

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**JAPAN AIR LINES,
*Petitioner,***

-versus-

**G.R. No. L-75044
April 15, 1988**

**THE HON. OFFICE OF THE MINISTER
OF LABOR AND EMPLOYMENT, THE
NATIONAL LABOR RELATIONS
COMMISSION, RESTITUTO GADDI,
ERLINDO ARCILLAS and EXPEDITO
PARAS,**

Respondents.

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DECISION

YAP, J.:

In this Petition for *Certiorari* with Preliminary Injunction, petitioner questions the Order of the Ministry of Labor and Employment, dated May 19, 1986 in NCR-FSD-3-333-80, entitled "Restituto Gaddi, et al. vs. Japan Airlines and Ryuichi Udow."

On September 1, 1986, the Court issued a restraining order enjoining the respondents from executing the Order of May 19, 1986 and the alias writ of execution dated July 17, 1986 issued pursuant thereto.

The background facts of the case are as follows: On March 25, 1980, a complaint was filed by certain security guards of Japan Air Lines (JAL), namely, Restituto Gaddi, Expedito Raras, Losanto de Guia, Erlindo Arcillas, Vivian Medelo and Francisco Dejino, for alleged non-payment of emergency living allowance under P.D. Nos. 525, 1123, 1614, 1634 and 1678, premium pay for work performed on holidays and rest days, and night shift differential pay, and for failure to grant certain benefits under the JAL Collective Bargaining Agreement. The complaint was docketed as NCR-FSD-3-333-80. JAL denied liability, claiming that complainants were not its employees. The Inter-Island Security Services, Inc. intervened in the case, stating that it was the employer of complainants. After hearing, the Regional Director, in an Order dated October 17, 1980, declared that the complainants were employees of Japan Airlines and directed the latter to pay them the corresponding benefits based on their money claims.

Respondents and intervenor moved for reconsideration of said Order and the Regional Director, acting on the same, issued an Order dated February 2, 1981 referring the case for compulsory arbitration.

From this latter order, the complainants appealed to the Ministry of Labor and Employment (MOLE for brevity) raising in issue abuse of discretion on the part of the Regional Director. In an Order dated March 25, 1982, the MOLE set aside the appealed Order and instead revived the Order of October 17, 1980. Both parties moved for reconsideration of the order, which were denied. Thereupon, JAL elevated the case to the Supreme Court on a petition for certiorari, docketed as G.R. No. 64090. In a resolution issued on October 19, 1983, the Supreme Court dismissed the petition for lack of merit.

Thereafter, complainants filed a motion for execution of the order of October 17, 1980, which respondents opposed on the ground that on December 5, 1980, barely two months from the promulgation of the order sought to be executed, Restituto Gaddi was barred by the AVSECOM for security reasons from discharging his duties at the MIA; that complainant Losanto de Guia resigned from his employment and that complainant Erlindo Arcillas abandoned his post and employment as of April 15, 1981. On the basis of these

allegations, respondents advanced their own computation of complainants' benefits.

Finding merit in respondents' allegation, the Regional Director issued an order dated October 29, 1984, followed by a Writ of Execution dated November 2, 1984, directing JAL to consider complainant Expedito Raras as its employee, and to pay the amount of P17,741.97 to complainant Restituto Gaddi, P20,405.97 to complainant Erlindo Arcillas, P15,413.33 to complainant Losanto de Guia and P22,238.83 to complainant Expedito Raras, or a total of P75,000.00, representing their money claims covering the period of their effectivity up to the dates of the cessation of their employment "with regard to the first three (3) complainants, and then forward with regard to the last complainant." The respondents filed an ex-parte motion to quash the Writ on November 2, 1984, alleging that the writ itself and the Order of October 29, 1984 were without basis, excessive and vague, and that complainant Expedito Raras could no longer be considered an employee of JAL inasmuch as since 1981, he had been employed with intervenor Inter-Island Security Services, Inc. To this motion to quash, complainant Raras filed an opposition.

Meanwhile, the amount of P75,000.00 belonging to JAL and deposited with the Bank of the Philippine Island, Dewey Branch, was garnished by the Regional Office. In an Order dated November 8, 1984, the Regional Director directed the Bank of the Philippine Islands that the amount of P53,561.17, representing the totality of the claims of Restituto Gaddi, Erlindo Arcillas and Losanta de Guia be released for payment to them; the release of P22,238.83 payable to Expedito Raras was held in abeyance pending resolution of respondents' urgent ex-parte motion to quash writ of execution. Thereafter, in an Order dated November 12, 1984 of the Regional Director, the case was considered closed and terminated in regard to complainants Gaddi, Arcillas and de Guia; but in regard to Raras, the execution of that part of the judgment rendered in his favor was held, in abeyance pending resolution of respondents' motion to quash writ of execution.

