

THIRD DIVISION

[G.R. No. 86963, August 06, 1999]

**BATONG BUHAY GOLD MINES, INC., PETITIONER, VS.
HONORABLE DIONISIO DELA SERNA IN HIS CAPACITY AS THE
UNDERSECRETARY OF THE DEPARTMENT OF LABOR AND
EMPLOYMENT, ELSIE ROSALINDA TY, ANTONIO MENDELEBAR,
MA. CONCEPCION Q. REYES, AND THE OTHER COMPLAINANTS*
IN CASE NO. NCR-LS-ED-CI-2047-87; MFT CORPORATION AND
SALTER HOLDINGS PTY. LTD., RESPONDENTS.**

R E S O L U T I O N

PURISIMA, J.:

At bar is a Petition for *Certiorari* under Rule 65 of the Revised Rules of Court with a Prayer for Preliminary Injunction and or Restraining Order brought by Batong Buhay Gold Mines, Inc. (*BBGMI for brevity*) to annul three orders issued by respondent Undersecretary Dionisio dela Serna of the Department of Labor and Employment, dated September 16, 1988, December 14, 1988 and February 13, 1989, respectively.

The Order of September 16, 1988 stated the facts as follows:

"xxx on 5 February 1987, Elsie Rosalinda B. Ty, Antonia L. Mendelebar, Ma. Concepcion O. Reyes and 1,247 others filed a complaint against Batong Buhay Gold Mines, Inc. for: (1) Non-payment of their basic pay and allowances for the period of 6 July 1983 to 5 July 1984, inclusive, under Wage Order No. 2; (2) Non-payment of their basic pay and allowances for the period 16 June 1984 to 5 October 1986, inclusive under Wage Order No. 5; (3) Non-payment of their salaries for the period 16 March 1986 to the present; (4) Non-payment of their 13th month pay for 1985, 1986 and 1987; (5) Non-payment of their vacation and sick leave, and the compensatory leaves of mine site employees; and (6) Non-payment of the salaries of employees who were placed on forced leaves since November, 1985 to the present, if this is not feasible, the affected employees be awarded corresponding separation pay.

On 9 February 1987, the Regional Director set the case for hearing on 17 February 1987.

On 17 February 1987, the respondent moved for the resetting of the case to 2 March 1987.

On 27 February 1987, the complainants filed a Motion for the issuance of an inspection authority.

xxx

On 13 July 1987, the Labor Standards and Welfare Officers submitted their report with the following recommendations:

'WHEREFORE, premises considered, this case is hereby submitted with the recommendation that an Order of Compliance be issued directing respondent Batong Buhay Gold Mines Inc. to pay complainants' Elsie Rosalina Ty, et al. FOUR MILLION EIGHT HUNDRED EIGHTEEN THOUSAND SEVEN HUNDRED FORTY-SIX PESOS AND FORTY CENTAVOS (P4,818,746.40) by way of unpaid salaries of workers from March 16, 1987 to present, unpaid and ECOLA differentials under Wage Order Nos. 2 and 5 unpaid 13th months pay for 1985 and 1986, and unpaid (sic) vacation/sick/compensatory leave benefits.'

On 31 July 1987, the Regional Director^[1] adopted the recommendation of the LSWOs and issued an order directing the respondent to pay the complainants the sum of P4,818,746.40 representing their unpaid 13th month pay for 1985 and 1986, wage and ECOLA differentials under wage order Nos. 2 and 5, unpaid salaries from 16 March 1986 to present and vacation/sick leave benefits for 1984, 1985 and 1986.

On 19 August 1987, the complainants filed an ex-parte motion for the issuance of a writ of execution and appointment of special sheriff.

xxx

On 21 August 1987, the Regional Director issued an Order directing the respondent to put up a cash or surety bond otherwise a writ of execution will be issued.

xxx

When the respondent failed to post a cash/surety bond, and upon motion for the issuance of a writ of execution by the complainants, the Regional Director, on 14 September 1987 issued a writ of execution appointing Mr. John Espiridion C. Ramos as Special Sheriff and directing him to do the following:

'You are to collect the above-stated amount from the respondent and deposit the same with Cashier of this Office for appropriate disposition to herein complainants under the supervision of the office of the Director. Otherwise, you are to execute this writ by attaching the goods and chattels of the respondent not exempt from execution or in case of insufficiency thereof against the real or immovable property of the respondent.'

The Special Sheriff proceeded to execute the appealed Order on 17 September 1987 and seized three (3) units of Peterbuilt trucks and then sold the same by public auction. Various materials and motor vehicles were also seized on different dates and sold at public auction by said

sheriff.

xxx xxx xxx

On 11 December 1987, the respondent finally posted a supersedeas bond which prompted this Office to issue an Order dated 26 January 1988, restraining the complainants and sheriff Ramos from enforcing the writ of execution. xxx"^[2]

BBGMI appealed the Order dated July 31, 1987 of Regional Director Luna C. Piezas to respondent Undersecretary Dionisio de la Serna, contending that the Regional Director had no jurisdiction over the case.

On September 16, 1988, the public respondent issued the first challenged Order upholding the jurisdiction of the Regional Director and annulling all the auction sales conducted by Special Sheriff John Ramos. The decretal portion of the said Order ruled:

"WHEREFORE, the Order dated 31 July 1987 of the Regional Director, National Capital Region, is hereby AFFIRMED. Accordingly, the writ of execution dated 14 September 1987 issued in connection thereto is hereby declared VALID.

