SUPREME COURT
EN BANC

NATIONAL HOUSING CORPORATION,
***Petitioner*,**

-versus-

G.R. No. 64313
January 17, 1985

BENJAMIN JUCO AND THE NATIONAL LABOR RELATIONS COMMISSION,
***Respondents*.**
x----------x

D E C I S I O N

GUTIERREZ, JR., *J.*:

Are employees of the National Housing Corporations (NHC) covered by the Labor Code or by laws and regulations governing the civil service?

The background facts of this case are stated in the respondent-appellee's brief as follows:

> "The records reveal that private respondent (Benjamin C. Juco) was a project engineer of the National Housing Corporation (NHC) from November 16, 1970 to May 14, 1975. For having been implicated in a crime of theft and/or malversation of public funds involving 214 pieces of scrap G.I. pipes owned by

> the corporation which was allegedly committed on March 5, 1975. Juco's services were terminated by NHC effective as of the close of working hours on May 14, 1975. On March 25, 1977 he filed a complaint for illegal dismissal against petitioner (NHC) with Regional Office No. 4, Department of Labor (now Ministry of Labor and Employment) docketed as R04-3-3309-77 (Annex A, Petition). The said complaint was certified by Regional Branch No. IV of the NLRC for compulsory arbitration where it was docketed as Case No. RB-IV-12038-77 and assigned to Labor Arbiter Ernilo V. Peñalosa. The latter conducted the hearing. By agreement of the parties, the case was submitted for resolution upon submission of their respective position papers. Private respondent (Juco) submitted his position paper on July 15, 1977. He professed innocence of the criminal acts imputed against him contending that he was dismissed based on purely fabricated charges purposely to harass him because he stood as a witness in the theft case filed against certain high officials of the respondent's establishment' (NHC) and prayed for 'his immediate reinstatement to his former position in the NHC without loss of seniority rights and the consequent payment of his full back wages plus all the benefits appertaining thereto'. On July 28, 1977, the NHC also filed its position paper alleging that the Regional Office Branch IV, Manila, NLRC, 'is without authority to entertain the case for lack of jurisdiction, considering that the NHC is a government owned and controlled corporation; that even assuming that this case falls within the jurisdiction of this Office, respondent firm (now petitioner) maintains that complainant (Juco), now private respondent, was separated from the service for valid and justified reasons, i.e., for having sold company properties consisting of 214 pieces of scrap G.I. pipes at a junk shop in Alabang, Muntinlupa, Metro Manila, and thereafter appropriating the proceeds thereof to his own benefit.'

The pertinent portion of the decision of respondent National Labor Relations Commission (NLRC) reads:

> "The fact that in the early case of Fernandez vs. Cedro (NLRC Case No. 201165-74, May 19, 1975) the Commission, (Second Division) ruled that the respondent National Housing

Corporation is a government-owned or controlled corporation does not preclude us from later taking a contrary stand if by doing so the ends of justice could better be served.

"For although adherence to precedents (stare decisis) is a sure formula for achieving uniformity of action and conducive to the smooth operation of an office, idolatrous reverence for precedents which have outlived their validity and usefulness retards progress and should therefore be avoided. In fact, even courts do reverse themselves for reasons of justice and equity. This Commission as an Administrative body performing quasi-judicial function is no exception.

"WHEREFORE, in the light of the foregoing, the decision appealed from is hereby, set aside. In view, however, of the fact that the Labor Arbiter did not resolve the issue of illegal dismissal, we have opted to remand this case to the Labor Arbiter a quo for resolution of the aforementioned issue."

The NHC is a one hundred percent (100%) government-owned corporation organized in accordance with Executive Order No. 399, the Uniform Charter of Government Corporations, dated January 5, 1951. Its shares of stock are owned by the Government Service Insurance System, the Social Security System, the Development Bank of the Philippines, the National Investment and Development Corporation, and the People's Homesite and Housing Corporation. Pursuant to Letter of Instruction NO. 118, the capital stock of NHC was increased from P100 million to P250 million with the five government institutions abovementioned subscribing in equal proportion to the increased capital stock. The NHC has never had any private stockholders. The government has been the only stockholder from its creation to the present.

There should no longer be any question at this time that employees of government-owned or controlled corporations are governed by the civil service law and civil service rules and regulations.

