SUPREME COURT
THIRD DIVISION

PLACIDO O. URBANES, JR., doing business under the name & style of CATALINA SECURITY AGENCY,
***Petitioner*,**

-versus-

G.R. No. 122791
February 19, 2003

THE HONORABLE SECRETARY OF LABOR AND EMPLOYMENT and SOCIAL SECURITY SYSTEM,
***Respondents*.**
x----------x

D E C I S I O N

CARPIO-MORALES, *J.*:

Before this Court is a Petition for Certiorari under Rule 65 of the Revised Rules of Court assailing the June 22, 1995 Order of the Department of Labor and Employment (DOLE) Secretary which set aside the September 16, 1994 Order of the Regional Director, National Capital Region (NCR).

The antecedent facts of the case are as follows:

Petitioner Placido O. Urbanes, Jr., doing business under the name and style of Catalina Security Agency, entered into an agreement[1] to provide security services to respondent Social Security System (SSS).

During the effectivity of the agreement, petitioner, by letter of May 16, 1994,[2] requested the SSS for the upward adjustment of their contract rate in view of Wage Order No. NCR-03 which was issued by the Regional Tripartite Wages and Productivity Board-NCR pursuant to Republic Act 6727 otherwise known as the Wage Rationalization Act, the pertinent provision of which wage order reads:

> Section 9. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed amount set forth herein for covered workers shall be borne by the principals or the clients of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client failed to pay the prescribed increase, the construction/service contractors shall be jointly and severally liable with the principal or client. (Emphasis supplied.)

As his May 16, 1994 letter to the SSS remained unheeded, petitioner sent another letter,[3] dated June 7, 1994, reiterating the request, which was followed by still another letter,[4] dated June 8, 1994.

On June 24, 1994, petitioner pulled out his agency's services from the premises of the SSS and another security agency, Jaguar, took over.[5]

On June 29, 1994, petitioner filed a complaint[6] with the DOLE-NCR against the SSS seeking the implementation of Wage Order No. NCR-03.

In its position paper,[7] the SSS prayed for the dismissal of the complaint on the ground that petitioner is not the real party in interest and has no legal capacity to file the same. In any event, it argued that if it had any obligation, it was to the security guards.

On the other hand, petitioner in his position paper,[8] citing Eagle Security Agency, Inc. vs. NLRC,[9] contended that the security guards

assigned to the SSS do not have any legal basis to file a complaint against it for lack of contractual privity.

Finding for petitioner, the Regional Director of the DOLE-NCR issued an Order[10] of September 16, 1994, the dispositive portion of which reads, quoted verbatim:

> WHEREFORE, premises considered, the respondent Social Security System (SSS) is hereby Ordered to pay Complainant the total sum of ONE MILLION SIX HUNDRED THOUSAND EIGHT HUNDRED FIFTY EIGHT AND 46/100 (P1,600,858.46) representing the wage differentials under Wage Order No. NCR-03 of the ONE HUNDRED SIXTY EIGHT (168) Security Guards of Catalina Security Agency covering the period from December 16, 1993 to June 24, 1994, inclusive within ten (10) days from receipt hereof, otherwise a writ of execution shall be issued to enforce this Order.
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> The claims for the payment of interest and Attorney's fees are hereby ordered dismissed for want of jurisdiction.
>
> SO ORDERED.

The SSS moved to reconsider the September 16, 1994 Order of the Regional Director, praying that the computation be revised.[11]

By Order[12] of December 9, 1994, the Regional Director modified his September 16, 1994 Order by reducing the amount payable by the SSS to petitioner. The dispositive portion of the Regional Director's Order of December 9, 1994 reads:

> WHEREFORE, premises considered, the Order of this Office dated September 16, 1994 is hereby modified. Respondent Social Security System is hereby ordered to pay complainant the amount of ONE MILLION TWO HUNDRED THIRTY SEVEN THOUSAND SEVEN HUNDRED FORTY PESOS (P1,237,740.00) representing the wage differentials under Wage Order No. NCR-03 of the one hundred sixty-eight (168) security guards of Catalina Security Agency covering the period from

December 16, 1993 to June 20, 1994, inclusive, within ten (10) days from receipt of this Order, otherwise, execution shall issue.

