681 Phil. 299

THIRD DIVISION

[G.R. No. 160278, February 08, 2012]

GARDEN OF MEMORIES PARK AND LIFE PLAN, INC. AND PAULINA T. REQUIÑO, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, SECOND DIVISION, LABOR ARBITER FELIPE T. GARDUQUE II AND HILARIA CRUZ, RESPONDENTS.

D E C I S I O N

MENDOZA, J.:

This is a petition for review under Rule 45 of the Rules of Court seeking nullification of the June 11, 2003 Decision[1] and October 16, 2003 Resolution[2] of the Court of Appeals (*CA*), in CA-G.R. SP No. 64569, which affirmed the December 29, 2000 Decision[3] of the National Labor Relations Commission (NLRC). The NLRC agreed with the Labor Arbiter (*L.A.*) in finding that petitioner Garden of Memories Memorial Park and Life Plan, Inc. (*Garden of Memories*) was the employer of respondent Hilaria Cruz (*Cruz*), and that Garden of Memories and petitioner Paulina Requiño (*Requiño*), were jointly and severally liable for the money claims of Cruz.

The Facts

Petitioner Garden of Memories is engaged in the business of operating a memorial park situated at Calsadang Bago, Pateros, Metro-Manila and selling memorial Plan and services.

Respondent Cruz, on the other hand, worked at the Garden of Memories Memorial Park as a utility worker from August 1991 until her termination in February 1998.

On March 13, 1998, Cruz filed a complaint[4] for illegal dismissal, underpayment of wages, non-inclusion in the Social Security Services, and non-payment of legal/special holiday, premium pay for rest day, 13th month pay and service incentive leave pay against Garden of Memories before the Department of Labor and Employment (*DOLE*).

Upon motion of Garden of Memories, Requiño was impleaded as respondent on the alleged ground that she was its service contractor and the employer of Cruz.

In her position paper,[5] Cruz averred that she worked as a utility worker of Garden of Memories with a salary of P115.00 per day. As a utility worker, she was in charge, among others, of the cleaning and maintenance of the ground facilities of the memorial park. Sometime in February 1998, she had a misunderstanding with a co-worker named Adoracion Requiño regarding the use of a garden water hose. When the misunderstanding came to the knowledge of Requiño, the latter instructed them to go home and not to return anymore. After three (3) days, Cruz reported for work but she was told that she had been replaced by another worker. She immediately

reported the matter of her replacement to the personnel manager of Garden of Memories and manifested her protest.

Cruz argued that as a regular employee of the Garden of Memories, she could not be terminated without just or valid cause. Also, her dismissal was violative of due process as she was not afforded the opportunity to explain her side before her employment was terminated.

Cruz further claimed that as a result of her illegal dismissal, she suffered sleepless nights, serious anxiety and mental anguish.

In its Answer,[6] Garden of Memories denied liability for the claims of Cruz and asserted that she was not its employee but that of Requiño, its independent service contractor, who maintained the park for a contract price. It insisted that there was no employer-employee relationship between them because she was employed by its service contractor, Victoriana Requiño (*Victoriana*), who was later succeeded by her daughter, Paulina, when she (*Victoriana*) got sick. Garden of Memories claimed that Requiño was a service contractor who carried an independent business and undertook the contract of work on her own account, under her own responsibility and according to her own manner and method, except as to the results thereof.

In her defense, Requiño prayed for the dismissal of the complaint stating that it was Victoriana, her mother, who hired Cruz, and she merely took over the supervision and management of the workers of the memorial park when her mother got ill. She claimed that the ownership of the business was never transferred to her.

Requiño further stated that Cruz was not dismissed from her employment but that she abandoned her work.[7]

On October 27, 1999, the LA ruled that Requiño was not an independent contractor but a labor-only contractor and that her defense that Cruz abandoned her work was negated by the filing of the present case.[8] The LA declared both Garden of Memories and Requiño, jointly and severally, liable for the monetary claims of Cruz, the dispositive portion of the decision reads:

> WHEREFORE, premises considered, respondents Garden of Memories Memorial [P]ark and Life Plan, Inc. and/or Paulina Requiño are hereby ordered to jointly and severally pay within ten (10) days from receipt hereof, the herein complainant Hilaria Cruz, the sums of ?72,072 (P198 x 26 days x 14 months pay), representing her eight (8) months separation pay and six (6) months backwages; P42,138.46, as salary differential; P2,475.00, as service incentive leave pay; and P12,870.00 as 13th month pay, for three (3) years, or a total sum of P129,555.46, plus ten percent attorney's fee.
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> Complainant's other claims including her prayer for damages are hereby denied for lack of concrete evidence.
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> SO ORDERED.[9]

Garden of Memories and Requiño appealed the decision to the NLRC. In its December 29, 2000 Decision, the NLRC affirmed the ruling of the LA, stating that Requiño had no substantial capital or investments in the form of tools, equipment, machineries, and work premises, among others, for her to qualify as an independent contractor. It declared the dismissal of Cruz illegal reasoning out that there could be no abandonment of work on her part since Garden of Memories and Requiño failed to prove that there was a deliberate and unjustified refusal on the part of the employee to go back to work and resume her employment.

