

MA. EPIE EDEN, GWEN RELLIN NGOLABAN, AND SHARE AND CARE APOSTOLATE FOUNDATION, INC., PETITIONERS, VS. MINISTRY OF LABOR AND EMPLOYMENT AND ELLEN ARENDAIN, RESPONDENTS.

G.R. No. 72145. February 28, 1990

Ponente: PARAS, J.

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PARAS, J.:

The only issue presented for determination in the instant case is whether or not petitioners were denied due process during the proceedings at the Ministry of Labor and Employment Regional Office, Region No. VII to warrant declaration of nullity of the orders herein assailed.

The antecedent facts as summarized by the Solicitor General are as follows:

"On February 1, 1980, private respondent filed a complaint against Share and Care Apostolate for Poor Settlers (hereinafter referred to as SCAPS), c/o Msgr. Patricio Alo, Capitol Parish, Escario, Cebu City alleging her illegal dismissal as Researcher (Records, p. 1), and sought reinstatement as well as backwages.

"A subpoena was issued on February 1, 1980 against petitioner Epie Eden as Officer-In-Charge of petitioner SCAPS requiring her appearance before Pablo Monteclaros, conciliator ITFU Investigator for public respondent in its Regional Office in Cebu City (Records, p. 2).

"Petitioner Eden as representative of SCAPS was also served notice of hearing for conciliation for the second time on February 15, 1985. However, only Atty. Benedicto Alo appeared acting as counsel for petitioners (Records, p. 4).

"During the subsequent scheduled date for hearing on February 21, 1980, petitioners also failed to appear.

"MOLE Regional Director for Region No. VII Francisco Arancisco Arnado issued an order on May 12, 1980 herein sought to be set aside finding that: (a) the failure of petitioners to appear constituted a waiver to participate in the proceedings and have elected to submit the instant case for resolution; (b) that staff members' of the SCAPS team, i.e. petitioners Eden and Ngolaban have no authority to terminate private respondent Ellen Arendain without authority from SCAPS Directorate, but such authority is vested in Msgr. Mariano Gaviola, SCAPS National Director, and that therefore, private respondent is entitled to the remedies of reinstatement and backwages for a sum total of P2,000.00 (Records, pp. 52-55).

"On June 6, 1980, petitioners filed their 'Motion for Reinvestigation' which sought to set aside the order of the Regional Director, Region No. VII, MOLE alleging lack of notice and that private respondent is not an employee of SCAPS, but a voluntary worker (Records, pp. 59-61). Private respondent, on June 17, 1986 filed her 'Vehement Opposition To Motion for Reinvestigation' (Records, pp. 64-65).

"On July 3, 1980, MOLE Regional Director issued an order finding no valid grounds for reinvestigation and forwarded the records of the case to the Minister of Labor and Employment for review (Records, p. 67).

"On February 10, 1983, MOLE Deputy Minister Vicente Leogardo, Jr. issued an order finding the orders of the

MOLE Regional Director meritorious on the grounds that: (a) petitioners waived their right to dispute/disprove complainants' allegation by refusing to appear despite receipt of notice of hearing and/or to submit their position paper; and (b) the order of the Regional Director dated July 3, 1980 had become final without an appeal interposed by the petitioners and in the absence of their second motion for reconsideration pursuant to Policy Instructions No. 21 of the MOLE (Records, pp. 69-70).

"On March 22, 1983, petitioners filed their motion for reconsideration against the order of MOLE Deputy Minister alleging patent abuse of discretion in denying them their right to due process because they are not named parties-defendants in the suit (Records, pp. 176-183).

"On March 18, 1983, petitioner SCAPS filed its 'Motion for Extension of Time to File Appeal' against the order of the MOLE Deputy Minister dated February 10, 1983 (Records, pp. 191-192).

"On August 13, 1985, MOLE Deputy Minister Vicente Leogardo, Jr. issued an order denying petitioners' (Eden's and Ngolaban's) motion for reconsideration finding no sufficient reason or justification to reverse nor modify his previous order dated February 10, 1983 (Records, p. 376)." (pp. 139-142, Rollo)

Petitioners Eden, Ngolaban and Share and Care Apostolate Foundation, Inc. (SCAFI) contend that: (1) the orders of the public respondent MOLE are null and void for being rendered without or in excess of jurisdiction, or in grave abuse of discretion, or in utter lack of due process because judgment was rendered against petitioners who are not parties to the action (Petition, p. 21); (2) petitioners were not notified of the proceedings nor were they afforded the opportunity to file any position paper (Ibid., p. 3).

