

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**LIANA'S SUPERMARKET,
*Petitioner,***

-versus-

**G.R. No. 111014
May 31, 1996**

**NATIONAL LABOR RELATIONS
COMMISSION and NATIONAL LABOR
UNION,**

Respondents.

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DECISION

BELLOSILLO, J.:

LIANA'S SUPERMARKET, as its name implies, is a departmentized self-service retail market selling foods, convenience goods, and household merchandise with business outlets in Sucat, Parañaque, and Pasig City. Sometime in 1980, 1981 and 1982 it employed as sales ladies, cooks, packers, cashiers, electricians, warehousemen, etc., members of private respondent National Labor Union. However in the course of their employment they were allegedly underpaid and required, among others, to work more than eight (8) hours a day without overtime pay and deprived of legal holiday pay and monthly emergency allowance. Starting late 1982 and early 1983 they aired their grievances to petitioner through Peter Sy, its General Manager,

and Rosa Sy, its Consultant, but were only scolded and threatened with outright dismissal. Consequently, they formed a labor union and affiliated it with respondent National Labor Union. Thereafter they demanded from petitioner recognition and compliance with existing labor laws.

On 30 April 1983 petitioner entered into a three-year contract with Warner Laputt, owner of BAVSPIA International Services, to supply petitioner with laborers.

About November and December 1984 Rosa Sy met with the employees individually and told them to quit their membership with the union under pain of being suspended, dismissed or criminally prosecuted. When they refused, many were dismissed without any charges and others were given memorandum on concocted offenses and violations.

Meanwhile in March and April 1984 petitioner through Peter Sy and Rosa Sy required the other employees to resign from employment and to accomplish information sheets and/or application forms with BAVSPIA otherwise they would be dismissed and/or not paid their salaries. With some degree of reluctance they complied. Nonetheless, they were allowed to continue working with petitioner under the same terms and conditions of their previous employment.

On 24 March 1984 respondent Union on behalf of its members filed a complaint against petitioner and/or Peter Sy, Rosa Sy, BAVSPIA and Warner Laputt before the Labor Arbiter for underpayment of wages, nonpayment of overtime pay, monthly emergency allowance, legal holiday pay, service incentive leave pay and 13th month pay (NLRC-NCR Case No. 3-1270-84). On 24 May 1984 the complaint was amended since respondent Union manifested through its authorized representative that it was intended as a class suit.

On 28 August 1984 another case was filed, docketed as NLRC-NCR Case No. 8-3043-84, with Elorde Padilla, Jr., et al., as complainants. On 22 October 1984 a third case was filed, docketed as NLRC-NCR Case No. 10-3755-84, with Carmelita Reyes, Elizabeth Mahanlud, Danny Sida, Omar Napiri and Edgar Mahusay as individual complainants.

On 12 December 1984 still another case was filed, docketed as NLRC-NCR Case No. 12-4312-84, with Gloria Estoque and Estrellita Bansig as individual complainants.

Subsequently the four (4) cases were consolidated. Respondent National Labor Union submitted two (2) lists of one hundred thirty-six (136) workers, seventy-three (73) assigned at Sucat and sixty-three (63) at Pasig City. There were eighty-five (85) original complainants in the lists. However sixteen (16) complainants later filed motions to withdraw with prejudice and five (5) were found to be non-employees of petitioner. On 27 January 1987 three (3) other complainants settled with petitioner and moved to dismiss their complaints. Thus, a total of twenty-four (24) complainants were dropped from the lists thereby reducing the number to sixty-one (61). But twenty-seven (27) more employees submitted their sworn statements thus increasing again the number of complainants to eighty-eight (88).

When petitioner learned of the charges before the Labor Arbiter it demanded the resignation of the employees from the Union and withdrawal of their cases or face criminal charges. It also threatened to withhold their wages and even to dismiss them from their employment. Since they refused to resign petitioner dismissed them. Hence, charges of unfair labor practice and illegal dismissal were added as causes of action in their complaints.

Petitioner contended that there was no unfair labor practice because there was no ongoing union activity before the alleged illegal dismissals; but even if there were, the dismissals were not effected by petitioner as complainants were not its employees but of BAVSPIA. If what were referred to as illegal dismissals were those of complainants who resigned, there can be no unfair labor practice as their resignations were voluntary and their applications with BAVSPIA were of their own volition.

