

**NESTLE PHILIPPINES, INC., JUAN B. SANTOS, ROBERT GRITCHTING,
EMETERIO L. ASINAS, JR., JACK CHIO-VINI, HONORATO T. SABLON,
FRANCISCO G. SANTOS, RA-NULFO M. RELLITA, MARIO D. FONA...**

G.R. No. 98363. June 15, 1992

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

The main issue in this special civil action for certiorari under Rule 65 of the Rules of Court is whether or not the respondent National Labor Relations Commission (NLRC) acted with grave abuse of discretion amounting to lack of jurisdiction in dismissing petitioners' appeal from an Order Of the Labor Arbiter denying a motion to dismiss on the ground of improper venue.

The pleadings of the parties disclose the following facts:

Prior to 30 June 1987, private respondent Union of Filipino Employees (UFE-DFA) had four (4) Collective Bargaining Agreements (CBAs) with petitioner Nestlé Philippines, Inc. (hereinafter referred to as Nestlé) covering four (4) bargaining units of the latter, namely: (1) Makati, (2) Alabang/Cabuyao, (3) Cebu/Davao and (4) Cagayan de Oro. These CBAs were to expire on 30 June 1987. Prior to such expiration, both UFE-DFA and Nestlé negotiating panels met to draft the ground rules for the negotiation of new CBAs; the agreement on the said rules was eventually signed on 27 July 1987. On 2 September 1987, after sixteen (16) negotiation meetings, the UFE-DFA panel declared a deadlock. On 8 September 1987, then Secretary Franklin Drilon of the Department of Labor and Employment issued an Order enjoining the UFE-DFA from resorting to any strike and directing the parties to cease and desist from committing any and all acts that would aggravate the situation. This notwithstanding, UFE-DFA, on 11 September 1987, declared and staged a strike at the Makati, Alabang, Cabuyao and Cagayan de Oro work locations of Nestlé. Nestlé deemed the strike illegal and terminated from employment all the union officers for allegedly instigating the same and knowingly participating in it. On 21 September 1987, UFE-DFA filed a complaint for illegal dismissal.[1] On 17 December 1987, even before the case was decided, the striking officers and members of UFE-DFA voluntarily and unconditionally offered to return to work. Nestlé admitted all the striking employees, except eighty-three (83) officers and thirty-three (33) members; included in this number are the twenty-eight (28) individual private respondents. The said employees were issued separate letters of termination by Nestlé dated 5 or 11 February 1988 with the following tenor:

"This will confirm that you have lost your employment status for having participated in an illegal strike and committed illegal acts and for other just causes recognized by law. As a matter of fact, there is/are cases pending against you. x x x."[2]

On 19 February 1990, the UFE-DFA and the herein 28 individual private respondents, filed with the Regional Arbitration Branch of the NLRC, National Capital Region, at Manila, a complaint for unfair labor practice, illegal dismissal, reinstatement to former or substantially equivalent positions and damages against the herein petitioners. The case was docketed as Case No. NLRC-NCR-00-03-01270-90. Of the 28 individual complainants, six (6) have

their workplaces in the National Capital Region; thirteen (13) at Cagayan de Oro; and nine (9) at Cabuyao, Laguna.

Petitioners, as respondents therein, were served with Notification and Summons. The case having been set for hearing on 23 March 1990, the parties appeared on said date and were required to submit their respective Position Papers. UFE DFA and the individual complainants (herein private respondents) submitted their Position Paper, dated 16 April 1990, on 17 May 1990[3] while Nestlé and the other petitioners herein filed theirs on 8 April 1990.[4]

One of the issues raised by herein petitioners in their Position Paper is improper venue.[5] They allege that under Section 1, Rule V of the new Rules of the NLRC, all cases which Labor Arbiters have authority to hear and decide may be filed in the Regional Arbitration Branch (RAB) having jurisdiction over the workplace of the complainant. Since 13 of the 28 individual complainants were employed in the Cagayan de Oro plant and 9 were employed in the Cabuyao plant of Nestlé, venue then was improperly laid insofar as they are concerned.[6] The complaints should have been filed in the RAB in Cagayan de Oro City and in the RAB in Region IV (either in Quezon City or San Pablo City, respectively).[7]

After the submission of the Position Papers, a hearing on the merits was conducted by Executive Labor Arbiter Valentin Guanio. As observed by the public respondent NLRC, petitioners herein "participated, without reservation, in the hearings on the merit of this case before the ELA, where no less than three of the complainants-witnesses (Calapang Maglipon, and Paglinawan) had already given their testimonies, and they (respondents) even reserved their right to cross-examine later said witnesses." [8]

On 15 August 1990, petitioners filed a Motion to Dismiss the aforementioned case on the ground that venue is improperly laid,[9] to which herein private respondents filed an Opposition. Petitioners filed a Reply[10] to the Opposition and the private respondents filed a Rejoinder[11] thereto.

