670 Phil. 120

FIRST DIVISION

[G.R. No. 161787, July 27, 2011]

MASING AND SONS DEVELOPMENT CORPORATION AND CRISPIN CHAN, PETITIONERS, VS. GREGORIO P. ROGELIO, RESPONDENT.

D E C I S I O N

BERSAMIN, J.:

In any controversy between a laborer and his master, doubts reasonably arising from the evidence are resolved in favor of the laborer.

We re-affirm this principle, as we uphold the decision of the Court of Appeals (CA) that reversed the uniform finding that there existed no employment relationship between the petitioners, as employers, and the respondent, as employee, made by the National Labor Relations Commission (NLRC) and the Labor Arbiter (LA).

Petitioners Masing and Sons Development Corporation (MSDC) and Crispin Chan assail the October 24, 2003 decision, [1] whereby the CA reversed the decision dated January 28, 2000 of the NLRC that affirmed the decision of the LA (dismissing the claim of the respondent for retirement benefits on the ground that he had not been employed by the petitioners but by another employer).

Antecedents

On May 19, 1997, respondent Gregorio P. Rogelio (Rogelio) brought against Chan a complaint for retirement pay pursuant to Republic Act No. 7641, [2] in relation to Article 287 of the *Labor Code*, holiday and rest days premium pay, service incentive leave, 13th month pay, cost of living allowances (COLA), underpayment of wages, and attorney's fees. On January 20, 1998, Rogelio amended his complaint to include MSDC as a co-respondent. His version follows.

Rogelio was first employed in 1949 by Pan Phil. Copra Dealer, MSDC's predecessor, which engaged in the buying and selling of copra in Ibajay, Aklan, with its main office being in Kalibo, Aklan. Masing Chan owned and managed Pan Phil. Copra Dealer, and the Branch Manager in Ibajay was a certain So Na. In 1965, Masing Chan changed the business name of Pan Phil. Copra Dealer to Yao Mun Tek, and appointed Jose Conanan Yap Branch Manager in Ibajay. In the 1970s, the business name of Yao Mun Tek was changed to Aklan Lumber and General Merchandise, and Leon Chan became the Branch Manager in Ibajay. Finally, in 1984, Masing Chan adopted the business name of Masing and Sons Development Corporation (MSDC), appointing Wynne or Wayne Lim (Lim) as the Branch Manager in Ibajay. Crispin Chan replaced his father, Masing Chan, in 1990 as the manager of the entire business.

In all that time, Rogelio worked as a laborer in the Ibajay Branch, along with twelve

other employees. In January 1974, Rogelio was reported for Social Security System (SSS) coverage. After paying contributions to the SSS for more than 10 years, he became entitled to receive retirement benefits from the SSS. Thus, in 1991, he availed himself of the SSS retirement benefits, and in order to facilitate the grant of such benefits, he entered into an internal arrangement with Chan and MSDC to the effect that MSDC would issue a certification of his separation from employment notwithstanding that he would continue working as a laborer in the Ibajay Branch.

The certification reads as follows: [3]

CRISPIN AMIGO CHAN - COPRA DEALER
IBAJAY, AKLAN

August 10, 1991

CERTIFICATION OF SEPARATION FROM EMPLOYMENT

To whom it may concern:

This is to certify that my employee, GREGORIO P. ROGELIO bearing SSS ID No. 07-0495213-7 who was first covered effective January, 1974 up to June 30, 1989 inclusive, is now officially separated from my employ effective the 1st of July, 1989.

Please be guided accordingly.

(SGD.) CRISPIN AMIGO CHAN
Proprietor
SSS ID No. 07-0595800-4

On March 17, 1997, Rogelio was paid his last salary. Lim, then the Ibajay Branch Manager, informed Rogelio that he was deemed retired as of that date. Chan confirmed to Rogelio that he had already reached the compulsory retirement age when he went to the main office in Kalibo to verify his status. Rogelio was then 67 years old.

Considering that Rogelio was supposedly receiving a daily salary of P70.00 until 1997, but did not receive any 13th month pay, service incentive leave, premium pay for holidays and rest days and COLA, and even any retirement benefit from MSDC upon his retirement in March 1997, he commenced his claim for such pay and benefits.

In substantiation, Rogelio submitted the January 19, 1998 affidavits of his co-workers, namely: Domingo Guevarra, [4] Juanito Palomata, [5] and Ambrosio Señeres, [6] whereby they each declared under oath that Rogelio had already been working at the Ibajay Branch by the time that MSDC's predecessor had hired them in the 1950s to work in that branch; and that MSDC and Chan had continuously employed them until their own retirements, that is, Guevarra in 1994, and Palomata

and Señeres in 1997. They thereby corroborated the history of MSDC and the names of the various Branch Managers as narrated by Rogelio, and confirmed that like Rogelio, they did not receive any retirement benefits from Chan and MSDC upon their retirement.

In their defense, MSDC and Chan denied having engaged in copra buying in Ibajay, insisting that they did not ever register in such business in any government agency. They asserted that Lim had not been their agent or employee, because he had been an independent copra buyer. They averred, however, that Rogelio was their former employee, hired on January 3, 1977 and retired on June 30, 1989; [7] and that Rogelio was thereafter employed by Lim starting from July 1, 1989 until the filing of the complaint.

MSDC and Chan submitted the affidavit of Lim, whereby Lim stated that Rogelio was one of his employees from 1989 until the termination of his services. [8] They also submitted SSS Form R-1A, Lim's SSS Report of Employee-Members (showing that Rogelio and Palomata were reported as Lim's employees); [9] Lim's application for registration as copra buyer; [10] Chan's affidavit; [11] and the affidavit of Guevarra [12] and Señeres, [13] whereby said affiants denied having executed or signed the January 19, 1998 affidavits submitted by Rogelio.

