SUPREME COURT
FIRST DIVISION

SIMEON DE LEON, EFREN ABAD, JAIME ABAD, JESSIE ABAY-ABAY, ROLANDO ABIOLA, ALICIO ABISO, CELEDONIO ABSALON, JEREMIAS ADO, VICENTE ADO, VICENTE AGGABAO, EFRAIN AGUIRRE, ALEXANDER ALATA, ERNESTO ALCALDE, LORENZO ALCOY, ALMARIO ALICIO, CESAR AMADOR, JOSE AMANTE, ESTELITO AMBROSIO, VICENTE ANAPI, ARNEL ANCHETA, ROGELIO ANCHETA, WILFREDO AÑONUEVO, DOMINGO ANTIGRO, MARGARITO ANTIGRO, ROGELIO ANZANO, ANTONIO APOSTOL, ORLANDO AQUINO, JUAN ARCALAS, BONIFACIO ARIOLA, EDGAR ARIOLA, BONIFACIO ARMASA, FERNANDO BACCAY, MARIO BACUD, RUPERTO BACUDAN, NILO BALAG, ARGEL BALTAZAR, DEMETRIO BARAYOGA, FELIX BARNEDO, FLORENTINO BARTE, SARRI BASIRUL, MARCELO BATANES, RECTO BAYONA, VICTORIO BERMUNDO, ISMAEL BERNAL, LERIO BERSABE, FIDEL BOSE, MARIANO BOTACION, DANILO BRAZIL, REYNALDO BRUNIO, MARIO BUENAVENTURA, ARSENIO BULATAO, FRANCISCO BULATAO, CARLOS CAJARA, ROSENDO CAMACHO, RUBEN CAMACHO, NESTOR CAPILOS, DOMINGO

CASTRO, MAXIMIANO DE CASTO, EDINO CASTUERA, ZALDY CERDON, ANTONIO DERUJANO, VICTOR CIPRIANO, JUANITO CORPUZ, ALFREDO CRUZ, FERNANDO DELA CRUZ, MARIO CUSTOPAY, ROSAURO CUSTODIO, FRANKLIN CUSTODIO, ALFREDO DAPROZA, RENATO DAVAG, NOEL DEMINGOY, GENE DIESTRO, ESTEBAN DIONSON, RAMON DIZA, JEREMIAS DOROMAL, MANUEL EDATO, FERNANDO EDORA, CONRADO ENRIQUEZ, NICOMEDEZ ENRIQUEZ, ROLITO ESPIEL, LAURO ESPAÑOL, NONITO ESPLANA, ELPIDIO ESPAÑOL, DIOLITO ESTOPEREZ, ODILON EUSTE, HENRY FACTOR, VIRGILIO FAVORITO, ARISTOTLE FERNANDEZ, RODOLFO FORMALEJO, JUNE FULAY, RUIS FUTOL, JESUS GABA, RODRIGO GABAT, ROSALIA GABAT, CLEMENTE GASPAR, RODRIGO GAVIOLA, ELLEN GODELOSON, SALVADOR GUELA, EDUARDO GUZMAN, BALTAZAR DE GUZMAN, ZOSIMO DE GUZMAN, REYNALDO HAGUIRING, CARLOS GINDAP, BERNARDINO GIPIT, WILFREDO HERNANDEZ, IMMANUEL IBRING, PEPITO IMPERIO, MAGTANGGOL INSORIO, RODELYN JACUNTO, MARIO JARAPAN, MAXIMO JIMENEZ, ALEJANDRO JUDLOMAN, JUAN LAOAGAN, DANTE LARIOSA, ELINO LASAGA, JOSEPH LEGASPINA, ZOSIMO LEPALAM, BENJAMIN LIBAN, EFREN LIGUE, CLETO LINGA, ROMEO LLAGAS, LUCIO LLARENA, ALFREDO LOPEZ, FELIX LOPEZ, SANTOS LOPEZ,

