JOSE R. BAUTISTA, SEVERINO GABUYO AND NORTHEASTERN COLLEGE, INC., PETITIONERS, VS. HON. SECRETARY OF LABOR AND EMPLOYMENT, DEPARTMENT OF LABOR AND EMPLOYMENT, MANILA, HON. REGIO...

G.R. No. 81374. April 30, 1991

Ponente: CRUZ, J.

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CRUZ, J.:

It has not escaped the attention of the Court that when a party runs out of arguments, or never had any to begin with, it usually pleads a denial of due process. The plea may impress at first glance, what with all its plaintive invocation of the Bill of Rights, but it does not often succeed upon closer examination. The petition at bar is a case in point.

This dispute arose on December 15, 1984, when the herein private respondents filed a complaint against Northeastern College, Inc., where they were employed as janitors, and Jose R. Bautista and Severino Gabuyo as its President and Cashier, respectively. The charge was violation of Articles 113 and 116 of the Labor Code prohibiting unauthorized deduction from the wages of workers.

The said articles are reproduced as follows:

> Art. 113. Wage Deduction. — No employer, in his own behalf or in behalf of any person, shall make any deduction from the wages of his employees, except:
>
> (a) In cases where the worker is insured with his consent by the employer, and the deduction is to recompense the employer for the amount paid by him as premium on the insurance;
>
> (b) For union dues, in cases where the right of the worker or his union to checkoff has been recognized by the employer or authorized in writing by the individual worker concerned; and
>
> (c) In cases where the employer is authorized by law or regulations issued by the Secretary of Labor.
>
> Art. 116. Withholding of wages and kickbacks prohibited. — It shall be unlawful for any person, directly or indirectly, to withhold any amount from the wages of a worker or induce him to give up any part of his wages by force, stealth, intimidation, threat or by any other means whatsoever without the worker's consent.

After investigation, Assistant Regional Director Pedro P. Pelaez of Regional Office No. 2, Ministry of Labor and Employment, found the deductions to be illegal. Nevertheless, he disallowed reimbursement of the amounts deducted, holding that the same were used to pay legitimate obligations of the private respondents to the school canteen and Director Villano. The case was dismissed in an Order dated January 14, 1985.

In a letter dated January 25, 1985, the private respondents appealed this order to the Ministry of Labor and Employment and claimed that they had already settled their personal obligations with their supposed creditors. They also questioned the disallowance of their claimed reimbursements despite the finding that the deductions

made were illegal.

In an Order dated January 6, 1986, Deputy Minister Vicente Leogardo, Jr. affirmed the illegality of the deductions and, accordingly, directed the petitioners to reimburse the private respondents the amounts deducted from their salaries.

On September 30, 1987, Regional Office No. 2 issued a Writ of Execution addressed to respondent Deputy Provincial Sheriff David R. Medina directing him to secure from the petitioners the full reimbursement of the illegal deductions, the amount of which was to be ascertained from petitioner Gabuyo.

However, the writ was returned unsatisfied for the reason that neither the private respondents nor the petitioners could determine the exact amount to be paid.

On December 7, 1987, an Alias Writ of Execution was issued, this time fixing the amounts to be paid each of the private respondents, thus:

1. Lino Malenab

P23,893.30

2. Hernando Natividad

P23,085.43

3. Rodeo Bautista

P23,705.25

4. Domingo Cabauatan

P16,079.65

5. Alfredo Jimenez

P21,850.00

On December 22, 1987, the petitioners filed an Exception to the Alias Writ of Execution with Regional Office No. 2. They contended that the said writ was null and void as it proceeded from an invalid order issued pursuant to an appeal filed out of time and without notice to the petitioners.

In another Order dated December 29, 1987, Regional Office No. 2 dismissed the petitioners' Exception to the Alias Writ of Execution and directed respondent Deputy Sheriff of Isabela to proceed with its enforcement. Conformably, he seized several typewriters, electric fans, calculators and various office equipment from the petitioners for payment of the judgment debt.

On January 22, 1988, the petitioners filed the present petition for certiorari and prohibition with preliminary injunction to annul the Order of the DOLE dated January 6, 1986, the Writ of Execution dated Sept. 30, 1987, and

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the Alias Writ of Execution dated December 7, 1987. On their motion, the Court issued a temporary restraining order on February 8, 1988, against the implementation of the Alias Writ of Execution.

The petitioners contend that the Department of Labor never acquired jurisdiction over them because they were not served with summons or otherwise notified of the case filed against them. They also argue that no hearing was conducted on the private respondents' charges in violation of the requirements of due process.

