 27, 2002. Since petitioner did not appeal this factual finding, then, it may be considered as the final resolution of such issue. To reiterate, "conclusiveness of judgment" has the effect of preclusion of issues.[27]

WHEREFORE, the instant petition is DENIED for lack of merit.

SO ORDERED.

Carpio[*], Carpio Morales, Tinga and Velasco, Jr., JJ., concur.

[*]Additional member in lieu of Associate Justice Arturo D. Brion who inhibited, being former Undersecretary of the Department of Labor and Employment.

[1] Rollo, pp. 66-67. Penned by Associate Justice Renato C. Dacudao, with Associate Justices Edgardo F. Sundiam and Japar B. Dimaampao concurring.

[2] Id. at 69.

[3] CA rollo, pp. 45-53, dated January 18, 2005.

[4] Id. at 107.

[5] Rollo, p. 95.

[6] Id.

[7] Id. at 96.

[8] ART. 232. Prohibition on Certification Election. – The Bureau shall not entertain any petition for certification election or any other action which may disturb the administration of duly registered existing collective bargaining agreements affecting the parties except under Articles 253, 253-A and 256 of this Code.

[9] Rollo, p. 96.

[10] Id. at 95-98.

[11] Id. at 8-9.

[12] CA rollo, pp. 59-61.

[13] Id. at 45A-53.

[14] Id. at 53.

[15] Rollo, pp. 131-132.

[16] Id. at 168-169.

[17] Abacan, Jr. v. Northwestern University, Inc., G.R. No. 140777, April 8, 2005, 455 SCRA 136, 148; Indiana Aerospace University v. Commission on Higher Education, G.R. No. 139371, April 4, 2001, 356 SCRA 367, 378.

[18] Santos v. Cruz, G.R. Nos. 170096-97, March 3, 2006, 484 SCRA 66, 73-74; Metro Transit Organization, Inc. v. Court of Appeals, G.R. No. 142133, November 19, 2002, 392 SCRA 229, 235-236.

[19] Amending the Implementing Rules of Book V of the Labor Code of the Philippines, Rule VIII,

Section 21. Decision of the Secretary. - The Secretary shall have fifteen (15) days from receipt of the entire records of the petition within which to decide the appeal. The filing of the memorandum of appeal from the order or decision of the Med-Arbiter stays the holding of any certification election.

The decision of the Secretary shall become final and executory after ten (10) days from receipt thereof by the parties. No motion for reconsideration of the decision shall be entertained.

[20] Mallion v. Alcantara, G.R. No. 141528, October 31, 2006, 506 SCRA 336, 342; Parayno v. Jovellanos, G.R. No. 148408, July 14, 2006, 495 SCRA 85, 95.

[21] Heirs of Rolando N. Abadilla v. Galarosa, G.R. No. 149041, July 12, 2006, 494 SCRA 675, 686; Oropeza Marketing Corporation v. Allied Banking Corporation, G.R. No. 129788, December 3, 2002, 393 SCRA 278, 287.

[22] Sec. 47. Effect of judgments or final orders.-The effect of a judgment or final order rendered by a court of the

Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

x x x x

(b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; ...

x x x x

[23] Sec. 47. Effect of judgments or final orders. -...

x x x x

(c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

[24] Republic v. Yu, G.R. No. 157557, March 10, 2006, 484 SCRA 416, 422.

[25] Oropeza Marketing Corporation v. Allied Banking Corporation, supra at 286-287.

[26] Heirs of Rolando N. Abadilla v. Galarosa, supra at 688-689.

[27] Rasdas v. Estenor, G.R. No. 157605, December 13, 2005, 477 SCRA 538, 548.

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