

RODOLFO ENCARNACION, PETITIONER, VS. DYNASTY AMUSEMENT CENTER CORPORATION, LORENZO CO AND LUCISNO TAN, RESPONDENTS.

G.R. No. 51289. September 02, 1992

Ponente: MELO, J.

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MELO, J.:

This refers to the appeal from the October 24 and November 20, 1978 Orders of the then Court of First Instance of Manila, Branch XI, at that time presided over by the Honorable Elias B. Asuncion, dismissing the complaint on the ground that the case is principally a labor case.

In 1975, petitioner was employed as a projectionist by respondent Dynasty Amusement Center of which the other respondents are officers. On September 29, 1978, petitioner filed a complaint for damages with the then Court of First Instance of Manila, alleging among others, that he was suspended or had been disallowed to work and that was made the subject of harrassment and slanderous accusations. Respondents filed a motion to dismiss the complaint on the ground that respondent court has no jurisdiction over the nature of the case as it involves a labor dispute which pertains exclusively to the jurisdiction of the National Labor Relations Commission.

Without waiting for respondent court to resolve their motion to dismiss, respondents filed their answer dated October 16, 1978, wherein they averred that the suspension of petitioner from work is a prerogative of management so as to impose discipline among employees, said right being recognized under the New Labor Code of the Philippines.

On October 24, 1978, the trial court issued its Order dismissing the case on the ground that it has jurisdiction over the nature of the case (p. 44, Rollo). The subsequent motion for reconsideration was denied by the court a quo on November 20, 1978 (p. 54, id.)

Hence, the instant petition.

Petitioner maintains that the case is more of one for damages and thus is a civil dispute. Besides, he claims, reinstatement is not prayed for. Petitioner further contends that respondents had already waived and are estopped from questioning the trial court's jurisdiction when they filed their answer seeking affirmative reliefs.

When this case was filed, the applicable law was Section 1 of Presidential Decree No. 1367, which provided as follows:

"Section 1. Paragraph (a) of Article 217 of the Labor Code, as amended, is hereby further amended to read as follows:

a). The Labor Arbiter shall have exclusive jurisdiction to hear and decide the following cases involving all workers, whether agricultural or non agricultural:

1) Unfair labor practice cases;

2) Unresolved cases in collective bargaining, including those which involve wages, hours of work and other terms and conditions of employment; and

3) All other cases arising from employer-employee relations duly indorsed by the Regional Directors in accordance with the provisions of this code; Provided, that the Regional Directors shall not indorse and Labor Arbiters shall not entertain claims for moral or other forms of damages."

However, the amendatory provisions of Presidential Decree No. 1691, which took effect during the pendency of this case, ousted respondent court of the jurisdiction it initially had under Presidential Decree No. 1367. Jurisdiction over all money claims, including claims for damages arising from or in connection with employer-employee relations, is now vested exclusively in the Labor Arbiters of the National Labor Relations Commission.

The question now is whether or not Presidential Decree No. 1691 has a retroactive effect to cover the instant case.

This query was resolved in the case of *Atlas Fertilizer Corp. vs. Navarro*, (149 SCRA 432) wherein We ruled:

"In conflicts of jurisdiction between the courts and the labor agencies arising from the amendments effected by P.D. 1691 on P.D. 1367, this Court held in the cases of *Ebon v. De Guzman* (113 SCRA 52), *Aguda v. Vallejos* (113 SCRA 69), and *Sentinel Insurance Co., Inc. vs. Bautista*, (supra), that P.D. 1691 is a curative statute which corrected the lack of jurisdiction of Labor Arbiter at the start of the proceedings and, therefore, should be given a retrospective application to the pending proceedings. P.D. 1691 merely restored a jurisdiction earlier vested in Labor Arbiters before the enactment of P.D. 1367. It was intended to correct a situation where two tribunals would have jurisdiction over separate issues arising from the same labor conflict.

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This construction of law is not new. It must be noted that the amendatory provision of P.D. 1367 itself was give retroactive application, for also being curative in nature.

P.D. 1691 should, therefore, be given a retroactive application to this pending case as the precise purpose of the amendment was to hopefully settle once and for all the conflict of jurisdiction between regular courts and labor agencies (*Sentinel Ins., Co. vs. Bautista*, supra)."

In the cases of *Getz Corporation Phils. vs. Court of Appeals* (116 SCRA 86), *PLDT vs. Dulay* (172 SCRA 33) and *Polotan-Tuvera vs. Dayrit* (160 SCRA 423), the Court also declared that Presidential Decree No. 1691 is a curative statute with retrospective application to pending proceedings.

In the case of *Abad vs. RTC of Manila* (154 SCRA 664, 671), the Court held:

"However, whereas before jurisdiction over money claims of laborers and employees appertained to Courts of First Instance, the same are now to be taken cognizance of by proper authorities in the Department of Labor and Employment.

"The rule of adherence of jurisdiction until a cause is finally resolved or adjudicated does not apply when the change in jurisdiction is curative in character. Thus in the instant case, there is nothing wrong in holding that Courts of First Instance/Regional Trial Courts no longer have jurisdiction over aforesaid monetary claims of labor."

The petition is, therefore, unmeritorious for the complaint clearly shows that the petitioner's claim for damages

arose from the acts attributed to his employer, while he was still an employee thereof. Thus, the action for damages arose from an employer-employee relationship. We do not agree with petitioner that the case is a civil dispute simply because he did not ask for reinstatement, for an employee need not seek reinstatement in order to file a complaint before the labor arbiter (*A. Consteel Construction Co., Inc. vs. Intermediate Appellate Court*, G.R. No. 64673, Oct. 21, 1988). More so, estoppel cannot attach by virtue of Section 2, Rule 9 of the Revised Rules of Court, inasmuch as the question of compentencia maybe raised even for the first time on appeal, apart from the fact that jurisdictional issues can never be waived. Besides, the issue of jurisdiction was raised even before the answer was filed.

WHEREFORE, the petition is hereby DISMISSED and the order appealed from AFFIRMED.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, and Nocon, JJ., concur.

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