The SSS appealed[13] to the Secretary of Labor upon the following assigned errors, quoted verbatim:

A. THE REGIONAL DIRECTOR HAS NO JURISDICTION OF THE CASE AT BAR.

B. THE HONORABLE REGIONAL DIRECTOR ERRED IN FINDING THAT COMPLAINANT IS THE REAL PARTY IN INTEREST AND HAS LEGAL CAPACITY TO FILE THE CASE.

C. THE HONORABLE REGIONAL DIRECTOR ERRED IN ADOPTING COMPLAINANT'S COMPUTATION FOR WAGE ADJUSTMENT UNDER WAGE ORDER NO. NCR-03 AS BASIS OF RESPONDENT'S LIABILITY.[14]

The Secretary of Labor, by Order[15] of June 22, 1995, set aside the order of the Regional Director and remanded the records of the case "for recomputation of the wage differentials using P5,281.00 as the basis of the wage adjustment." And the Secretary held petitioner's security agency "JOINTLY AND SEVERALLY liable for wage differentials, the amount of which should be paid DIRECTLY to the security guards concerned."

Petitioner's Motion for Reconsideration of the DOLE Secretary's Order of June 22, 1995 having been denied by Order[16] of October 10, 1995, the present petition was filed, petitioner contending that the DOLE Secretary committed grave abuse of discretion when he:

1. TOTALLY IGNORED THE PROVISION OF ARTICLE 129 OF THE LABOR CODE FOR PERFECTING AN APPEAL FROM THE DECISION OF THE REGIONAL DIRECTOR UNDER ARTICLE 129 INVOKED BY RESPONDENT SSS;

2. DISREGARDED THE PROVISION ON APPEALS FROM THE DECISIONS OR RESOLUTIONS OF THE REGIONAL DIRECTOR, DOLE, UNDER ARTICLE 129 OF THE

LABOR CODE, AS AMENDED BY REPUBLIC ACT NO. 6715;

3. TOTALLY OVERLOOKED THE LAW AND PREVAILING JURISPRUDENCE WHEN IT ACTED ON THE APPEAL OF RESPONDENT SSS.[17]

Petitioner asserts that the Secretary of Labor does not have jurisdiction to review appeals from decisions of the Regional Directors in complaints filed under Article 129 of the Labor Code[18] which provides:

> ART. 129. RECOVERY OF WAGES, SIMPLE MONEY CLAIMS AND OTHER BENEFITS. — Upon complaint of any interested party, the regional director of the Department of Labor and Employment or any duly authorized hearing officers of the Department is empowered, through summary proceeding and after due notice, to hear and decide any matter involving the recovery of wages and other monetary claims and benefits, including legal interest, owing to an employee or person employed in domestic or household service or househelper under this Code, arising from employer-employee relations: Provided, That such complaint does not include a claim for reinstatement; Provided, further, That the aggregate money claim of each employee or househelper does not exceed Five Thousand pesos (P5,000.00). The regional director or hearing officer shall decide or resolve the complaint within thirty (30) calendar days from the date of the filing of the same. Any sum thus recovered on behalf of any employee or househelper pursuant to this Article shall be held in a special deposit account by, and shall be paid on order of, the Secretary of Labor and Employment or the regional director directly to the employee or househelper concerned. Any such sum not paid to the employee or househelper, because he cannot be located after diligent and reasonable effort to locate him within a period of three (3) years, shall be held as a special fund of the Department of Labor and Employment to be used exclusively for the amelioration and benefit of workers.

> Any decision or resolution of the regional director or officer pursuant to this provision may be appealed on the same grounds provided in Article 223 of this Code, within five (5) calendar days from receipt of a copy of said decision or resolution, to the National Labor Relations Commission which shall resolve the appeal within ten (10) calendar days from submission of the last pleading required or allowed under its rules.
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> x x x (Emphasis supplied).

