

FIRST DIVISION

[G.R. No. 161366, June 16, 2009]

SYCIP, GORRES, VELAYO & COMPANY, PETITIONER, VS. CAROL DE RAEDT, RESPONDENT.

DECISION

CARPIO, J.:

The Case

Before the Court is a petition for review^[1] challenging the 7 October 2003 Decision^[2] and 17 December 2003 Resolution^[3] of the Court of Appeals in CA-G.R. SP No. 59916. The Court of Appeals reversed the 16 February 2000 Decision^[4] of the National Labor Relations Commission and partially reinstated the 14 July 1999 Decision^[5] of Labor Arbiter Monroe C. Tabingan holding that respondent Carol De Raedt (De Raedt) was illegally dismissed by petitioner Sycip, Gorres, Velayo & Company (SGV).

The Facts

Sometime in June 1989, the Philippine Government and the Commission for European Communities (Commission) entered into a Financing Memorandum whereby the Commission undertook to provide financial and technical assistance for the implementation of rural micro projects in five provinces of the Cordillera area in Northern Luzon. Consequently, the Central Cordillera Agricultural Programme (CECAP) project was launched to be implemented by the Department of Agriculture (DA).

On 22 May 1989, the DA contracted Travers Morgan International Ltd. (TMI) to provide the required technical assistance services for CECAP.

On 1 July 1989, TMI and SGV entered into a Sub-Consultancy Agreement for the latter to undertake part of the technical assistance services requirements of the CECAP. SGV would provide for the Technical Assistance Services. Hence, SGV proposed qualified consultants as defined by the Terms of Reference.

The acceptance and appointment of the proposed consultants to the project were subject to the unanimous approval of the TMI, the DA and the Commission. For the position of Sociologist, SGV proposed Felino Lorente (Lorente). However, Thomas Gimenez (Gimenez) of the DA disputed the qualifications of Lorente and recommended instead De Raedt.

Martin Tull (Tull) of TMI replied to Gimenez that TMI would consider De Raedt for the sociologist position. Thus, Gimenez volunteered to call De Raedt to advise her of a possible assignment to the CECAP.

Eventually, the DA advised SGV that De Raedt's nomination, among others, had been approved by the Commission and the DA and that she was expected to start her assignment on 3 July 1989.

On 6 July 1989, De Raedt wrote SGV expressing her conformity to the consultancy contract, thus she was advised to sign the same. De Raedt signed the contract on 14 July 1989 but her start-up date with the CECAP was moved to 15 August 1989 with the approval of the DA because she was in Thailand to finish an assignment.

While the CECAP was in progress, TMI received verbal and written complaints from the project staff regarding De Raedt's performance and working relations with them.

An investigation was then conducted by the TMI on the above complaints. Thereafter, the TMI confirmed that De Raedt's retention would be counter-productive to the progress of the project because a number of project staff found it difficult to work with her. Thus, the TMI directed SGV to withdraw De Raedt from the CECAP.

In compliance with TMI's instructions, SGV facilitated De Raedt's withdrawal from the CECAP.

De Raedt filed a case against SGV for illegal dismissal and damages before the Arbitration Branch of the NLRC.

The Labor Arbiter rendered a decision in favor of De Raedt.

SGV appealed the decision of the Labor Arbiter to the NLRC, which rendered judgment in favor of SGV.

De Raedt filed a petition for certiorari with the Court of Appeals, which reversed the NLRC in a Decision promulgated on 7 October 2003.

SGV filed a motion for reconsideration, which was denied by the Court of Appeals in its Resolution dated 17 December 2003.

Hence, this petition.

The Ruling of the Labor Arbiter

The Labor Arbiter found De Raedt as an employee of SGV. How she conducted herself and how she carried out the project were dependent on and prescribed by SGV and TMI, respectively. The Labor Arbiter further ruled that SGV is considered as the employer of De Raedt since it acted indirectly in the interest of TMI, the entity directly in-charge of the CECAP project for which De Raedt was hired. Moreover, the Labor Arbiter found SGV as the entity which is the source of De Raedt's income and other benefits.

