

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**VDA FISH BROKER and/or
VENERANDO ALONZO,**
Petitioner,

-versus-

**G.R. Nos. 76142-43
December 27, 1993**

**NATIONAL LABOR RELATIONS
COMMISSION, RUPERTO BULA and
VIRGILIO SALAC,**
Respondents.

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DECISION

BELLOSILLO, J.:

The ruling of public respondent National Labor Relations Commission (NLRC) that “the resolution of a corollary issue in a case does not constitute res judicata to a subsequent case involving the same question of employer-employee relationship,”^[1] is disputed by the petitioner and the Office of the Solicitor General (OSG).

Petitioner VDA Fish Broker (VDA), a duly licensed fish broker, owned, operated and represented herein by petitioner Venerando D. Alonzo, is in the business of selling fish. It engaged the services of private respondents Ruperto Bula and Virgilio Salac, among others,

as batilyos “to arrange the fish in the bañera (including) emptying or filling the bañera or pulling or dragging the bañeras in or out of the designated area.”^[2]

On 14 May 1982, a complaint for non-payment of service incentive leave pay, emergency cost of living allowance, thirteenth month pay, legal holiday and premium pay for rest day and holiday was filed against VDA, and Venerando and Corazon Alonzo by Samahan ng Nagkakaisang Batilyo-NFL represented by its local president and herein respondent Ruperto Bula. Respondent Virgilio Salac also signed the complaint, subsequently docketed as Case No. NLRC-NCR-5-3832-82.

On 26 May 1983, Labor Arbiter Porfirio E. Villanueva dismissed the case for lack of merit. He ruled that there was no employer-employee relationship between VDA and the batilyos as the latter did their tasks

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“in their own way so that they could earn more, as a matter of fact, a batilyo could earn from P60.00 to P150.00 a day for two to four hours work. They are paid by the results according to the number of bañeras they have completed. Fish brokers have no control and supervision over the batilyos. After completing their job for two or four hours they could abandon the fish brokers and transfer to another fish broker. They don’t observe any regular working hours nor (do) they accomplish any time record.”^[3]

The Labor Arbiter discarded the alleged written agreement of 20 March 1975 between Samahan ng Nagkakaisang Batilyo-NFL and the Fish Brokers Association of the Philippines which recognized the existence of direct employer-employee relationship between fish brokers and batilyos because it did not appear that VDA was a signatory therein. No appeal was taken from this decision.

Claiming that they were terminated from the service by VDA on or about 1 January 1984, Salac and Bula filed separate complaints against VDA and/or Venerando Alonzo for illegal dismissal and for recovery of moral and exemplary damages docketed as Case Nos. NLRC-NCR-1-153-84 and NLRC-NCR-1-169-84.

On 28 August 1984, Labor Arbiter Adelaido F. Martinez dismissed the complaints on the ground that there was no employer-employee relationship between the opposing parties. He took note of the earlier decision in Case No. NLRC-NCR-5-3832-82 but nonetheless made his own finding that Salac and Bula. —

“are independent contractors and they are not, as such, laborers or employees of the respondents (VDA). They undertake to do a piece of work for their own account, under their own responsibility and with minimum interference on the part of the respondents They offer their services to the other fish brokers, dealers, catchers and the general public and are paid only when they render service. They are without any employer.”^[4]

This decision was appealed to the NLRC. On 8 August 1986, the NLRC reversed the decision of the Labor Arbiter, directed VDA and Alonzo to reinstate Salac and Bula to their former positions without loss of seniority rights and privileges, and to pay their back wages from 1 January 1984 until actual reinstatement.

On 17 October 1986, this petition for certiorari, prohibition and mandamus with prayer for the issuance of a restraining order was filed seeking reversal of the decision of the NLRC primarily on the ground that a previous case ruling that no employment relationship existed between the private parties constituted a bar to the present suit. On 27 October 1986, we issued a temporary restraining order enjoining respondents from taking further action on the assailed decision.^[5]

In its comment, the OSG subscribed to the res judicata theory of petitioner. Consequently, the NLRC had to file its own comment sustaining its assailed decision. Private respondents did not submit any comment.

