

SAN MIGUEL FOODS, INC., PETITIONER, VS. SAN MIGUEL CORPORATION EMPLOYEES UNION-PTWGO, RESPONDENT.

G.R. No. 168569. October 05, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

The present petition for review on certiorari raises the issue of whether respondent's complaint is one for unfair labor practice (ULP) over which a Labor Arbiter has jurisdiction.

At the time material to the case, respondent, San Miguel Corporation Employees Union – PTWGO (the Union), was the sole bargaining agent of all the monthly paid employees of petitioner San Miguel Foods, Incorporated (SMFI). On November 9, 1992, some employees of SMFI's Finance Department, through the Union represented by Edgar Moraleda, brought a grievance against Finance Manager Gideon Montesa (Montesa), for "discrimination, favoritism, unfair labor practices, not flexible [sic], harassment, promoting divisiveness and sectarianism, etc.,"[1] before SMFI Plant Operations Manager George Nava in accordance with Step 1 of the grievance machinery adopted in the Collective Bargaining Agreement (CBA) forged by SMFI and the Union.

The Union sought the "1. review, evaluat[ion] & upgrad[ing of] all Finance staff and 2. promot[ion of] G.Q. Montesa to other SMC affiliate[s] & subsidiaries."[2]

At the grievance meeting held on January 14, 1993, SMFI informed the Union that it planned to address the grievance through a "work management review" which would be completed by March 1993, hence, it asked the finance personnel to give it their attention and cooperation.

The "work management review" was not completed by March 1993, however, prompting the Union to, on March 26, 1993, elevate the grievance to Step 2.[3]

Almost nine months after the grievance meeting was held or on October 6, 1993, SMFI rendered a "Decision on Step 1 Grievance" stating that it was still in the process of completing the "work management review,"[4] hence, the Union's requests could not be granted.

The Union thereupon filed a complaint on October 20, 1993 before the National Labor Relations Commission (NLRC), Arbitration Branch, against SMFI,[5] its President Amadeo P. Veloso, and its Finance Manager Montesa for "unfair labor practice, [and] unjust discrimination in matters of promotion . . . "[6] It prayed that SMFI et al. be ordered to promote the therein named employees "with the corresponding pay increases or adjustment including payment of salary differentials plus attorney's fees[,] and to cease and desist from committing the same unjust discrimination in matters of promotion."[7]

Instead of filing a position paper as required by the Labor Arbiter, SMFI et al. filed a motion to dismiss,[8] contending that the issues raised in the complaint were grievance issues and, therefore, "should be resolved in the grievance machinery provided in [the] collective bargaining agreements [sic] of the parties or in the mandated provision of voluntary arbitration which is also provided in the CBA."[9] The Union opposed the motion to

dismiss.

In its Position Paper, the Union specified acts of ULP of SMFI et al. under Article 248, paragraphs (e) and (i) of the Labor Code[10] which Article reads:

Art. 248. Unfair labor practices of employers. – It shall be unlawful for an employer to commit any of the following unfair labor practices:

x x x x

(e) To discriminate in regard to wages, hours of work, and other terms and conditions of employment in order to encourage or discourage membership in any labor organization. x x x

x x x x

(i) To violate a collective bargaining agreement.

x x x x

By Order of February 18, 1994, the Labor Arbiter granted SMFI et al.'s motion to dismiss and ordered the remand of the case to the grievance machinery for completion of the proceedings.[11] The Union appealed the said order to the NLRC by "Motion for Reconsideration/Appeal"[12] which its Second Division granted and accordingly ordered the Labor Arbiter to continue the proceedings on the Union's complaint.[13] SMFI et al. filed a Motion for Reconsideration of the NLRC order but it was denied, hence, they filed a petition for certiorari with this Court. After the parties and the Solicitor General had filed their respective pleadings, this Court, by Resolution of January 25, 1999, referred the case to the Court of Appeals pursuant to *St. Martin Funeral Homes v. NLRC*. [14]

By Decision of July 31, 2002,[15] the Court of Appeals denied SMFI et al.'s petition for certiorari, it holding that the Labor Arbiter has jurisdiction over the complaint of the Union, they having violated the seniority rule under the CBA by appointing and promoting certain employees which amounted to a ULP.[16]

Before this Court, SMFI lodged the present petition for review on certiorari, faulting the appellate court in

A.

. . . FINDING THAT THE LABOR ARBITER HAS JURISDICTION OVER THE COMPLAINT OF RESPONDENT UNION

B.

. . . FINDING THAT SMFI'S ALLEGED VIOLATION OF THE CBA CONSTITUTES UNFAIR LABOR PRACTICE.

The jurisdiction of Labor Arbiters, enumerated in Article 217 of the Labor Code, includes complaints for ULP.

SMFI argues that the allegations in the Union's complaint filed before the Labor Arbiter do not establish a cause of action for ULP, the Union having merely contended that SMFI was guilty thereof without specifying the ultimate facts upon which it was based. It cites Section 1 of Rule 8 of the Rules of Court as applying suppletorily to the proceedings before the Labor Arbiter, which Section reads:

Section 1. In general. – Every pleading shall contain in a methodical and logical form, a plain concise and direct statement of the ultimate facts on which the party pleading relies for his claim . . .

Alleging that the Union failed to comply with this Rule, SMFI concludes that the Labor Arbiter has no

jurisdiction over its complaint.

A perusal of the complaint shows that, indeed, the particular acts of ULP alleged to have been committed by SMFI were not specified; neither were the ultimate facts in support thereof. In its Position Paper, however, the Union detailed the particular acts of ULP attributed to SMFI and the ultimate facts in support thereof.

