

ANTONIO ONG, SR., PETITIONER, VS. HENRY M. PAREL, IN HIS CAPACITY AS REGIONAL DIRECTOR OF THE MINISTRY OF LABOR AND EMPLOYMENT, ROWENA RETERACION, ROSEMARIE VERZO, SANDRA FERNAN...

G.R. No. 76710. December 21, 1987

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a special civil action for certiorari seeking to annul on the ground of lack of jurisdiction the following: (a) the Final Order for Compliance dated October 7, 1986 issued by the public respondent through his assistant Domingo H. Zapanta ordering petitioner to pay the sum of P254,841.26 representing the claims of thirteen (13) complainant workers; (b) the Order dated November 18, 1986, denying the petitioner's motion for reconsideration for lack of merit; and (c) the Writ of Execution dated December 12, 1986 issued by said Regional Director to enforce the aforementioned orders. A writ of prohibition is also prayed for in this petition to command the public respondent to desist from the conduct of further proceedings on the matter in question.

The petitioner is the owner of the Mansion House Restaurant located at No. 11, J. M. Basa Street, Iloilo City.

On July 28, 1986, private respondent Rowena Reteracion, president of the Mansion House Genuine Labor Union filed a request for the inspection of the petitioner's restaurant with Regional Office No. VI of the Ministry of Labor and Employment at Iloilo City. The request for inspection was in connection with the failure of the petitioner to comply with certain labor standard laws such as those relating to the payment of the minimum wage, the emergency cost of living allowance, the 13th month pay and the 5-day incentive leave pay.

On July 30, 1986, an on-the-spot inspection of the petitioner's business premises was conducted by the representatives from MOLE's regional office at Bacolod City in obedience to Office Order No. 027, series of 1986 issued by authority of the public respondent regional director. Since the petitioner was not able to present his business records then on the allegation that they were with his accountant, he was given five days or until August 4, 1986 to present said records. The inspection resulted in the interview of thirteen employees who signed affidavits supporting the charges of non-compliance with certain labor standard laws against the petitioner.

On August 4, 1986, the officers of MOLE's Labor Standard Welfare Office paid a second visit to the petitioner's business premises to obtain the requested employment records for inspection. Again, the petitioner failed to present the records.

On August 7, 1986, a subpoena duces tecum was issued by the public respondent requiring the petitioner to submit the daily time records and payrolls relating to the payment of wages, 13th month pay, and incentive leave pay of the employees in his business establishment.

On August 12, 1986, the petitioner, instead of complying with the subpoena duces tecum sent a letter to the public respondent through the labor district officer requesting for clarification as to the basis of the latter's inspection of

his premises. He inquired whether the said inspection was routinary or one based on a complaint filed against him. On August 14, 1986, the last day for presenting certain employment records for inspection, the petitioner failed to comply.

On September 2, 1986, a narrative report was submitted to the public respondent by his duly designated representatives regarding the results of the inspection made on the petitioner's business premises. A summary of the computation of the claims of the thirteen workers based on the affidavits they executed was attached to the report.

On October 7, 1986, the public respondent issued the questioned Final Order for Compliance, with the following dispositive portion -

IN VIEW THEREOF, respondent Antonio Ong, Sr., owner of Mansion House Restaurant, is hereby ordered to pay the sum of TWO HUNDRED FIFTY FOUR THOUSAND EIGHT HUNDRED FORTY ONE PESOS and 26/100 (P254,841.26) representing the claims of thirteen (13) complainant workers as stated in the attached sheet of the foregoing mentioned Summary of Findings within ten (10) days from receipt of this Notice." (p. 21, Rollo; Annex "A" of Petition).

The amount of P254,841.26 representing the total money claims of the thirteen claimant workers is broken down in said order as follows:

"1.

Underpayment of the Minimum Wage Rate

P136,087.98

"2.

Non-payment of Emergency Cost of Living Allowance

107,769.93

"3.

Underpayment of 13th month pay

8,463.35

"4.

