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SUPREME COURT
FIRST DIVISION

ODIN SECURITY AGENCY,
***Petitioner*,**

-versus-

G.R. No. 87439
February 21, 1990

HON. DIONISIO C. DE LA SERNA, IN HIS CAPACITY AS UNDERSECRETARY, DEPARTMENT OF LABOR AND EMPLOYMENT, HON. LUNA C. PIEZAS, IN HIS CAPACITY AS REGIONAL DIRECTOR (DOLE), NATIONAL CAPITAL REGION AND SERGIO APILADO, MAMERTO GENER, ARMANDO YUMUL, HERMINIGILDO BARGAS, MARCIANO BOLOCON, WILLIAM ADAMI, ANTONIO PUBLICO, LEOPOLDO SAAVEDRA, WARLITO ILAGA, JOVANY SERATO, DANIEL MINGLANA, JOSE MIRANDA, JR., ANASTACIO SANTILLAN, ROLANDO FERNANDEZ, NICANOR FEREAS, FRANCISCO VERZOSA, PLARIDEL ELORIA, APSIN PAGAYAO, JAIME DORADO, GUILLERMO ELLARES, ARTURO FACTOR, DANIEL FERUISH, CRISOSTOMO FONSECA, JERRY GA, FRANCISCO GUINSATAO, SIXTO LIPER, ALLAN MANALLA, GEORGE ORQUESTA, WILFREDO

QUIROZ, BENJAMIN UY, EDWIN ORDONA and DEMETRIO TORRES,
Respondents.
x---x

D E C I S I O N

GRIÑO-AQUINO, *J.*:

This Petition for *Certiorari* and Prohibition with Prayer for a Restraining Order and/or Preliminary Injunction Seeks to Annul and Set Aside the Order dated March 20, 1987, issued by public respondent Luna C. Piezas in his capacity as the Regional Director, National Capital Region, Department of Labor and Employment, and the orders dated March 23, 1988 and March 13, 1989, issued by public respondent Dionisio C. De la Serna as Undersecretary of the Department of Labor and Employment, and to enjoin the public respondents and the Department of Labor and Employment (DOLE) from executing said orders.

On July 8, 1986, a complaint was filed by Sergio Apilado and fifty-five (55) others charging the petitioner Odin Security Agency (hereafter "OSA"), underpayment of wages, illegal deductions, non-payment of night shift differential, overtime pay, premium pay for holiday work, rest days and Sundays, service incentive leaves, vacation and sick leaves, and 13th-month pay. When conciliation efforts failed, the parties were required to submit their position papers.

Private respondents alleged in their position paper that their latest monthly salary was P1,600; that from this amount, petitioner deducted P100 as administrative cost and P20 as bond; that they were not paid their premium pay and overtime pay for working on the eleven (11) legal holidays per year; and, that since private respondents were relieved or constructively dismissed, they must also be paid backwages.

Petitioner, on the other hand, contended that on July 21, 1986, some 48 security guards threatened mass action against it. Alarmed by a possible abandonment of post by the guards and mindful of its contractual obligations to its clients/principals, petitioner relieved and re-assigned the complaining guards to other posts in Metro Manila. Those relieved were ordered to report to the agency's main office for reassignment. Only few complied, so those who failed to comply were placed on "AWOL" status. Petitioner claimed it complied with the Labor Code provisions, and in support thereof, it submitted the "Quitclaim and Waiver" of thirty-four (34) complainants. It further alleged that complainants who rendered overtime work as shown by their time sheets were paid accordingly; that service incentive leaves not availed of, night shift differential, rest days, and holidays were paid in cash.

On November 18, 1986, petitioner filed an ex parte manifestation alleging that nineteen (19) complainants had withdrawn their complaints.

On January 1, 1987, petitioner again filed a supplemental ex parte manifestation alleging that Luis San Francisco also withdrew his complaint.

Earlier, on October 21, 1986, seventeen (17) complainants repudiated their quitclaim and waiver. They alleged that management pressured them to sign documents which they were not allowed to read and that if such waiver existed, they did not have any intention of waiving their rights under the law.

Petitioner in its reply argued that complainants were estopped from denying their quitclaims on the ground of equity; that being high school graduates, complainants fully understood the document they signed; and that complainant's allegation of coercion or threat was a mere afterthought.

Later, six (6) of the seventeen (17) complainants who repudiated their quitclaims again executed quitclaims and waivers.