However, the public auction sales conducted by special sheriff John Ramos pursuant to the writ of execution dated 14 September 1987 on 24 September 2, 20, 23, and 29 October 1987 are all hereby declared NULL AND VOID. Furthermore, the personal properties sold and the proceeds thereof which have been turned over to the complainants thru their legal counsel are hereby ordered returned to the custody of the respondent and the buyers respectively.

SO ORDERED."^[3]

On October 13, 1988, a Motion for Reconsideration of the aforesaid order was presented by the complainants in Case No. NCR-LS-ED-CI-2047-87 but the same was denied.

On November 7, 1988, a Motion for Intervention was filed by MFT Corporation, inviting attention to a Deed of Sale executed in its favor by Fidel Bermudez, the highest bidder in the auction sale conducted on October 29, 1987.

On December 2, 1988, another Motion for Intervention was filed, this time by Salter Holdings Pty., Ltd., claiming that MFT Corporation assigned its rights over the subject properties in favor of movant as evidenced by a Sales Agreement between MFT Corp. and Salter Holdings Pty., Ltd.

The two Motions for Intervention were granted in the second questioned order dated December 14, 1988, directing the exclusion from annulment of the properties sold at the October 29, 1987 auction sale and claimed by the intervenors, including one cluster of junk mining machineries, equipment and supplies, and disposing thus:

"WHEREFORE, in view of the foregoing, the motions for reconsideration filed by intervenors MFT and Salter are hereby granted. Correspondingly,

this Office's Order dated 16 September 1988 is hereby modified to exclude from annulment "the one lot of junk mining machineries, equipment and supplies as-is-where-is" sold by Sheriff John C. Ramos in the auction sale of 29 October 1987.

xxx xxx xxx"

Motions for Reconsideration were interposed by Batong Buhay Gold Mining, Inc. and the respondent employees but to no avail. The same were likewise denied in the third assailed Order dated February 13, 1989.

Hence, the petition under scrutiny, ascribing grave abuse of discretion amounting to lack or excess of jurisdiction to the public respondent in issuing the three Orders under attack.

The questioned Orders aforementioned have given rise to the issues: (1) whether the Regional Director has jurisdiction over the complaint filed by the employees of BBGMI; and (2) whether or not the auction sales conducted by the said Special Sheriff are valid.

Anent the first issue, an affirmative ruling is indicated. The Regional Director has jurisdiction over the BBGMI employees who are the complainants in Case Number NCR-LSED-CI-2047-87.

The subject labor standards case of the petition arose from the visitorial and enforcement powers by the Regional Director of Department of Labor and Employment (DOLE). Labor standards refers to the minimum requirements prescribed by existing laws, rules and regulations relating to wages, hours of work, cost of living allowance and other monetary and welfare benefits, including occupational, safety and health standards.^[4] Labor standards cases are governed by Article 128(b) of the Labor Code.

The pivot of inquiry here is whether the Regional Director has jurisdiction over subject labor standards case.

As can be gleaned from the records on hand, subject labor standards case was filed on February 5, 1987 at which time Article 128 (b) read as follows^[5]:

Art. 128 (b) Visitorial and enforcement powers -

"(b) The Minister of Labor or his duly authorized representative shall have the power to order and administer, after due notice and hearing, compliance with the labor standards provisions of this Code based on the findings of labor regulation officers or industrial safety engineers made in the course of inspection, and to issue writs of execution to the appropriate authority for the enforcement of their order, except in cases where the employer contests the findings of the labor regulations officers and raises issues which cannot be resolved without considering evidentiary matters that are not verifiable in the ordinary course of inspection."

Petitioner theorizes that the Regional Director is without jurisdiction over subject case, placing reliance on the ruling in *Zambales Base Inc. vs. Minister of Labor*^[6] and *Oreshoot Mining Company vs. Arellano*.^[7]

Respondent Undersecretary Dionision C. Dela Serna, on the other hand, upheld the jurisdiction of Regional Director Luna C. Piezas by relying on E.O. 111, to quote:

"Considering therefore that there still exists an employer-employee relationship between the parties; that the case involves violations of the labor standard provisions of the labor code; that the issues therein could be resolved without considering evidentiary matters that are not verifiable in the normal course of inspection; and, if only to give meaning and not render nugatory and meaningless the visitorial and enforcement powers of the Secretary of Labor and Employment as provided by Article 128(b) of the Labor Code, as amended by Section 2 of Executive Order No. 111 which states:

'The provisions of article 217 of this code to the contrary notwithstanding and in cases where the relationship of employer-employee still exists, the Minister of Labor and Employment or his duly authorized representative shall have the power to order and administer, after due notice and hearing, compliance with the labor standards provision of this Code based on the findings of the findings of labor regulation officers or industrial safety engineers made in the course of inspection, and to issue writs of execution to the appropriate authority for the enforcement of their order, except in cases where the employer contests the findings of the labor regulations officers and raises issues which cannot be resolved without considering evidentiary matters that are not verifiable in the ordinary course of inspection.'

We agree with the complainants that the regional office *a quo* has jurisdiction to hear and decide the instant labor standard case.

xxx xxx xxx"^[8]

The Court agrees with the public respondent. In the case of *Maternity Children's Hospital vs Secretary of Labor* (174 SCRA 632), the Court in upholding the jurisdiction of the Regional Director over the complaint on underpayment of wages and ECOLAs filed on May 23, 1986, by the employees of Maternity Children's Hospital, held:

"This is a labor standards case and is governed by Art. 128(b) of the Labor Code, as amended by E.O. 111.

xxx xxx xxx

Prior to the promulgation of E.O. 111 on December 24, 1986, the Regional Director's authority over money claims was unclear. The complaint in the present case was filed on May 23, 1986 when E.O. 111 was not yet in effect. xxx xxx