Non-payment of 5 days incentive leave pay

2,520.00

T O T A L

P254,841.26"

(p. 21, Rollo)

On October 13, 1986, the petitioner wrote the public respondent a request for reconsideration of the above Final Order for Compliance on two grounds, namely: (1) The respondent's lack of jurisdiction to entertain money

claims which properly fall within the jurisdiction of the National Labor Relations Commission; and (2) denial of due process for the alleged failure of the public respondent to furnish the petitioner with copies of the affidavits of the thirteen claimant workers and the narrative report dated September 2, 1986 submitted to the public respondent by the Labor Standard Welfare Officers who inspected the petitioner's business premises.

On November 18, 1986, the public respondent denied the petitioner's motion for reconsideration and ruled that there was no lack of jurisdiction considering that the public respondent had validly assumed jurisdiction over the subject matter under Article 128(b) of the Labor Code in the exercise of his enforcement powers. The public respondent further ruled that there was no denial of due process owing to the fact that the petitioner was given five days to present his employment records and another ten days to comply with the subpoena duces tecum but still he failed to do as required under Section 11, Rule X, Book III of the Implementing Rules of the Labor Code.

On December 9, 1986, the private respondents moved for the issuance of a writ of execution of the Final Order for Compliance dated October 7, 1986.

On December 12, 1986, a writ of execution was issued by the public respondent. By virtue thereof, the petitioner issued a postdated check in the amount of P254,857.26 representing the total money claims of the private respondents.

On December 15, 1986, this petition was filed presenting the following legal issues:

1. X X X WHETHER OR NOT THE RESPONDENT REGIONAL DIRECTOR HAS ACTED WITHOUT OR IN EXCESS OF HIS JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION IN ENTERTAINING THE MONEY CLAIMS OF THE PRIVATE RESPONDENTS AND IN ISSUING THE 'FINAL ORDER OF COMPLIANCE' ORDERING YOUR PETITIONER TO PAY A TOTAL SUM OF P254,841.26, X X X.
2. X X X WHETHER OR NOT THE RESPONDENT REGIONAL DIRECTOR HAS ACTED WITHOUT OR IN EXCESS OF HIS JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION IN ISSUING THE ORDER DATED NOVEMBER 18, 1986 DENYING THE MOTION FOR RECONSIDERATION OF YOUR PETITIONER TO THE ABOVE-MENTIONED ORDER AND IN ISSUING MOTU PROPRIO A WRIT OF EXECUTION DATED DECEMBER 12, 1986, X X X.
3. X X X ASSUMING BUT WITHOUT ADMITTING THAT THE RESPONDENT REGIONAL DIRECTOR HAS JURISDICTION TO ENTERTAIN THE MONEY CLAIMS OF PRIVATE RESPONDENTS, WHETHER OR NOT DUE PROCESS OF LAW WAS OBSERVED IN THE ISSUANCE OF THE ORDERS AND WRIT OF EXECUTION ABOVE-MENTIONED. (PP. 1-2, Petition)

The petitioner maintains that all money claims of workers arising from employer-employee relationship are within the exclusive jurisdiction of the Labor Arbiter as provided under Article 217 of the Labor Code, as amended. He alleges that the public respondent acted without or in excess of his jurisdiction amounting to grave abuse of discretion in taking cognizance of the private respondents' claims. Moreover, the petitioner contends that if ever the public respondent is empowered to award a money judgment, his authority is limited to claims amounting to only P100,000.00 under Policy Instruction No. 7 of the Ministry of Labor and Employment. The petitioner further asserts that he was denied due process of law because he was never given the chance to controvert the complaint against him and neither was he given the opportunity to present any evidence to refute the findings of the inspectors who visited his business establishment.

The private respondents, on the other hand, rely on the visitorial and enforcement powers granted to the public respondent under Art. 128 of the Labor Code. They alleged that the petitioner, after having defied the repeated requests of the public respondent to submit his employment records, could not validly claim that he was not given

the chance to be heard and to present his side.