We have several times applied the concept of res judicata to administrative decisions. In *San Luis vs. Court of Appeals*,^[6] through Mme. Justice Irene R. Cortes, we made the following pronouncement:

“It is well-established in our jurisprudence that the decisions and orders of administrative agencies, rendered pursuant to their quasi-judicial authority, have upon their finality, the force and binding effect of a final judgment within the purview of the doctrine of res judicata (Brillantes vs. Castro, 99 Phil. 497 [1956], Ipekdjian Merchandising Co., Inc. vs. Court of Tax Appeals, G.R. No. L-15430, September 30, 1963, 9 SCRA 72.) The rule of res judicata which forbids the reopening of a matter once judicially determined by competent authority applies as well to the judicial and quasi-judicial acts of public, executive or administrative officers and boards acting within their jurisdiction as to the judgments of courts having general judicial powers (Brillantes vs. Castro, supra at 503).

Indeed, the principle of conclusiveness of prior adjudications is not confined in its operation to the judgments of what are ordinarily known as courts, but it extends to all bodies upon whom judicial powers had been conferred. Hence, whenever any board, tribunal or person is by law vested with authority to judicially determine a question such determination, when it has become final, is as conclusive between the same parties litigating for the same cause as though the adjudication had been made by a court of general jurisdiction (Ipekdjian Merchandising Co., Inc., vs. Court of Tax Appeals, supra at 76).”

The NLRC however claims that res judicata cannot be applied here because the causes of action and issues in the two cases are different. For while it is true that the earlier case, Case No. NLRC-NCR-5-3832-82, pertains to non-payment of service incentive leave pay, emergency cost of living allowance, thirteenth month pay, legal holiday and premium pay for rest day and holiday, and the latter case, Case Nos. NLRC-NRC-1-153-84 and NLRC-NCR-1-169-84, is for illegal dismissal and for moral and exemplary damages, nonetheless, we find that the issue of employer-employee relationship is crucial in the determination of the rights of the parties in both cases. Moreover, it is erroneous to suggest that res judicata applies only where there are similar causes of action. In *Nabus vs. Court of Appeals*,^[7] we stated:

“The principle of *res judicata* actually embraces two different concepts: (1) bar by former judgment and (2) conclusiveness of judgment. There is ‘bar by former judgment’ when, between the first case where the judgment was rendered, and the second case where such judgment is invoked, there is identity of parties, subject matter and cause of action. When the three identities are present, the judgment on the merits rendered in the first constitutes as absolute bar to the subsequent action. It is final as to the claim or demand in controversy, including the parties and those in privity with them, not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered for that purpose. But where between the first case wherein judgment is rendered and the second case wherein such judgment is invoked, there is identity of parties, but there is no identity of cause of action, the judgment is conclusive in the second case, only as to those matters actually and directly controverted and determined, and not as to matters merely involved therein. This is what is termed conclusiveness of the judgment (*Viray, etc. vs. Marinas, etc., et al.* 49 SCRA 44 [1973]).”

American jurisprudence on the matter,^[8] although merely persuasive, is even more categorical:

“An administrative determination may also operate by way of collateral estoppel (or *res judicata* in a limited sense) in a subsequent proceeding in regard to the parties to a prior proceeding and as to matters actually and legally determined therein (*Farm Invest. Co. vs. Carpenter*, 9 Wyo 110, 61 p. 258). Where the underlying issue in two proceedings is the same, the adjudication of the issue in the first proceeding is determinative of the same issue in the second (*United States vs. Willard Tablet Co.* [CA 7 Ind.] 141 F2d 141, 152 ALR 1194 [where remedies sought by government in two proceedings were different, the first before the Federal Trade Commission and the second before a court, the identical issue of falsity of labeling was involved in each]. See also *Federal Trade Com. vs. Morton Salt Co.* 334 US 37, 92 L ed 1196, 68 S Ct 822, 1 ALR 2d 260). An issue of fact litigated and determined by an administrative

