

GUARDEX ENTERPRISES AND/OR MARCELINA A. ESCANDOR, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND JUMBEE ORBETA, RESPONDENTS.

G.R. No. 66541. November 20, 1990

Ponente: NARVASA, J.

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NARVASA, J.:

A claim for alleged unpaid commissions of an agent is what is basically involved in the action at bar. Somehow, it twice escaped outright rejection for lack of jurisdiction in the Department of Labor where the case was resolved at the first instance and on appeal. Both the Labor Arbiter and the National Labor Relations Commission appeared unaware of the utter lack of labor-related issues in the parties' conflicting contentions as to the existence of agency relations between them, and proceeded to decide the case. Neither of them of course had competence to do so. Be that as it may, the instant petition for certiorari will be decided on its merits to the end that the controversy may now be laid to rest without further proceedings.

The protagonists in this case are:

- 1) Marcelina A. Escandor -- engaged, under the name and style of Guardex Enterprises, in (a) the manufacture and sale of fire-fighting equipment such as fire extinguishers, fire hose cabinets and related products, and (b) occasionally, the building or fabrication of fire trucks; and
- 2) Jumbee Orbeta -- a "freelance" salesman.[1]

It appears that Orbeta somehow learned that Escandor had offered to fabricate a fire truck for Rubberworld (Phil.) Inc. He wrote to Escandor inquiring about the amount of commission for the sale of a fire truck. Escandor wrote back on the same day to advise that it was P15,000.00 per unit. Four days later, Orbeta offered to look after (follow-up) Escandor's pending proposal to sell a fire truck to Rubberworld, and asked for P250.00 as representation expenses. Escandor agreed and gave him the money.

When no word was received by Escandor from Orbeta after three days, she herself inquired in writing from Rubberworld about her offer of sale of a fire truck. Having apparently received an encouraging response, Escandor sent Rubberworld a revised price quotation some ten days later.

In the meantime, Orbeta sold to other individuals some of Escandor's fire extinguishers, receiving traveling expenses in connection therewith as well as the corresponding commissions. He then dropped out of sight.

About seven months afterwards, Escandor herself finally concluded a contract with Rubberworld for the latter's purchase of a fire truck. The transaction was consummated with the delivery of the truck and full payment thereof by Rubberworld.

At this point, Orbeta suddenly reappeared and asked for his commission for the sale of the fire truck to Rubberworld. Escandor refused, saying that he had had nothing to do with the offer, negotiation and

consummation of the sale.

Insisting that he was entitled to the commission, Orbeta filed a complaint against Escandor with the Ministry of Labor. The Labor Arbiter agreed with him and rendered judgment in his favor, on August 26, 1982. That judgment was affirmed by the National Labor Relations Commission on December 29, 1983, on appeal taken by Escandor.[2] Hence, this petition for certiorari, to annul those judgments as having been rendered with grave abuse of discretion if not indeed without or in excess of jurisdiction.

It is claimed that an implied agency had been created between Escandor and Orbeta on the basis of the following circumstances:

- 1) the alleged verbal authority given to him to offer a fire truck to Rubberworld;
- 2) the alleged written authority to sell the truck contained in a letter of Escandor's dated August 14, 1978;
- 3) Escandor's having given Orbeta P250.00 as representation expenses; and
- 4) Orbeta's submission of a price quotation to Rubberworld and his having arranged a meeting between Escandor and Rubberworld's Purchasing Manager.

The circumstances have not been correctly read by Orbeta and his co-respondents.

Escandor denies that she had ever given Orbeta any such verbal authority. Indeed, months prior to Orbeta's approaching Escandor, the latter had already made a written offer of a fire truck to Rubberworld. All that she consented to was for Orbeta to "follow up" that pending offer. In truth, it does not even appear that on the strength of this "arrangement" -- vague as it was -- Orbeta undertook the promised follow-up at all. He reported nothing of his efforts or their fruits to Escandor. It was Escandor who, in the months that followed her initial meeting with Orbeta, determinedly pushed the Rubberworld deal. Orbeta was simply nowhere to be found. Furthermore, it seems fairly evident that the "representation allowance" of P250 was meant to cover the expenses for the "follow-up" offered by Orbeta -- an ambiguous fact which does not of itself suggest the creation of an agency and is not at all inconsistent with the theory of its absence in this case.