Section 1, Article XII-B of the Constitution specifically provides:

> "The Civil Service embraces every branch, agency, subdivision, and instrumentality of the Government, including every government-owned or controlled corporation."

The 1935 Constitution had a similar provision in its Section 1, Article XII which stated:

> "A Civil Service embracing all branches and subdivisions of this Government shall be provided by law."

The inclusion of "government-owned or controlled corporations" within the embrace of the Civil service shows a deliberate effort of the framers to plug an earlier loophole which allowed government-owned or controlled corporations to avoid the full consequences of the all encompassing coverage of the civil service system. The same explicit intent is shown by the addition of "agency" and "instrumentality" to branches and subdivisions of the Government. All offices and firms of the government are covered.

The amendments introduced in 1973 are not idle exercises or meaningless gestures. They carry the strong message that civil service coverage is broad and all-embracing insofar as employment in the government in any of its governmental or corporate arms is concerned.

The constitutional provision has been implemented by statute. Presidential Decree No. 807 is unequivocal that personnel of government-owned or controlled corporations belong to the civil service and are subject to civil service requirements.

It provides:

> "SEC. 56. Government-owned or Controlled Corporations Personnel —All permanent personnel of government-owned or controlled corporations whose positions are now embraced in the civil service shall continue in the service until they have been given a chance to qualify in an appropriate examination, but in the meantime, those who do not possess the appropriate civil service eligibility shall not be promoted until they qualify in

> an appropriate civil service examination. Services of temporary personnel may be terminated any time."

The very Labor Code, P. D. No. 442 as amended, which the respondent NLRC wants to apply in its entirety to the private respondent provides:

> "ART. 277. Government employees — The terms and conditions of employment of all government employees, including employees of government-owned and controlled corporations shall be governed by the Civil Service Law, rules and regulations, Their salaries shall be standardized by the National Assembly as provided for in the New Constitution. However, there shall be reduction of existing wages, benefits and other terms and conditions of employment being enjoyed by them at the time of the adoption of the Code."

Our decision in Alliance of Government Workers et al. vs. Honorable Minister of Labor and Employment, et al. (124 SCRA 1) gives the background of the amendment which includes government-owned or controlled corporations in the embrace of the civil service.

We stated:

> "'Records of the 1971 Constitutional Convention show that in the deliberation held relative to what is now Section 1(1), Article XII-B, supra, the issue of the inclusion of government-owned or controlled corporations figured prominently.
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> "'The late delegate Roberto S. Oca, a recognized labor leader, vehemently objected to the inclusion of government-owned or controlled corporations in the Civil Service. He argued that such inclusion would put asunder the right of workers in government corporations, recognized in jurisprudence under the 1935 Constitution, to form and join labor unions for purposes of collective bargaining with their employers in the same manner as in the private section (see: records of 1971 Constitutional Convention).

"'In contrast, other labor experts and delegates to the 1971 Constitutional Convention enlightened the members of the Committee on Labor on the divergent situation of government workers under the 1935 Constitution, and called for its rectification. Thus, in a Position Paper dated November 22, 1971, submitted to the Committee on Labor, 1971 Constitutional Convention, then Acting Commissioner of Civil Service Epi Rey Pangramuyen declared:

"'It is the stand, therefore, of this Commission that by reason of the nature of the public employer and the peculiar character of the public service, it must necessarily regard the right to strike given to unions in private industry as not applying to public employees and civil service employees. It has been stated that the Government, in contrast to the private employer, protects the interests of all people in the public service, and that accordingly, such conflicting interests as are present in private labor relations could not exist in the relations between government and those whom they employ.

"'Moreover, determination of employment conditions as well as supervision of the management of the public service is in the hands of legislative homes. It is further emphasized that government agencies in the performance of their duties have a right to demand undivided allegiance from their workers and must always maintain a pronounced esprit de corps or firm discipline among their staff members. It would be highly incompatible with these requirements of the public service, if personnel took orders from union leaders or put solidarity with members of the working class above solidarity with the Government. This would be inimical to the public interest.