On November 20, 1984, the Regional Director ruled that the direct employment of Raras with JAL had been severed as of 1981, when he became the employee of Inter-Island Security Services, and ordered

JAL to pay the amount of P19,127.23, representing his money claims covering the period up to the date of the cessation of his employment.

Complainants Gaddi and Arcillas appealed from the Order of October 29, 1984 insofar as it declared the cessation of their employment, alleging that the issue of employee-employer relationship was laid to rest when the petition of JAL in G.R. No. 64090 was dismissed by the Supreme Court on October 19, 1983. On the basis of the entry of judgment in that case, complainants Gaddi and Arcillas pursued their reinstatement by filing the appropriate complaint with the NLRC, docketed as NLRC-NCR-11-3972-84. Complainants maintained that the Regional Director had no jurisdiction in NCR-FSD-3-333-80 to rule on the termination of their employment, since the case only involved money claims for non-payment of living allowances under P.D. Nos. 525, 1123, 1614, 1634 and 1678. The alleged "abandonment" occurred after the issuance of the Order of the Regional Director, dated October 17, 1980, and the question was never litigated in that case. On his part, complainant Raras appealed from the order of November 20, 1984, alleging that the question of his alleged transfer to Inter-Island Security Services, Inc. since 1981 was not a "new event" and even assuming that it was, the matter was not raised during the pendency of the case, NCR-FSD-3-333-80.

Ruling on the appeal of complainants Gaddi, Arcillas and Raras, the Ministry of Labor and Employment issued the questioned Order, dated May 19, 1986, the dispositive portion of which reads as follows:

"WHEREFORE, judgment is hereby rendered as follows:

1. The appealed Order of October 29, 1984 is modified by deleting the disposition concerning the cessation of employment of complainants Restituto Gaddi and Erlindo Arcillas and the enforceability of their money claims up to the dates of their alleged cessation of employment, issues that have already been raised and are pending determination in the appropriate forum; and
2. The appealed Order of November 20, 1984 is set aside. Let an alias writ of execution be issued to enforce the

award in favor of complainant Espedito Raras contained in the Order dated October 17, 1980 of the Regional Director.”

In the instant petition, it is contended by petitioner that the respondent MOLE acted without jurisdiction when it modified the order of the Regional Director dated October 29, 1984 which was already completely executed and entertained from the complainants Gaddi and Arcillas a second similar complaint for illegal dismissal in disregard of the doctrine of res judicata.

The reliance of petitioner on the doctrine of res judicata as a bar to the complaint of Gaddi and Arcillas for illegal dismissal is misplaced. The so-called second complaint of Gaddi and Arcillas, docketed as NLRC-NCR-11-3972-84, is actually not similar to, let alone identical with, their complaint against JAL which was adjudicated by the Regional Director in NCR-FSD-3-333-80. The subject matter of these cases are different; the latter is for non-payment of certain benefits arising from complainants’ status as employees of JAL, while the former is for illegal dismissal. Hence, petitioner can not invoke the doctrine of res judicata. Moreover, the ruling of the Regional Director in NCR-FSD-3-333-80, wherein it held that complainants Gaddi and Arcillas were no longer employees of JAL, is not a final adjudication since it was appealed by complainants to the Ministry of Labor and Employment; which modified the aforesaid ruling. The Ministry has not violated the doctrine of res judicata when, in its questioned order of May 19, 1986, it modified the Order of the Regional Director dated October 29, 1984 “by deleting the disposition concerning the cessation of employment of Gaddi and Arcillas and the enforceability of their money claims up to the dates of their alleged cessation of employment, issues that have been raised and are pending determination in the appropriate forum.” The issue of the alleged cessation of the employment of Gaddi and Arcillas is being litigated in NLRC-NCR-11-3972-84, where petitioner can present and ventilate its position, rather than raise the same as an incident in the execution of the final order of the Regional Director dated October 17, 1980.

With respect to private respondent Raras, we find merit in his contention that he should not have been included as a respondent in the present petition. The ruling of the Regional Director, dated

November 20, 1983, which held that Raras ceased to be an employee of JAL in 1981 and became an employee of Inter-Island Security Services, Inc., was appealed by Raras to MOLE, which set aside the said order. In the present petition, the petitioner, in challenging the Order of MOLE dated May 19, 1986, has focused on the alleged cessation of the employment of Gaddi and Arcillas and sought the enforcement of the Regional Director's Order of October 29, 1984 as having become final and executory. There is no reference in the petition to the Regional Director's Order of November 20, 1984 which was set aside by MOLE in its Order of May 16, 1986.

WHEREFORE, the petition is **DISMISSED** for lack of merit and the restraining order issued on September 1, 1986 is hereby **LIFTED**.

SO ORDERED.

**Melencio-Herrera, Paras, Padilla and Sarmiento, JJ.,
concur.**