On March 20, 1987, public respondent Luna C. Piezas issued an order, the dispositive portion of which reads:

> “WHEREFORE, premises considered, Order of Compliance is hereby issued directing respondent to pay complainants the amounts opposite their names, to wit:
>
> | | | |
> |---|---|---|
> | 1. | Mamerto Gener | P1,989.05 |
> | 2. | Armando Yumul | 1,989.05 |
> | 3. | Herminigildo Bargas | 1,989.05 |
> | 4. | Marciano Bolocon | 1,989.05 |
> | 5. | William Adami | 1,989.05 |
> | 6. | Antonio Publico | 1,989.05 |
> | 7. | Leopoldo Saavedra | 1,989.05 |
> | 8. | Warlito Ilaga | 1,989.05 |
> | 9. | Jovany Serate | 1,989.05 |
> | 10. | Daniel Minglana | 1,989.05 |
> | 11. | Jose Miranda, Jr. | 1,989.05 |
> | 12. | Anastacio Santillan | 1,989.05 |
> | 13. | Rolando Fernandez | 1,989.05 |
> | 14. | Nicanor Fereras | 1,776.95 |
> | 15. | Franscisco Verzosa | 1,015.40 |
> | 16. | Plaridel Eloria | 253.95 |
>
> within 15 days from receipt hereof.” (p. 51, Rollo.)

The complaining guards filed a motion for reconsideration which was treated as an appeal by respondent Undersecretary Dionisio C. De la Serna.

On March 23, 1988, the Undersecretary affirmed the order of the Regional Director with modifications. The dispositive portion of his order reads as follows:

> “WHEREFORE, the Order dated March 20, 1987 is hereby affirmed subject to the following modifications, to wit:
>
> “1. The complaints of the sixteen (16) complainants above set forth are hereby reinstated and their names added to those listed by the Regional Director in his Order;

“2. The monetary awards is [sic] hereby extended to three years from the time of the filing of the instant complaint without any qualification; and

“3. Respondent is hereby directed to reinstate all the above active complainants to their former positions without loss of seniority rights plus backwages from the time of their relief from work until their actual reinstatement.” (p. 69, Rollo.)

The sixteen (16) complainants mentioned in the body of the decision are:

1. Pagayo, Apsin
2. Dorado, Jaime
3. Ellares, Guillermo
4. Factor, Arturo
5. Feruish, Daniel
6. Fonseca, Crisostomo
7. Ga, Jerry
8. Guinsatao, Francisco
9. Liper, Sixto
10. Manalla, Allan
11. Orquesta, George
12. Pardeno, Joseph
13. Quiroz, Wilfredo
14. Uy, Benjamin
15. Ordona, Edwin
16. Torres, Deuretiro

Petitioner filed a motion for reconsideration.

On March 13, 1989, public respondent Undersecretary modified his order of March 23, 1988 as follows:

“WHEREFORE, the Order of this Office dated 23 March 1988 is hereby modified to read as follows, to wit:

> "1. The complaint of the fifteen (15) complainants above set forth are hereby reinstated and their names added to those listed by the Regional Director in his Order;
>
> "2. The monetary awards is [sic] hereby limited to the past three years from the time of the filing of the complaint without any qualification subject to computation at the Regional Office." (p. 105, Rollo.)

The reason for the reduction to fifteen (15) of the original list of sixteen (16) complainants was because the Undersecretary found that Joseph Pardeno was never relieved from his post but continued to work for petitioner.

In this petition for *certiorari*, the petitioner alleges:

1. that it was deprived of due process of law, both substantive and procedural;

2. that the Order dated March 20, 1987 is contrary to law and that respondent Luna C. Piezas acted with grave abuse of discretion amounting to lack or excess of jurisdiction; and

3. that the Orders dated March 23, 1988 and March 13, 1989, affirming and modifying the Order dated March 20, 1987 are contrary to law and that respondent Dionisio C. De la Serna acted with grave abuse of discretion amounting to lack or excess of jurisdiction.

On April 17, 1989, as prayed for in the petition, the Court issued a temporary restraining order upon a bond of P50,000 enjoining the respondents from enforcing or executing the orders dated March 20, 1987, March 23, 1988 and March 13, 1989 of the Department of Labor and Employment.

The petition has no merit.

The petitioner was not denied due process for several hearings were in fact conducted by the hearing officer of the Regional Office of the DOLE and the parties submitted position papers upon which the

Regional Director based his decision in the case. There is abundant jurisprudence to the effect that the requirements of due process are satisfied when the parties are given an opportunity to submit position papers (Coca-Cola Bottlers, Phil., Inc. vs. NLRC, G.R. No. 78787, December 18, 1989; Asiaworld Publishing House vs. Ople, 152 SCRA 224; Manila Doctors Hospital vs. NLRC, 135 SCRA 262). What the fundamental law abhors is not the absence of previous notice but rather the absolute lack of opportunity to be heard (Antipolo Realty Corp. vs. National Housing Authority, 153 SCRA 399). There is no denial of due process where a party is given an opportunity to be heard and present his case (Ong, Sr. vs. Parel, 156 SCRA 768; Adamson & Adamson, Inc. vs. Amores, 152 SCRA 237). Since petitioner herein participated in the hearings, submitted a position paper, and filed a motion for reconsideration of the March 23, 1988 decision of the Labor Undersecretary, it was not denied due process.

