SPIC N’ SPAN SERVICES CORPORATION, PETITIONER, VS. GLORIA PAJE, LOLITA GOMEZ, MIRIAM CATACUTAN, ESTRELLA ZAPATA, GLORIA SUMANG, JULIET DINGAL, MYRA AMANTE, AND FE S. BERNANDO, R...

G.R. No. 174084. August 25, 2010

Ponente: BRION, J.

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BRION, J.:

Before the Court is the petition for review on certiorari[1] filed by Spic N' Span Services Corporation (SNS) to seek the reversal of the October 25, 2004 Decision[2] and the August 2, 2006 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 83215, entitled "Gloria Paje, Lolita Gomez, Miriam Catacutan, Estrella Zapata, Gloria Sumang, Juliet Dingal, Myra Amante and Fe S. Bernardo v. National Labor Relations Commission, Spic N Span Service Corporation and Swift Foods, Inc."

Background Facts

Swift Foods, Inc. (Swift) is a subsidiary of RFM Corporation that manufactures and processes meat products and other food products. SNS's business is to supply manpower services to its clients for a fee. Swift and SNS have a contract to promote Swift products.

Inocencio Fernandez, Edelisa F. David, Thelma Guardian, Juliet C. Dingal, Fe S. Bernardo, Lolita Gomez, Myra Amante, Miriam S. Catacutan, Gloria O. Sumang, Gloria O. Paje, and Estrella Zapata (complainants) worked as Deli/Promo Girls of Swift products in various supermarkets in Tarlac and Pampanga. They were all dismissed from their employment on February 28, 1998. They filed two complaints for illegal dismissal against SNS and Swift before the National Labor Relations Commission (NLRC) Regional Arbitration Branch III, San Fernando, Pampanga, docketed as Case Nos. 03-9131-98 and 07-9295-98. These cases were subsequently consolidated.

After two unsuccessful conciliation hearings, the Labor Arbiter ordered the parties to submit their position papers. Swift filed its position paper; SNS did not.[4] The complainants' position papers were signed by Florencio P. Peralta who was not a lawyer and who claimed to be the complainants' representative, although he never showed any proof of his authority to represent them.

In their position papers, the complainants alleged that they were employees of Swift and SNS, and their services were terminated without cause and without due process. The termination came on the day they received their notices; thus, they were denied the procedural due process requirements of notice and hearing prior to their termination of employment.[5] Swift, in its position paper, moved to dismiss the complaints on the ground that it entered into an independent labor contract with SNS for the promotion of its products; it alleged that the complainants were the employees of SNS, not of Swift.[6]

The Labor Arbiter[7] found SNS to be the agent of Swift, and ordered SNS and Swift to jointly and severally pay

Edelisa David P115,637.50 and Inocencio Fernandez P192,197.50, representing their retirement pay and service incentive leave pay. He dismissed, without prejudice, the claims of the other complainants because they failed to verify their position paper. He also denied all other claims for lack of factual basis.[8]

Both Swift and the complainants appealed to the NLRC. Swift filed a memorandum of appeal, while the complainants filed a partial memorandum of appeal.[9]

The NLRC denied the complainants' appeal for lack of merit.[10] It dismissed the complaint against Swift, and ordered SNS to pay Edelisa David a total of P256,620.13, and Inocencio Fernandez a total of P280,912.63, representing backwages, separation pay, and service incentive leave pay. It dismissed all other claims for lack of merit. Thereafter, Edelisa David and Inocencio Fernandez agreed to a settlement, and their cases were thus closed.[11]

The complainants whose claims were dismissed, namely, Gloria Paje, Lolita Gomez, Miriam Catacutan, Estrella Zapata, Gloria Sumang, Juliet Dingal, Myra Amante, and Fe S. Bernardo (respondents), moved for the reconsideration of the NLRC's ruling. This time, they were represented by the Public Attorney's Office. The NLRC denied their motion.[12]

The respondents then sought relief with the CA through a petition for certiorari, based on the alleged grave abuse of discretion committed by the NLRC. The CA found the petition meritorious, in its assailed decision of October 25, 2004, and ruled that the respondents' failure to sign the verification in their position paper was a formal defect that was not fatal to their case. It concluded that SNS was merely an agent of Swift; thus, the latter should not be exempt from liability. It ordered the remand of the case to the Labor Arbiter for the computation of the respondents' backwages, separation pay, and service incentive leave pay. SNS and Swift filed their motions for reconsideration which the CA denied.