RUBEN LORENZO, NILO LUGANA, CANCIO MAATUBANG, ANTONIO MACASIO, ROBERTO MACATUNGGAL, VIRGILIO MACALINAO, RAMON MACOY, JOSE MAGALONA, ALEJO MANAGUELOD, DOMINGO MANALO, EMILIANO MANALO, SULPICIO MANTALABA, EDITO MANUEL, ROMULO MANUEL, FELINO MARANA, CARLITO MARGAJA, ROMARES MARIANO, CERMELO MARTINEZ, MODESTO MASULIT, ALMA MATUSALEM, FLAVIANO MEDEL, DOLCIANO MEDINA, DOLOROSA MEDINA, NORLINDO MEJARITO, PEDRITO MENDOZA, GUARDITO MERANO, ALBERTO DE MESA, CHARLIE MINANO, JOSE MONTEROSO, ROSENDO MORALES, CESAR NARDA, DOMINADOR NAGAL, EDEMIO NARISMA, DINISIO NAVASCA, REGINO NEPICON, JR., JESSIE CRIS NILO, JERWYN ORARIO, EUGENIO ORBEGOZO, IRENEO ORGANISTA, CATALINO OJENDRAS, WILLIAM OLIVARES, JUANITO ORIO, WILLIAM ORTIZO, ROQUE PAL-PALLATOC, ROGELIO PAEL, LORENZO PAMINTUAN, VIRGILIO PANTALEON, ANTONIO PAPA, EMMANUEL PASCUAL, FRANCISCO PECUNDO, RUFINO PELICER, LEONARDO PEPITO, PABLITO PERALTA, EDILBERTO PEREZ, LOLITO PEREZ, PELAGIO PEREZ, JR., FERNANDO PINEDA, CARMEN PIO, ALEJANDRO QUIAMCO, VIRGILIO QUILALANG, JEREMEAS QUINES, ZENAIDA RAQUINE, DOMINGO RANOLA, SABINO RANULO, EDDIE RAZONABE,

ALBERTO REBAULA, BENIGNO REGIS, PERFECTO REBOYO, VITALIANO REYES, ZOSIMO REYES, EDWIN ROBERTS, ROBERT ROJO, GODOFREDO ROLIO, ANATALIA ROSANTO, DOMINADOR ROSANTO, RAMON ROSANTO, SR., RODRIGO ROSANTO, JULIO RUBIO, DANTE RUZOL, VENUS RUZOL, ROMULO SABINO, CIPRIANO SACUILLES, SR., PRIMO SALAZAR, GASPAR SAMUYA, ANTONIO SANCHEZ, CLAUDIO SANCHEZ, YOLANDA SAN LUIS, ROBERTO SANTOS, BENITO SEGUDIENTE, EDGAR SIBAL, GREGORIO SIBAL, VALENTINO SIBAL, SONNY SINGH, ROMEO SOMERA, EDGAR TABAQUE, BENITO TACATA, MATILDE TACATA, ANDRESITO TALAM, ANTOLIN TALISIC, PABLO TAMAYO, JULIE TAMIEZA, ROGELIO TAYO, CELSO TE, ENRIQUE TRIPULCA, ARMANDO TUIBEO, NICANOR TUMAMAO, EDUARDO TUMBALE, RAMON TURIRIT, LONGENIO UMACAM, TOLENTINO UNDAUNDO, DIOLITO VALENCIA, ERNESTO VARGAS, BILLY VASQUEZ, TOMAS VELINA, MARCOS DE VERA, IRENEO VILELA, NICANDRO VILLAFRANCA, DANNY VILLANUEVA, LOLITA VITALICO, ALIPIO YGOT, AGOSTO YROMA, FELIX ZAMBALES, and GUILLERMO ZIPANGAN,