decision, and essential to the decision, is conclusive between the parties in a subsequent action, even though a different claim is involved (See *People vs. Western Airlines, Inc.* 42 Cal 2d 621, 268 P2d 723, app dismd. 348 US 859, 99 L ed 677, 75 S Ct 87. In an action at law, a party is estopped to deny the truth of a finding which was essential to the administrative determination, and may not offer evidence to show that the determination was not justified as a matter of law *Lumbermen's Mut. Casualty Co. vs. Bissell*, 220 Mich 352, 190 NW 283, 28 ALR 874. As to matters of fact within the scope of the authority of the officers of the Land Department of the United States, their findings must be taken as conclusive in the absence of fraud and mistake, upon the principle of estoppel by former adjudication *Whitehill vs. Victorio Land & Cattle Co.* 18 NM 520, 139 P 184).”

It is undisputed that the factual issue of the existence of employer-employee relationship has been determined with finality in the earlier case of Case No. NLRC-NCR-5-3832-82, hence, that same finding should have been deemed conclusive in Case Nos. NLRC-NCR-1-153-84 and NLRC-NCR-1-169-84. Were we to ignore the principle of res judicata, an absurd situation would arise where the same administrative agency would have diametrically opposed conclusions based on apparently similar circumstances. The effect may even be more farcical in the sense that private respondents are given dual or conditional status, i.e., they are employees for the purpose of reinstatement, but independent contractors for purposes of entitlement to service incentive leave pay, etc.

This is the dilemma the principle of res judicata seeks to avoid. Both private parties have already submitted the question of the existence of employer-employee relationship before the Labor Arbiter in Case No. NLRC-NCR-5-3832-82 which, incidentally, private respondents have allowed to become final by not appealing from it; consequently, they are precluded from disputing the same findings a second time. We thus rule that the administrative finding on the merit of the absence of employer-employee relationship between petitioner and private respondents in Case No. NLRC-NCR-5-3832-82, absent any showing of change in the circumstances of the parties, or that the decision in Case No. NLRC-NCR-5-3832-82 has been reversed or vacated, is

conclusive upon Case Nos. NLRC-NCR-1-153-84 and NLRC-NCR-1-169-84. This being so, Case Nos. NLRC-NCR-1-153-84 and NLRC-NCR-1-169-84 should have been dismissed.

Petitioner also disputes the ruling of the NLRC sustaining private respondents' argument that "since the complainants (herein private respondents) are bona fide members of Samahang Nagkakaisang Batilyos-NFL, certified as the sole and exclusive bargaining representative of the rank-and-file employees in VDA RC3 Fish Broker per Order of 10 August 1982 in Case No. NCR-LRD-M-4-143-82, the issue of their status as employees of respondent (herein petitioner) is rendered moot and academic."^[9] Petitioner argues that no inference of employer-employee relation may be deduced from this alleged circumstance because no such relationship actually existed, and neither was there any order to that effect presented at the hearing.

This is not wholly correct for photocopies of such order were in the records and attached as annexes to two of private respondents' pleadings submitted for the consideration of the Labor Arbiter and the NLRC.^[10] But the determination in Case No. NCR-LRD-M-4-143-82 (for certification election) cannot be considered more conclusive as to the existence of employer-employee relationship than the decision in Case No. NLRC-NCR-5-3832-82 (for money claims).

In the decision of the Labor Arbiter, which was set aside by the assailed NLRC decision, it was stated:

"We note that the Order in Case NCR-LRD-183-82 relied upon by complainants was issued on August 10, 1982, while the Decision in case NLRC-NCR-5-3832-82 relied upon by respondents was promulgated on May 20, 1983. The later pronouncement should prevail, according to which there is no employer-employee relationship between respondents and individual complainants."^[11]

We have checked the records and found correct the finding of the Labor Arbiter that the Order in Case No. NCR-LRD-M-4-143-82 was issued on 10 August 1982, while the Order in Case No. NLRC-NCR-5-3832-82 was promulgated on 20 May 1983. Yet the NLRC, without

showing how or why, casually concluded that Case No. NCR-LRD-M-4-143-82 is “the later case” which “put to rest the latter’s (herein private respondents’) status as employees.”^[12] NLRC justified its disregard of the findings of the Labor Arbiter in Case No. NLRC-NCR-5-3832-82 on the basis that the matter of employer-employee relation was allegedly only a corollary issue therein.

