

# SEVENTEENTH DIVISION

[ CA-G.R. SP No. 135612, February 06, 2015 ]

## DEL MONTE MOTOR WORKS, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND JAIME GOROSPE LLARENAS, RESPONDENTS.

### DECISION

#### GARCIA, R. R. J.:

Before Us is a Petition for Certiorari<sup>[1]</sup> under Rule 65 of the Rules of Court assailing the Decision<sup>[2]</sup> dated February 28, 2014 of public respondent National Labor Relations Commission (NLRC), Fifth Division, which reversed and set aside the Decision<sup>[3]</sup> dated August 30, 2013 of the Labor Arbiter, and in its stead, ordered petitioner to pay private respondent his retirement pay differential; and the Resolution<sup>[4]</sup> dated April 30, 2014 denying the motion for reconsideration thereof.

#### THE FACTS

The instant petition stemmed from a complaint<sup>[5]</sup> for the recovery of retirement pay differential filed before the Arbitration Branch of the NLRC by herein private respondent Jaime Gorospe Llarenas against petitioner Del Monte Motor Works, Inc. It was alleged therein that private respondent began his employment with petitioner corporation sometime in 1990<sup>[6]</sup> as an upholsterer. He was later on re-assigned to maintenance/janitorial services until his mandatory retirement in January 31, 2013.<sup>[7]</sup>

Private respondent alleged that sometime in the last week of January 2013, petitioner corporation handed to him a check amounting to P130,000.00. When he inquired about the purpose of the check, he was informed that the same represents his retirement pay. Petitioner corporation, however, did not explain to him the breakdown and the details of the computation. He then sought the assistance of a counsel who told him that under the provisions of Republic Act No. 7641, he should have received a total of P256,555.80 computed on the basis of his daily wage of P495.76 multiplied by his twenty-three (23) years in the service. Private respondent sent a demand letter to petitioner corporation for the payment of the remaining P126,555.80 of his retirement pay. Petitioner corporation failed to heed the demand, hence, the filing of the complaint before the Arbitration Branch of the NLRC.<sup>[8]</sup>

In their traverse, petitioner corporation alleged that private respondent was originally employed by Fortunato San Juan, an independent contractor providing upholstery services to petitioner corporation. Private respondent was assigned at petitioner corporation's plant to perform upholstery of the latter's buses and trucks. When Fortunato San Juan ceased his business operations sometime in January 2010, private respondent asked that he be absorbed in the motor pool of petitioner

corporation. Out of compassion, private respondent was hired as a janitor/helper in the plant. After having worked for three (3) years, private respondent reached the age of sixty-five (65) years which is the mandatory retirement age under the law. Due to his old age and health condition, private respondent was given the amount of P130,000.00 as financial assistance which is more than his actual retirement pay. Private respondent later on executed a Quitclaim and Release in favor of petitioner as proof of the peaceful severance of their employment relationship.<sup>[9]</sup>

In a Decision<sup>[10]</sup> dated August 30, 2013, the Labor Arbiter dismissed the complaint ratiocinating that private respondent failed to establish by substantial evidence that he was employed by petitioner corporation since 1990 or for a period of twenty-three (23) years. A party alleging a fact must support his allegation with substantial evidence, failing which, his complaint for the payment of retirement benefits differential must be dismissed. The pertinent portions of the Decision read:

With the respondents' denial of an employer-employee relationship with the complainant prior to 2010, it is incumbent upon the complainant to prove that he was in fact hired by the respondents and was in their employ for 23 years.

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An examination of the pieces of evidence presented by the complainant fails to establish his employment with the respondent prior to 2010. The submitted payslips cover periods in 2011, which employment period was not disputed by the respondents. No payslips or vouchers or any document was submitted which can be the basis for a logical inference that complainant was employed by the respondents for the years prior to 2010.

Accordingly, this Office is constrained to deny the complainant's claims for retirement pay differentials, as the amount of P130,000.00 he had admittedly received vis-à-vis the [established] period of actual employment, is more than that provided under the retirement law.

WHEREFORE, premises considered, judgment is hereby rendered dismissing the complaint for lack of merit.

SO ORDERED.<sup>[11]</sup>

Private respondent appealed before the NLRC which in a Decision<sup>[12]</sup> dated February 28, 2014 reversed and set aside the Decision of the Labor Arbiter. In finding private respondent entitled to his claim for retirement pay differential, the NLRC held that petitioner corporation admitted that private respondent had been assigned to work for them in 1990 by Fortunato San Juan, an independent contractor. Petitioner corporation, however, failed to present any iota of evidence to substantiate its claim that Fortunato San Juan is a legitimate job contractor. Hence, it is presumed that petitioner corporation is the employer of private respondent since 1990. The pertinent portions of the Decision read:

Having admitted that appellant was employed by an independent contractor, DMMWI, while not the contractor itself, bears the burden of

proving that Fortunato San Juan is an independent contractor who employed appellant in order for it to avoid liability. It is thus incumbent upon DMMWI to present sufficient proof that Mr. Fortunato San Juan has substantial capital, investment and tools in order to successfully impute liability to the latter. However, aside from bare allegations, DMMWI failed to present any iota of evidence to substantiate Mr. San Juan's status as a legitimate job contractor. It did not even submit a copy of its contract with Mr. San Juan, if any, for the latter to supply it manpower services. Hence, it can be legally presumed that DMMWI was the employer of appellant all along.

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Hence, appellees did not really extend any "financial assistance" to appellant because the sum of P130,000.00 represents his retirement pay, and nothing else. Their claim of being compassionate therefore has no basis. **The only logical explanation why appellees would give said considerable amount as "retirement pay" to appellant is because he rendered numerous years of service with them.** Otherwise, there is no reason for them to give an employee who according to them was in their employ for only three (3) years (2010-2013) said huge amount.

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**WHEREFORE**, premises considered, the instant appeal is hereby **GRANTED**. The assailed Decision of the Labor Arbiter denying appellant's claim for underpaid retirement benefits is **REVERSED** and **SET ASIDE**. Appellee Del Monte Motor Works, Inc. ("DMMWI") is ordered to pay appellant Jaime G. Llarenas the amount of One Hundred Twenty-Six Thousand Five Hundred Fifty-Five Pesos and 80/100 (P126,555.80) representing his underpaid retirement benefits.

**SO ORDERED.**<sup>[13]</sup>

A Motion for Reconsideration<sup>[14]</sup> was forthwith filed by petitioner corporation but the same was denied in a Resolution<sup>[15]</sup> dated April 30, 2014.

Hence, the instant Petition for Certiorari in which petitioner corporation raised the lone ground for its allowance, to wit:

PUBLIC RESPONDENT NLRC HAS COMMITTED GRAVE ABUSE OF DISCRETION AS WELL AS SERIOUS AND PALPABLE ERROR IN RENDERING/ISSUING THE ASSAILED DECISION AND RESOLUTION.<sup>[16]</sup>

#### **THE ISSUE**

The pivotal issue is whether or not the NLRC committed grave abuse of discretion in ruling that private respondent is entitled to his claim for retirement pay differential.

#### **THE COURT'S RULING**

The petition lacks merit.