SNS is now before us on a petition for review on certiorari, and submits the following -

> I. WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR WHEN IT RULED THAT THE NLRC COMMITTED GRAVE ABUSE OF DISCRETION IN DISMISSING THE CLAIMS OF HEREIN RESPONDENTS "ON THE GROUND OF NON-SIGNING OF THE POSITION PAPER."
>
> II. WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR IN HOLDING THAT ALTHOUGH THE RESPONDENTS WERE NOT REPRESENTED BY A LAWYER BUT BY ONE WHO IS NOT A MEMBER OF THE BAR, SAID FACT IS "SUFFICIENT JUSTIFICATION FOR THE PETITIONERS' FAILURE TO COMPLY WITH THE REQUIREMENTS OF LAW."
>
> III. WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR IN "REMANDING THE CASE TO THE LABOR ARBITER FOR THE COMPUTATION OF THE MONEY CLAIMS OF THE RESPONDENTS, TO WIT: 1) BACKWAGES, 2) SEPARATION PAY, AND 3) SERVICE INCENTIVE LEAVE," DESPITE THE FACT THAT NOWHERE IN THE DECISIONS OF THE LABOR ARBITER, THE NATIONAL LABOR RELATIONS COMMISSION, AND COURT OF APPEALS IS IT STATED THAT HEREIN RESPONDENTS WERE ILLEGALLY DISMISSED."[13]

THE COURT'S RULING

We find the petition unmeritorious.

SNS submits that since respondents did not sign the verification in their position paper, the CA erred when it ruled that the NLRC committed grave abuse of discretion in dismissing the respondents' complaints. SNS stressed the importance of a signature in a pleading, and harped on the respondents' failure to sign their position paper. [14]

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This, to SNS, is fatal to the respondents' case.

We do not agree with SNS.

As we previously explained in Torres v. Specialized Packaging Development Corporation,[15] where only two of the 25 real parties-in-interest signed the verification, the verification by the two could be sufficient assurance that the allegations in the petition were made in good faith, are true and correct, and are not speculative. The lack of a verification in a pleading is only a formal defect, not a jurisdictional defect, and is not necessarily fatal to a case.[16] The primary reason for requiring a verification is simply to ensure that the allegations in the pleading are done in good faith, are true and correct, and are not mere speculations.[17]

The CA, in its assailed decision, cited Philippine Telegraph and Telephone Corporation v. NLRC[18] to emphasize that in labor cases, the deciding authority should use every reasonable means to speedily and objectively ascertain the facts, without regard to technicalities of law and procedure. Technical rules of evidence are not strictly binding in labor cases.[19]

In the hierarchy observed in the dispensation of justice, rules of procedure can be disregarded in order to serve the ends of justice. This was explained by Justice Bernando P. Pardo, in Aguam v. Court of Appeals,[20] when he said -

> Litigations must be decided on their merits and not on technicality. Every party litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the unacceptable plea of technicalities. Thus, dismissal of appeals purely on technical grounds is frowned upon where the policy of the court is to encourage hearings of appeals on their merits and the rules of procedure ought not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure, not override substantial justice. It is a far better and more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal to attain the ends of justice rather than dispose of the case on technicality and cause a grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.[21]

We should remember, too, that certain labor rights assume preferred positions in our legal hierarchy. Under the Constitution and the Labor Code, the State is bound to protect labor and assure the rights of workers to security of tenure.[22] Article 4 of the Labor Code provides that all doubts in the implementation and interpretation of its provisions (including its implementing rules and regulations) shall be resolved in favor of labor. The Constitution, on the other hand, characterizes labor as a primary social economic force. The State is bound to "protect the rights of workers and promote their welfare,"[23] and the workers are "entitled to security of tenure, humane conditions of work, and a living wage."[24] Under these fundamental guidelines, respondents' right to security of tenure is a preferred constitutional right that technical infirmities in labor pleadings cannot defeat.

1. SNS submits that the CA committed a serious error in ruling that the respondents' representative's non-membership in the bar is sufficient justification for their failure to comply with the requirements of the law. SNS argues that this ruling excuses the employment of a non-lawyer and places the acts of the latter on the same level as those of a member of the Bar.[25] Our Labor Code allows a non-lawyer to represent a party before the Labor Arbiter and the Commission,[26] but provides limitations: Non-lawyers may appear before the Commission or any Labor Arbiter only: (1) If they represent themselves; or (2) If they represent their organization or members thereof.[27] Thus, SNS concludes that the respondents' representative had no personality to appear before the Labor Arbiter or the NLRC, and his representation for the respondents should produce no legal effect.