Petitioners,

-versus-

G.R. No. 112661
May 30, 2001

NATIONAL LABOR RELATIONS COMMISSION (NLRC), and FORTUNE TOBACCO CORPORATION and/or MAGNUM INTEGRATED SERVICES, INC. (formerly FORTUNE INTEGRATED SERVICES, INC.),
***Respondents*.**
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D E C I S I O N

PUNO, *J.*:

This case stemmed from a complaint for illegal dismissal, unfair labor practice and refund of cash bond filed by petitioners against respondents before the Arbitration Branch of the National Labor Relations Commission (NLRC). The petition at bar seeks the annulment of the resolution of the NLRC dated July 5, 1993 reversing the decision of the Labor Arbiter finding respondents liable for the charges, and its resolution dated August 10, 1993 denying petitioners' motion for reconsideration.

The undisputed facts are as follows:

> On August 23, 1980, Fortune Tobacco Corporation (FTC) and Fortune Integrated Services, Inc. (FISI) entered into a contract for security services where the latter undertook to provide security guards for the protection and security of the former. The petitioners were among those engaged as security guards pursuant to the contract.
>
> On February 1, 1991, the incorporators and stockholders of FISI sold out lock, stock and barrel to a group of new stockholders by executing for the purpose a "Deed of Sale of Shares of Stock". On the same date, the Articles of Incorporation of FISI was

amended changing its corporate name to Magnum Integrated Services, Inc. (MISI). A new by-laws was likewise adopted and approved by the Securities and Exchange Commission on June 4, 1993.

On October 15, 1991, FTC terminated the contract for security services which resulted in the displacement of some five hundred eighty two (582) security guards assigned by FISI/MISI to FTC, including the petitioners in this case. FTC engaged the services of two (2) other security agencies, Asian Security Agency and Ligalig Security Services, whose security guards were posted on October 15, 1991 to replace FISI's security guards.

Sometime in October 1991, the Fortune Tobacco Labor Union, an affiliate of the National Federation of Labor Unions (NAFLU), and claiming to be the bargaining agent of the security guards, sent a Notice of Strike to FISI/MISI. On November 14, 1991, the members of the union which include petitioners picketed the premises of FTC. The Regional Trial Court of Pasig, however, issued a writ of injunction to enjoin the picket.

On November 29, 1991, Simeon de Leon, together with sixteen (16) other complainants instituted the instant case before the Arbitration Branch of the NLRC. The complaint was later amended to allow the inclusion of other complainants.

The parties submitted the following issues for resolution:

(1) Whether petitioners were illegally dismissed;

(2) Whether respondents are guilty of unfair labor practice; and

(3) Whether petitioners are entitled to the refund of their cash bond deposited with respondent FISI.

Petitioners alleged that they were regular employees of FTC which was also using the corporate names Fortune Integrated Services, Inc.

and Magnum Integrated Services, Inc. They were assigned to work as security guards at the company's main factory plant, its tobacco redrying plant and warehouse. They averred that they performed their duties under the control and supervision of FTC's security supervisors. Their services, however, were severed in October 1991 without valid cause and without due process. Petitioners claimed that their dismissal was part of respondents' design to bust their newly-organized union which sought to enforce their rights under the Labor Standards law.[1]

Respondent FTC, on the other hand, maintained that there was no employer-employee relationship between FTC and petitioners. It said that at the time of the termination of their services, petitioners were the employees of MISI which was a separate and distinct corporation from FTC. Hence, petitioners had no cause of action against FTC.[2]

Respondent FISI, meanwhile, denied the charge of illegal dismissal and unfair labor practice. It argued that petitioners were not dismissed from service but were merely placed on floating status pending re-assignment to other posts. It alleged that the temporary displacement of petitioners was not due to its fault but was the result of the pretermination by FTC of the contract for security services.[3]