On 8 October 1990, Executive Labor Arbiter Guanio handed down an Order denying the motion to dismiss.[12] In support thereof, he stated:

"The records of the case disclose that there are twenty-eight (28) individual complainants, thirteen (13) with (sic) workplace at Cagayan de Oro City, nine (9) in Cabuyao, Laguna while the rest have their place of work within the National Capital Region. Also a complainant is the Union of Filipino Employees (UFE-DFA) with offices at Makati, Metro Manila. All the complainants have identical causes of action against the respondents brought about by their alleged illegal dismissal from work on December 17, 1987. It is also of record that both parties have already filed their respective position papers and at this stage this Regional Arbitration Branch had already commenced to try this case on the merits.

In view of the foregoing, this Office therefore holds that it would be in keeping with the orderly and expeditious administration of justice to have the case at bar tried and litigated in one forum rather than in three different arbitration branches. Aside from the additional costs which would be shouldered not only by the parties but also by the government should these cases be tried separately, the possibility that three Labor Arbiters to whom the cases may be assigned might reach three varying conclusions, although from the same set of facts and identical issues, would not be in consonance with sound procedure and should therefore be avoided."

Petitioners appealed this order to the public respondent.

On 14 March 1991, public respondent promulgated a resolution dismissing the appeal[13] on the ground that petitioners had waived the defense of improper venue. It found and ruled thus:

"There is no doubt that insofar as the twenty-two (22) complainants who had their workplace in Laguna and

Cagayan de Oro are concerned, their complaint filed with the National Capital Region (NCR) suffers from the legal infirmity of 'improperly laid venue'.

However, while the respondents were able to seasonably challenged (sic) said procedural flaw the moment it became apparent from the complainants' position paper, they nonetheless, displayed thereafter unmistakable signs of waiving such defense when:

(a) they submitted their position paper with annexes evidently designed to firm up their stand on the merit of the case; and

(b) participated, without reservation, in the hearings on the merit of this case before the ELA, where no less than three of the complainants-witnesses (Calapang, Maglipon, and Paglinawan) had already given their testimonies, and they (respondents) even reserved their right to cross-examine later said witnesses.

To us, such participation by the respondents in the proceedings before the Labor Arbiter has effectively cured the legal infirmity of the complainants' complaint vis-à-vis, the issue on wrong venue.

Moreover, it must be noted that one of the principal complainants herein is the Union of Filipino Employees (UFE-DFA) which has its principal office in the National Capital Region and that it is representing all the complainants herein with a common cause of action against the same respondent. So therefore, we reiterate the ruling of the Executive Labor Arbiter a quo that in keeping with the orderly and expeditious administration of justice, this case should be tried and litigated in the NCR arbitration branch rather than in three different arbitration branches."

Their motion for the reconsideration of the resolution having been denied in the public respondent's Resolution of 19 April 1991,[14] petitioners filed the instant petition wherein they reiterate and amplify on the arguments they raised before both the Labor Arbiter and the public respondent in support of their claim that venue is improperly laid.

We required the respondents to Comment on the petition;[15] private respondents submitted their Comment on 5 August 1991[16] while the public respondent submitted its own the following day.[17] Petitioners filed a Consolidated Reply on 4 October 1991.

In the Resolution of 21 October 1991,[18] We gave due course to the petition and required the parties to submit their respective Memoranda which petitioners complied with on 25 November 1991,[19] private respondents on 7 January 1992[20] and the public respondent on 8 January 1992.[21]

A thorough and meticulous review of the pleadings leads Us to the inevitable conclusion that this petition is not impressed with merit. Accordingly, the "due course" resolution is withdrawn and the petition is denied.

We agree with the public respondent that petitioners waived the defense of improper venue. Although petitioners invoked the said ground in their Position Paper which was filed on 18 April 1990, they did not pursue it with the diligence of a party confidently, if not absolutely, certain of the indubitability of his defense. One who is so would incur no delay in pursuing the defense to end the litigation and prevent further waste of precious time and expense. In this case, it was only on 18 August 1990 -- four (4) months later -- and after they had participated, with neither qualification nor condition, in the hearing on the merits of the case, and more specifically in the reception of the testimonies of three (3) witnesses for the herein private respondents, that they belatedly filed a motion to dismiss on the ground of improper venue. It is settled that objections to the venue are deemed waived if a defendant, inter alia submits through conduct manifesting satisfaction with the same until after the trial or abides by it until the matter has proceeded to a hearing.[22] This belated awakening from deep slumber and deafening silence deserves no sympathy but, rather, condemnation as it is a crude legal maneuver, grounded on pure technicality and unfavorable to labor, designed to delay the proceedings before the Labor Arbiter. The rule on the

construction of labor laws abhors it. Article 4 of the Labor Code[23] provides that, "All doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved in favor of labor." Section 2, Rule I of the Revised Rules of the NLRC provides: "These Rules shall be liberally construed to carry out the objectives of the Constitution and the Labor Code of the Philippines and to assist the parties in obtaining just, expeditious and inexpensive settlement of labor disputes."