On 6 February 1987, after the consolidated cases were submitted for decision, petitioner filed what was purportedly a compromise agreement between itself and the local chapter of respondent Union. It appeared to have been signed by representatives of petitioner and the President, Vice President and another officer of the local chapter

of respondent Union with a prayer that the consolidated cases be dismissed.

BAVSPIA participated during the initial stages of the hearings but later moved to have its name dropped as co-respondent when it noted, after complainants have rested, that the evidence formally offered was directed only against petitioner.

On 28 February 1989 the Labor Arbiter held that (1) petitioner was the employer of complainants with BAVSPIA being engaged in labor-only contracting; (2) complainants were illegally dismissed; (3) Peter Sy and Rosa Sy were not personally liable; and, (4) the charge of unfair labor practice and all labor standards claims were unsubstantiated by evidence. Corollarily, petitioner was ordered to reinstate all the complainants and to pay them backwages and all benefits reckoned from the date of their respective dismissals until actual reinstatement but not to exceed three (3) years, and if reinstatement was no longer feasible the complainants should be granted separation pay equivalent to one-half month salary for every year of service, a fraction of at least six (6) months to be considered as one (1) whole year.^[1]

On 30 June 1993 public respondent National Labor Relations Commission affirmed the ruling of the Labor Arbiter.^[2]

The petitioner now asks how many individual complainants are there in these cases, whether seven (7) or eighty-five (85); whether these complainants were illegally dismissed; and, whether a compromise agreement with a motion to dismiss filed by a local chapter of respondent Union may be given legal effect.

Petitioner claims that there are only seven (7) individual complainants in these cases whose names appear in the captions of the decision of the Labor Arbiter. Anent thereto, petitioner argues that Sec. 3, Rule 6, of the Rules of Court clearly provides that the names and residences of the parties plaintiff and defendant must be stated in the complaint; similarly, Sec. 1, Rule III, of the New Rules of Procedure of respondent NLRC states that the full names of all the real parties in interest, whether natural or juridical persons or entities authorized by law, shall be stated in the caption of the complaint or

petition as well as in the decision, award or judgment. Moreover, according to petitioner, these cases do not fall under the term “class suit” as defined in Sec. 12, Rule 3, of the Rules of Court because the parties are not so numerous that it would be impracticable to bring them all before the court. It is further the position of petitioner that BAVSPIA is the true employer of the complainants and the resignations of certain employees were voluntary. Petitioner still further argues that the compromise agreement duly signed by the officers of the local chapter of respondent Union and filed while the case was still pending before the Labor Arbiter is binding on all the complainants.

We disagree with petitioner. This is a “representative suit” as distinguished from “class suit” defined in Sec. 12, Rule 3, of the Rules of Court —

SECTION 12. Class suit. — When the subject matter of the controversy is one of common or general interest to many persons, and the parties are so numerous that it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all. But in such case the court shall make sure that the parties actually before it are sufficiently numerous and representative so that all interests concerned are fully protected. Any party in interest shall have a right to intervene in protection of his individual interest.

In Re: Request of the Heirs of the Passengers of the Doña Paz to Set Aside the Order Dated January 4, 1988 of Judge B. D. Chingcuangco,^[3] the Court had occasion to explain “class suit” —

What is contemplated, as will be noted, is that (a) the subject matter in controversy is of common or general interest to many persons, and (b) those persons are so numerous as to make it impracticable to bring them all before the court. What makes the situation a proper case for a class suit is the circumstance that there is only one right or cause of action pertaining or belonging in common to many persons (Emphasis supplied), not separately or severally to distinct individuals. The object of the suit is to obtain relief for or against numerous persons as a group or as an integral entity, and not as separate, distinct

individuals whose rights or liabilities are separate from and independent of those affecting the others. The other factor that serves to distinguish the rule on class suits is the numerousness of parties involved. The rule is that for a class suit to be allowed, it is needful *inter alia* that the parties be so numerous that it would be impracticable to bring them all before the court.

In the present case, there are multiple rights or causes of action pertaining separately to several, distinct employees who are members of respondent Union. Therefore, the applicable rule is that provided in Sec. 3, Rule 3, of the Rules of Court on “representative parties,” which states —

SECTION 3. Representative parties. — A trustee of a an express trust, a guardian, executor or administrator, or a party authorized by statute (emphasis supplied), may sue or be sued without joining the party for whose benefit the action is presented or defended; but the court may, at any stage of the proceedings, order such beneficiary to be made a party.

