

FIRST DIVISION

[G.R. No. 144767, March 21, 2002]

DILY DANY NACPIL, PETITIONER, VS. INTERNATIONAL BROADCASTING CORPORATION, RESPONDENT.

D E C I S I O N

KAPUNAN, J.:

This is a petition for review on certiorari under Rule 45, assailing the Decision of the Court of Appeals dated November 23, 1999 in CA-G.R. SP No. 52755^[1] and the Resolution dated August 31, 2000 denying petitioner Dily Dany Nacpil's motion for reconsideration. The Court of Appeals reversed the decisions promulgated by the Labor Arbiter and the National Labor Relations Commission (NLRC), which consistently ruled in favor of petitioner.

Petitioner states that he was Assistant General Manager for Finance/Administration and Comptroller of private respondent Intercontinental Broadcasting Corporation (IBC) from 1996 until April 1997. According to petitioner, when Emiliano Templo was appointed to replace IBC President Tomas Gomez III sometime in March 1997, the former told the Board of Directors that as soon as he assumes the IBC presidency, he would terminate the services of petitioner. Apparently, Templo blamed petitioner, along with a certain Mr. Basilio and Mr. Gomez, for the prior mismanagement of IBC. Upon his assumption of the IBC presidency, Templo allegedly harassed, insulted, humiliated and pressured petitioner into resigning until the latter was forced to retire. However, Templo refused to pay him his retirement benefits, allegedly because he had not yet secured the clearances from the Presidential Commission on Good Government and the Commission on Audit. Furthermore, Templo allegedly refused to recognize petitioner's employment, claiming that petitioner was not the Assistant General Manager/Comptroller of IBC but merely usurped the powers of the Comptroller. Hence, in 1997, petitioner filed with the Labor Arbiter a complaint for illegal dismissal and non-payment of benefits.

Instead of filing its position paper, IBC filed a motion to dismiss alleging that the Labor Arbiter had no jurisdiction over the case. IBC contended that petitioner was a corporate officer who was duly elected by the Board of Directors of IBC; hence, the case qualifies as an intra-corporate dispute falling within the jurisdiction of the Securities and Exchange Commission (SEC). However, the motion was denied by the Labor Arbiter in an Order dated April 22, 1998.^[2]

On August 21, 1998, the Labor Arbiter rendered a Decision stating that petitioner had been illegally dismissed. The dispositive portion thereof reads:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered in favor of the complainant and against all the respondents, jointly and severally, ordering the latter:

1. To reinstate complainant to his former position without diminution of salary or loss of seniority rights, and with full backwages computed from the time of his illegal dismissal on May 16, 1997 up to the time of his actual reinstatement which is tentatively computed as of the date of this decision on August 21, 1998 in the amount of P1,231,750.00 (i.e., P75,000.00 a month x 15.16 months = P1,137,000.00 plus 13th month pay equivalent to 1/12 of P 1,137,000.00 = P94,750.00 or the total amount of P 1,231,750.00). Should complainant be not reinstated within ten (10) days from receipt of this decision, he shall be entitled to additional backwages until actually reinstated.

2. Likewise, to pay complainant the following:

- a) P 2 Million as and for moral damages;
- b) P500,000.00 as and for exemplary damages; plus and (sic)
- c) Ten (10%) percent thereof as and for attorney's fees.

SO ORDERED.^[3]

IBC appealed to the NLRC, but the same was dismissed in a Resolution dated March 2, 1999, for its failure to file the required appeal bond in accordance with Article 223 of the Labor Code.^[4] IBC then filed a motion for reconsideration that was likewise denied in a Resolution dated April 26, 1999.^[5]

IBC then filed with the Court of Appeals a petition for certiorari under Rule 65, which petition was granted by the appellate court in its Decision dated November 23, 1999. The dispositive portion of said decision states:

WHEREFORE, premises considered, the petition for Certiorari is GRANTED. The assailed decisions of the Labor Arbiter and the NLRC are REVERSED and SET ASIDE and the complaint is DISMISSED without prejudice.

SO ORDERED.^[6]

Petitioner then filed a motion for reconsideration, which was denied by the appellate court in a Resolution dated August 31, 2000.

Hence, this petition.

Petitioner Nacpil submits that:

I.

THE COURT OF APPEALS ERRED IN FINDING THAT PETITIONER WAS APPOINTED BY RESPONDENT'S BOARD OF DIRECTORS AS COMPTROLLER. THIS FINDING IS CONTRARY TO THE COMMON, CONSISTENT POSITION AND ADMISSION OF BOTH PARTIES. FURTHER, RESPONDENT'S BY-LAWS DOES NOT INCLUDE COMPTROLLER AS ONE OF ITS CORPORATE OFFICERS.

II.

THE COURT OF APPEALS WENT BEYOND THE ISSUE OF THE CASE WHEN IT SUBSTITUTED THE NATIONAL LABOR RELATIONS COMMISSION'S DECISION TO APPLY THE APPEAL BOND REQUIREMENT STRICTLY IN THE INSTANT CASE. THE ONLY ISSUE FOR ITS DETERMINATION IS WHETHER NLRC COMMITTED GRAVE ABUSE OF DISCRETION IN DOING THE SAME.

[7]

The issue to be resolved is whether the Labor Arbiter had jurisdiction over the case for illegal dismissal and non-payment of benefits filed by petitioner. The Court finds that the Labor Arbiter had no jurisdiction over the same.

Under Presidential Decree No. 902-A (the Revised Securities Act), the law in force when the complaint for illegal dismissal was instituted by petitioner in 1997, the following cases fall under the exclusive of the SEC:

a) Devices or schemes employed by or any acts of the board of directors, business associates, its officers or partners, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or of the stockholders, partners, members of associations or organizations registered with the Commission;

b) Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the State insofar as it concerns their individual franchise or right to exist as such entity;

c) Controversies in the election or appointment of directors, trustees, officers, or managers of such corporations, partnerships or associations;

d) Petitions of corporations, partnerships, or associations to be declared in the state of suspension of payments in cases where the corporation, partnership or association possesses property to cover all of its debts but foresees the impossibility of meeting them when they respectively fall due or in cases where the corporation, partnership or association has no sufficient assets to cover its liabilities, but is under the Management Committee created pursuant to this decree. (Emphasis supplied.)

The Court has consistently held that there are two elements to be considered in determining whether the SEC has jurisdiction over the controversy, to wit: (1) the status or relationship of the parties; and (2) the nature of the question that is the subject of their controversy.^[8]

Petitioner argues that he is not a corporate officer of the IBC but an employee thereof since he had not been elected nor appointed as Comptroller and Assistant Manager by the IBC's Board of Directors. He points out that he had actually been