Garden of Memories moved for a reconsideration of the NLRC decision but it was denied for lack of merit.[10]

Consequently, Garden of Memories and Requiño filed before the CA a petition for certiorari under Rule 65 of the Rules of Court. In its June 11, 2003 Decision, the CA dismissed the petition and affirmed the NLRC decision. Hence, this petition, where they asserted that:

> **The Public Respondents National Labor Relations Commission and Court of Appeals committed serious error, gravely abused their discretion and acted in excess of jurisdiction when they failed to consider the provisions of Section 6 (d) of Department Order No. 10, Series of 1997, by the Department of Labor and Employment, and then rendered their respective erroneous rulings that:**
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> **I**
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> **PETITIONER PAULINA REQUIÑO IS ENGAGED IN LABOR-ONLY CONTRACTING.**
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> **II**
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> **THERE EXISTS AN EMPLOYER-EMPLOYEE RELATIONSHIP BETWEEN RESPONDENT CRUZ AND PETITIONER GARDEN OF MEMORIES.**
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> **III**
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> **RESPONDENT HILARIA CRUZ DID NOT ABANDON HER WORK.**
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> **IV**
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> **THERE IS [NO] BASIS IN GRANTING THE MONETARY AWARDS IN FAVOR OF THE RESPONDENT CRUZ DESPITE THE ABSENCE OF A CLEAR PRONOUNCEMENT REGARDING THE LEGALITY OR ILLEGALITY OF HER DISMISSAL.**[11]

The petitioners aver that Requiño is the employer of Cruz as she (*Requiño*) is a legitimate independent contractor providing maintenance work in the memorial park

such as sweeping, weeding and watering of the lawns. They insist that there was no employer-employee relationship between Garden of Memories and Cruz. They claim that there was a service contract between Garden of Memories and Requiño for the latter to provide maintenance work for the former and that the "power of control," the most important element in determining the presence of such a relationship was missing. Furthermore, Garden of Memories alleges that it did not participate in the selection or dismissal of Requiño's employees.

As to the issue of dismissal, the petitioners denied the same and insist that Cruz willfully and actually abandoned her work. They argue that Cruz's utterances "*HINDI KO KAILANGAN ANG TRABAHO" and "HINDI KO KAILANGAN MAGTRABAHO AT HINDI KO KAILANGAN MAKI-USAP KAY PAULINA REQUIÑO,"* manifested her belligerence and disinterest in her work and that her unexplained absences later only showed that she had no intention of returning to work.

The Court finds no merit in the petition.

At the outset, it must be stressed that the jurisdiction of this Court in a petition for review on *certiorari* under Rule 45 of the Rules of Court is limited to reviewing errors of law, not of fact. This is in line with the well-entrenched doctrine that the Court is not a trier of facts, and this is strictly adhered to in labor cases.[12] Factual findings of labor officials, who are deemed to have acquired expertise in matters within their respective jurisdictions, are generally accorded not only respect but even finality, and bind the Court when supported by substantial evidence. Particularly when passed upon and upheld by the CA, they are binding and conclusive upon the Court and will not normally be disturbed.[13] This is because it is not the function of this Court to analyze or weigh all over again the evidence already considered in the proceedings below; or reevaluate the credibility of witnesses; or substitute the findings of fact of an administrative tribunal which has expertise in its special field. [14]

In the present case, the LA, the NLRC, and the CA are one in declaring that petitioner Requiño was not a legitimate contractor. Echoing the decision of the LA and the NLRC, the CA reasoned out that Requiño was not a licensed contractor and had no substantial capital or investment in the form of tool, equipment and work premises, among others.

Section 106 of the Labor Code on contracting and subcontracting provides:

> **Article 106. Contractor or subcontractor.** - Whenever, an employer enters into a contract with another person for the performance of the former's work, the employees of the contractor and of the latter's subcontractor shall be paid in accordance with the provisions of this Code.
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> In the event that the contractor or subcontractor fails to pay the wages 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.

> The Secretary of Labor may, by appropriate regulations, restrict or prohibit the contracting out of labor to protect the rights of workers established under this Code. In so prohibiting or restricting, he may make appropriate distinctions between labor-only contracting and job contracting as well as differentiations within these types of contracting and determine who among the parties involved shall be considered the employer for purposes of this Code, to prevent any violation or circumvention of any provision of this Code.
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> There is "labor-only" contracting where the person supplying workers to an employer does not have substantial capital or investment in the form of tools, equipment, machineries, work premises, among others, and the workers recruited and placed by such persons are performing activities which are directly related to the principal business of such employer. In such cases, the person or intermediary shall be considered merely as an agent of the employer who shall be responsible to the workers in the same manner and extent as if the latter were directly employed by him. [Underscoring provided]

In the same vein, Sections 8 and 9, DOLE Department Order No. 10, Series of 1997, state that:

> Sec. 8. *Job contracting*. – There is job contracting permissible under the Code if the following conditions are met:
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> > (1) The contractor carries on an independent business and undertakes the contract work on his own account under his own responsibility according to his own manner and method, free from the control and direction of his employer or principal in all
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> > matters connected with the performance of the work except as to the results thereof; and
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> > (2) The contractor has substantial capital or investment in the form of tools, equipment, machineries, work premises, and other materials which are necessary in the conduct of his business.
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> Sec. 9. *Labor-only contracting.* – (a) Any person who undertakes to supply workers to an employer shall be deemed to be engaged in labor-only contracting where such person:
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> > (1) Does not have substantial capital or investment in the form of tools, equipment, machineries, work premises and other materials; and