In his affidavit, Guevarra recanted the statement attributed to him that he had been employed by Chan and MSDC, and declared that he had been an employee of Lim. Likewise, Guevarra's daughter executed an affidavit, [14] averring that his father had been an employee of Lim and that his father had not signed the affidavit dated January 19, 1998.

On April 5, 1999, the LA dismissed the complaint against Chan and MSDC, ruling thus:

> From said evidence, it is our considered view that there exists no employer-employee relationship between the parties effective July 1, 1989 up to the date of the filing of the instant complaint complainant was an employee of Wynne O. Lim. Hence, his claim for retirement should have been filed against the latter for he admitted that he was the employer of herein complainant in his sworn statement dated June 9, 1998.
>
> Complainant's claim for retirement benefits against herein respondents under RA No. 7641 has been barred by prescription considering the fact that it partakes of the nature of a money claim which prescribed after the lapse of three years after its accrual.
>
> The rest of the claims are also dismissed for the same accrued during complainant's employment with Wynne O. Lim.
>
> WHEREFORE, PREMISES CONSIDERED, this case is hereby DISMISSED for lack of merit.
>
> SO ORDERED. [15]

Rogelio appealed, but the NLRC affirmed the decision of the LA on January 28, 2000, observing that there could be no double retirement in the private sector; that with the double retirement, Rogelio would be thereby enriching himself at the expense of the Government; and that having retired in 1991, Rogelio could not avail himself of the benefits under Republic Act No. 7641 entitled *An Act Amending Article 287 of Presidential Decree No. 442, As Amended, Otherwise Known as The Labor Code Of The Philippines, By Providing for Retirement Pay to Qualified Private Sector Employees in the Absence Of Any Retirement Plan in the Establishment*, which took effect only on January 7, 1993. [16]

The NLRC denied Rogelio's motion for reconsideration.

Ruling of the CA

Rogelio commenced a special civil action for *certiorari* in the CA, charging the NLRC with grave abuse of discretion in denying to him the benefits under Republic Act No. 7641, and in rejecting his money claims on the ground of prescription.

On October 24, 2003, the CA promulgated its decision, [17] holding that Rogelio had substantially established that he had been an employee of Chan and MSDC, and that the benefits under Republic Act No. 7641 were apart from the retirement benefits that a qualified employee could claim under the Social Security Law, conformably with the ruling in *Oro Enterprises, Inc. v. NLRC* (G.R. No. 110861, November 14, 1994, 238 SCRA 105).

The CA decreed:

> WHEREFORE, premises considered, the Decision of the public respondent NLRC is hereby VACATED and SET ASIDE. This case is remanded to the Labor Arbiter for the proper computation of the retirement benefits of the petitioner based on Article 287 of the Labor Code, as amended, to be pegged at the minimum wage prevailing in Ibajay, Aklan as of March 17, 1997, and attorney's fees based on the same. Without costs.
>
> SO ORDERED.

Chan and MSDC's motion for reconsideration was denied by the CA.

Issues

In this appeal, Chan and MSDC contend that the CA erred: (*a*) in taking cognizance of Rogelio's petition for *certiorari* despite the decision of the NLRC having become final and executory almost two months before the petition was filed; (*b*) in concluding that Rogelio had remained their employee from July 6, 1989 up to March 17, 1997; and (*c*) in awarding retirement benefits and attorney's fees to Rogelio.

Ruling

The petition for review is barren of merit.

I
Certiorari was timely commenced in the CA

Anent the first error, the Court finds that the CA did not err in taking cognizance of the petition for *certiorari* of Rogelio.

Based on the records, Rogelio received the NLRC's denial of his motion for reconsideration on January 16, 2003. He then had 60 days from January 16, 2003, or until March 17, 2003, within which to file his petition for *certiorari*. It is without doubt, therefore, that his filing was timely considering that the CA received his petition for *certiorari* at 2:44 o'clock in the afternoon of March 17, 2003.

The petitioners' insistence, that the issuance of the entry of judgment with respect to the NLRC's decision precluded Rogelio from filing a petition for *certiorari*, was unwarranted. It ought to be without debate that the finality of the NLRC's decision was of no consequence in the consideration of whether or not he could bring a special civil action for *certiorari* within the period of 60 days for doing so under Section 4, Rule 65, *Rules of Court*, simply because the question being thereby raised was jurisdictional.

II
Respondent remained the petitioners' employee despite his supposed separation

Did Rogelio remain the employee of the petitioners from July 6, 1989 up to March 17, 1997?

The issue of whether or not an employer-employee relationship existed between the petitioners and the respondent in that period was essentially a question of fact.[18] In dealing with such question, substantial evidence - that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion[19] - is sufficient. Although no particular form of evidence is required to prove the existence of the relationship, and any competent and relevant evidence to prove the relationship may be admitted,[20] a finding that the relationship exists must nonetheless rest on substantial evidence.

Generally, the Court does not review errors that raise factual questions, primarily because the Court is not a trier of facts. However, where, like now, there is a conflict between the factual findings of the Labor Arbiter and the NLRC, on the one hand, and those of the CA, on the other hand,[21] it is proper, in the exercise of our equity jurisdiction, to review and re-evaluate the factual issues and to look into the records of the case and re-examine the questioned findings.

The CA delved on and resolved the issue of the existence of an employer-employee relationship between the petitioners and the respondent thusly:

> As to the factual issue, the petitioner's evidence consists of his own statements and those of his alleged co-worker from 1950 until 1997, Juanito Palomata, who unlike his former co-workers Domingo Guevarra