486 Phil. 170

SECOND DIVISION

[G.R. No. 145855, November 24, 2004]

PEPSI-COLA PRODUCTS PHILIPPINES, INC., PETITIONER, VS. THE COURT OF APPEALS, AND PEPSI-COLA PRODUCTS PHILIPPINES, INC. EMPLOYEES & WORKERS UNION (UOEF NO. 70) REPRESENTED BY ITS INCUMBENT PRESIDENT, ISIDRO REALISTA, RESPONDENTS.

DECISION

CALLEJO, SR., J.:

Before us is a petition for review on certiorari of the Decision[1] of the Court of Appeals (CA) in CA-G.R SP No. 50690, setting aside the decision of the National Labor Relations Commission (NLRC) in NLRC RABX Case No. RO-7-0234-86 and the reinstatement of the decision of the Executive Labor Arbiter in the said case.

The facts, as culled from the records of the case, are as follows:

Pepsi-Cola Products Philippines, Inc. Employees and Workers Union (PCEWU) is a duly- registered labor union of the employees of the Pepsi-Cola Distributors of the Philippines (PCDP).[2] On July 14, 1986, PCEWU, through its local union president, Arisedes T. Bombeo, filed a Complaint against PCDP with the Regional Arbitration Branch No. X of the Department of Labor and Employment (DOLE), Cagayan de Oro City, for payment of overtime services rendered by fifty-three (53) of its members, who were employed as salesmen, warehousemen, truck helpers, route salesmen, route sales workers, distributors, conductors and forklift operators, on the eight (8) days duly- designated as Muslim holidays for calendar year 1985, in their respective places of assignment, namely: Iligan City, Tubod, Lanao del Norte and Dipolog City.[3] The complaint was docketed as NLRC RABX Case No. RO-7-0234-86.

The PCEWU alleged, *inter alia*, that in previous years, they had been paid overtime pay for services rendered during the eight (8) Muslim holidays in their places of assignment, including Dipolog City. To support its claims, the PCEWU appended to its position paper the following: a photocopy of the applicable provisions of Presidential Decree (P.D.) No. 1083; a certification dated March 26, 1986 from the Regional Autonomous Government of Region 12-A, Marawi City, attesting to the eight (8) Muslim holidays observed in the said region in calendar year 1985; and the individual computation of the overtime claim of each of the workers concerned.[4]

In its position paper, the PCDP maintained that there were only five (5) legal Muslim holidays under the Muslim Code. It asserted that under the law, the cities of Cagayan de Oro and Dipolog were not included in the areas that officially observed the Muslim holidays, and that the said holidays were only applicable to Muslims. It also argued that even assuming that the employees were entitled to such overtime pay, only the rank-and-file employees and not the managerial employees should be

given such benefit.

On May 26, 1987, the Executive Labor Arbiter (ELA)[5] rendered a Decision in favor of PCEWU, ordering PCDP to pay the claims of its workers. The decretal portion of the decision reads:

> WHEREFORE, finding merit in complainant's claim, the respondent is hereby ordered to pay the complaining workers their claims for overtime services rendered in calendar year 1985 on duly-designated Muslim holidays corresponding to the following dates: May 20, 1985; June 17, 1985; June 19, 1985; August 26, 1985; September 4, 1985; September 24, 1985; November 25, 1985 and December 19, 1985, for workers involved with places of assignments at Iligan City and Tubod, Lanao del Norte and June 17, 1985; June 19, 1985; August 26, 1985; September 24, 1985 and November 25, 1985, for workers involved in the instant case whose place of assignment is at Dipolog City. Thus:

Ponciano Waslo	P 649.20
Valentin Estaño	P 1,003.68
Sergio Estrosas	P 711.52
Exequiel Cañeda	P 1,091.68
Guindelino Labial	P 649.20
Domingo Moreno	P 728.56
Eufemio Amora	P 1,001.44
Salvador Nisnisan	P 1,028.40
Leonides Lesonada	P 711.52
Zosimo Clemen	P 711.52
David Gotengco	P 1,017.52
Toriano Cabelbel	P 504.24
Arsenio Calumpang	P 711.52
Jose Sales, Jr.	P 711.52
Prudencio Labra	P 1,584.00
Romulo Dalagan	P 498.00
Rodrigo dela Cerna	P 498.00
Apolinario Oreniano	P 649.20
Pablo Cabanos	P 504.24
Felicisimo Dadofalsa	P 497.20
Simplecio Torres	P 1,071.52
Hadji Nur Usman	P 1,065.04
Lumna Salic	P 697.20
Cornelio Llanos	P 1,078.80
Godofredo Anana	P 504.24
Conrado Salon	P 504.24
Evaristo Tuante	P 1,164.83
Roque Clomas	P 711.45
Tomas Fillo	P 711.45
Bernaflor Macayan	P 1,091.68
Gregorio Moreno	P 711.52
Cornelio Iway	P 1,091.68
Salvador Anggot	P 504.24
Felix Lagat	P 711.52
Rogelio Mangubat	P 504.24
Avelino Jabonillo	P 504.52

Alberto Ordona	P 801.28
Dominador Ponce	P 1,028.88
Robinson Berhay	P 635.95
Juanito Cabale	P 405.75
Reynaldo Fulgarinas	P 444.70
Emelito Pineda	P 435.75
Antonio Andante	P 315.15
Dionesio Coyoca	P 315.15
Alberto Macapanas	P 315.15
Nestor Murro	P 315.15
Alfredo Nisnisan	P 315.15
Joseph Putian	P 315.15
Manuel Quirante	P 627.30
Antonio Torres Pelare	P 649.00

> Further respondent is hereby ordered to pay Complainant an amount equivalent to ten (10) percent of the aggregate award as attorney's fee.
>
> SO ORDERED.[6]

The ELA ruled that, although P.D. No. 1083 does not specifically mention Dipolog City as one of the places where Muslim holidays are observed, it is nevertheless a part of Zamboanga del Norte and the autonomous region in Mindanao where such Muslim holidays are observed. He also ruled that while there were only five (5) Muslim holidays under P.D. No. 1083, and the Regional Legislative Assembly for Region 12 had passed legislation providing for three (3) more Muslim holidays per the Manifestation of the employees, the latter failed to prove that a similar legislation had been approved by the Regional Legislative Assembly for Region 9. The ELA concluded that those employees assigned in Region 12 were entitled to overtime pay for eight (8) Muslim holidays, but those assigned in Region 9 were not so entitled.

The respondent appealed the decision to the NLRC where it reiterated its contention that, P.D. No. 1083 (Code of Muslim Personal Laws of the Philippines,) enumerates only five (5) legal Muslim holidays. It assailed the finding of the ELA that there were three (3) additional Muslim legal holidays in Region 12 based on the certification made by the Chief of the Administrative Division of the Office of Muslim Affairs, considering that the actual existence of any proclamation issued in relation thereto was not even verified. It argued that only Muslims were covered by the legal Muslim holidays' benefits, and not all persons found in the places enumerated in P.D. No. 1083. The respondent averred that since the employees failed to specify whether they were Muslims or non-Muslims, they were not entitled to the overtime pay awarded by the ELA. It further claimed that Dipolog City is a distinct political subdivision from the province of Zamboanga del Norte, and is not one of those areas enumerated under P.D. No. 1083.[7]

On March 21, 1991, the NLRC rendered judgment[8] affirming the decision of the ELA with modification:

> WHEREFORE, the decision appealed from is Modified consistent with the foregoing resolution. For purposes of recomputing the money claims of

> complainants, the Labor Arbiter is directed to conduct further proceedings affording both parties reasonable opportunity to be heard. The monetary award, as decreed in the decision of May 31, 1987, is hereby Vacated. No findings as to costs.
>
> SO ORDERED.[9]

The NLRC ruled that, since the respondent had been giving overtime pay during Muslim holidays to its employees, such proclamation had ripened into a company policy; hence, the respondent is estopped from denying the claims for overtime services rendered by its rank-and-file employees during the said Muslim holidays.[10] The NLRC also declared that the other three (3) holidays considered by the ELA, aside from the five (5) Muslim holidays provided under P.D. No. 1083, were not customarily observed by Filipino Muslims. As such, these should not be included in the computation of overtime pay. It also ruled that since the complainants failed to present their daily time records, there can be no basis for the computation and determination for the claims of overtime pay. There was thus a need to present appropriate company records to determine the proper computation of the claims for overtime pay during the post arbitration stage.[11]