"'Moreover, it is asserted that public employees by joining labor unions may be compelled to support objectives which are political in nature and thus jeopardize the fundamental principle that the governmental machinery must be impartial and non-political in the sense of party politics.' (See: Records of 1971 Constitutional Convention)

> "'Similarly, Delegate Leandro P. Garcia, expressing for the inclusion of government-owned or controlled corporations in the Civil Service, argued:
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> "'It is meretricious to contend that because Government-owned or controlled corporations yield profits, their employees are entitled to better wages and fringe benefits than employees of Government other than Government-owned and controlled corporations which are not making profits. There is no gainsaying the fact that the capital they use is the people's money.' (see: Records of the 1971 Constitutional Convention)
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> "Summarizing the deliberations of the 1971 Constitutional Convention on the inclusion of Government-owned or controlled corporations, Dean Joaquin G. Bernas, SJ., of the Ateneo de Manila University Professional School of Law, stated that government-owned corporations came under attack as milking cows of a privileged few enjoying salaries far higher than their counterparts in the various branches of government, while the capital of these corporations belongs to the Government and government money is pumped into them whenever on the brink of disaster, and they should therefore come under the strict surveillance of the Civil Service System. (Bernas, The 1973 Philippine Constitution, Notes and Cases, 1974 ed., p. 524)."'

Applying the pertinent provisions of the Constitution, the Labor Code as amended, and the Civil Service Decree as amended and the precedent in the Alliance of Government Workers decision, it is clear that the petitioner National Housing Corporation comes under the jurisdiction of the Civil Service Commission, not the Ministry of Labor and Employment.

This becomes more apparent if we consider the fact that the NHC performs governmental functions and not proprietary ones.

The NHC was organized for the governmental objectives stated in its amended articles of incorporation as follows:

"SECOND: That the purpose for which the corporation is organized is to assist and carry out the coordinated massive housing program of the government, principally but not limited to low-cost housing with the integration, cooperation and assistance of all governmental agencies concerned, through the carrying on of any or all the following activities:

"1) The acquisition, development or reclamation of lands for the purpose of construction and building therein preferably low-cost housing so as to provide decent and durable dwelling for the greatest number of inhabitants in the country;

"2) The promotion and development of physical, social and economic community growth through the establishment of general physical plans for urban, suburban and metropolitan areas to be characterized by efficient land use patterns;

"3) The coordination and implementation of all projects of the government for the establishment of nationwide and massive low-cost housing;

"4) The undertaking and conducting of research and technical studies of the development and promotion of construction of houses and buildings of sound standards of design liability, durability, safety, comfort and size for improvement of the architectural and engineering designs and utility of houses and buildings with the utilization of new and/or native materials economics in material and construction, distribution, assembly and construction and of applying advanced housing and building technology.

"5) Construction and installation in these projects of low-cost housing privately or cooperatively owned water and sewerage system or waste disposal facilities, and the formulations of a unified or officially coordinated urban transportation system as a part of a comprehensive development plan in these areas."

The petitioner points out that it was established as an instrumentality of the government to accomplish governmental policies and objectives and extend essential services to the people. It would be incongruous if employees discharging essentially governmental functions are not covered by the same law and rules which govern those performing other governmental functions. If government corporations discharging proprietary functions now belong to the civil service with more reason should those performing governmental functions be governed by civil service law.

The respondent NLRC cites a 1976 opinion of the Secretary of Justice which holds that the phrase "government-owned or controlled corporations" in Section 1, Article XII-B of the Constitution contemplates only those government-owned or controlled corporations created by special law, The opinion states that since the Constitution provides for the organization or regulation of private corporations only by "general law", expressly excluding government-owned or controlled corporations, it follows that whenever the Constitution mentions government-owned or controlled corporations, it must refer to those created by special law. P.D. No. 868 which repeals all charters, laws, decrees, rules, and provisions exempting any branch, agency, subdivision, or instrumentality of the government, including government-owned or controlled corporations from the civil service law and rules is also cited to show that corporations not governed by special charters or laws are not to be brought within civil service coverage. The discussions in the Constitutional Convention are also mentioned. It appears that at the time the Convention discussed government-owned or controlled corporations, all such corporations were organized only under special laws or charters.

The fact that "private" corporations owned or controlled by the government may be created by special charter does not mean that such corporations not created by special law are not covered by the civil service. Nor does the decree repealing all charters and special laws granting exemption from the civil service law imply that government corporations not created by special law are exempt from civil service coverage. These charters and statutes are the only laws granting such exemption and, therefore, they are the only ones which could be repealed. There was no similar exempting provision in the

general law which called for repeal. And finally, the fact that the Constitutional Convention discussed only corporations created by special law or charter cannot be an argument to exclude petitioner NHC from civil service coverage. As stated in the cited speech delivered during the convention sessions of March 9, 1972, all government corporations then in existence were organized under special laws or charters. The convention delegates could not possibly discuss government-owned or controlled corporations which were still non-existent or about whose existence they were unaware.

