SUPREME COURT
FIRST DIVISION

ELADIO A. GUDEZ, AMERICO DOROTAN, DIONISIO BENZON, NICANOR DE LUYON, WARLITO MARTINEZ, LORETO VALERA, ROMEO CRISOSTOMO, BARTOLOME FLORES, FELIPE CORPUZ, JOLLY BISNAR, VICENTE PERALTA (DECEASED), AS REPRESENTED BY HIS LEGAL REPRESENTATIVE VICENTE PERALTA, JR., ANTONIO SAJORDA, ROMAN ANGCO, EUFRACIO CALDERON, JESUS TAMONDONG, GOMERCIENDO CANETE, PEDRO RUFON, PEDRITO, POLINGA AND DAMASO VALERA,

***Petitioners*,**

-versus-

G.R. No. 83023
March 23, 1990

NATIONAL LABOR RELATIONS COMMISSION, RETIRED ARMY PROTECTIVE AND SECURITY AGENCY (RAPSA) INC., AND MRS. HERMINIA A. CRISOLOGO,

***Respondents*.**

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D E C I S I O N

MEDIALDEA, *J.*:

This is a Petition for *Certiorari* under Rule 65 of the Rules of Court seeking the annulment of the Resolution of the respondent National Labor Relations Commission dated March 10, 1988 in four cases, numbered as follows: NLRC NCR CASE NOS. 9-3695-86, 11-4504-86, 12-4831-86 and 1-366-87, modifying the decision of the Labor Arbiter which granted petitioners' claim for separation pay and other monetary demands against private respondents.

The antecedent facts are as follows:

Petitioners were formerly employed by respondent Retired Army Protective and Security Agency Inc. (RAPSA for brevity) as executive director, security guards and supervisors. Respondent RAPSA is a corporation engaged in providing security services. It has for its president and treasurer, respondent Herminia A. Crisologo.

In a letter dated July 3, 1986, Col. Ricardo A. Carranceja of the Philippine Constabulary, Supervisory Unit for Security and Investigation Agencies (PCSUSIA for brevity) ordered RAPSA to cease operations and to turn over their firearms to the Firearms and Explosive Unit of the Philippine Constabulary. However, in another letter dated July 18, 1986, the PCSUSIA allowed RAPSA to continue its operations up to August 15, 1986 for the winding up of its affairs. Hence on the aforesaid date, RAPSA ceased its operations and terminated the employment of petitioners.

In view of the closing of RAPSA, the latter's clients obtained the security services of another agency named Emilio Salting Alviar Protective and Security Agency (ESAPSA for brevity).

Petitioners filed their separate complaints with the Labor Arbiter against RAPSA, Herminia Crisologo, ESAPSA and Malou Alviar, for separation pay, recovery of lost tool deposit, allowances and other monetary claims.

On September 25, 1987, the Labor Arbiter rendered a decision in the above-mentioned cases, the dispositive portion of which is as follows:

> "WHEREFORE, judgment is hereby rendered ordering respondents RAPSA and Mrs. Herminia A. Crisologo to pay complainants their separation pay equivalent to one-half month pay for every year of service, the lost tool deposit and cash bond deposit.
>
> "The complaint of Luis Villanueva docketed as NCR-1-366-87 is hereby dismissed without prejudice for failure to prosecute. Likewise, complainants Gregorio Ballena, Renato Garcia, Jaime Taborda, Felino Rosales, Renato Calico are hereby dropped as complainants and their complaints are dismissed without prejudice for failure to prosecute.
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> "The motion to Dismiss filed by Dolorico Sabarrido, Godofredo Navalta, Raul Gonzales, Feliciano Victorio, Domingo Gaoat, Buenaventura Fernando, Perfecto Fernando and Eliseo Villaruel are granted.
>
> "SO ORDERED." (p. 60, Rollo)

Not satisfied with the decision, respondent RAPSA, thru counsel, filed its memorandum of appeal with the respondent National Labor Relations Commission. The name of respondent Herminia Crisologo was added and inserted by handwriting in the memorandum of appeal to make it appear that respondent Crisologo was also appealing from the Labor Arbiter to the respondent Commission. (see p. 61, Rollo)

On March 10, 1988, respondent Commission rendered a decision which states, inter alia:

> "x x x
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> "On this point, we find that indeed the Memorandum of Appeal reveals that the name of individual respondent Herminia A. Crisologo was not typewritten. But the fact remains that Mrs. Crisologo was charged as owner of RAPSA and both of them

were represented by one counsel. Simply stated, their counsel are one and the same. And said counsel filed the position paper in their behalf. The alleged intercalation was definitely not an afterthought. We consider it as a mere oversight.

"It is elementary that a corporation is possessed with juridical personality separate and distinct from that of the stockholders. As such, the liabilities of a corporation are not by law considered as personal liabilities of the stockholders or members save under certain circumstances when the veil of corporate fiction has been pierced. In this light, we cannot safely state that Mrs. Crisologo is the owner of RAPSA. She may be a holder of stocks but definitely not its owner. It is improper therefore to hold her liable in her personal capacity-more so as an alleged owner. In fine, the liability should be shouldered alone by RAPSA.

"x x x

"WHEREFORE, the instant appeal is dismissed. The Decision of the Labor Arbiter is MODIFIED as above-discussed.

"SO ORDERED." (pp. 82-85, Rollo)

Hence, the instant petition.

