354 Phil. 905

THIRD DIVISION

[G.R. No. 118693, July 23, 1998]

AIR SERVICES COOPERATIVE, AND CAPT. ANTONIO S. SARAEL, PETITIONERS, VS. THE COURT OF APPEALS (SPECIAL SECOND DIVISION, HONORABLE LEONOR T. SUMCAD, REGIONAL TRIAL COURT, BRANCH 9, 11TH JUDICIAL REGION, DAVAO CITY, LABOR ARBITER ANTONIO M. VILLANUEVA, REGIONAL ARBITRATION BRANCH XI, DEPARTMENT OF LABOR AND EMPLOYMENT, AND RECARIDO BATICAN, RESPONDENTS.

D E C I S I O N

ROMERO, J.:

The instant petition presents a question of procedure: May a decision of the Labor Arbiter allegedly rendered without jurisdiction over the subject matter be annulled in a petition before the Regional Trial Court?

The records disclose that petitioner Air Services Cooperative (the "Cooperative") is a duly registered entity[1] involved in the aviation business. It primarily services rural areas in the transportation of farm products, control of crop infestation, transport of patients and other rural air services. Both the cooperative's co-petitioner, Capt. Antonio S. Sarael,[2] and respondent Capt. Recarido Batican are members of the said cooperative being its original cooperators.[3]

In the course of the operation of the cooperative's business, however, it appears that respondent was allegedly reported to have been illegally draining aviation fuel from the aircraft assigned to him by the cooperative's client Stanfilco (Dole Philippines, Inc.) for which reason Capt. Sarael issued a memorandum[4] dated January 20, 1993 calling his attention and directing him to cease and desist from said practice. Apparently, the warning fell on deaf ears, thus, prompting the cooperative's Board of Directors itself to issue a memorandum[5] on February 22, 1993 this time giving a final warning that respondent's services would be terminated should he be found guilty of illegally draining aviation fuel again. Shortly thereafter, Capt. Sarael required respondent in a memorandum[6] dated March 1, 1993 to explain within forty-eight hours why no disciplinary action should be taken against him on account of the reported acts of repeated pilferage despite prior warning. On March 8, 1993, after considering respondent's explanation and conducting a thorough investigation on the matter, the cooperative's Board of Directors resolved to cancel and revoke respondent's membership in the cooperative.[7] After respondent's expulsion, the cooperative's client Stanfilco likewise filed a formal criminal complaint for qualified theft against him on March 26, 1993 for which a warrant of arrest had been subsequently issued.[8]

Aggrieved by his expulsion, respondent filed before the National Labor Relations

Commission (NLRC) a complaint[9] on May 18, 1993, both against the cooperative and Capt. Sarael for illegal dismissal, reimbursement of the value of six (6) shares of stock, vacation/sick leave conversion, unpaid commission for the month of February and non-payment of the 13th month pay.

On September 21, 1994, the Labor Arbiter hearing the case promulgated his decision[10] in favor of respondent declaring the latter's dismissal from the cooperative illegal and directing the cooperative through Capt. Sarael to pay respondent the monetary awards set forth therein.

Instead of interposing an appeal from said adverse decision to the NLRC, petitioners, however, filed a Petition for Certiorari, Prohibition and Annulment of Judgment[11] before the Regional Trial Court, Branch 9, in Davao City and docketed as Special Civil Case No. 23, 239-94. Petitioners assailed the Labor Arbiter's decision on the ground that jurisdiction did not pertain to the latter.

On November 10, 1994, the trial court motu proprio dismissed the foregoing petition for lack of jurisdiction. It explained that a petition for certiorari before it is not a substitute for an appeal to the NLRC which recourse is specifically provided for under Article 223 of the Labor Code. Furthermore, the trial court stressed that it is cautious against issuing injunctions in cases growing out of labor disputes or ordering prohibition where administrative remedies have not yet been exhausted and there are yet adequate remedies available to the petitioners.[12]

From this adverse decision, petitioners elevated the matter to the Court of Appeals on November 23, 1994 through a Petition for Certiorari with prayer for Preliminary Injunction and/or Temporary Restraining Order[13] seeking to set aside and annul both the order of the trial court in Special Civil Case No. 23, 239-94 and the decision of the Labor Arbiter in Case No. RAB-11-03-00261-93. Without necessarily giving due course to the petition, the appellate court, in a resolution[14] of November 25, 1994, required respondent to comment thereto while at the same time temporarily restraining the conduct of further proceedings in the two aforementioned cases on appeal.

The Comment having been filed, the appellate court promulgated its decision[15] dated January 25, 1995 denying due course to the petition and stressing that an appeal to the NLRC should be the proper recourse, petitioners not having shown that such an appeal would be inadequate or ineffectual under the premises. It further ruled that being the administrative agency especially tasked with the review of labor cases, the NLRC is in a far better position to determine whether petitioner's grounds for certiorari are meritorious. Finally, the appellate court opined that the Labor Arbiter's decision does not appear tinged with grave abuse of discretion, thus, rendering certiorari unavailing.

Hence, the present recourse.

In this Court's resolution of February 25, 1995, we required respondent to file its Comment to which it complied arguing in the main that the decision of the Labor Arbiter already became final and executory after the lapse of ten (10) days from receipt of a copy thereof due to petitioners' failure to file a seasonable appeal to the

NLRC. Moreover, respondent faults petitioners for being in estoppel as they have allegedly voluntarily submitted to the jurisdiction of the Labor Arbiter and for engaging in forum-shopping.[16]

In their Reply,[17] petitioners vehemently refuted respondent's allegations essentially contending that it was neither in estoppel nor did the Labor Arbiter's decision become final and executory since it was null and void in the first place, the Labor Arbiter not having acquired jurisdiction over the nature of the dispute.

After the parties had submitted their respective Memoranda,[18] the Court then considered the case submitted for decision.

As stated at the outset, at the heart of this controversy is the issue of whether it is procedurally sound to impugn and seek the annulment of the Labor Arbiter's decision over the dispute herein mentioned before the Regional Trial Court. It is petitioners' unwavering stance that said recourse was a proper one and justified it thus:

> "Jurisdictional errors can be the subject of *certiorari*. It is an extraordinary remedy available in extraordinary cases where a tribunal, board or officer, among others, completely acted without jurisdiction. That means that the proceedings of such tribunal, board or officer is absolutely null and void *ab initio*, as in the instant case where the respondent labor arbiter was without jurisdiction to take over the functions of the Cooperative Development Authority (CDA).
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> If the error committed by the respondent labor arbiter in taking cognizance of disputes between cooperative members is mere error of judgment, then appeal would have been the proper remedy. But not an error in jurisdiction, where *certiorari* would lie. As errors of jurisdiction and not errors of judgment are reviewable in *certiorari* proceedings (Herderson vs Tan, L-3223, October 10, 1950)."

As regards the supposed inadequacy of appeal before the NLRC, petitioners assert that:

> "Contrary to public respondent Court of Appeals' contention, the respondent labor arbiter is not in a better position to determine whether petitioner's grounds for certiorari are meritorious because it does not involve any labor dispute. Appeal to the Commission (NLRC) would also be not be speedy (sic) decided within twenty (20) days as pretended by the respondent Court (CA Decision, Annex "A", par. 1, p. 4) for it is candidly a common knowledge and experience to legal practitioners and the Courts that the Commission (NLRC) decides appealed cases before it in two (2) years time or more.
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> Truly, while certiorari will not lie as a substitute for an appeal, such general rule, is not absolute and may be disregarded where the broader interest of justice requires, where the order or judgment is completely null and void, or appeal is not considered the appropriate remedy