

**ROSARIO BROTHERS INC. (MANILA COD DEPARTMENT STORE),
PETITIONER, VS. HON. BLAS F. OPLE, THE NATIONAL LABOR
RELATIONS COMMISSION, AND LEONARDO LOVERIA, MARIETTA
GALUT, LINDA TAPI...***G.R. No. 53590. July 31, 1984*

Ponente: RELOVA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-53590/>**RELOVA, J.:**

The issue raised in this case is whether an employer-employee relationship exists between the petitioner and the private respondents. It is the submission of petitioner that no such relationship exists or has been created because the "series of memoranda" issued by petitioner to the private respondents from 1973 to 1977 would reveal that it had no control and/or supervision over the work of the private respondents.

Private respondents are tailors, pressers, stitchers and similar workers hired by the petitioner in its tailoring department (Modes Suburbia). Some had worked there since 1969 until their separation on January 2, 1978. For their services, they were paid weekly wages on piecework basis, minus the withholding tax per Bureau of Internal Revenue (BIR) rules. Further, they were registered with the Social Security System (SSS) as employees of petitioner and premiums were deducted from their wages; they were also members of the Avenida-Cubao Manila COD Department Store Labor Union which has a Collective Bargaining Agreement with the company; and, they were required to report for work from Monday through Saturday and to stay in the tailoring shop for no less than eight (8) hours a day, unless no job order was given them after waiting for two to three hours, in which case, they may leave and may come back in the afternoon. Their attendance was recorded through a Bundy clock just like the other employees of petitioner. A master cutter distributes job orders equally, supervises the work and sees to it that they were finished as soon as possible. Quoting from the comment of the Solicitor General, petitioner, in its memorandum, said -

"Once the job orders and the corresponding materials were distributed to them, private respondents were on their own. They were free to do their jobs either in the petitioner's shop or elsewhere at their option, without observing the regular working time of the company provided that they finished their work on time and in accordance with the specifications. As a matter of fact, they were allowed to contract other persons to do the job for them; and also to accept tailoring jobs from other establishments." (p. 202, Rollo)

On September 7, 1977, the private respondents filed with the Regional Office of the Department (now Ministry) of Labor a complaint for violation of Presidential Decree 851 (13th month pay) and Presidential Decree 525, as amended by Presidential Decree 1123 (Emergency Living Allowance) against herein petitioner.

After petitioner had filed its answer, the case was certified for compulsory arbitration to the Labor Arbiter who, after due hearing, rendered a decision on December 29, 1977 dismissing "private respondents' claims for unpaid emergency living allowance and 13th month pay, for lack of merit, upon finding that the complainants (herein private respondents) are not employees of the respondent (herein petitioner) within the meaning of Article 267(b)

of the Labor Code. As a consequence, the private respondents were dismissed on January 2, 1978 and this prompted them to file a complaint for illegal dismissal with the Ministry of Labor. Meanwhile, the National Labor Relations Commission (NLRC) affirmed the decision of the Labor Arbiter and dismissed private respondents' appeal for lack of merit. However, upon appeal to the Minister of Labor, the latter reversed the resolution of the NLRC in a decision, dated March 27, 1979, holding that -

"The decision appealed from must be reversed. It is clearly erroneous. Complainants and respondent are correct (sic) in considering their relationship as one between employees and employer. The labor arbiter should not have made a different finding.

"Complainants were employed as tailors, pressers, stitchers and coatmakers in the tailoring department of the respondent. They are hired through a master cutter and the department head and upon the approval of the personnel department and the management. They report to the shop from Monday to Saturday and record their attendance with a Bundy clock. They are required to stay in the shop premises 'for no less than 8 hours a day' unless no job is given them 'after waiting for two or three hours' in which case, they are 'allowed to leave.'

The employees (tailors, pressers and stitchers) are paid by piece per week according to the rates established by the company. They are registered as employees with the Social Security System for which premiums are deducted from their wages. Taxes are also withheld from their wages pursuant to BIR rules. Moreover, they enjoy the benefits due to employees under their collective agreement with the company.

"The tailors are given deadlines on their assigned jobs. They are required to work on job orders as soon as these are given to them. The master cutter is ordered 'to watch out for tailors who postponed their assigned job up to the last few days of the deadline' and to report violators 'for proper action.' Tailors are also required to follow the company code of discipline and the rules and regulations of the tailoring department. Outright dismissal is meted on anyone who brings out company patterns.

"Under these facts, the existence of the employment relations can not be disputed. The respondent itself, in its very first position papers, accepts this fact. The labor arbiter certainly erred in making a different finding.

"However, respondent contends that the employees are excluded from the coverage of PD 525, 851 and 1123 because of the nature of their employment, there being 'no fixed time with regards to entry and exit' and no fixed number of days of work, with respect to said employees. We have, however, examined carefully the decrees and find absolutely no indication therein that the employees are indeed excluded. Nor are the rules implementing the decrees supportive of the respondent's contention. On the contrary, the rules argue for the contrary view.

"Section 2 of the rules implementing PD 525 provides: 'The Decree shall apply to all employees of covered employers, regardless of their position, designation or employment status, and irrespective of the method by which their wages are paid, including temporary, casual, probationary, and seasonal employees and workers.' And Section 3, of the rules implementing PD 851 provides that 'all employees of covered employers shall be entitled to benefits provided under the Decree x x x regardless of their position, designation or employment status, and irrespective of the method by which their wages are paid.' Section 2 of the same rules explicitly provides that the rules apply to 'workers paid on piece-rate basis' or 'those who are paid a standard amount for every piece or unit of work produced that is more or less regularly replicated, without regard to the time spent in producing the same.'