One of the rights granted by Art. 242 of the Labor Code to a legitimate labor organization, like respondent Union, is to sue and be sued in its registered name. In *Liberty Manufacturing Workers Union vs. Court of First Instance of Bulacan*,^[4] citing *National Brewery and Allied Industries Labor Union of the Philippines vs. San Miguel Brewery, Inc.*,^[5] and *Itogon-Suyoc Mines, Inc. vs. Sañgilo-Itogon Workers' Union*,^[6] the Court held that the aforementioned provision authorizes a union to file a “representative suit” for the benefit of its members in the interest of avoiding an otherwise cumbersome procedure of joining all union members in the complaint, even if they number by the hundreds. The Court further rationalized that —

To hold otherwise and compel the 57 union members-employees to file 57 separate cases on their own individual and respective causes of action before the municipal court rather than through the present single collective action filed by petitioner union on their behalf and for their benefit would be to unduly clog the court dockets and slow down the prompt and expeditious determination of cases by the sheer number, time and volume of paper work that would be involved and required

in disposing of 57 identical cases that could be adjudged in a single case such as that filed before the lower court.

What is worse then by such an unrealistic approach, the courts would not keep faith with the Constitutional injunction to extend protection to labor.

In another case, *Davao Free Workers Front vs. Court of Industrial Relations*,^[7] the Court stated that the detail that the number and names of the striking members of petitioner union were not specified in the decision nor in the complaint is of no consequence. Reiterating the rule in the *Liberty* case, the Court held that it was the function precisely of a labor union to carry the representation of its members and to file an action for their benefit and behalf without joining them and avoid the cumbersome procedure of joining each and every member as a separate party. Still, in *La Carlota Sugar Central vs. Court of Industrial Relations*,^[8] the Court emphasized that it would be an unwarranted impairment of the right to self-organization through formation of labor associations if thereafter such collective entities would be barred from instituting action in their representative capacity.

A “representative suit” is akin to a “class suit” in the limited sense that the phrases found in Sec. 12 of Rule 3, “one or more may sue or defend for the benefit of all,” and “the parties actually before it are sufficiently numerous and representative,” are similar to the phrase “may sue or be sued without joining the party for whose benefit the action is presented or defended” found in Sec. 3 of the same Rule. In other words, both suits are always filed in behalf of another or others. That is why the two terms are sometimes used interchangeably. Apparently respondent Union, the Labor Arbiter and respondent Commission merely denominated the suit, although erroneously, as a “class suit” when, in reality, it is a “representative suit.” Anyway, the issue as to the actual number of complainants in this case was correctly resolved by the Labor Arbiter with this ratiocination —

The very first complaint (No. 3-1270-84) filed in these consolidated cases was captioned National Labor Union for and in behalf of its members as complainants. It was dated March 24, 1984. When the same was amended on May 24, 1984, the

same caption for complainants also appeared. Consistently with the instruction of said Arbiter as to the number of complainants allegedly prejudiced by the acts of respondents, their counsel submitted two lists (Exhs. A-1 & A-2) containing a total of one hundred thirty-six names. However, said counsel submitted in evidence only around sixty affidavits of complainants, thereby giving credence to the allegation of respondents that not all those listed are actually complaining. Nonetheless and considering that respondents recognized that there are eighty-five complainants (Exhs. 48 & 49) we hold that the instant cases have been filed by the said Union for and in behalf of such number (85) of complainants.^[9]

Section 1, Rule III, of the NLRC New Rules of Procedure cited by petitioner is simply inapplicable because it was issued on 31 August 1990 or six (6) years after the complaints in these cases were filed in 1984.

The evidence clearly establishes that complainants were employed by petitioner. According to the Labor Arbiter —

As to the issue of which company is the employer of complainants, we hold that it is respondent Liana's. This is so because we find the co-respondent BAVSPIA engaged in labor-only contracting which is prohibited under the Labor Code.^[10]

Article 106, par. 4, of the Labor Code provides that there is “labor-only contracting” where the person supplying workers to an employer does not have substantial capital or investment in the form of tools, equipment, machineries, work premises, among others, and the workers recruited and placed by such person are performing activities which are directly related to the principal business of such employer. In such cases, the person or intermediary shall be considered merely as an agent of the employer who shall be responsible to the workers in the same manner and extent as if the latter were directly employed by him. The conclusion of the Labor Arbiter was bolstered by the fact that —

Even the employees who allegedly resigned from Liana's and applied/accepted by BAVSPIA were also re-assigned to Liana's.