The Solicitor General agrees with the petitioner and submits that under Art. 128 of the Labor Code, the public respondent is not empowered to adjudicate money claims because such authority is reposed in the Labor Arbiter and the National Labor Relations Commission as provided under Art. 127 of the same Code, as amended. The Solicitor General further adds that the visitorial and enforcement powers of the public respondent under Art. 128 of the Labor Code are limited to awards not exceeding P100,000.00 pursuant to MOLE Policy Instruction No. 7.

Before we resolve the principal issue of whether or not the Regional Director of the Ministry of Labor and Employment has the authority to award money claims on the strength of his visitorial and enforcement powers, we quote the applicable provisions of law.

Article 128, subparagraphs (a) and (b) of the Labor Code, as amended, provide that:

"Visitorial and enforcement power. -- (a) The Secretary of Labor or his duly authorized representatives, including labor regulation officers, shall have access to employers' records and premises at any time of the day or night whenever work is being undertaken therein, and the right to copy therefrom, to question any employee and investigate any fact, condition or matter which may be necessary to determine violations or which may aid in the enforcement of this Code and of any labor law, wage order or rules and regulations issued pursuant thereto.

"(b) The Minister of Labor or his duly authorized representatives shall have the power to order and administer, after due notice and hearing, compliance with the labor standards provisions of this Code based on the findings of labor regulation officers or industrial safety engineers made in the course of inspection, and to issue writs of execution to the appropriate authority for the enforcement of their order, except in cases where the employer contests the findings of the labor regulations officer and raises issues which cannot be resolved without considering evidentiary matters that are not verifiable in the normal course of inspection. (As amended by Section 1, PD No. 1691, May 1, 1980)"

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The first paragraph of MOLE Policy Instructions No. 7 reads:

"Under PD 850, labor standards cases have been taken from the arbitration system and placed under the enforcement system except where a) questions of law are involved as determined by the Regional Director, b) the amount involved exceeds P100,000 or over 40% of the equity of the employer, whichever is lower, c) the case requires evidentiary matters not disclosed or verified in the normal course of inspection, or d) there is no more employer-employee relationship."

Article 217 of the Labor Code enumerates the cases falling under the jurisdiction of Labor Arbiters and the National Labor Relations Commission, to wit:

"Jurisdiction of Labor Arbiters and the Commission. -- (a) The Labor Arbiters shall have the original and exclusive jurisdiction to hear and decide within thirty (30) working days after submission of the case by the parties for decision, the following cases involving all workers, whether agricultural or non-agricultural:

"1. Unfair labor practice cases;

"2. Those that workers may file involving wages, hours of work and other terms and conditions of employment;

"3. All money claims of workers, including those based on non-payment or underpayment of wages, overtime compensation, separation pay and other benefits provided by law or appropriate agreement, except claims for employees' compensation, social security, medicare and maternity benefits;

"4. Cases involving household services; and

"5. Cases arising from any violation of Article 265 of this Code, including questions involving the legality of strikes and lockouts.

"(b) The Commission shall have exclusive appellate jurisdiction over all cases decided by Labor Arbiters. (As amended by Section 2, Batas Pambansa Blg. 130, Aug. 21, 1981 and Section 2, Batas Pambansa Blg. 227, June 1, 1982)."

A careful perusal of the aforequoted provisions shows that the instant petition is impressed with merit. Article 217 of the Labor Code is written in unequivocal terms. It uses the words "original and exclusive". In *Aparri v. Court of Appeals* (127 SCRA 231), we ruled that:

"x x x It is the rule in statutory construction that if the words and phrases of a statute are not obscure or ambiguous, its meaning and the intention of the legislature must be determined from the language employed, and, where there is no ambiguity in the words, there is no room for construction (Black on Interpretation of Laws, Sec. 51). x x x."