The NLRC also held that the managerial employees were not entitled to receive overtime pay because they were paid on a monthly basis. Furthermore, such overtime pay did not appear to be included in their monthly salaries, and that they were allowed "day-off" privileges or to offset any absences they may have incurred in case they had already exhausted their respective vacation or sick leave credits. The NLRC also declared that the matter of whether the complainants were managerial employees or not should be threshed out during the post arbitration proceedings.[12]

The PCDP filed its motion for partial reconsideration of the NLRC decision. The employees also filed a motion for reconsideration of the decision on April 17, 1991. Pending resolution of the said motions, ownership of various Pepsi-Cola bottling plants was transferred to petitioner Pepsi-Cola Products Philippines, Inc. (PCPPI). The NLRC directed the parties to file their respective pleadings concerning the respondent's existence as a corporate entity. The PCDP alleged that it had ceased to exist as a corporation on July 24, 1989 and that it has winded up its corporate affairs in accordance with law. It also averred that it was now owned by PCPPI.[13]

On February 11, 1992, the NLRC issued a Resolution[14] dismissing the complaint of the PCEWU for the reason that, with the cessation and dissolution of the corporate existence of the PCDP, rendering any judgment against it is incapable of execution and satisfaction:

> WHEREFORE, premises considered, judgment is hereby rendered dismissing the above-entitled case on account of a lawful supervening event, that is the dissolution and cessation of the corporate and juridical personality of respondent company thereby rendering any judgment against it incapable of execution and satisfaction. This is without prejudice to the rights of complainants from pursuing their money claims with the proper forum. This order supersedes the previous orders of this Commission in so far as the enforcement of the money claims of

complainants are concerned with this labor tribunal. No findings as to costs.

SO ORDERED.[15]

The NLRC ruled that it was not competent for it to proceed against the PCDP because it had ceased to exist as a juridical entity. Thus, it no longer resolved the respondent's motion for partial reconsideration, as well as the motion for reconsideration of the employees.

The PCEWU filed a motion for reconsideration of the February 11, 1992 Resolution of the NLRC, but the latter issued a Resolution on June 4, 1992[16] denying the said motion for lack of merit.

The petitioner filed a petition for the nullification of the February 11, 1992 Resolution of the NLRC. In a Resolution dated November 23, 1998, the Court referred the case to the Court of Appeals (CA) for proper disposition.[17] In its petition, the petitioner raised the following issues:

1. WHETHER OR NOT PEPSI-COLA PRODUCTS PHILIPPINES, INC., AS SUCCESSOR-IN-INTEREST OF THE DISSOLVED PEPSI-COLA DISTRIBUTORS OF THE PHILIPPINES, [IS] LIABLE OVER [THE] UNPAID OBLIGATION OF THE DISSOLVED CORPORATION TOWARDS ITS EMPLOYEES;

2. WHETHER OR NOT A DISSOLVED CORPORATION IS EXEMPT FROM THE PAYMENT OF ITS OBLIGATION;

3. WHETHER OR NOT THE NLRC HAS JURISDICTION OVER PEPSI-COLA DISTRIBUTORS OF THE PHILIPPINES.[18]

For its part, the respondent averred that notwithstanding the dissolution of the PCDP while the complaint was pending resolution by the NLRC, the latter continued existing as a corporation for a period of three years from the time when it would have been dissolved, conformably to Section 122 of the Corporation Code. It prayed that judgment be rendered in its favor, thus:

WHEREFORE, premises considered, petitioner prays that this Honorable Court issue judgment:

1. Declaring the National Labor Relations Commission to have committed grave abuse of discretion in rendering the assailed resolutions.

2. Reversing the decision of the NLRC in the above-entitled case.

3. Reinstating the decision of the executive labor arbiter on May 4, 1987, ordering respondent to pay the complaining workers their claims for overtime services.

4. Granting petitioner such other reliefs and remedies equitable under the circumstances.[19]