The two issues to be resolved in the instant case are 1) whether or not an appeal was made by respondent Herminia Crisologo from the decision of the Labor Arbiter to the respondent Commission; and 2) whether or not respondent Crisologo may be held solidarily liable with respondent corporation for separation pay and other monetary claims due to petitioners.

Anent the first issue, petitioners contend that the memorandum of appeal filed with the respondent NLRC by Jose T. Collado, counsel for respondent RAPSA, cannot be considered as the appeal also of respondent Crisologo; that aside from the fact that the latter's name was merely inserted in the memorandum by means of handwriting, the counsel of respondent RAPSA had no authority to represent respondent Crisologo in the latter's appeal, as she was represented by

a different lawyer in the proceedings before the labor arbiter. Petitioners also allege that respondent Crisologo and Jose T. Collado, counsel for respondent RAPSA had not complied with the procedure on substitution of counsel.

The above contentions are meritorious. We are aware of the time-honored principle that administrative and quasi-judicial bodies like the National Labor Relations Commission are not bound by the technical rules of procedure in the adjudication of cases. However, the rule on substitution of counsel or employment of additional counsel is still observed in labor cases. Thus, there can be no valid substitution of counsel until the prescribed procedure is followed, to wit 1) there must be filed a written application for substitution; 2) there must be filed the written consent of the client to the substitution; 3) there must be filed the written consent of the attorney to be substituted, if such consent can be obtained; and 4) in case such written consent cannot be procured, there must be filed with the application for substitution, proof of the service of notice of such motion in the manner required by the rules on the attorney to be substituted (Philippine Apparel Workers Union vs. NLRC, L-50320, October 27, 1983, 125 SCRA 391). Records do not show that the above procedure had been complied with. Hence, We find that there was no valid substitution of counsel and that counsel for respondent RAPSA was not authorized to appeal for and in behalf of respondent Crisologo.

Even if the Court were to ignore the contentions of petitioners dealing with the technical aspect of this case, and granting arguendo, that respondent Crisologo had made an appeal to the respondent Commission, this petition can still stand on the merits taking into account the second issue raised therein.

Petitioners submit that on the basis of the legal definition of employer provided for in Article 212 par. c of the Labor Code, not only is the juridical entity held liable for the money claims due to its employees but also the responsible natural person or persons acting in the interest of such juridical entity; and that respondent Crisologo, being the president of respondent RAPSA should therefore be held jointly and severally liable with the corporation for such labor claims.

The foregoing contentions are impressed with merit. The issue regarding the personal liability of the officers of a corporation for the payment of wages and money claims to its employees has been settled by this Court in the case of A.C. Ransom Labor Union-CCLU vs. National Labor Relations Commission, June 10, 1986, 142 SCRA 269, and subsequently in the recent case of Chua vs. National Labor Relations Commission, G.R. No. 81450, February 15, 1990. In those cases, this Court provided that the president or presidents of the corporation may be held liable for the corporation's obligations to its workers. We further ruled therein, inter alia:

> "The answer is found in Article 212(c) of the Labor Code which provides:
>
> > '(c) 'Employer' includes any person acting in the interest of an employer, directly or indirectly. The term shall not include any labor organization or any of its officers or agents except when acting as employer.'
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> "The foregoing was culled from Section 2 of RA 602, the Minimum Wage Law. Since RANSOM is an artificial person, it must have an officer who can be presumed to be the employer, being the 'person acting in the interest of (the) employer' RANSOM. The corporation, only in the technical sense, is the employer.
>
> "x x x
>
> "(d) The record does not clearly identify the 'officer or officers' of RANSOM directly responsible for failure to pay the backwages of the 22 strikers. In the absence of definite proof in that regard, we believe it should be presumed that the responsible officer is the President of the corporation who can be deemed the chief operation officer thereof." (pp. 273-274, supra)

There is no dispute herein that respondent Crisologo is in fact the president of respondent corporation, RAPSA. Neither is there any doubt that respondent RAPSA had closed its business upon the order of the Philippine Constabulary and that as a consequence thereof the

services of petitioner employees were terminated without awarding them separation pay as required under the Labor Code. It is significant to note that the respondent corporation had ceased to exist when the Labor Arbiter rendered its decision holding respondent Crisologo jointly and severally liable with respondent corporation for the money claims of its employees. Moreover, records show that on September 25, 1987, which is the same day when the Labor Arbiter's decision was promulgated, RAPSA filed a petition for voluntary insolvency with the Regional Trial Court of Makati. The foregoing circumstances make it more necessary to hold respondent Crisologo liable for the claims due to petitioners; otherwise, any decision that would be rendered in favor of the latter would be useless and ineffective for there would be no one against whom it can be enforced. Thus, where the employer corporation is no longer existing and unable to satisfy the judgment in favor of the employee, the officer should be held liable for acting on behalf of the corporation (see Lim vs. NLRC, G.R. 79907 and Sweet Lines Inc. vs. NLRC, G.R. 79975, March 16, 1989).

ACCORDINGLY, the Petition is hereby **GRANTED** and the Decision of the respondent National Labor Relations Commission dated March 10, 1988 is **REVERSED** and **SET ASIDE**. The Decision of the Labor Arbiter is hereby **REINSTATED**.

SO ORDERED.

Narvasa, *C.J.*, *(Chairman)*, Cruz, Gancayco and Griño-Aquino, *JJ.*, concur.