

**DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONER, VS.
HONORABLE NATIONAL LABOR RELATIONS COMMISSION,
EDILBERTO SALAYON, RICARDO ARINDUQUE, GLORIA AUREA,
MANUEL DIZON, RODOLFO ENC...**

G.R. No. 68786. July 21, 1989

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-68786/>

PARAS, J.:

Challenged in this petition for certiorari is the validity of the decision of the National Labor Relations Commission (NLRC for brevity) dated September 25, 1984 in NLRC Case No. RAB-III-2-492-82 entitled "Edilberto Salayon, et al. vs. Development Bank of the Philippines (DBP for brevity) and Consolidated Sugar Corporation of the Philippines" which affirmed the decision of the labor arbiter Andres B. Palumbarit sustaining the complaint for unpaid salaries and wages, allowances and separation pay against petitioner DBP.

The facts as narrated by the Solicitor General are as follows:

"In 1967, CAREBI secured a loan from petitioner DBP, constituting a mortgage on its sugar mill-refinery in Botolan, Zambales. On July 22, 1977, and upon failure of CAREBI to pay, DBP instituted a foreclosure sale of the property in which DBP itself was the highest bidder (Records, Motion for Reconsideration, Annex A; Certificate of Sale, pp. 000113-23).

After the sale, CAREBI continued to manage and operate the business until it finally ceased operation on April 30, 1978. On the same day, CAREBI laid off respondent-employees then working in the sugar mill-refinery without, however, paying their separation benefits.

Meantime, Dr. Pacifico E. Marcos, then President of CAREBI, along with four (4) others, namely: Marianito Santos, Jose Z. Osias, Cesar N. Barretto, and Liong Cio Chang, formed another corporation, the Consolidated Sugar Corporation (CSC for brevity), which in turn proposed a management contract with DBP respecting the same sugar mill-refinery (Letters dated June 1978 and August 8, 1978).

On August 8, 1978, DBP agreed to continue the business under the management and operation of the newly-organized CSC. In view thereof, respondent-employees who were previously laid off were recalled to work (Management Contract, August 8, 1978).

The management contract provided among others, that:

1. DBP shall undertake to pay the cost of rehabilitation and repair of the mill and refinery equipment based on CSC's prepared estimates to be reviewed by DBP;
2. DBP shall designate a comptroller and an assistant comptroller to monitor the management and operations of the sugar mill-refinery and to draw checks covering the operational expenses, respectively;

3. DBP shall approve all monthly budgets and projections on operations of the sugar-mill refinery;
4. CSC shall handle all operational revenues and income. All expenses relating to operations shall be deducted therefrom;
5. Salaries and compensation of the CSC management group plus a management fee to CSC of P25,000.00 a month shall be funded out of CAREBI's operations so that should the net cash balance from CAREBI's operations be less than P200,000.00 (equivalent to the management fee for eight month's milling period at P25,000.00 per month), then such smaller balance is all that shall be paid to CSC as management fee. Only cash balance in excess of the foregoing shall accrue to DBP;
6. CSC agrees and binds itself to hold DBP free and unharmed from any costs, expenses, accountabilities and other liabilities of any form, kind or character which may arise from the use, management and operation of the sugar mill-refinery. (id).

During the operation, DBP, in addition to the foregoing, actually held and controlled six (6) out of the eleven (11) seats in the CSC Board of Directors.

On September 23, 1981, or after two years and one month, DBP Board of Governors, through Resolution No. 3035, resolved and approved the:

- "1. Termination of the management contract with CSC;
2. Assumption by DBP the payment of back salaries and allowances including separation pay of CAREBI employees entitled thereto." (Resolution No. 3085)

Consequently, in its letter of September 29, 1981 (received by CSC and respondent employees on September 5 and 7, respectively), DBP terminated the contract effective on the following day, September 30, 1981 (Letter dated September 29, 1981)

In November 1981 some 77 employees filed a case against petitioner DBP and respondent CSC, docketed as NLRC Case No. RB-111-10-238-81 for backwages, ECOLA (July 1 - Oct. 8, 1981) and separation pay computed from their original employment with CAREBI.

While the case was pending, DBP, by way of compromise, paid claimants the collective amount of P164,597.53, entitling each to an average amount of P2,137.63. In turn, claimants withdrew the case and executed the corresponding quitclaim in favor of DBP and CSC.

On February 4, 1982, other 18 employees, different from the previous claimants, filed similar claims against DBP and CSC (Complaint, February 4, 1982).

