

FIRST DIVISION

[G.R. No. 118101, September 16, 1996]

**EDDIE DOMASIG, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION (SECOND DIVISION), CATA
GARMENTS CORPORATION AND/OR OTTO ONG AND CATALINA
CO, RESPONDENTS.**

D E C I S I O N

PADILLA, J.:

This petition for certiorari under Rule 65 of the Rules of Court seeks to nullify and set aside the Resolution^[1] of respondent National Labor Relations Commission (NLRC) rendered on 20 September 1994 remanding the records of the case to the arbitration branch of origin for further proceedings.

The antecedent facts as narrated by public respondent in the assailed resolution are as follows:

"The complaint was instituted by Eddie Domasig against respondents Cata Garments Corporation, a company engaged in garments business and its owner/manager Otto Ong and Catalina Co for illegal dismissal, unpaid commission and other monetary claim[s]. Complainant alleged that he started working with the respondent on July 6, 1986 as Salesman when the company was still named Cato Garments Corporation; that three (3) years ago, because of a complaint against respondent by its workers, it changed its name to Cata Garments Corporation; and that on August 29, 1992, he was dismissed when respondent learned that he was being pirated by a rival corporation which offer he refused. Prior to his dismissal, complainant alleged that he was receiving a salary of P1,500.00 a month plus commission. On September 3, 1992 he filed the instant complaint.

Respondent denied complainant's claim that he is a regular employee contending that he is a mere commission agent who receives a commission of P5.00 per piece of article sold at regular price and P2.50 per piece sold in [sic] bargain price; that in addition to commission, complainant received a fixed allowance of P1,500.00 a month; that he had no regular time schedule; and that the company come [sic] into existence only on September 17, 1991. In support of its claim that complainant is a commission agent, respondent submitted as Annexes 'B' and 'B-1' the List of Sales Collections, Computation of Commission due, expenses incurred, cash advances received for the month of January and March 1992 (Rollo pp. 22-27). Respondent further contends that complainant failed to turn over to the respondent his collection from two (2) buyers as per affidavit executed by these buyers (Rollo pp. 28-29)

and for which, according to respondent it initiated criminal proceedings against the complainant.

The Labor Arbiter held that complainant was illegally dismissed and entitled to reinstatement and backwages as well as underpayment of salary; 13th month pay; service incentive leave and legal holiday. The Arbiter also awarded complainant his claim for unpaid commission in the amount of P143,955.00."^[2]

Private respondents appealed the decision of the labor arbiter to public respondent. As aforesaid, the NLRC resolved to remand the case to the labor arbiter for further proceeding. It declared as follows:

"We find the decision of the Labor Arbiter not supported by evidence on record. The issue of whether or not complainant was a commission agent was not fully resolved in the assailed decision. It appears that the Labor Arbiter failed to appreciate the evidences submitted by respondent as Annexes "B" and "B-1" (Rollo pp. 22-27) in support of its allegation as regard[s] the nature of complainant's employment. Neither is there a showing that the parties were required to adduce further evidence to support their respective claim. The resolution of the nature of complainant's employment is vital to the case at bar considering that it would be determinative to his entitlement of monetary benefits. The same is similarly true as regard the claim [sic] for unpaid commission. The amount being claim [sic] for unpaid commission as big as it is requires substantial proof to establish the entitlement of the complainant to the same. We take note of the respondent's claim that 'while they admit that complainant has an unpaid commission due him, the same is only for his additional sale of 4,027 pieces at regular price and 1,047 pieces at bargain price for a total sum of (P20,135.00 + 2,655.00) or P22,820.00 as appearing in the list of Sales and unpaid commission' (Annex 'C' and 'C-1' Appeal, Rollo pp. 100-102). Said amount according to respondent is being withheld by them pending the accounting of money collected by complainant from his two (2) buyers which was not remitted to them. Considering the conflicting version of the parties regarding the issues on hand, it was incumbent on the Labor Arbiter to conduct further proceedings thereon. The ends of justice would better be served if both parties are given the opportunity to ventilate further their positions."^[3]

In their comment on the petition at bar, private respondents agree with the finding of the NLRC that the nature of petitioner's employment with private respondents is vital to the case as it will determine the monetary benefits to which he is entitled. They further aver that the evidence presented upon which the labor arbiter based her decision is insufficient, so that the NLRC did not commit grave abuse of discretion in remanding the case to the arbitration branch of origin for further proceedings.

The comment of the Solicitor General is substantially the same as that of private respondents, i.e., there is no sufficient evidence to prove employer-employee relationship between the parties. Furthermore, he avers that the order of the NLRC to the labor arbiter for further proceedings does not automatically translate to a