

EAGLE SECURITY AGENCY, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, LABOR ARBITER EDUARDO G. MAGNO, RODOLFO DEQUINA, AVELINO M. NARVAEZ, JACULO J. JEROME, ROLANDO ...

G.R. No. 81314. May 18, 1989

Ponente: CORTES, J.

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CORTES, J.:

The core issue in these two consolidated cases is the liability of the principal and the contractor for the payment of the minimum wage and cost of living allowance increases to security guards under Wage Order Nos. 2, 3, 5 and 6.

The antecedent facts are undisputed.

In 1980, petitioners Philippine Tuberculosis Society, Inc., (hereinafter referred to as PTSI) and Eagle Security Agency, Inc. (hereinafter referred to as EAGLE) entered into a "Contract for Security Services" wherein the latter agreed to provide security services in the former's premises. The contract covered the period from November 2, 1979 to July 31, 1985. Pursuant to this agreement, private respondents were assigned by EAGLE to PTSI as security guards.

Subsequently, on November 5, 1985, a complaint was filed by private respondents Rodolfo Dequina, Avelino Narvaez, Jaculo Jerome, Rolando Valencia, Clodualdo Angra, Jose Samonte, Raul Lagastos, Priscilo Maldo, Jr., R. C. dela Cruz, Jose Ajeda, and others against PTSI and EAGLE for unpaid wage and allowance increases under Wage Order Nos. 2, 3, 5 and 6* with interest plus damages and attorney's fees.

On September 30, 1986, while the case was still pending, ten (10) additional complainants, namely: Jose Anastacio, Lauro Roberto, Ismael Salacata, Uldarico Camu, Jesus Carrillo, Diorito Braga, Hilario Llanes, Napoleon Sepole, William Estosane and Amante Sobretudo, joined in the suit. However, the labor arbiter dropped the names of Hilario Llanes, Napoleon Sapole, William Estosane and Amante Sobretudo as complainants, on the ground that only those who signed the verified complaint and reply should be recognized [Labor Arbiter's Decision, p. 1; G.R. No. 81447, Rollo, p. 74.]

On April 6, 1987, the labor arbiter rendered a decision, the dispositive portion of which reads as follows:

IN VIEW OF THE FOREGOING, respondent Eagle Security Agency, Inc. and Philippine Tuberculosis Society, Inc. are hereby ordered to pay jointly and severally the sixteen (16) complainants of (sic) their unpaid wages and allowances under Wage Order Nos. 2, 3, 5 and 6. The office of the Socio-Economic Analyst is hereby ordered to examine the records and payrolls of the two (2) respondents to determine their liabilities.

The claim for damages and attorney's fees are hereby DISMISSED for lack of merit.

SO ORDERED. [Labor Arbiter's Decision, pp. 6-7; G.R. No. 81447, Rollo, pp. 79-80.]

PTSI, EAGLE and the four (4) security guards whose names were dropped from the complaint filed their appeals

to the National Labor Relations Commission (hereinafter referred to as NLRC).

The NLRC, on November 27, 1987, rendered its decision granting the appeal as to the four (4) security guards whose names were dropped and denying PTSI and EAGLE'S appeals. The dispositive portion of its decision reads as follows:

WHEREFORE, premises considered, let the appealed decision be, as it is hereby, Modified in that respondent Eagle Security Agency, Inc. and the Philippine Tuberculosis Society, Inc. are hereby ordered to pay jointly and severally the twenty (20) complainants of (sic) their unpaid wages and allowances under Wage Order Nos. 2, 3, 5 and 6. In all other respects, the decision is Affirmed.

SO ORDERED. [NLRC Decision, p. 8; G.R. No. 81447, Rollo, p. 27.]

Both PTSI and EAGLE filed their motions for reconsideration. In a resolution dated December 29, 1987, the NLRC denied these motions for lack of merit.

PTSI and EAGLE filed separate petitions for certiorari with this Court. PTSI's petition was docketed as G.R. No. 81447 while that of EAGLE, G.R. No. 81314.

On motion of PTSI, the Court, on April 6, 1988, resolved to consolidate the two (2) petitions. Thereafter, on May 25, 1988, the Court gave due course to both petitions and required the parties to submit their respective memoranda. On June 20, 1988, the Court, also upon motion of PTSI, resolved to issue a temporary restraining order enjoining the NLRC from enforcing and/or carrying out its decision dated November 27, 1987 and resolution of December 29, 1987.

1. Petitioners PTSI and EAGLE, in this special civil action of certiorari, impugn the decision of the NLRC as having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction. Petitioners assail the decision of the NLRC finding them jointly and severally liable to the security guards for payment of the minimum wage and cost of living allowance increases under the wage orders. Both PTSI and EAGLE point to the other as the one who should be solely liable for paying the increases.