CSC and the 18 complainants plus 16 additional claimants (including the 4 CSC corporate officers) not previously included in the complaint, filed their respective position papers imputing liability to DBP, all claiming to have become DBP's employees upon its acquisition of the sugar mill-refinery and subsequent continuation of the business under the management of CSC.

On the other hand, DBP did not file its position paper." (Rollo pp. 152-155).

On April 19, 1982, Labor Arbiter Andres Palumbarit rendered a decision the decretal portion of which reads:

"WHEREFORE, premises considered, the complaint is hereby sustained and respondent DBP is ordered to pay the following:

1. The amount of P35,198.68 as allowance from July 1, to October 8, 1981 of herein complainants;

2. P170,211.01 as unpaid salaries and wages of herein complainants from July 1 to October 8, 1981;
3. P507,260.00 as separation or termination pay of herein complainants for the length of services rendered by them as indicated in Annex "N" of the complainants position paper;
4. The amount corresponding to the 10% of the allowances and wages combined, constituting as Attorney's fee pursuant to Section II of Rule VII Book II of the Implementing Rules and Regulations of the Labor Code or P20,540.96." (Ibid., p. 20).

On appeal to the NLRC, aforecited decision was affirmed and the appeal dismissed for lack of merit.

Hence the instant petition.

Petitioner raised the following assignments of error:

1. RESPONDENT COMMISSION ERRED IN FINDING THAT DBP IS DEEMED TO HAVE STEPPED INTO THE SHOES OF CAREBI AND ASSUMED ITS LIABILITIES INsofar AS THE EMPLOYEES ARE CONCERNED.
2. RESPONDENT COMMISSION ERRED IN FINDING THAT THE EMPLOYEES OF CAREBI BECAME EMPLOYEES OF DBP.
3. RESPONDENT COMMISSION ERRED IN FINDING THAT THE OPERATIONS OF CAREBI SUGAR MILL-REFINERY COMPLEX BELONGED TO AND WERE FOR THE ACCOUNT OF DBP.
4. RESPONDENT COMMISSION ERRED IN NOT SUSTAINING DBP'S STAND THAT AS PER MANAGEMENT CONTRACT CSC AGREED TO USE, MANAGE AND OPERATE THE SUGAR MILL-REFINERY COMPLEX AND AGREE TO ABSOLVE DBP FROM ANY COSTS, EXPENSES, ACCOUNTABILITES AND OTHER LIABILITIES AND THAT CSC OPERATED THE SUGAR MILL FOR ITS ACCOUNT.
5. RESPONDENT COMMISSION ERRED IN FINDING THAT CSC ACTIVITIES WERE LIMITED TO THE OPERATION/MANAGEMENT OF THE SUGAR MILL-REFINERY COMPLEX OR THAT THERE IS UTTERLY WANT OF PROOF THAT CSC WAS ENGAGED IN ANY OTHER BUSINESS.
6. RESPONDENT COMMISSION ERRED IN CONSIDERING IN THE COMPUTATION OF THE AWARD SERVICES RENDERED BY THE AWARDEES TO CAREBI (PHIL.) INC.
7. ASSUMING WITHOUT ADMITTING THAT THE PRIVATE RESPONDENTS BECAME THE EMPLOYEES OF DBP, THEN IN THIS CASE THE PROVISIONS OF THE LABOR CODE ARE NOT APPLICABLE IN THIS INSTANT CASE AND THE LABOR ARBITER AND THE RESPONDENT NLRC HAS NO JURISDICTION OVER THE PERSONS OF THE PRIVATE RESPONDENTS AND DBP. (pp. 290-291, Rollo)

The crux of the matter is whether or not the NLRC misappreciated the facts and proceeded with erroneous conclusions of law.

There is no question that private respondents have not received benefits legally due them. The question is who between petitioner DBP and respondent CSC is liable to pay the private respondents.

The Labor Arbiter and the NLRC found as fact that petitioner DBP and not respondent CSC was the employer of private respondents.

Petitioner, however, insists that respondent CSC is private respondents' employer as they have been under the

direct control and supervision of the said corporation and that the payment of their salaries were funded out of the CSC's operations as embodied in the management contract. Moreover, private respondents are the former employees of the defunct CAREBI (Phil.). Their subsequent re-hiring undertaken by respondent CSC does not in any way bind the petitioner, much less makes it liable for the money claims.