In conclusion petitioners claim that they are entitled to equitable remedies of injunction and that writs of prohibition and certiorari be issued against public respondent in the enforcement of orders herein assailed.

Petitioners' contentions hold no water.

Anent the first issue, petitioner Eden argues that since the complaint was entitled "Ellen Arendain versus Share and Care Apostolate for Poor Settlers" and that the subpoenas sent were addressed to "Miss Ma. Eppie Eden, OIC, SCAPS, c/o Monsignor Patricio H. Alo, Capitol Parish, Escario St., Cebu City," the MOLE therefore was in error in considering SCAPS as the same as SCAFI in the opening statement of its Order, dated May 12, 1980, to wit:

"Based on the complaint for Illegal Dismissal and/or Reinstatement, filed by Ellen C. Arendain against the Share and Care Apostolate Foundation, Inc. and Ma. Eppie Eden and Gwen Rellin Ngolaban x x x." (p. 1, Order; p. 23, Rollo)

Petitioner Ma. Eppie Eden contends that she is not a representative of SCAFI but of SCAPS and that SCAFI has never been a party to the suit. Thus, not being a party, no authority emanates to render judgment against them who are not parties to the suit. In support of this contention, petitioner cites the case of *Bien vs. Sunga* (117 SCRA 249), to wit:

"Strangers to a case are not bound by judgment rendered by the court."

In this regard, We say that petitioners were not denied due process during the proceedings conducted by the MOLE, Regional Director. The record discloses that notices of hearing were thrice sent to petitioners, which they chose to ignore, for conciliation proceedings for February 11, 15 and 21, 1980 despite service of such notice to SCAFI's office. The alleged lack of notice of the conciliation proceedings scheduled by the MOLE Regional Office, Region No. VII is further negated by the presence of petitioners' counsel Atty. Benedicto Alo during the scheduled hearing on February 21, 1980 (Records, p. 4).

Basically, petitioners misapprehend the essence of due process requisites in administrative and judicial proceedings.

Due process of law contemplates notice and opportunity to be heard before judgment is rendered affecting one's person or property (*Sicat v. Reyes*, 100 Phil. 505; *Lopez v. Director of Lands*, 47 Phil. 23; *Cornejo v. Gabuil*, 41 Phil. 188; *Austria v. Posadas*, 48 Phil. 322; *Rubi v. Provincial Board of Mindoro*, 39 Phil. 660; *Ermita-Malate Hotel v. Mayor Alikpala*, 20 SCRA 849; *Santiago v. Alikpala*, 25 SCRA 356). But what the law proscribes is not the absence of previous notice, but absolute absence thereof, and the lack of opportunity to be heard. Thus, there is no occasion to impute deprivation of property where such complaining party was heard on a motion for reconsideration as it constitutes "sufficient opportunity" for him to inform the tribunal concerned of his side of the controversy (*BLTB v. Cadiar*, 22 SCRA 987).

Neither did We uphold the plea of denial of due process when such party without cause or reason failed to appear at the scheduled date of hearing in *Gomez vs. Comelec* (G.R. Nos. 52781 and 53658, February 8, 1983); *Asprec v. Itchon*, 16 SCRA 921; *Caltex (Phil.) v. Castillo*, 21 SCRA 1071; *PAL v. LAB*, 20 SCRA 727] relying on the rule that there is no violation of due process even if no hearing was conducted where a chance to explain a party's side of the controversy was accorded to him because what is frowned upon is the denial of the opportunity to be heard (*Asprec v. Itchon*, 16 SCRA 921; *Quiera v. Serina*, 17 SCRA 567; *Ayong Hian v. CTA*, 59 SCRA 110; *Cornejo v. Secretary of Justice*, 57 SCRA 663; *Bernejo v. Barrios*, 31 SCRA 765; *Maglasong v. Ople*, 63 SCRA 508; *Superior Concrete Products v. Workmen's Compensation Commission*, S.C. G.R. L-42020, March 31, 1978; *Mamerto v. Inciong*, 118 SCRA 245).