The petitioner is estopped from questioning the alleged lack of jurisdiction of the Regional Director over the private respondents' claims. Petitioner submitted to the jurisdiction of the Regional Director by taking part in the hearings before him and by submitting a position paper. When the Regional Director issued his March 20, 1987 order requiring petitioner to pay the private respondents the benefits they were claiming, petitioner was silent. Only the private respondents filed a motion for reconsideration. It was only after the Undersecretary modified the order of the Regional Director on March 23, 1988 that the petitioner moved for reconsideration and questioned the jurisdiction of the public respondents to hear and decide the case. The principle of jurisdiction by estoppel bars it from doing this. In Tijam vs. Sibonghanoy, 23 SCRA 29, 35-36, we held:

> "It has been held that a party can not invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction (Dean vs. Dean, 136 Or. 694, 86 A.L.R. 79). In the case just cited, by way of explaining the rules, it was further said that the question whether the court had jurisdiction either of the subject-matter of the action or of the parties was not important in such cases because the party is barred from such conduct not because the judgment or order of the court is valid and conclusive as an adjudication, but for the reason that

> such a practice can not be tolerated - obviously for reasons of public policy.
>
> "Furthermore, it has also been held that after voluntarily submitting a cause and encountering an adverse decision on the merits, it is too late for the loser to question the jurisdiction or power of the court (Pease vs. Rathbunjones, etc., 243 U.S. 273, 61 L. Ed. 715, 37 S. Ct. 283; St. Louis etc. vs. McBride, 141 U.S. 127, 35 L. Ed. 659). And in Littleton vs. Burgess, 16 Wyo, 58, the Court said that it is not right for a party who has affirmed and invoked the jurisdiction of a court in a particular matter to secure an affirmative relief, to afterwards deny that same jurisdiction to escape a penalty."

Sibonghanoy was reiterated in Crisostomo vs. C.A., 32 SCRA 54; Libudan vs. Gil, 45 SCRA 17; Capilitan vs. De la Cruz, 55 SCRA 706; and PNB vs. IAC, 143 SCRA 299.

The fact is, the Regional Director and the Undersecretary did have jurisdiction over the private respondents' complaint which was originally for violation of labor standards (Art. 128[b], Labor Code). Only later did the guards ask for backwages on account of their alleged "constructive dismissal" (p. 32, Rollo). Once vested, that jurisdiction continued until the entire controversy was decided (Lee vs. MTC, 145 SCRA 408; Abadilla vs. Ramos, 156 SCRA 92; and Pucan vs. Bengzon, 155 SCRA 692).

The jurisdiction of public respondents over the complaints is clear from a reading of Article 128(b) of the Labor Code, as amended by Executive Order No. 111, thus:

> "(b) The provisions of Article 217 of this Code to the contrary notwithstanding and in cases where the relationship of employer- employee still exists, the Minister of Labor and Employment or his duly authorized representatives shall have the power to order and administer, after due notice and hearing, compliance with the labor standards provisions of this Code and other labor legislation based on the findings of labor regulation officers or industrial safety engineers made in the course of inspection, and to issue writs of execution to the

> appropriate authority for the enforcement of their orders, except in cases where the employer contests the findings of the labor regulation officer and raises issues which cannot be resolved without considering evidentiary matters that are not verifiable in the normal course of inspection."

In Briad Agro Development Corp. vs. Hon. Dionisio De la Serna, G.R. No. 82805, June 29, 1989, we clarified the amendment when we ruled, thus:

> "To recapitulate under EO 111, the Regional Directors, in representation of the Secretary of Labor — and notwithstanding the grant of exclusive original jurisdiction to Labor Arbiters by Article 217 of the Labor Code, as amended — have power to hear cases involving violations of labor standards provisions of the Labor Code or other legislation discovered in the course of normal inspection, and order compliance therewith, provided that:
>
> > "1) the alleged violations of the employer involve persons who are still his employees, i.e., not dismissed; and
> >
> > "2) the employer does not contest the findings of the labor regulations officer or raise issues which cannot be resolved without considering evidentiary matters that are not verifiable in the normal course of inspection." (p. 9, Concurring Opinion, J. Narvasa.)

The ruling in Briad Agro was reiterated in Maternity Children's Hospital vs. Secretary of Labor, G.R. No. 78909, June 30, 1989:

> "Under the present rules, a Regional Director exercises both visitorial and enforcement power over labor standards cases, and is therefore empowered to adjudicate money claims, provided there still exists an employer-employee relationship, and the findings of the regional office is not contested by the employer concerned." (p. 5, Decision.)

WHEREFORE, the Petition is dismissed and the Orders dated March 23, 1988 and March 13, 1989 of the Undersecretary of Labor

are hereby affirmed. The temporary restraining order earlier issued by this Court is lifted. No costs.

SO ORDERED.

Narvasa, Cruz and Gancayco, *JJ.*, concur.
Medialdea, *J.*, is on leave.

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