The Labor Arbiter found respondents liable for the charges. Rejecting FTC's argument that there was no employer-employee relationship between FTC and petitioners, he ruled that FISI and FTC should be considered as a single employer. He observed that the two corporations have common stockholders and they share the same business address. In addition, FISI had no client other than FTC and other corporations belonging to the group of companies owned by Lucio Tan. The Labor Arbiter thus found respondents guilty of union busting and illegal dismissal. He observed that not long after the stockholders of FISI sold all their stocks to a new set of stockholders, FTC, terminated the contract of security services and engaged the services of two other security agencies. FTC did not give any reason for the termination of the contract. The Labor Arbiter gave credence to petitioners' theory that respondents' precipitate termination of their employment was intended to bust their union. Consequently, the Labor Arbiter ordered respondents to pay petitioners their

backwages and separation pay, to refund their cash bond deposit, and to pay attorney's fees.[4]

On appeal, the NLRC reversed and set aside the decision of the Labor Arbiter. First, it held that the Labor Arbiter erred in applying the "single employer" principle and concluding that there was an employer-employee relationship between FTC and FISI on one hand, and petitioners on the other hand. It found that at the time of the termination of the contract of security services on October 15, 1991, FISI which, at that time, had been renamed Magnum Integrated Services, Inc. had a different set of stockholders and officers from that of FTC. They also had separate offices. The NLRC held that the principle of "single employer" and the doctrine of piercing the corporate veil could not apply under the circumstances. It further ruled that the proximate cause for the displacement of petitioners was the termination of the contract for security services by FTC on October 15, 1991. FISI could not be faulted for the severance of petitioners' assignment at the premises of FTC. Consequently, the NLRC held that the charge of illegal dismissal had no basis. As regards the charge of unfair labor practice, the NLRC found that petitioners who had the burden of proof failed to adduce any evidence to support their charge of unfair labor practice against respondents. Hence, it ordered the dismissal of petitioners' complaint.[5]

The petitioners filed a motion for reconsideration of the resolution of the NLRC but the same was denied.[6] Hence, this petition.

We gave due course to the petition on May 15, 1995. Thus, the ruling in St. Martin Funeral Home vs. NLRC[7] remanding all petitions for certiorari from the decision of the NLRC to the Court of Appeals does not apply to the case at bar.

The petition is impressed with merit.

An examination of the facts of this case reveals that there is sufficient ground to conclude that respondents were guilty of interfering with the right of petitioners to self-organization which constitutes unfair labor practice under Article 248 of the Labor Code.[8] Petitioners have been employed with FISI since the 1980's and have since been posted at the premises of FTC — its main factory plant, its tobacco redrying

plant and warehouse. It appears from the records that FISI, while having its own corporate identity, was a mere instrumentality of FTC, tasked to provide protection and security in the company premises. The records show that the two corporations had identical stockholders and the same business address. FISI also had no other clients except FTC and other companies belonging to the Lucio Tan group of companies. Moreover, the early payslips of petitioners show that their salaries were initially paid by FTC.[9] To enforce their rightful benefits under the laws on Labor Standards, petitioners formed a union which was later certified as bargaining agent of all the security guards. On February 1, 1991, the stockholders of FISI sold all their participation in the corporation to a new set of stockholders which renamed the corporation Magnum Integrated Services, Inc. On October 15, 1991, FTC, without any reason, pre-terminated its contract of security services with MISI and contracted two other agencies to provide security services for its premises. This resulted in the displacement of petitioners. As MISI had no other clients, it failed to give new assignments to petitioners. Petitioners have remained unemployed since then. All these facts indicate a concerted effort on the part of respondents to remove petitioners from the company and thus abate the growth of the union and block its actions to enforce their demands in accordance with the Labor Standards laws. The Court held in Insular Life Assurance Co., Ltd., Employees Association-NATU vs. Insular Life Assurance Co., Ltd.: [10]