In the case at bar, petitioners do not deny receipt of the notices of hearing during the scheduled hearings on February 11, 15, and 21, 1980, but say that their failure was due to the advice of their counsel, Atty. Alo that their presence was not necessary during the conciliation proceedings (Petitioners' Motion for Reinvestigation, p. 2; Petition, Annex "F"). Such excuse is improbable because a lawyer should know the importance of the appearance of his clients on the initial hearing of the case. In any event, litigants are bound by acts of their counsel, except in case of bad faith on the part of the latter, however prejudicial the consequences may be to the cause of clients (*Fernandez v. Tan Tuiek Tik*, 1 SCRA 1138; *Gordulan v. Gordulan*, 3 SCRA 205; *Valerio v. Secretary of Agriculture and Natural Resources*, 7 SCRA 719; *Mina v. Pacson*, 8 SCRA 774; *Ramos v. Potenciano*, 9 SCRA 589; *Manila Post Control Inc. v. WCC*, 25 SCRA 700; *Rivera v. Vda. de la Cruz*, 26 SCRA 58).

Ineluctably, petitioners ignored legal processes issued by the MOLE Conciliator, such that the MOLE Regional Director has deemed the non-appearance of petitioners as waiver of their right to present their defense.

With regard to the contention that SCAPS and SCAFI are two different entities, this lacks merit. The change from SCAPS to SCAFI was a mere modification, if not rectification of the caption as to respondent in the MOLE case, when it was pointed out in the complainant's position paper that SCAPS belongs to or is integral with SCAFI as gleaned from the brochure, Annex "A" of said position paper, which is already part of the records of the case and incorporated in the Comment by way of reference. The brochure stated that SCAPS is the implementing and service arm of SCAFI, with Bishop Gaviola as National Director of SCAPS and Board Chairman of SCAFI, both their address: 2655 F.B. Harrison St., Pasay City. Thus, the real party in interest is SCAFI, more so because it has the juridical personality that can sue and be sued. The change in caption from SCAPS to SCAFI however does not absolve SCAPS from liability, for SCAFI includes SCAPS, SCAPS — the arm, SCAFI — the organism to which the arm is an integral part of the rise and fall of SCAPS, and vice-versa. Thus, SCAFI has never been a stranger to the case. Jurisprudence is to the effect that:

"An action may be entertained, notwithstanding the failure to include an indispensable party where it appears that the naming of the party would be a formality." (*Baguio vs. Rodriguez*, L-11078, May 27, 1959)

Furthermore, the Regional Director had furnished a copy of the decision dated May 12, 1980 (Annex "D" of Petition), and it was only 3 years after that a Motion to Stay Execution (Annex "K" of Petition) was heard from

SCAFI. By its silence for almost or about 3 years, SCAFI is deemed to have submitted to the jurisdiction of the Honorable Labor Minister and to bind itself by its decision.

Petitioners Eden and Ngolaban next allege that they were not named party-defendants in the case for illegal dismissal such that they could not be held severally and jointly liable with petitioner SCAFI to pay private respondent Arendain backwages and the duty to reinstate the latter to her position as researcher.

At the outset, it must be stressed that procedural rules on service of summons are not strictly construed in quasi-judicial proceedings, but that there be substantial compliance thereof (*Ang Tibay v. Court of Industrial Relations*, 69 Phil. 635).

In the position paper submitted by private respondent Arendain, she proved that she had been summarily dismissed by petitioners Eden and Ngolaban because of personal differences (Order of MOLE Regional Director, p. 3). The order of the MOLE Regional Director declaring the solidary obligation of petitioners was based on the personal liability of petitioners Eden and Ngolaban and SCAFI, represented by the former, as employer of private respondent because of the factual finding that both Eden and Ngolaban summarily dismissed private respondent on account of their personal grudges against the latter (Civil Code, Art. 1207).

WHEREFORE, the petition is hereby DISMISSED for lack of merit. The petitioners SCAFI and/or Ma. Eppie Eden and Gwen Rellin Ngolaban, are hereby ordered jointly and severally, to REINSTATE the complainant, herein respondent, Miss Ellen C. Arendain, to her former position without loss of seniority rights, and with three years backwages from the time of illegal dismissal.

SO ORDERED.

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

Padilla, J., no part, former counsel of Msgr. Mariano Gaviola, Chairman of petitioner SCAFI.

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