Petitioner PTSI alleges that payment of the wage and allowance increases under Wage Order Nos. 2, 3, 5 and 6 should be borne exclusively by EAGLE, pursuant to the following provision in the "Contract for Security Services":

3. AGENCY hereby binds itself to pay its employees in accordance with the provisions of the New Labor Code, as amended, Eight-Hour Labor Law, the Minimum Wage Law, and other laws, and/or decrees governing security agency. AGENCY shall be solely responsible for the payment of all indemnities to its employees which may arise under PD No. 442, as amended, and shall comply with the provisions of all other Philippine laws relative to its employees . . . [Article VII sec. 3 of the Contract for Security Services; G. R. No. 81447, Rollo, p. 34; Underscoring supplied.]

Petitioner EAGLE, on the other hand, invokes the following provision common to Wage Order Nos. 3, 5 and 6 to support its theory that it is PTSI that should be held liable for the increases:

In case of contracts for construction projects and for security, janitorial and similar services, the increase in the minimum wage and allowance rates of the workers shall be borne by the principal or client of the construction/service contractor and the contract shall be deemed amended accordingly . . . **

The Court finds that the NLRC acted correctly in ordering the two petitioners to jointly and severally pay the wage and allowance increases to the security guards.

Petitioners' solidary liability for the amounts due the security guards finds support in Articles 106, 107 and 109 of

the Labor Code which state that:

ART. 106. Contractor or subcontractor. - Whenever an employer enters into a contract with another person for the performance of the former's work, the employees of the contractor and of the latter's subcontractor, if any, shall be paid in accordance with the provisions of this Code.

In the event that the contractor or subcontractor fails to pay the wages of his employees in accordance with this Code, the employer shall be jointly and severally liable with his contractor or subcontractor to such employees to the extent that he is liable to employees directly employed by him.

* * *

ART. 107. Indirect employer. - The provisions of the immediately preceding Article shall likewise apply to any person, partnership, association or corporation which, not being an employer, contracts with an independent contractor for the performance of any work, task, job or project.

* * *

ART. 109. Solidary liability. - The provisions of existing laws to the contrary notwithstanding, every employer or indirect employer shall be held responsible with his contractor or subcontractor for any violation of this Code. For purposes of determining the extent of the civil liability under this Chapter, they shall be considered as direct employers.

This joint and several liability of the contractor and the principal is mandated by the Labor Code to assure compliance of the provisions therein including the statutory minimum wage [Article 99, Labor Code]. The contractor is made liable by virtue of his status as direct employer. The principal, on the other hand, is made the indirect employer of the contractor's employees for purposes of paying the employees their wages should the contractor be unable to pay them. This joint and several liability facilitates, if not guarantees, payment of the workers' performance of any work, task, job or project, thus giving the workers ample protection as mandated by the 1987 Constitution [See Article II Sec. 18 and Article XIII Sec. 3.]

In the case at bar, it is beyond dispute that the security guards are the employees of EAGLE [See Article VII Sec. 2 of the Contract for Security Services; G.R. No. 81447, Rollo, p. 34.] That they were assigned to guard the premises of PTSI pursuant to the latter's contract with EAGLE and that neither of these two entities paid their wage and allowance increases under the subject wage orders are also admitted [See Labor Arbiter's Decision, p. 2; G.R. No. 81447, Rollo, p. 75.] Thus, the application of the aforesaid provisions of the Labor Code on joint and several liability of the principal and contractor is appropriate [See *Del Rosario & Sons Logging Enterprises, Inc. v. NLRC*, G.R. No. 64204, May 31, 1985, 136 SCRA 669.]

The solidary liability of PTSI and EAGLE, however, does not preclude the right of reimbursement from his co-debtor by the one who paid [See Article 1217, Civil Code.] It is with respect to this right of reimbursement that petitioners can find support in the aforesaid contractual stipulation and Wage Order provision.

The Wage Orders are explicit that payment of the increases are "to be borne" by the principal or client. "To be borne", however, does not mean that the principal, PTSI in this case, would directly pay the security guards the wage and allowance increases because there is no privity of contract between them. The security guards' contractual relationship is with their immediate employer, EAGLE. As an employer, EAGLE is tasked, among others, with the payment of their wages [See Article, VII Sec. 3 of the Contract for Security Services, *supra* and *Bautista v. Inciong*, G.R. No. 52824, March 16, 1988, 158 SCRA 665.]

On the other hand, there existed a contractual agreement between PTSI and EAGLE wherein the former availed of the security services provided by the latter. In return, the security agency collects from its client payment for its

security services. This payment covers the wages for the security guards and also expenses for their supervision and training, the guards' bonds, firearms with ammunitions, uniforms and other equipments, accessories, tools, materials and supplies necessary for the maintenance of a security force.

Premises considered, the security guards' immediate recourse for the payment of the increases is with their direct employer, EAGLE. However, in order for the security agency to comply with the new wage and allowance rates it has to pay the security guards, the Wage Orders made specific provision to amend existing contracts for security services by allowing the adjustment of the consideration paid by the principal to the security agency concerned. What the Wage Orders require, therefore, is the amendment of the contract as to the consideration to cover the service contractor's payment of the increases mandated. In the end, therefore, ultimate liability for the payment of the increases rests with the principal.