> "The test of whether an employer has interfered with and coerced employees within the meaning of section (a) (1) is whether the employer has engaged in conduct which it may reasonably be said tends to interfere with the free exercise of employees' rights under section 3 of the Act, and it is not necessary that there be direct evidence that any employee was in fact intimidated or coerced by statements of threats of the employer if there is a reasonable inference that anti-union conduct of the employer does have an adverse effect on self-organization and collective bargaining."[11]

We are not persuaded by the argument of respondent FTC denying the presence of an employer-employee relationship. We find that the Labor Arbiter correctly applied the doctrine of piercing the corporate veil to hold all respondents liable for unfair labor practice and illegal

termination of petitioners' employment. It is a fundamental principle in corporation law that a corporation is an entity separate and distinct from its stockholders and from other corporations to which it is connected. However, when the concept of separate legal entity is used to defeat public convenience, justify wrong, protect fraud or defend crime, the law will regard the corporation as an association of persons, or in case of two corporations, merge them into one. The separate juridical personality of a corporation may also be disregarded when such corporation is a mere alter ego or business conduit of another person.[12] In the case at bar, it was shown that FISI was a mere adjunct of FTC. FISI, by virtue of a contract for security services, provided FTC with security guards to safeguard its premises. However, records show that FISI and FTC have the same owners and business address, and FISI provided security services only to FTC and other companies belonging to the Lucio Tan group of companies. The purported sale of the shares of the former stockholders to a new set of stockholders who changed the name of the corporation to Magnum Integrated Services, Inc. appears to be part of a scheme to terminate the services of FISI's security guards posted at the premises of FTC and bust their newly-organized union which was then beginning to become active in demanding the company's compliance with Labor Standards laws. Under these circumstances, the Court cannot allow FTC to use its separate corporate personality to shield itself from liability for illegal acts committed against its employees.

Thus, we find that the termination of petitioners' services was without basis and therefore illegal. Under Article 279 of the Labor Code, an employee who is unjustly dismissed from work is entitled to reinstatement without loss of seniority rights and other privileges, and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. However, if reinstatement is no longer possible, the employer has the alternative of paying the employee his separation pay in lieu of reinstatement.[13]

IN VIEW WHEREOF, the petition is **GRANTED**. The assailed resolutions of the NLRC are **SET ASIDE**. Respondents are hereby ordered to pay petitioners their full backwages, and to reinstate them

to their former position without loss of seniority rights and privileges, or to award them separation pay in case reinstatement is no longer feasible.

SO ORDERED.

Davide, Jr., *C.J.*, Pardo and Ynares-Santiago, *JJ.*, concur. Kapunan, *J.*, is on leave.

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[1] Position Paper of Complainants, Original Record, pp. 66-73.
[2] Position Paper of Respondent Fortune Tobacco Corporation, Original Record, pp. 140-150.
[3] Position Paper of Respondent Fortune Integrated Services, Inc., Original Record, pp. 121-125.
[4] Rollo, pp. 47-64.
[5] Rollo, pp. 26-45.
[6] Rollo, p. 46.
[7] 295 SCRA 494 (1998).
[8] Art. 248. Unfair labor practices of employers. — It shall be unlawful for an employer to commit any of the following unfair labor practice:
(a) To interfere with, restrain or coerce employees in the exercise of their right to self-organization;
x x x x x x x x x
[9] Annex "B"-"B-19", Position Paper of Complainants, Original Record, pp. 81-100.
[10] 37 SCRA 244 (1971).
[11] citing Francisco, Labor Laws, 1956, Vol. II, p. 323.
[12] Yutivo Sons and Hardware Co. vs. Court of Tax Appeals, 1 SCRA 160 (1961); See also La Campana Coffee Factory, Inc. vs. Kaisahan ng mga Manggagawa sa La Campana (KKM), 93 Phil. 160 (1953); Tan Boon Bee & Co., Inc. vs. Jarencio, 163 SCRA 205 (1988); Tomas Lao Construction vs. NLRC, 278 SCRA 716 (1997).
[13] Dela Cruz vs. NLRC, 268 SCRA 458 (1997).