Our approach to these arguments is simple as the problem boils down to a balance between a technical rule and protected constitutional interests. The cited technical infirmity cannot defeat the respondents' preferred right to

security of tenure which has primacy over technical requirements. Thus, we affirm the CA's ruling on this point, without prejudice to whatever action may be taken against the representative, if he had indeed been engaged in the unauthorized practice of law.

2. SNS also claims serious error on the part of the CA in remanding the case to the Labor Arbiter, for computation of the respondents' backwages, separation pay and service incentive leave pay despite the fact that nowhere in the decisions of the Labor Arbiter, the NLRC, and CA was there any finding that respondents had been illegally dismissed.

We find this to be the first argument of its kind from SNS, and, in fact, is the first ever submission from SNS before it filed a motion for reconsideration with the CA. To recall, SNS did not file its position paper before the labor arbiter, nor did it file its appeal before the NLRC; only Swift and the complainants did.[28] It was only Swift, too, that filed its comment to the herein respondents' petition for certiorari.[29]

The records do not show if SNS filed its memorandum before the CA, although SNS filed a motion for reconsideration of the CA decision. It then claimed that the CA erred in ruling that the NLRC committed grave abuse of discretion when it dismissed respondents' claim; that a petition for certiorari under Rule 65 of the Rules of Court is not the proper remedy to correct the NLRC's alleged grave abuse of discretion; and that the respondents were bound by the mistakes of their non-lawyer representative.[30] Significantly, SNS did not raise the question of the CA's failure to state that the respondents had been illegally dismissed. At this point, it is too late for SNS to raise the issue.

Nothing on record indicates the reason for the respondents' termination from employment, although the fact of termination was never disputed. Swift denied liability on the basis of its contract with SNS. The contract was not presented before the Labor Arbiter, although Swift averred that under the contract, SNS would supply promo girls, merchandisers and other promotional personnel to handle all promotional aspects and merchandising strategy of Swift.[31] We can assume, for lack of proof to the contrary, that the respondents' termination from employment was illegal since neither SNS nor Swift, as employers, presented any proof that their termination from employment was legal. Upon proof of termination of employment, the employer has the burden of proof that the dismissal was valid; absent this proof, the termination from employment is deemed illegal, as alleged by the dismissed employees.

3. In order that a labor relationship can be categorized as legitimate/permissible job contracting or as prohibited labor-only contracting, the totality of the facts and the surrounding circumstances of the relationship ought to be considered.[32] Every case is unique and has to be assessed on the basis of its facts and of the features of the relationship in question. In permissible job contracting, the principal agrees to put out or farm out with a contractor or subcontractor the performance or completion of a specific job, work or service within a definite or predetermined period, regardless of whether such job, work or service is to be performed or completed within or outside the premises of the principal. The test is whether the independent contractor has contracted to do the work according to his own methods and without being subject to the principal's control except only as to the results, he has substantial capital, and he has assured the contractual employees entitlement to all labor and occupational safety and health standards, free exercise of the right to self-organization, security of tenure, and social and welfare benefits.[33]

> The CA found SNS to be Swift's agent, and explained its ruling as follows[34] -
>
> To be legitimate, contracting or subcontracting must satisfy the following requirements: 1) The contractor or subcontractor carries on a distinct and independent business and undertakes to perform the job, work or service on its own account and under its own responsibility, according to its own manners and methods, and free from