Even a finding that under these circumstances, an agency had indeed been constituted will not save the day for Orbeta, because nothing in the record tends to prove that he succeeded in carrying out its terms or even as much as attempted to do so. The evidence in fact clearly indicates otherwise. The terms of Escandor's letter of August 14, 1978 -- assuming that it was indeed an "authority to sell," as Orbeta insists -- are to the effect that entitlement to the P15,000 commission is contingent on the purchase by a customer of a fire truck, the implicit condition being that the agent would earn the commission if he was instrumental in bringing the sale about. Orbeta certainly had nothing to do with the sale of the fire truck, and is not therefore entitled to any commission at all.

Furthermore, even if Orbeta is considered to have been Escandor's agent for the time he was supposed to "follow up" the offer to sell, such agency would have been deemed revoked upon the resumption of direct negotiations between Escandor and Rubberworld, Orbeta having in the meantime abandoned all efforts (if indeed any were exerted) to secure the deal in Escandor's behalf.

It has of course already been stated at the outset that, given the sole issue raised by the parties concededly from the case's inception (i.e., whether or not Orbeta is Escandor's agent as regards the sale of a fire truck to Rubberworld), the competence to resolve the controversy did not pertain to either the Labor Arbiter or the NLRC. The jurisdiction vested in them by the Labor Code extends, generally speaking, only to cases arising from employer-employee relationships.[3] What has all along been at issue here, as advanced by the parties themselves and as is evident from the facts, is the existence of a contract of agency[4] -- not employment or lease of services.

It is indeed a puzzle how the fundamental differences between the two[5] altogether escaped not only the parties' counsel in this case but also the tribunals before which it had been brought. Nevertheless, since no one has thought to question their authority even up to this late stage, as in fact all the parties appear to have completely accepted the validity of their exercise of jurisdiction over the case, the Court has opted, as already stated, to render judgment on its merits and end the controversy once and for all.[6]

WHEREFORE, the petition for certiorari is GRANTED, and the judgment of the National Labor Relations Commission dated December 29, 1983, and that of the Labor Arbiter dated August 26, 1982, are hereby REVERSED and SET ASIDE and another one rendered dismissing respondent Jumbee Orbeta's claim for unpaid commissions.

SO ORDERED.

Cruz, Gancayco, Grino-Aquino, and Medialdea, JJ., concur.

[1] Rollo, p. 14.

[2] Id. pp. 52-53.

[3] which arise from "contracts of labor" treated of in Chapter 3, Title VIII Book IV of the Civil Code. As provided by Art. 1700 thereof, an employment contract or lease of service (as it is referred to in Arts. 1642 and 1644 of the Civil Code) is "subject to the special laws on labor unions, collective bargaining, strikes and lockouts, closed shop, wages, working conditions, hours of labor and similar subjects" -- which in this jurisdiction is the Labor Code and other labor laws. SEE Art. 217 of the Labor Code for the jurisdiction of the Labor Arbiter and the NLRC

[4] Treated of in Title X, Book IV, Civil Code (Arts. 1868, et seq.)

[5] Both involve the rendition of services by one party to the other, but the similarity ends there. The basis of agency is representation, the agent being the representative of his principal, while the basis of lease of service is employment. (Nielson & Company, Inc. vs. Lepanto Consolidated Mining, 26 SCRA 540). Agency is merely a preparatory contract which empowers the agent to execute juridical acts to bring about contractual relations between his principal and third persons (Padilla, Civil Code Annotated, [1987 ed.], Vol. VI., pp. 248-249, citing Nielson & Company, Inc. vs. Lepanto Consolidated Mining, supra, and Philippine Free Press vs. P. Floro & Sons, Inc., 21 CAR [2s] 601, 606

[6] SEE Tijam vs. Sibonghanoy, 23 SCRA 29

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