In view of the foregoing, the security guards should claim the amount of the increases from EAGLE. Under the Labor Code, in case the agency fails to pay them the amounts claimed. PTSI should be held solidarily liable with EAGLE [Articles 106, 107 and 109.] Should EAGLE pay, it can claim an adjustment from PTSI for an increase in consideration to cover the increases payable to the security guards.

However, in the instant case, the contract for security services had already expired without being amended consonant with the Wage Orders. It is also apparent from a reading of the record that EAGLE does not now demand from PTSI any adjustment in the contract price and its main concern is freeing itself from liability. Given these peculiar circumstances, if PTSI pays the security guards, it cannot claim reimbursement from EAGLE. But in case it is EAGLE that pays them, the latter can claim reimbursement from PTSI in lieu of an adjustment, considering that the contract had expired and had not been renewed.

2. PTSI also alleges that it is exempt from payment under the subject Wage Orders because it is a public sector employer while the Wage Orders cover only employers and employees in the private sector [G.R. No. 81447, Petition, p. 9; Rollo, p. 10.] This is unmeritorious. The definition of a public sector employer*** relied upon by PTSI is relevant only for purposes of coverage under the Employees' Compensation. Moreover, the Labor Code provides that as used in Book Three, Title II on Wages, the term "employer" includes "the Government and all its branches, subdivisions and instrumentalities, all government-owned or controlled corporations and institutions . . ." [Article 97 (b), Labor Code.]

3. It is further contended by PTSI that to uphold the ruling of the NLRC would be violative of the Constitutional prohibition against impairment of the obligation of contracts [Article III sec. 10 of the 1987 Constitution.] Time and again, this Court has rejected this line of reasoning in sustaining the validity and constitutionality of labor and social legislations like the Blue Sunday Law [Asia Bed Factory v. National Bed and Kapok Industries Workers' Union, et al., 100 Phil. 837 (1957)], compulsory coverage of private sector employees in the Social Security System [Phil. Blooming Mills Co., Inc. v. Social Security System, G.R. No. L-21223, August 31, 1966, 17 SCRA 1077], and the abolition of share tenancy [Vda. de Genuino v. Court of Agrarian Relations, G.R. No. L-25035, February 26, 1968, 22 SCRA 792] enacted pursuant to the police power of the State.

The Wage Orders are no different from the aforecited laws. They are labor standard legislations enacted to alleviate the plight of the workers whose wages barely meet the spiralling costs of their basic needs. The increase in the minimum wage and the cost of living allowance was ordered precisely to ensure the workers' health, efficiency and well-being towards achieving the country's goal of ensuring increased productivity and viability of business and industry [See Whereas Clause of the Wage Orders.]

4. Petitioner EAGLE would moreover ascribe grave abuse of discretion to both the Labor Arbiter and the NLRC for the inclusion of certain security guards in the complaint.

Firstly, EAGLE contends that the names of Rodolfo Dequina and R.C. dela Cruz should have been dropped from the complaint as they had already resigned from its employ and signed a quitclaim in favor of the security agency [G.R. No. 81314, Petition, p. 6; Rollo, p. 7.]

However, no grave abuse of discretion can be ascribed to the labor arbiter for not dropping their names from the complaint it appearing that the alleged resignation letters are not of record [Labor Arbiter's Decision, p. 6; G. R. No. 81314, Rollo, p. 18.]

Secondly, EAGLE assails the NLRC's inclusion of the four (4) security guards whose names were dropped by the labor arbiter in the complaint. However, these four (4) security guards are part of the ten (10) additional complainants denominated as "and others" in the complaint and who were identified in their Manifestation dated September 30, 1986. Further, they submitted individual computations in their "Reply to Separate Position Papers Filed by Respondents". Accordingly, the Court finds no grave abuse of discretion committed by the NLRC in granting their appeal.

WHEREFORE, in view of the foregoing, the petitions in G.R. No. 81314 and G.R. No. 81447 are hereby DISMISSED and the decision and resolution of the NLRC in NLRC-NCR-11-3652-85 dated November 27, 1987 and December 29, 1987, respectively, are AFFIRMED. The temporary restraining order issued by the Court on June 20, 1988 is hereby LIFTED and SET ASIDE.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

* Wage Order No. 2 was passed on July 6, 1983 and immediately took effect; Wage Order No. 3, passed on November 7, 1983, took effect on November 1, 1983; Wage Order No. 5 was passed on June 11, 1984 and took effect on June 16, 1984; and Wage Order No. 6, passed on October 26, 1984, took effect on November 1, 1984.

** Sections 4, 6 and 9 of Wage Order Nos. 3, 5 and 6, respectively. Wage Order No. 2 is silent as regard said provision but its implementing rules contain a similar provision in Section 4 (b), Chapter IV.

*** Rule I Sec. 3 of the Amended Rules on Employees' Compensation provides that - (b) An employer shall belong to either: (1) The public sector covered by the GSIS, comprising the National Government, including government-owned or controlled corporations, the Philippine Tuberculosis Society, the Philippine National Red Cross, and the Philippine Veterans Bank; . . .

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