Section I of Article XII-B, Constitution uses the word "every" to modify the phrase "government-owned or controlled corporation."

"Every" means each one of a group, without exception. It means all possible and all, taken one by one. Of course, our decision in this case refers to a corporation created as a government-owned or controlled entity. It does not cover cases involving private firms taken over by the government in foreclosure or similar proceedings. We reserve judgment on these latter cases when the appropriate controversy is brought to this Court.

The infirmity of the respondents' position lies in its permitting a circumvention or emasculation of Section 1, Article XII-B of the Constitution. It would be possible for a regular ministry of government to create a host of subsidiary corporations under the Corporation Code funded by a willing legislature. A government-owned corporation could create several subsidiary corporations. These subsidiary corporations would enjoy the best of two worlds. Their officials and employees would be privileged individuals, free from the strict accountability required by the Civil Service Decree and the regulations of the Commission on Audit. Their incomes would not be subject to the competitive restraints of the open market nor to the terms and conditions of civil service employment. Conceivably, all government-owned or controlled corporations could be created, no longer by special charters, but through incorporation under the general law. The constitutional amendment including such corporations in the embrace of the civil service would cease to have application. Certainly, such a situation cannot be allowed to exist.

WHEREFORE, the petition is hereby **GRANTED**. The questioned decision of the respondent National Labor Relations Commission is **SET ASIDE**. The decision of the Labor Arbiter dismissing the case before it for lack of jurisdiction is **REINSTATED**.

SO ORDERED.

Fernando, *C.J.*, Teehankee, Makasiar, Aquino, Concepcion, Jr., Melencio-Herrera, Plana, Escolin, Relova, De la Fuente and Cuevas, *JJ.*, concur.

Separate Opinions

ABAD SANTOS, J., dissenting:

It was I, as Secretary of Justice, who issued Opinion No. 62, series of 1976, for the Commissioner of Civil Service who wanted to know the scope of the constitutional provisions on the Civil Service in respect of government-owned or controlled corporations. In response I opined, for the reasons stated therein, that only those corporations created by special law are contemplated.

In the case at bar the National Housing Corporation was not created by special law; it was organized pursuant to the Corporation Law —

Act No. 1459 entitled, AN ACT PROVIDING FOR THE FORMATION AND ORGANIZATION OF CORPORATIONS, DEFINING THEIR POWERS, FIXING THE DUTIES OF DIRECTORS AND OTHER OFFICERS THEREOF, DECLARING THE RIGHTS AND LIABILITIES OF SHAREHOLDERS AND MEMBERS, PRESCRIBING THE CONDITIONS UNDER WHICH SUCH CORPORATIONS MAY TRANSACT BUSINESS. [Act No. 1459 has been replaced by Batas Pambansa Blg. 68 known as The New Corporation Code.] In the light of my opinion, the National Housing Corporation is not covered by the Civil Service provisions of the constitution. Hence I dissent.

Is the National Housing Corporation covered by the Labor Code? I am not prepared to answer this question at this time. I do wish to emphasize that whether or not a corporation is "government-owned or controlled" depends upon the purpose of the inquiry. A corporation may be "government-owned or controlled" for one purpose but not for another. In other words, it is not possible to broadly categorize a corporation as "government-owned or controlled."

It may be asked, if the National Housing Corporation is not covered by the Civil Service should it not be covered instead by the Labor Code? My answer is, not necessarily. For it may well be that the National Housing Corporation is in limbo.

The following corporations (the list is not exhaustive) appear to be "government-owned or controlled" not by virtue of foreclosure or similar proceedings:

Human Settlements Development Corporation
Nayon Filipino Foundation, Inc.
Philippine Aero Space Development Corporation
Philippine Associated Smelting and Refining Corporation
Petrophil Corporation
Petron TBA Corporation
Philippine National Oil Co.
Food Terminal, Inc.
Republic Planters Bank

QUARE: Is this Court ready to hold that each and everyone of the above-named corporation is government-owned or controlled for Civil Service purposes?