Section 7, Rule V of the New Rules of Procedure of the NLRC provides:

Nature of Proceedings. – The proceedings before the Labor Arbiter shall be non-litigious in nature. Subject to the requirements of due process, the technicalities of law and procedure and the rules obtaining in the courts of law shall not strictly apply thereto. The Labor Arbiter may avail himself of all reasonable means to ascertain the facts of the controversy speedily, including ocular inspection and examination of well-informed persons. (Emphasis and underscoring supplied)

Section 1 of Rule 8 of the Rules of Court should thus not be strictly applied to a case filed before a Labor Arbiter. In determining jurisdiction over a case, allegations made in the complaint, as well as those in the position paper, may thus be considered.

As stated above, the Union, in its Position Paper, mentioned the particular acts of ULP and the ultimate facts in support thereof. Thus it alleged:

This is a complaint for unfair labor practices pursuant to Article 248 (e) and (i) of the Labor Code, as amended, which reads:

Art. 248. Unfair labor practices of employers. – It shall be unlawful for an employer to commit any of the following unfair labor practices:

x x x x

(e) To discriminate in regard to wages, hours of work, and other terms and conditions of employment in order to encourage or discourage membership in any labor organization.

x x x x

(i) to violate a collective bargaining agreement.

and which was committed by herein respondents as follows:

- large scale and wanton unjust discrimination in matters of promotion, particularly upon the following members of complainant: Ellen Ventura, Julie Geronimo, Ronnie Cruz, Rita Calasin, Romy de Peralta, Malou Alano, And E. M. Moraleda, all assigned with the Finance Department or respondent SMFI.

- gross and blatant violations by respondent SMFI of Section 5, Article III (Job Security) and Section 4, Article VIII (Grievance Machinery) of the current collective bargaining agreement (CBA) between complainant and respondent SMFI, which provisions of said CBA are hereunder quoted for easy reference. (Emphasis and underscoring supplied)

On the questioned promotions, the Union did not allege that they were done to encourage or discourage membership in a labor organization. In fact, those promoted were members of the complaining Union. The promotions do not thus amount to ULP under Article 248(e) of the Labor Code.

As for the alleged ULP committed under Article 248(i), for violation of a CBA, this Article is qualified by Article 261 of the Labor Code, the pertinent portion of which latter Article reads:

x x x violations of a Collective Bargaining Agreement, except those which are gross in character, shall no longer be treated as unfair labor practice and shall be resolved as grievances under the Collective Bargaining

Agreement. For purposes of this article, gross violations of Collective Bargaining Agreement shall mean flagrant and/or malicious refusal to comply with the economic provisions of such agreement. (Emphasis and underscoring supplied)

Silva v. NLRC instructs that for a

ULP case to be cognizable by the Labor Arbiter, and the NLRC to exercise its appellate jurisdiction, the allegations in the complaint should show prima facie the concurrence of two things, namely: (1) gross violation of the CBA; AND (2) the violation pertains to the economic provisions of the CBA.[17] (Emphasis and underscoring supplied)

As reflected in the above-quoted allegations of the Union in its Position Paper, the Union charges SMFI to have violated the grievance machinery provision in the CBA. The grievance machinery provision in the CBA is not an economic provision, however, hence, the second requirement for a Labor Arbiter to exercise jurisdiction of a ULP is not present.

The Union likewise charges SMFI, however, to have violated the Job Security provision in the CBA, specifically the seniority rule, in that SMFI “appointed less senior employees to positions at its Finance Department, consequently intentionally by-passing more senior employees who are deserving of said appointment.”

Article 4 of the Labor Code provides that “All doubts in the implementation and interpretation of the provisions of this Code, including implementing rules and regulations, shall be resolved in favor of labor.” Since the seniority rule in the promotion of employees has a bearing on salary and benefits, it may, following a liberal construction of Article 261 of the Labor Code, be considered an “economic provision” of the CBA.

As above-stated, the Union charges SMFI to have promoted less senior employees, thus bypassing others who were more senior and equally or more qualified. It may not be seriously disputed that this charge is a gross or flagrant violation of the seniority rule under the CBA, a ULP over which the Labor Arbiter has jurisdiction.

SMFI, at all events, questions why the Court of Appeals came out with a finding that it (SMFI) disregarded the seniority rule under the CBA when its petition before said court merely raised a question of jurisdiction. The Court of Appeals having affirmed the NLRC decision finding that the Labor Arbiter has jurisdiction over the Union’s complaint and thus remanding it to the Labor Arbiter for continuation of proceedings thereon, the appellate court’s said finding may be taken to have been made only for the purpose of determining jurisdiction.

WHEREFORE, the Petition is DENIED.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Tinga, and Velasco, Jr., JJ., concur.

[1] Records, p. 33.

[2] Ibid.

[3] Id. at 35-39.

[4] Id. at 65-66.

[5] NLRC-NCR No. 00-10-06543-93; id. at 2-4.

[6] Id. at 3.

[7] Ibid.

[8] Id. at 20-29.

[9] Id. at 26-27.

[10] Id. at 46-54.

[11] Id. at 81-82.

[12] Id. at 87-89.

[13] CA rollo, pp. 32-35.

[14] G.R. No. 130866, September 16, 1998, 295 SCRA 494. [T]he Court En Banc declared that all appeals from the NLRC to the Supreme Court [petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure] should henceforth be initially filed in the Court of Appeals as the appropriate forum for the relief desired in strict observance of the doctrine on the hierarchy of courts.

[15] Penned by Justice Roberto A. Barrios, and concurred in by Justices Bienvenido L. Reyes and Edgardo F. Sundiam, CA rollo, pp. 259-267.

[16] Rollo, pp. 47-50.

[17] G.R. No. 110226, June 19, 1997, 274 SCRA 159, 173.

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