Thus, with respect to the money claims of workers such as those relating to the under-payment of the minimum wage rate and 13th month pay and the non-payment of the emergency cost of living allowance and 5-day incentive leave pay, as in the case at bar, the original and exclusive jurisdiction to hear and decide cases involving said claims pertains to the labor arbiters alone. "Original jurisdiction means jurisdiction to take cognizance of a cause at its inception, try it and pass judgment upon the law and facts. Exclusive jurisdiction precludes the idea of co-existence and refers to jurisdiction possessed to the exclusion of others." (pp. 673 and 1251, Black's Law Dictionary) Article 217 of the Labor Code does not empower the regional director to share in the "original and exclusive jurisdiction" conferred on the labor arbiters. (See *Zambales Base Metals, Inc. v. Minister of Labor*, 146 SCRA 50).

We agree with the submission made by the Solicitor General that under Article 128 of the Labor Code, the regional director's power to visit the establishment of the employer extends only insofar as checking compliance with labor standard laws is concerned. If the inspection results in a finding that the employer has violated certain labor standard laws, then, the regional director must order the necessary rectifications. However, this does not include adjudication of money claims clearly within the ambit of the labor arbiter's authority under Article 217 of the Code.

Considering that the regional director, in the exercise of his visitorial and enforcement powers under Art. 128 of the Labor Code, has definitely no authority to award money claims properly falling within the jurisdiction of the labor arbiter as provided in Art. 217 of the same Code, the provision in MOLE Policy Instructions No. 7 which limits the regional director's authority to amounts not exceeding P100,000.00 refers to the enforcement of labor standards laws by the regional director in the exercise of his visitorial and enforcement powers. The P100,000.00 limit grants no implied power to adjudicate claims for monetary benefits filed by the complainant workers of an establishment.

On the corollary issue of whether or not there was denial of due process in the exercise of the regional director's visitorial and enforcement powers the records belie the claim that the petitioner was not given the chance to present his side and to refute the findings of the inspectors who visited his establishment. During the initial on-the-spot inspection made by the public respondent on the petitioner's business premises, the petitioner's inability to present his business records was a clear violation of Book III, Rule X, Section II of the Implementing Rules and Regulations of the Labor Code which provides that:

"Sec. II. Place of records. -- All employment records of the employees of an employer shall be kept and

maintained in or about the premises of the workplace. The premises of a workplace shall be understood to mean the main or branch office or establishment, if any, depending upon where the employees are regularly assigned. The keeping of the employee's records in another place is prohibited."

Notwithstanding the violation, the public respondent gave the petitioner five days to produce his employment records. On the second visit made by the public respondent, the petitioner still failed to present the required records. Finally, when a subpoena duces tecum was issued, the petitioner, instead of complying, sent a letter for clarification regarding the basis of the inspection. The letter was obviously a dilatory tactic because on the very face of the authority presented to the petitioner by the representatives of the public respondent during the on-the-spot inspection, it was stated that the inspection was being made pursuant to a letter-request of one of his employees, Rowena Reteracion, as president of the labor union in his business establishment. It is settled that there is no denial of due process where the petitioner was afforded an opportunity to present his case. (*Divine Word High School v. The National Labor Relations Commission*, 143 SCRA 346, 350 citing *Municipality of Daet v. Hidalgo Enterprises, Inc.*, 138 SCRA 265). The very essence of the right to due process of law is having one's "day in court". In *People v. Retania y Rodelas* (95 SCRA 201), we pronounced that:

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"x x x '[D]ay in court' according to the authorities means the affording of an opportunity to be heard (11 Words and Phrases Judicially Defined, paragraphs 119 and 120). It is only when a party is denied of the opportunity to be heard that it can be said that he is denied his day in court. (*Rovo v. Gaw Ghee Kiong*, O.G. Nol. 49, p. 1021; *Monson v. Del Rosario*, O.G. Vol. 58, p. 1978)." (at p. 210)

WHEREFORE, the petition is hereby GRANTED. The questioned orders of the public respondent dated October 7, 1986 and November 18, 1986, are SET ASIDE as NULL and VOID for lack of jurisdiction. The money claims of private respondents are remanded to the corresponding labor arbiter for appropriate action with the directive that the same be heard and decided without delay.

SO ORDERED.

Fernan (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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