Petitioner thus contends that as the appeal of SSS was filed with the wrong forum, it should have been dismissed.[19]

The SSS, on the other hand, contends that Article 128, not Article 129, is applicable to the case. Article 128 provides:

> ART. 128. VISITORIAL AND ENFORCEMENT POWERS —
>
> x x x
>
> (b) Notwithstanding the provisions of Article 129 and 217 of this Code to the contrary, and in cases where the relationship of employer-employee still exists, the Secretary of Labor and Employment or his duly authorized representatives shall have the power to issue compliance orders to give effect to labor legislation based on the findings of labor employment and enforcement officers or industrial safety engineers made in the course of inspection.
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> x x x
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> An order issued by the duly authorized representative of the Secretary of Labor and Employment under this article may be appealed to the latter.
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> x x x (Emphasis supplied).

Neither the petitioner's contention nor the SSS's is impressed with merit. Lapanday Agricultural Development Corporation vs. Court of

Appeals[20] instructs so. In that case, the security agency filed a complaint before the Regional Trial Court (RTC) against the principal or client Lapanday for the upward adjustment of the contract rate in accordance with Wage Order Nos. 5 and 6. Lapanday argued that it is the National Labor Relations Commission, not the civil courts, which has jurisdiction to resolve the issue in the case, it involving the enforcement of wage adjustment and other benefits due the agency's security guards as mandated by several wage orders. Holding that the RTC has jurisdiction over the controversy, this Court ruled:

> We agree with the respondent that the RTC has jurisdiction over the subject matter of the present case. It is well settled in law and jurisprudence that where no employer-employee relationship exists between the parties and no issue is involved which may be resolved by reference to the Labor Code, other labor statutes or any collective bargaining agreement, it is the Regional Trial Court that has jurisdiction. In its complaint, private respondent is not seeking any relief under the Labor Code but seeks payment of a sum of money and damages on account of petitioner's alleged breach of its obligation under their Guard Service Contract. The action is within the realm of civil law hence jurisdiction over the case belongs to the regular courts. While the resolution of the issue involves the application of labor laws, reference to the labor code was only for the determination of the solidary liability of the petitioner to the respondent where no employer-employee relation exists.[21]
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> x x x (Emphasis supplied).

In the case at bar, even if petitioner filed the complaint on his and also on behalf of the security guards,[22] the relief sought has to do with the enforcement of the contract between him and the SSS which was deemed amended by virtue of Wage Order No. NCR-03. The controversy subject of the case at bar is thus a civil dispute, the proper forum for the resolution of which is the civil courts.

But even assuming arguendo that petitioner's complaint were filed with the proper forum, for lack of cause of action it must be dismissed.

Articles 106, 107 and 109 of the Labor Code provide:

> ART. 106. CONTRACTOR OR SUBCONTRACTOR. — Whenever an employer enters into contract with another person for the performance of the former's work, the employees of the contractor and of the latter's subcontractor, if any, shall be paid in accordance with the provisions of this Code.
>
> In the event that the contractor or subcontractor fails to pay the wage of his employees in accordance with this Code, the employer shall be jointly and severally liable with his contractor or subcontractor to such employees to the extent of the work performed under the contract, in the same manner and extent that he is liable to employees directly employed by him.
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> x x x (Emphasis supplied)
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> ART. 107. INDIRECT EMPLOYER. — The provisions of the immediately preceding Article shall likewise apply to any person, partnership, association or corporation which, not being an employer, contracts with an independent contractor for the performance of any work, task, job or project.
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> ART. 109. SOLIDARY LIABILITY. — The provisions of existing laws to the contrary notwithstanding, every employer or indirect employer shall be held responsible with his contractor or subcontractor for any violation of any provision of this Code. For purposes of determining the extent of their civil liability under this Chapter, they shall be considered as direct employers. (Emphasis supplied.)