Our reading of the Revised Rules of the NLRC further reveals that no motion to dismiss on the ground of improper venue may be allowed to interrupt or delay the proceedings. Thus, Section 14, Rule VII of said Rules expressly provides that:

"SECTION 14. Motion to dismiss. -- Any motion to dismiss a complaint or petition on the grounds that the Labor Arbiter has no jurisdiction, or that the cause of action is barred by prior judgment or by prescription, shall be immediately acted upon by the Labor Arbiter if the facts strongly indicate dismissal. Any motion to dismiss with no such indication shall be disposed of only in the final determination of the case and shall not be allowed to interrupt or delay the proceedings."

When juxtaposed with paragraph (c), Section 1, Rule V, ???inafter quoted and which speaks merely of improper venue not objected to before or at the time of the filing of the position paper, the intention of the Rules to exclude improper venue as a ground for a motion to dismiss and to consider it as a mere formal procedural defect appears indubitable.

Independently of the foregoing, We also find the reliance by petitioners on paragraph (a), Section 1, Rule V of the NLRC Rules to be untenable and unpersuasive. The whole section reads:

"SECTION 1. Venue. -- (a) All cases which Labor Arbiters have authority to hear and decide may be filed in the Regional Arbitration Branch having jurisdiction over the workplace of the complainant/petitioner.

(b) Where two or more Regional Arbitration Branches have jurisdiction over the workplace of the complainant or petitioner, the Branch that shall first acquire jurisdiction over the case shall exclude the others.

(c) When improper venue is not objected to before or at the time of the filing of position papers, such question shall be deemed waived.

(d) The venue of an action may be changed or transferred to a different Regional Arbitration Branch other than where the complaint was filed by written agreement of the parties or when the Commission so orders upon motion by the proper party in meritorious cases."

We agree with private respondents[24] that since paragraph (a) of the abovequoted Section speaks of the complainant/petitioner's workplace; it is evident that the rule is intended for the exclusive benefit of the worker. The reason for this is not only convenience; it is economic as well. The worker, being the economically-disadvantaged party -- whether as complainant/petitioner or as respondent, as the case may be, the nearest governmental machinery to settle the dispute must be placed at his immediate disposal, and his adverse party must in no case be allowed a choice in favor of another competent agency sitting in another place to overburden the former. This being the case, the worker may waive the benefit. It must be stressed, however, that this section does not constitute a complete rule on venue in cases cognizable by Labor Arbiters. For one, it cannot apply to instances where the complainants are labor unions or where a single act of an employer gives rise to a common cause of action to many of its employees working in different branches or workplaces of the former. In such instances, recourse should be made to the Rules of Court which, pursuant to Section 3, Rule I of the Revised Rules of the NLRC, has suppletory application; the said section reads as follows:

"SECTION 3. Suppletory Application of Rules of Court and jurisprudence. -- In the absence of any applicable provision in these Rules, and in order to effectuate the objectives of this Code, the pertinent provisions of the

Revised Rules of Court of the Philippines and prevailing jurisprudence may, in the interest of expeditious labor justice and whenever practicable and convenient, be applied by analogy or in a suppletory character and effect."

The more appropriate rule on venue under the Rules of Court is paragraph (b), Section 2, Rule 4 thereof, which reads:

"SECTION 2. Venue in Courts of First Instance. -- x x x

(b) Personal actions. -- All other actions may be commenced and tried where the defendant or any of the defendants resides or may be found, or where the plaintiff or any of the plaintiffs resides, at the election of the plaintiff.

x x x"

It is not denied that Nestlé has its principal office in the National Capital Region. It is likewise admitted that the UFE-DFA and six (6) of the individual complainants are residents in areas within the National Capital Region. All of the individual private respondents are members of the UFE-DFA. All are aggrieved by the decision of Nestlé to dismiss them. Under the aforequoted rule, the case may be filed with the RAB, NCR or with the RAB of either Cagayan de Oro City (Region X) or the RAB of Region IV. The application of this rule in this case would be the most logical step to take to prevent multiplicity of suits which would only delay and render expensive the settlement of the dispute in violation of the basic rules of construction set forth in Section 2, Rule I of the Revised Rules of the NLRC.

WHEREFORE, the instant petition is DENIED for lack of merit.

SO ORDERED.

Gutierrez, Jr., (Chairman), Feliciano, Bidin, and Romero, JJ., concur.

[1] Rollo, 81.

[2] Rollo, p. 158.

[3] Annex "C" of Petition; Id., 34-76.

[4] Annex "D" of Petition; Id., 77-101.

[5] Rollo, 84; 94.

[6] Id., 95.

[7] Id., 14.

[8] Id., 30.

[9] Annex "E" of Petition; Id., 102-104.

[10] Annex "F" of Petition; Rollo, 106-107.

[11] Annex "G" of Petition; Id., 110-113.

[12] Id., 115-117.

[13] Annex "A" of Petition; Rollo, 25-32.

[14] Annex "B" of Petition; Rollo, 33.

[15] *Id.*, 128.

[16] *Id.*, 147, et seq.

[17] *Id.*, 157, et seq.

[18] *Id.*, 187.

[19] *Id.*, 192, et seq.

[20] *Id.*, 220, et seq.

[21] *Id.*, 231, et seq.

[22] 92 C.J.S. 774-775.

[23] P.D. No. 442, as amended.

[24] Rollo, 150.

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