> the control and direction of the principal in all matters connected with the performance of the work except as to the results thereof; 2) the contractor or subcontractor has substantial capital or investment; and 3) the agreement between the principal and contractor or subcontractor assures the contractual employees' entitlement to all labor and occupational safety and health standards, free exercise of right to self-organization, security of tenure, and social and welfare benefit (Vinoya v. NLRC, 324 SCRA 469).
>
> The parties failed to attach a copy of the agreement entered into between SNS and Swift. Neither did they attach a copy of the financial statement of SNS. Thus, we are constrained to rule on the issue involved on the basis of the findings of both the Labor Arbiter and the NLRC.
>
> The Labor Arbiter, in finding that SNS was merely a labor-only contractor, cited the following reasons: First, the agreement between SNS and Swift shows that the latter exercised control over the promo girls and/or merchandisers through the services of coordinators. Second, it cannot be said that SNS has substantial capital. Third, the duties of the petitioners were directly related, necessary and vital to the day-to-day operations of Swift. Lastly, the uniform and identification cards used by the petitioners were subject to the approval of Swift.
>
> The NLRC, on the other hand, in finding that SNS is an independent contractor gave the following reasons: First, there is no evidence that Swift exercised the power of control over the petitioners. Rather, it is SNS who exercised direct control and supervision over the nature and performance of the works of herein petitioners. Second, by law, Swift and SNS have distinct and separate juridical personality from each other.
>
> The decision of the NLRC is bereft of explanation as to the existence of circumstances that would make SNS an independent contractor as would exempt the "principal" from liabilities to the employees.
>
> Nowhere in the decision of both the Labor Arbiter and the NLRC shows that SNS had full control of the means and methods of the performance of their work. Moreover, as found by the Labor Arbiter, there was no evidence that SNS has substantial capital or investment. Lastly, there was no finding by the Labor Arbiter nor the NLRC that the agreement between the principal (Swift) and contractor (SNS) assures the contractual employees' entitlement to all labor and occupational safety and health standards, free exercise of right to self-organization, security of tenure, and social and welfare benefit.
>
> In view of the foregoing, we conclude that the requisites above-mentioned are not obtaining in the present case. Hence, SNS is considered merely an agent of Swift which does not exempt the latter from liability.
>
> We note that the present decision does not affect the settlement entered into between Edeliza David and Inocencio Fernandez, on the one hand and SNS, on the other. As held by the NLRC, their complaints are considered closed and terminated.
>
> WHEREFORE, premises considered, the instant petition is hereby GRANTED. The Resolutions of the NLRC dated January 11, 2002 and December 23, 2003 are SET ASIDE in so far as the dismissal of the petitioners' case is concerned and in so far as Swift is found not liable for the payment of the petitioners' money claims.
>
> The present case is hereby REMANDED to the Labor Arbiter for the computation of the money claims of the petitioners, to wit: 1) Backwages; 2) Separation Pay; and 3) Service Incentive Leave Pay.
>
> The settlement of the claims of David and Fernandez is not affected by this decision.

We fully agree with this ruling. What we have before us, therefore, is a case of illegal dismissal perpetrated by a principal and its illegal contractor-agent. Thus, we affirm the ruling of the CA with the modification that the respondents are also entitled to nominal damages, for violation of their due process rights to notice and hearing, pursuant to our ruling in Agabon v. NLRC.[35] We peg this amount at P30,000.00 for each of the respondents.

WHEREFORE, premises considered, we hereby AFFIRM the Court of Appeals' October 25, 2004 Decision and August 2, 2006 Resolution in CA-G.R. SP No. 83215, with the modification that nominal damages in the amount

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of P30,000.00 should additionally be paid to each of the respondents, for violation of their procedural due process rights. Costs against the petitioner.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, Villarama, Jr., and Sereno, JJ., concur.

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[1] Rollo, pp. 3-24.

[2] Penned by Justice Juan Q. Enriquez, Jr., and concurred in by Justices Salvador J. Valdez, Jr. and Vicente Q. Roxas; id. at 29-38.

[3] Id. at 39-43.

[4] Id. at 117.

[5] Id. at 46.

[6] Supra note 2, at 31-32.

[7] Fedriel S. Panganiban.

[8] Rollo, p. 117.

[9] Id. at 118.

[10] Resolution of January 11, 2002.

[11] Rollo, pp. 29-31.

[12] Id. at 119.

[13] Id. at 8.

[14] Id. at 44-50.

[15] G.R. No. 149634, July 6, 2004, 433 SCRA 455.

[16] Ballao v. Court of Appeals, G.R. No. 162342, October 11, 2006, 504 SCRA 227.

[17] Robern Development Corporation v. Judge Quitain, 373 Phil. 773 (1999), citing several cases.

[18] G.R. No. 80600, March 21, 1990, 183 SCRA 451.

[19] Labor Code, Article 221. Technical rules not binding and prior resort to amicable settlement. - In any proceeding before the Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling, and it is the spirit and intention of this Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively, without regard to technicalities of law or procedure, all in the interest of due process.

[20] G.R. No. 137672, May 31, 2000, 332 SCRA 784.

[21] Id. at 789-790.

[22] Article 3, Labor Code.

[23] Article II, Section 18.

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[24] Article XIII, Section 3.

[25] Rollo, p. 19.

[26] Article 221. - x x x In any proceeding before the Commission or any Labor Arbiter, the parties may be represented by legal counsel but it shall be the duty of the Chairman, any Presiding Commissioner or Commissioner or any Labor Arbiter to exercise complete control of the proceedings at all stages.

[27] Article 222.

[28] Rollo, p. 118.

[29] Id. at 120.

[30] Ibid.

[31] Id. at 122-123.

[32] Sasan, Sr. v. National Labor Relations Commission, G.R. No. 176240, October 17, 2008, 569 SCRA 670.

[33] Section 4(d), Rule VIII-A, Book III of the Omnibus Rules Implementing the Labor Code.

[34] Rollo, pp. 36-37.

[35] 485 Phil. 248 (2004).

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