In the case of Eagle Security Agency, Inc. vs. NLRC,[23] this Court held:

> The Wage Orders are explicit that payment of the increases are "to be borne" by the principal or client. "To be borne", however, does not mean that the principal, PTSI in this case, would directly pay the security guards the wage and allowance increases because there is no privity of contract between them. The security guards' contractual relationship is with their immediate employer, EAGLE. As an employer, EAGLE is tasked, among others, with the payment of their

wages [See Article VII Sec. 3 of the Contract for Security Services, supra and Bautista vs. Inciong, G.R. No. 52824, March 16, 1988, 158 SCRA 665].

On the other hand, there existed a contractual agreement between PTSI and EAGLE wherein the former availed of the security services provided by the latter. In return, the security agency collects from its client payment for its security services. This payment covers the wages for the security guards and also expenses for their supervision and training, the guards' bonds, firearms with ammunitions, uniforms and other equipments, accessories, tools, materials and supplies necessary for the maintenance of a security force.

Premises considered, the security guards' immediate recourse for the payment of the increases is with their direct employer, EAGLE. However, in order for the security agency to comply with the new wage and allowance rates it has to pay the security guards, the Wage Orders made specific provision to amend existing contracts for security services by allowing the adjustment of the consideration paid by the principal to the security agency concerned. What the Wage Orders require, therefore, is the amendment of the contract as to the consideration to cover the service contractor's payment of the increases mandated. In the end, therefore, ultimate liability for the payment of the increases rests with the principal.

In view of the foregoing, the security guards should claim the amount of the increases from EAGLE. Under the Labor Code, in case the agency fails to pay them the amounts claimed, PTSI should be held solidarity liable with EAGLE [Articles 106, 107 and 109]. Should EAGLE pay, it can claim an adjustment from PTSI for an increase in consideration to cover the increases payable to the security guards.

x x x (Emphasis supplied).

Passing on the foregoing disquisition in Eagle, this Court, in Lapanday,[24] held:

> It is clear also from the foregoing that it is only when [the] contractor pays the increases mandated that it can claim an adjustment from the principal to cover the increases payable to

the security guards. The conclusion that the right of the contractor (as principal debtor) to recover from the principal (as solidary co-debtor) arises only if he has paid the amounts for which both of them are jointly and severally liable is in line with Article 1217 of the Civil Code which provides:

> "Art. 1217. Payment made by one the solidary debtors extinguishes the obligation. If two or more solidary debtors offer to pay, the creditor may choose which offer to accept.
>
> He who made payment make claim from his co-debtors only the share which corresponds to each, with interest for the payment already made. If the payment is made before the debt is due, no interest for the intervening period may be demanded."[25] (Emphasis supplied).

In fine, the liability of the SSS to reimburse petitioner arises only if and when petitioner pays his employee-security guards "the increases" mandated by Wage Order No. NCR-03.

The records do not show that petitioner has paid the mandated increases to the security guards. The security guards in fact have filed a complaint[26] with the NLRC against petitioner relative to, among other things, underpayment of wages.

WHEREFORE, the present petition is hereby **DISMISSED**, and petitioner's complaint before the Regional Director is dismissed for lack of jurisdiction and cause of action.

SO ORDERED.

Puno, Panganiban, Sandoval-Gutierrez and Corona, *JJ.*, concur.

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[1] Rollo at 127–133.
[2] Id. at 101–103.
[3] Id. at 105.
[4] Id. at 107.

[5] Id. at 499, 523.
[6] Id. at 109–116.
[7] Id. at 172–180.
[8] Id. at 118–126.
[9] 173 SCRA 479 (1989).
[10] Rollo at 234–241.
[11] Id. at 243–246.
[12] Id. at 299–301.
[13] Id. at 303–314.
[14] Id. at 308–309.
[15] Id. at 366–371.
[16] Id. at 373–375.
[17] Id. at 14.
[18] Id. at 510.
[19] Id. at 17.
[20] 324 SCRA 39 (2000), citing Manliquez vs. Court of Appeals, 232 SCRA 427 (1994) and Dai-Chi Electronics Manufacturing Corp. vs. Villarama, Jr., 238 SCRA 267 (1994).
[21] Ibid.
[22] Rollo at 114.
[23] Supra.
[24] Supra.
[25] Id. at 50.
[26] Records at 389–397.