We do not agree.

The record shows that the private respondents gave a copy of their complaint to the petitioners, serving this at the office of Jose R. Bautista, where it was received by Roger Bautista, Executive Assistant to the President.[1] Such service was valid and binding, having been made on a person in charge of the office.

As we held in Adamson Ozanam Educational Institution, Inc. vs. Adamson University Faculty and Employees Association: [2]

Section 4, Rule 13 of the Rules of Court which is suppletory to the rules of the NLRC, provides as follows:

> Section 4. Personal Service. — Service of the papers may be made by delivering personally a copy to the party or his attorney, or by leaving it in his office with his clerk or with a person having charge thereof. If no person is found in his office, or his office is not known, then by leaving the copy, between the hours of eight in the morning and six in the evening, at the party's or attorney's residence, if known, with a person of sufficient discretion to receive the same. (Italics supplied)

Under the foregoing rule, service of papers should be delivered personally to the party or attorney or by leaving it at his office with his clerk or with a person having charge thereof. x x x

Even without such service, the petitioners cannot deny that they were furnished with a copy of the Order dated January 6, 1986, as evidenced by Registry Receipt No. 00293,[3] a copy of the letter-appeal dated January 25, 1985, as evidenced by the receipt of the same by Roger Bautista,[4] and a copy of the writ of execution, as evidenced by the Sheriff's Return.[5]

The Court notes that the only reaction of the petitioners to these processes was an indifferent silence. Given the opportunity to object, they forfeited it with their implied acquiescence to the orders they are now assailing. Surely, they cannot now complain they were denied due process, when they were actually given the opportunity to be heard, which is all due process requires.

Moreover, it is not true that they were denied this opportunity in the investigation conducted by the Regional Office No. 2 on December 19, 1984. Severino Gabuyo was interviewed then and even explained the records of the company and the reason for the protested deductions. It is true that no formal hearing was conducted, but as we have held —

> Equally unmeritorious is the petitioners' allegation that they were denied due process because the decision was rendered without a formal hearing. The essence of due process is simply an opportunity to be heard, or, as applied to administrative proceedings, an opportunity to explain ones' side, or an opportunity to seek a reconsideration of the action or ruling complained of.[6]

Moreover, since the proceeding was not judicial but merely administrative, the rigid requirements of procedural laws were not strictly enforceable. It is settled that —

> While administrative tribunals exercising quasi-judicial powers are free from the rigidity of certain procedural requirements they are bound by law and practice to observe the fundamental and essential requirements of due process in justiciable cases presented before them. However, the standard of due process that must be met in

> administrative tribunals allows a certain latitude as long as the element of fairness is not ignored.[7]
>
> xxx xxx xxx
>
> It is of course also sound and settled rule that administrative agencies performing quasi-judicial functions are unfettered by the rigid technicalities of procedure observed in the courts of law, and this is so that disputes brought before such bodies may be resolved in the most expeditious and inexpensive manner possible.[8]

Given all these circumstances, we feel that the lack of summons upon the petitioners is not sufficient justification for annulling the acts of the public respondents.

We agree with the Solicitor General that the invocation of due process was only an afterthought on the part of the petitioners, who obviously had not earlier realized the extent of their liability. It was only when the amounts of reimbursement were computed and revealed to be not insignificant that the petitioners were aroused from their lethargy and decided to spring into action. But it was too late. Whatever their reason for oversleeping then, it avails them naught at this time.

We hold that the challenged orders were validly promulgated. The petitioners were not denied due process when, having the opportunity to challenge them, they chose not to do so. The requisites of notice and hearing have been satisfied. Due process is only for the vigilant, not those who, having the right to be heard, choose to be silent, only to complain later that they have not been heard. The Court is not moved by crocodile tears or by those who piously invoke the name of due process in vain to excuse their own inattention.

WHEREFORE, the petition is DISMISSED, with costs against the petitioners. The temporary restraining order dated February 8, 1988 is LIFTED. It is so ordered.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

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[1] Rollo, p. 91.

[2] 179 SCRA 279.

[3] Rollo, p. 40; Annex "G," Petition.

[4] Rollo, p. 92; Annex "B," Comment of Private Respondents.

[5] Rollo, p. 43; Annex "I," Petition.

[6] Var-Orient Shipping Co., Inc. vs. Achacoso, 161 SCRA 732.

[7] Adamson & Adamson, Inc. vs. Amores, 152 SCRA 237.

[8] Rizal Workers Union vs. Ferrer-Calleja, 186 SCRA 431.

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