

SOUTHEAST ASIAN FISHERIES DEVELOPMENT CENTER, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND YONG CHAN KIM, RESPONDENTS.

G.R. No. 82631. February 23, 1995

Ponente: QUIASON, J.

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QUIASON, J.:

This is a petition for certiorari under Rule 65 of the Revised Rules of Court to reverse and set aside the Decision and Resolution of the National Labor Relations Commission (NLRC) dated August 20, 1987 and February 15, 1988 respectively, in RAB Case No. 0093-83.

We grant the petition.

I

On June 10, 1983, private respondent Yong Chan Kim (Yong) filed a complaint for illegal dismissal against petitioner Southeast Asian Fisheries Development Center (SEAFDEC).

On June 16, 1986, the Labor Arbiter rendered a decision ordering petitioner "xxx to reinstate complainant [respondent Yong] to his former position xxx with full back wages xxx and to pay complainant moral damages in the amount of P50,000.00" (Rollo, p. 65).

Petitioner appealed the decision to the NLRC. Respondent Yong likewise filed a partial appeal wherein he sought to increase the award of moral damages to P200,000.00.

On August 20, 1987, NLRC affirmed the decision of the Labor Arbiter but increased the moral damages to P200,000.00, added P50,000.00 as exemplary damages and awarded ten percent of the total monetary awards as attorney's fees (Rollo, p. 84).

The motion for reconsideration was denied by NLRC in its Resolution dated February 15, 1988, which prompted petitioner to elevate the matter to this Court through a petition for review on certiorari (Rollo, pp. 119-153).

On May 9, 1988, petitioner filed an urgent motion for the issuance of an order restraining NLRC from issuing a writ of execution in connection with its August 20, 1987 Decision.

In a resolution dated May 12, 1988, this Court, without giving due course to the petition, issued a temporary restraining order.

On July 12, 1989, we resolved to give due course to the petition and required the parties to submit their respective memoranda.

On February 14, 1992, this Court, in *Southeast Asian Fisheries Development Center - Aquaculture Department v. National Labor Relations Commission*, 206 SCRA 283 (1992), held that NLRC had no jurisdiction over

petitioner, the latter being "an international agency beyond the jurisdiction of the courts or local agencies of the Philippine Government."

By reason of this Court's pronouncement in the aforementioned case, petitioner filed a supplemental petition on May 16, 1992, raising the issue of lack of jurisdiction on the part of NLRC to hear and decide the case.

In opposition to the supplemental petition, private respondent Yong argued that petitioner was precluded from raising the issue of jurisdiction in view of the latter's failure to do so before the Labor Arbiter or even before the Commission. In support of his argument, he invoked the doctrine of estoppel in *Tijam v. Sibonghanoy*, 23 SCRA 29 (1968), which justified the departure from the accepted concept of non-waivability of objection to jurisdiction.

II

The Southeast Asian Fisheries Development Center - Aquaculture Department (SEAFDEC - AQD) was established by the Government of Burma, the Kingdom of Cambodia, the Republic of Indonesia, Japan, the Kingdom of Laos, Malaysia, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Republic of Vietnam. The Philippines was a signatory to the Agreement establishing SEAFDEC (*Lacanilao v. de Leon*, 147 SCRA 286 [1987]).

The purpose of establishing said international organization is to contribute to the promotion of the fisheries development in Southeast Asia by mutual cooperation among the member governments of the Center, and through collaboration with international organization and governments external to the Center (Agreement Establishing the SEAFDEC, Art. 1).

In *Southeast Asian Fisheries Development Center - Aquaculture Department v. Danilo Acosta*, Resolution, 226 SCRA 49 (1993), we reiterated our rulings in *Southeast Asia Center*, *supra* and *Lacanilao v. de Leon*, 147 SCRA 286 (1987) that SEAFDEC, as an international agency, enjoys diplomatic immunity.

In Opinion No. 139, Series of 1984, the Minister of Justice explained the concept of the immunity of international organizations from the jurisdiction of local courts, thus:

"4. One of the basic immunities of an international organization is immunity from local jurisdiction, i.e., that it is immune from the legal writs and processes issued by the tribunals of the country where it is found. (See *Jenks, Id.*, pp. 37-44) The obvious reason for this is that the subjection of such an organization to the authority of the local courts would afford a convenient medium thru which the host government may interfere in their operations or even influence or control its policies and decisions of the organization; besides, such subjection to local jurisdiction would impair the capacity of such body to discharge its responsibilities impartially on behalf of its member-states. In the case at bar, for instance, the entertainment by the National Labor Relations Commission of Mr. Madamba's reinstatement cases would amount to interference by the Philippine Government in the management decisions of the SEARCA governing board; even worse, it could compromise the desired impartiality of the organization since it will have to suit its actions to the requirements of Philippine law, which may not necessarily coincide with the interests of the other member-states. It is precisely to forestall these possibilities that in cases where the extent of the immunity is specified in the enabling instruments of international organizations, (jurisdictional immunity, is specified in the enabling instruments of international organizations) jurisdictional immunity from the host country is invariably among the first accorded. (See *Jenks, Id.*; See *Bowett. The Law of International Institutions*, pp. 284-285).

Private respondent Yong's invocation of estoppel is unavailing. The issue of estoppel on the part of petitioner to timely raise the question of jurisdiction has been squarely passed upon in *Southeast Asian Fisheries Development Center-Aquaculture Department v. National Labor Relations Commission*, 206 SCRA 283 (1992). In said case, we reiterated the general rule that estoppel does not apply to confer jurisdiction to a tribunal that has none over a cause of action. As we explained in *Calimlim v. Ramirez*, 118 SCRA 399 (1982), there were exceptional

circumstances involved in the Tijam case which justified the exception to the general rule enunciated therein. In the Tijam case, a complaint for the collection of P1,908.00 was filed on July 19, 1948 in the Court of First Instance of Cebu when under the Judiciary Act of 1948, it was the Municipal Court that had jurisdiction thereof. It was only in 1963 or long after the decision of the trial court had become final and executory that a motion to dismiss the complaint was filed.

At any rate, we rule that the Tijam case applies only to ordinary litigants and not to parties which enjoy sovereign or diplomatic immunity. With respect to foreign states and international organizations, the immunity from suit or the jurisdiction of local courts can only be waived expressly by said entities and not by the employees or agents (Salonga and Yap, Public International Law 114-115 [5th ed.]; Akehurst, A Modern Introduction to International Law 118 [5th ed.]).

WHEREFORE, the petition is GRANTED. The restraining order is made PERMANENT.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

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