The Labor Arbiter found no sufficient valid ground to terminate De Raedt's services although procedural due process was observed. The dispositive portion of the 14 July 1999 Decision of the Labor Arbiter reads:

WHEREFORE, judgment is hereby rendered declaring complainant to have been illegally dismissed by respondent. Consequently, respondent Sycip, Gorres & Velayo and Co. is hereby ordered to pay complainant the following:

- a) Unpaid salaries corresponding to the unexpired portion of the contract in the amount of Eight Hundred Two Thousand (P802,000.00) Pesos;
- b) Moral damages in the amount of Two Hundred Fifty Thousand (P250,000.00) Pesos;
- c) Exemplary damages in the amount of One Hundred Thousand (P100,000.00) Pesos;
- d) 10% of the total award as attorney's fees amounting to One Hundred Fifteen Thousand Two Hundred Pesos (P115,200.00).

The computations of which are hereto attached as Annex "A" and made an integral part hereof.

SO ORDERED. ^[6]

The Ruling of the NLRC

The NLRC reversed the ruling of the Labor Arbiter and found that there was no employer-employee relationship between SGV and De Raedt.

The NLRC agreed with the Labor Arbiter's finding that SGV had no discretion in the selection of De Raedt for the position of Sociologist in the CECAP. The selection was made by the TMI, upon recommendation of Gimenez of the DA, to be approved by the DA and the Commission. The engagement of De Raedt was coursed through SGV.

The payment of De Raedt's service fee was done through SGV but the funds came from the TMI as shown by SGV's billings to TMI for De Raedt's professional fee.

As regards the power of dismissal, SGV merely implemented TMI's instructions to withdraw De Raedt from the CECAP.

The NLRC found that SGV did not exercise control over De Raedt's work. The Sub-Consultancy Agreement between TMI and SGV clearly required De Raedt to work closely with and under the direction and supervision of both the Team leader and the Project Coordinator.

Hence, SGV's participation is to merely monitor her attendance, through time records, for the payment of her retainer fee and to validate the time she expended in the project with her written reports.

The following circumstances also indicated that no employment relationship existed between the parties: (1) De Raedt was engaged on a contract basis; (2) the letter-agreement between the parties clearly states that there is no employer-employee relationship between the parties and that De Raedt was at all times to be considered

an independent contractor; and (3) De Raedt was allowed to engage in other employment during all the time she was connected with the project.

The dispositive portion of the 16 February 2000 Decision of the NLRC reads:

WHEREFORE, premises considered, the assailed decision of the Labor Arbiter is REVERSED and SET ASIDE and the complaint is DISMISSED for lack of jurisdiction.

SO ORDERED.^[7]

The Ruling of the Court of Appeals

The Court of Appeals reversed the ruling of the NLRC and reinstated the decision of the Labor Arbiter insofar as the latter found De Raedt as an employee of SGV.

The Court of Appeals found that based on the letter-agreement between the parties, SGV engaged De Raedt for the project on a contract basis for 40 months over a period of five years during which she was to work full time. She could not engage in any other employment. In fact, she had to resign from her teaching job at the University of the Philippines. She could not leave her place of assignment without SGV's consent. She must maintain an accurate record of the time she spent on the job, and prepare reports which may be required by her team leader and SGV. Whether actual supervision of her work had turned out to be minimal or not, SGV reserved the right to exercise it at any time. Further, SGV asserted its right to terminate her services.^[8]

The Court of Appeals found that De Raedt was removed from the project because of personality differences, which is not one of the grounds for a valid dismissal of an employee.^[9]

The dispositive portion of the 7 October 2003 Decision of the Court of Appeals reads:

IN VIEW OF THE FOREGOING, the assailed decision of the NLRC dated February 16, 2000 is REVERSED, and a new one ENTERED partially REINSTATING the Decision of Labor Arbiter Monroe Tabing[a]n on July 14, 1999, by affirming paragraph (a) thereof, deleting paragraph (b) and (c), and reducing the award of attorney's fees in paragraph (d) to 5% of the principal award.

SO ORDERED.^[10]

The Issue

The issue in this case is whether De Raedt was an employee of SGV. If so, whether De Raedt was illegally dismissed by SGV.

The Ruling of the Court

The petition is meritorious.