"WHEREFORE, respondent is hereby ordered to pay the emergency allowances under PD 525 and 1123 and the 13th month pay under PD 851 from the date of the effectivity of said decrees but not earlier than September 7, 1974 to the following complainants: Leonardo Loveria, Editha Bayno, Fe Bonita, Ricardo Roxas, Marietta Galut, Mercedes Oliver, Antonio Mabutol, Clarita Sangle and Jesus Oliver; and the emergency allowances and 13th month pay under said decrees from the date of the effectivity of said decrees but not earlier than the date

of the date of the start of their employment, as indicated in the parenthesis after their names, to the following complainants: Linda Tapiceria (July 14, 1975), Luz Bayno (September 22, 1975), Tito Castañeda (October 20, 1976), Francisca Tapiceria (February 14, 1977), Manuel Mejes (February 20, 1977), Eddie Rodriguez (July 4, 1977) and Nestor Sanchez (July 22, 1977). The Socio-Economic Analyst of the National Labor Relations Commission is hereby directed to compute the amount of the awards stated in this order and to submit a report thereon within 20 calendar days from receipt of this order." (pp. 37--40, Rollo)

Thereafter, private respondents filed a motion for issuance of a writ of execution of the aforesaid decision of the Minister of Labor which was granted and, partially implemented.

On February 28, 1980, the Labor Arbiter issued an order directing the Chief of the Research and Information Department of the Commission to designate a Socio-Economic Analyst to compute the balance of private respondents' claims for the 13th month pay and emergency living allowance in accordance with respondent Minister's decision of March 27, 1979. Pursuant thereto, a report, dated March 4, 1980, was submitted computing the balance of private respondents' claims for emergency living allowance and 13th month pay up to February 29, 1980 in the total amount of P71,131.14. A writ of execution was issued for the satisfaction of said amount.

Hence, the filing of this petition for certiorari, praying, among others, to annul and set aside the decision of public respondent Minister of Labor and to dismiss the claims of private respondents.

We cannot sustain the petition. It was filed on April 11, 1980 which was too late because the Labor Minister's decision of March 27, 1979, subject of this judicial review, had already become final. And, not only that. The questioned decision has already been partially implemented by the sheriff as shown by his return, dated July 17, 1979 (p. 96, rollo). What is left for execution is the balance of private respondents' claim.

Further, the petition is devoid of merit. As held in *Mafinco Trading Corporation vs. Ople*, 70 SCRA 139, the existence of employer-employee relationship is determined by the following elements, namely: (1) the selection and engagement of the employee; (2) the payment of wages; (3) the power of dismissal; and (4) the power to control employees' conduct although the latter is the most important element. On the other hand, an independent contractor is one who exercises independent employment and contracts to do a piece of work according to his own methods and without being subjected to control of his employer except as to the result of his work.

1. In the case at bar, as found by the public respondent, the selection and hiring of private respondents were done by the petitioner, through the master cutter of its tailoring department who was a regular employee. The procedure was modified when the employment of personnel in the tailoring department was made by the management itself after the applicants' qualifications had been passed upon by a committee of four. Later, further approval by the Personnel Department was required.

2. Private respondents received their weekly wages from petitioner on piece-work basis which is within the scope and meaning of the term "wage" as defined under Article 97(f) of the New Labor Code (PD 442), thus -

"(f) 'Wage' paid to any employee shall mean the remuneration or earnings, however, designated, capable of being expressed in terms of money, whether fixed or ascertained on a time, task, piece, or commission basis, or other method of calculating the same, which is payable by an employer to an employee under a written or un-written contract of employment for work done or to be done or for services rendered or to be rendered, and includes the fair and reasonable value, as determined by the Secretary of Labor, of board, lodging or other facilities customarily furnished by the employer to the employee. x x x"

3. Petitioner had the power to dismiss private respondents, as shown by the various memoranda issued for strict compliance by private respondents, violations of which, in extreme cases, are grounds for outright dismissal. In fact, they were dismissed on January 2, 1978, although, the dismissal was declared illegal by the Labor Arbiter.

The case is pending appeal with the National Labor Relations Commission.

4. Private respondents' conduct in the performance of their work was controlled by petitioner, such as: (1) they were required to work from Monday through Saturday; (2) they worked on job orders without waiting for the deadline; (3) they were to observe cleanliness in their place of work and were not allowed to bring out tailoring shop patterns; and (4) they were subject to quality control by petitioner.

5. Private respondents were allowed to register with the Social Security System (SSS) as employees of petitioner and premiums were deducted from their wages just like its other employees. And, withholding taxes were also deducted from their wages for transmittal to the Bureau of Internal Revenue (BIR).

6. Well-established is the principle that "findings of administrative agencies which have acquired expertise because their jurisdiction is confined to specific matters are generally accorded not only respect but even finality. Judicial review by this Court on labor cases do not go so far as to evaluate the sufficiency of the evidence upon which the Deputy Minister and the Regional Director based their determinations but are limited to issues of jurisdiction or grave abuse of discretion (Special Events & Central Shipping Office Workers Union vs. San Miguel Corporation, 122 SCRA 557)." In the case at bar, the questioned decision and order of execution of public respondents are not tainted with unfairness or arbitrariness that would amount to abuse of discretion or lack of jurisdiction and, therefore, this Court finds no necessity to disturb, much less, reverse the same.

WHEREFORE, premises considered, the petition is dismissed for lack of merit. SO ORDERED.

Melencio-Herrera, Plana, Gutierrez, Jr., and De La Fuente, JJ., concur.

Teehankee, J., (Chairman), took no part.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.