We do not subscribe to this observation considering that the certification order in Case No. NCR-LRD-M-4-143-82 was a poor basis for concluding the existence of employer-employee relation not only because there was no categorical statement thereon but also because there was no finding of facts on which a determination of employment relation could be based.

As regards the decision of the Labor Arbiter to ignore the earlier Order in Case No. NCR-LRD-M-4-143-82, the general rule is that, as between prior conflicting judgments involving the same parties or their privies, the last in point of time is controlling (*Perkins vs. Benguet Consol. Min. Co.* 55 Cal App 2d 720). In such case, it is the later, and not the earlier, judgment that is operative as *res judicata* (*California Bank vs. Traeger*, 215 Cal 346). The rule is where in two successive actions between the same parties inconsistent judgments are rendered, the judgment in the second action is controlling in a third action between the parties.^[13]

While the foregoing may already be sufficient to warrant reversal of the assailed decision and to grant the writ prayed for in the petition, a discussion on the application of the ruling in *RJL Martinez Fishing Corporation vs. NLRC*^[14] is in order to correct any misimpression thereon.

The statement in *RJL Martinez Fishing Corporation vs. NLRC* that “the continuity of employment is not the determining factor, but rather, whether the work of the laborer is part of the regular business or occupation of the employer,”^[15] citing Art. 281 (now 280) of the Labor Code and *Philippine Fishing Boat Officers and Engineers Union vs. CIR*,^[16] does not mean that the essential elements of employer-employee relationship are done away with. The statement simply means that where the elements are present, the existence of employer-employee relationship is not affected by the fact that the

work is seasonal or intermittent or in the meantime suspended. Otherwise, agents and independent contractors, e.g., playing bands in bars, would be comprehended whenever their services are said to be necessary to the business of one who engages or hires them. Moreover, in view of the unreversed finding of the Arbiter that the control requirement was wanting in this case, there is no occasion to apply the ruling in *RJL Martinez Fishing Corporation vs. NLRC*.

There obviously being grave abuse of discretion, the assailed decision of respondent NLRC must be set aside.

WHEREFORE, the petition for issuance of a writ of certiorari is granted and the assailed decision of respondent National Labor Relations Commission of 8 August 1986 is **SET ASIDE**. The decision of Labor Arbiter Adelaido F. Martinez dated 28 August 1984 in Case Nos. NLRC-NCR-1-153-84 and NLRC-NCR-1-169-84 is **REINSTATED** and **AFFIRMED**. The restraining order we issued on 27 October 1986 is made permanent.

SO ORDERED.

Cruz, Davide, Jr. and Bellosillo, JJ., concur.

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- [1] Decision, NLRC Case Nos. NCR-1-153-84 and NCR-1-169-84, 8 August 1986, p. 3; Rollo, p. 22.
- [2] Decision, Case No. NLRC-NCR-5-3832-82, p. 2; Rollo, p. 30.
- [3] Id., p. 6; Id., p. 34.
- [4] Decision, Case Nos. NLRC-NCR-1-153-84 and NLRC-NCR-1-169-84, p. 4, Rollo, p. 27.
- [5] Rollo, pp. 48-50.
- [6] G.R. No. 80160, 26 June 1989; 174 SCRA 258, 271-272.
- [7] G.R. No. 91670, 7 February 1991; 193 SCRA 732, 739-740.
- [8] 2 Am Jur 2d, p. 314.
- [9] Decision, NLRC Case Nos. NCR-1-153-84/NCR-1-169-84, p. 2; Rollo, p. 21.
- [10] It was Annex "A" to Complainants' Answer with Motion to Resolve the Case to Respondents' Manifestation With Motion.
- [11] Rollo, p. 27.
- [12] NLRC Case Nos. NCR-1-153-84 and NCR-1-169-84, p. 3; Rollo, p. 22.
- [13] 46 Am Jur 2d, pp. 637-638, citing American Law Institute Restatement.
- [14] G.R. Nos. 63550-51, 31 January 1984; 127 SCRA 454.
- [15] Id., p. 460.

[16] No. L-30592, 25 February 1982; 112 SCRA 159.

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