

PHIL-DUMEZ CONSTRUCTION CORPORATION, PETITIONER, VS. THE COURT OF APPEALS AND ANGELINA A. LATONIO, RESPONDENTS.

G.R. No. 80933. October 31, 1990

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The center of controversy in this petition is whether or not private respondent is a mere medical retainer or a part of the management of petitioner corporation.

In May, 1984, after petitioner laid off its medical personnel, private respondent offered her services to the petitioner to continue operating its medical services. Her offer was accepted but she was made to absorb the dismissed personnel, Dr. Romulo Javellonar as radiologist, Dr. Rene Eclavea as dentist and Dr. Pedro Balgos as internist.

In a letter dated July 31, 1984, sent by the petitioner's assistant regional manager to private respondent, she was instructed that only Dr. Javellonar was accredited to take the x-ray prints with the proper equipment and the only one authorized to read the x-ray films.[1] She was also made to participate in the computerization of the results of the medical examinations. Her nurses and technologists were asked to clear up the mess in the medical records. On two occasions, they sent her confidential memoranda to inform her about the problems in the job site in Saudi Arabia. At one instance, they made her nurses fetch one of their patients from the airport. She was given a memorandum of the office hours that her personnel have to observe.[2] A memorandum was also sent to her for the proper guidance of her personnel in vaccinating workers and authority to perform a complete medical check up. She was based at the petitioner's medical complex located at Shaw Boulevard, Mandaluyong. She treated the petitioner's employees and their dependents. She herself even had occasion to treat Mr. Rico Iconomoff, its president.

On July 13, 1984, Mr. Iconomoff called a meeting attended by him, Dr. Gabaldon and private respondent. He discussed with them plans to open up a medical complex beside the pre-employment area. He also intended to put up a dispensary or a hospital. He asked her to prepare a budget indicating how much it would cost to operate the whole complex which she did. Then it occurred to him to change the name of "Phil-Dumez" medical clinic to "Spectrum," the name of her own medical clinic. Next day, Mr. Iconomoff called her to apply for a change of name. She and Dr. Gabaldon proceeded to the municipal hall of Mandaluyong for that purpose with a letter requesting for a change of name and paid the required fees for permits and licenses that were issued.[3] Her agreement as to her remuneration is P120.00, plus P5.00 for the dentist whom she was made to absorb or a total of P125.00 per applicant examined. On August 13, 1984, she received a communication from Dr. Gabaldon and the operations manager, Exequiel Alunen, with the instructions on how to perform medical examinations.[4]

On August 16, 1984, after the medical clinic had been set up and had been running smoothly, she received a letter from the petitioner terminating its agreement with her. She was shocked and as a result of which she was confined in bed.

Thus, she filed a complaint for damages in the Regional Trial Court of Quezon City wherein after the issues were joined and a trial on the merits ensued, a decision was rendered ordering the petitioner to pay private respondent the following:

- "1. The amount of P114,559.00 representing actual damages which she sustained resulting from her confinement to bed because of the illegal termination of defendant's agreement with her;
2. P560,746.50 representing the monthly earning for a period of nine (9) months, the minimum period she could have legally enforced her agreement;
3. The amount of P32,885.00 for services rendered for the period comprising August 1-15, 16-31, 1984;
4. Moral damages in the amount of P200,000.00;
5. Exemplary damages in the amount of P100,000.00;
6. Attorney's fees equivalent to P50,000.00; and
7. Cost of suit." [5]

Not satisfied therewith petitioner appealed to the Court of Appeals wherein in due course, a decision was rendered on August 18, 1987, modifying the appealed judgment in this manner:

"WHEREFORE, the judgment appealed from is MODIFIED in the sense that the award of P114,449 for actual damages, P200,000 for moral damages and P100,000 for exemplary damages are deleted; the award of P560,746.50 representing what the appellee should have received from the appellant for nine months is reduced to P124,731 corresponding to the months of September, October and November, 1984, with interest at the legal rate from date of the filing of the complaint until fully paid, and of P50,000 for attorney's fees is reduced to P20,000, but the award for P32,885 for services rendered for the period August 1 to 31, 1984 and for costs of the suit to remain as adjudged by the Court a quo. No pronouncement as to costs in this instance." [6]

A motion for reconsideration of the decision was filed by both parties which was denied by the appellate court in a resolution dated November 27, 1987. [7]

Thus, the herein petition for review on certiorari wherein the petitioner raises the following enumerated reasons as bases thereof:

- "1. THE HONORABLE COURT OF APPEALS ERRED IN NOT FINDING THAT JURISDICTION OVER THE INSTANT CASE VESTS IN THE LABOR COURTS, IT BEING CLEAR FROM THE COMPLAINT THAT THE RESPONDENT INCLUDED IN THE RELIEFS THAT SHE SOUGHT THE RECOVERY OF LABOR BENEFITS EXCLUSIVELY WITHIN THE JURISDICTION OF THE LABOR ARBITER.
2. PETITIONER HAD THE PREROGATIVE TO TERMINATE ITS AGREEMENT WITH RESPONDENT SINCE SHE WAS HIRED AS A MEDICAL RETAINER OR INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE THEREOF, WHICH CONCLUSION IS CLEARLY BORNE OUT BY THE DOCUMENTARY EVIDENCE ADMITTED BY RESPONDENT BUT WHICH WERE NOT CONSIDERED BY THE COURT OF APPEALS AND
3. RESPONDENT HERSELF HAD NONETHELESS PROVIDED THE JUST CAUSE FOR THE TERMINATION OF HER AGREEMENT WITH PETITIONER." [8]

The petition is devoid of merit.

Under the first issue of jurisdiction, it is true that the evidence tends to show that the private respondent was not a

mere medical retainer but was practically a part of the management of the petitioner, wherein her employees are under the control and supervision of the management and had to work within the hours set by the petitioner. She had to absorb the radiologist and dentist in her medical clinic whether she liked it or not. She was also given instructions on how medical examinations should be performed. Her personnel were required to observe the usual working hours set for its employees. Petitioner's employees were treated by her and her staff, her nurses and technologists. She was also made to participate in the computerization of petitioner's medical records. Her nurses and technologists were asked to clear up the mess from among said records. Memoranda were sent to her concerning petitioner's operations in Saudi Arabia. The name of her own medical clinic, "Spectrum Laboratory" was adopted by petitioner as its own. All these show that she was under the petitioner's control which indicates the existence of the employer-employee relationship.[9]

However, it appears from the records that private respondent is suing petitioner for damages caused by its tortious act of terminating private respondent's services for no reason at all. This suit falls under the jurisdiction of the regular courts whereby private respondent claims that petitioner had oppressively and illegally dismissed her. Her claim does not involve her hours of work, the terms and conditions of employment, non-payment or underpayment of wages, overtime compensation, separation pay, and other benefits provided by law or appropriate agreement. Hence, it is the regular court that has jurisdiction over the case and not the Department of Labor and Employment or National Labor Relations Commission.[10]

Moreover, when as in this case the extent of the employer-employee relationship is disputed, it is the courts that have jurisdiction over the case.[11] The contention therefore of petitioner that the Regional Trial Court has no jurisdiction over the case is untenable.

And even assuming that the claim of petitioner that private respondent as a medical retainer was an independent contractor, the fact remains that the services of private respondent were unceremoniously terminated without justifiable cause. There was a clear breach of contract entitling private respondent to damages.

The question of illegal termination of the services of the private respondent and the damages suffered by her are factual issues for the determination of the appellate court the findings of which are conclusive in this proceeding and are not to be disturbed in this appeal unless it is shown it has been arbitrarily arrived at. Petitioner has not shown a cogent basis for this Court to depart from this rule.

WHEREFORE, the petition is DISMISSED for lack of merit with costs against petitioner.

SO ORDERED.

Narvasa, (Chairman), Griño-Aquino, and Medialdea, JJ., concur.
Cruz, J., no part.

[1] Exhibit D.

[2] Exhibits A, B-3 and C.

[3] Exhibit F.

[4] Exhibits N and N-1.

[5] Pages 30 to 31, Rollo.

[6] Page 44, Rollo.

[7] Justice Pedro E. Ramirez, was the ponente, concurred in by Justice Luis A. Javellana and Madame Justice Minerva Reyes.

[8] Page 17, Rollo.

[9] Besa vs. Trajano, 146 SCRA 501, 508 (1986).

[10] Molave Motor Sales, Inc. vs. Laron, 129 SCRA 485, 488 to 489 (1984); Singapore Airlines Limited vs. Paño, 122 SCRA 671, 677 (1983); Callanta vs. Carnation Philippines, Inc., 145 SCRA 268, 278 to 279 (1986).

[11] De La Salle University vs. Lao, 135 SCRA 674 (1985).

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