These employees were performing jobs which are necessary and desirable in the usual business or trade of Liana's. Even the premises, tools and equipment used by the employees were those of Liana's. And, more important, these employees were under the control and supervision of said respondent Liana's.^[11]

Likewise, the evidence sufficiently proves that complainants were illegally dismissed by petitioner —

Coming now to the main thrust of these complaints — the issue of illegal dismissal — we find that indeed the complainants were illegally dismissed. Respondents' contention that complainants were dismissed not by them but by BAVSPIA is untenable precisely because the latter was engaged in labor-only contracting. In this connection, respondent Liana's (has) not been able to show that the dismissals of complainants were for a just cause and, if ever, they were accorded due process. In short, said respondent Liana's failed to prove that their (its) dismissals of complainants were justified.

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The alleged resignation of thirty-three other complainants (who later applied to BAVSPIA) cannot be given effect, not because they were forced to do so but in view of our finding that said BAVSPIA was engaged in labor-only contracting. Hence, they could not have been working without any employer. Besides, resigned from Liana's and then apply to BAVSPIA only to be re-assigned later to the former, not to mention the glaring fact that all such letters of resignations are uniformly worded.^[12]

Before money claims can be the object of settlement through a union, the individual consent of the employees concerned should first be procured. This is because waiver of money claims is considered a personal right which must be protected by the courts on consideration of public policy. To really give teeth to the constitutional mandate of giving laborers maximum protection and security, they must be protected not only against their employer but also against the leaders of their own labor union. Thus, in General

Rubber and Footwear Corporation vs. Drilon,^[13] citing *Kaisahan ng Manggagawa sa La Campana vs. Sarmiento*,^[14] it was held —

Money claims due to laborers cannot be the object of settlement or compromise effected by a union or counsel without the specific individual consent of each laborer concerned. The beneficiaries are the individual complainants themselves. The union to which they belong can only assist them but cannot decide for them.

There is no evidence on record that the compromise agreement was approved by the complainants individually. The document does not bear their signatures except those of the local Union's President, Vice President and another officer. Neither is there evidence to show that the compromise agreement was ever approved by the Labor Arbiter. Clearly then, it cannot bind the complainants.

The grave abuse of discretion imputed to public respondent NLRC does not exist. But the alternative award of separation pay granted by the Labor Arbiter in an amount equivalent to one-half month salary for every year of service must be modified. It has been our consistent ruling that in awarding separation pay to an illegally dismissed employee, in lieu of reinstatement, the amount to be awarded shall be equivalent to one month salary for every year of service.^[15] We have no reason to hold otherwise.

WHEREFORE, the resolution of the National Labor Relations Commission dated 30 June 1993 affirming the decision of the Labor Arbiter dated 28 February 1989 is **AFFIRMED**, subject to the modification that the separation pay granted as an alternative relief shall be equivalent to one-month salary for every year of service, a fraction of at least six (6) months to be considered one (1) whole year. Costs against petitioner.

SO ORDERED.

Padilla, Kapunan and Hermosisima, JJ., concur.

SEPARATE OPINIONS

VITUG, J ., concurring:

Since private respondents did not appeal, I must simply affirm the Decision appealed from.

- [1] Rollo, pp. 25-27.
- [2] Id., p. 53.
- [3] Adm. Matter No. 88-1-646-0, 3 March 1988, 159 SCRA 623.
- [4] No. L-35252, 29 November 1972, 48 SCRA 273.
- [5] No. L-19017, 27 December 1963, 9 SCRA 847.
- [6] No. L-24189, 30 August 1968, 24 SCRA 873.
- [7] No. L-29356, 31 October 1974, 60 SCRA 408.
- [8] No. L-20203, 19 May 1975, 64 SCRA 79.
- [9] Rollo, p. 22.
- [10] Id, pp. 22-23.
- [11] Ibid.
- [12] Rollo, pp. 23-24.
- [13] G.R. No. 76988, 31 January 1989, 169 SCRA 808.
- [14] No. L-47853, 16 November 1984, 133 SCRA 220.
- [15] Gaco vs. NLRC, G.R. No. 104690, 23 February 1994, 230 SCRA 260; Pepsi-Cola Bottling Co. vs. NLRC, G.R. No. 01900, 23 June 1992, 210 SCRA 277; Quezon Electric Cooperative vs. NLRC, G.R. Nos. 79718-22, 12 April 1989, 172 SCRA 89; Carandang vs. Dulay, G.R. No. 90492, 20 August 1990, 188 SCRA 792; De Vera vs. NLRC, G.R. No. 93212, 22 November 1990, 191 SCRA 632; and other cases.