It is well-settled that the question of whether or not an employer-employee relationship exists between the parties is a question of fact and that findings of fact of the NLRC are accorded by this Court not only respect but finality, if supported by substantial evidence (*Asim et al. v. Castro*, G.R. Nos. 75063-64, June 30, 1988). (Underscoring supplied)

Contrary to the findings of the labor arbiter and the NLRC, the following circumstances belie the existence of an employer-employee relationship between the private respondents and petitioner DBP:

1. Upon petitioner DBP's foreclosure of CAREBI's assets and the consequent expiration of their management contract, private respondent employees' services were terminated by Carebi President Pacifico E. Marcos by virtue of a memorandum dated April 29, 1978 (Rollo, p. 90);
2. Respondent CSC conformably agreed to use, manage, and operate the sugar mill-refinery complex at Botolan, Zambales belonging to petitioner DBP (Annex "3", supplemental petition, p. 95, Rollo);
3. CAREBI (Phil.) Inc. president Pacifico E. Marcos, who later became president of respondent CSC personally undertook to obtain the re-employment of private respondents after cessation of operation of CAREBI (Phil.) Inc. (Annex "1-A", *Ibid.*, p. 90);
4. Respondent CSC is an independent contractor which has an authorized capital of P20,000,000.00 and already has an initial paid-up capital of P1,000,000.00; (Annex "2", *Ibid.*, p. 91);
5. Respondent CSC admittedly provided the manning requirements of the sugar mill-refinery complex 'limited to only 446 personnel instead of Carebi's usual force of 691 or a reduction of 245 men' (*Ibid.*, p. 93);
6. The management contract between petitioner DBP and respondent CSC specifically provided that the 'salaries and compensation of the CSC management group plus a management fee to CSC of P25,000.00 a month shall be funded out of CAREBI's operations so that should the net cash balance from CAREBI's operations be less than P200,000.00 (equivalent to the management fee for eight month's milling period at P25,000.00 per month), then such smaller balance is all that shall be paid to CSC as management fee. Only cash balance in excess of the foregoing shall accrue to DBP' (Rollo, pp. 153-154);
7. The projected Expenses/Fund Requirements for the months of September & October 1978 of respondent CSC shows that the latter shall be responsible for the funding of operating expenses of the sugar mill-refinery complex such as salaries and wages, SSS, medicare, Employee compensation, and Maternity Contribution, Emergency Allowance (PD 525 & 1123), Miscellaneous & Indirect Expenses, General & Administrative Expenses and Light and Power (Zambales) (Rollo, p. 104).

In determining the existence of employer-employee relationship, the following elements are generally considered, namely: (1) the selection and engagement of the employee; (2) the payment of wages; (3) the power of dismissal; (4) the power to control the employee's conduct - although the latter is the most important element (*Brotherhood Labor Unity Movement of the Philippines v. Zamora*, 147 SCRA 49 [1987]; *Social Security System v. Court of Appeals*, 156 SCRA 383 [1987]; *Broadway Motors Inc. v. NLRC*, 156 SCRA 522 [1987]; *Bautista v. Inciong*, 158 SCRA 668 [1988] and *Asim et al. v. Castro*, *supra*).

Respondent CSC is an independent contractor which employed the private respondents for the specific purpose of

managing and operating the said sugar mill-refinery complex. It was respondent CSC which exercised the right of control over the conduct of private respondents in the performance of their functions and petitioner DBP never had a hand over their supervision. The right of control test "where the person for whom the services are performed reserves a right to control not only the end to be achieved but also the means to be used in reaching such end" belonging to respondent CSC is determinative of the existence of an employer-employee relationship (*Sevilla vs. Court of Appeals*, 160 SCRA 179-180 [1988]).

Absent the power to control the employees with respect to the means and methods by which their work was to be accomplished, there was no employer-employee relationship between the petitioner DBP and private respondents. Hence, there is no basis for an award of unpaid allowances, salaries and wages and separation pay against petitioner DBP. (*Continental Marble Corp., et al., vs. NLRC*, G.R. No. L-43825, May 9, 1988).

But respondent CSC which is apparently private respondents' employer is obliged to pay the same.

Anent the finding of NLRC that petitioner DBP stepped into the shoes of Carebi and assumed its liabilities insofar as the employees are concerned, the said ruling appears implausible since the liabilities incurred by the old owner of the establishment to his employees prior to the sale will not be enforceable against the transferee unless the latter expressly assumed the same, or the sale was made in bad faith (*Fernando vs. Angat Labor Union* 5 SCRA 251 [1962]; *Cruz vs. Philippine Association of Free Labor Unions (PAFLU)* 42 SCRA 77 [1971]), which circumstances are not obtaining in the case at bar.

PREMISES CONSIDERED, (a) The petition is GRANTED; (b) the appealed decision of the NLRC is REVERSED and SET ASIDE and (c) the complaint against the petitioner DBP is DISMISSED.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

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.