

THIRD DIVISION

[G.R. No. 116347, October 03, 1996]

**NATIVIDAD PONDOC, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION (FIFTH DIVISION, CAGAYAN DE ORO
CITY) AND EMILIO PONDOC, RESPONDENTS.**

D E C I S I O N

DAVIDE, JR., J.:

The novel issue that confronts us in this case is whether the Fifth Division of the National Labor Relations Commission (NLRC) can validly defeat a final judgment of the labor arbiter in favor of the complainant in a labor case by: (a) entertaining a petition for injunction and damages, and an appeal from the Labor Arbiter's denial of a claim for set-off based on an alleged indebtedness of the laborer and order of execution of the final judgment; and, (b) thereafter, by receiving evidence and adjudging recovery on such indebtedness and authorizing it to offset the Labor Arbiter's final award.

The petitioner takes the negative view. In its Manifestation and Motion in Lieu of Comment,^[1] the Office of the Solicitor General joins her in her plea, hence we required the NLRC to file its own comment.

We resolved to give due course to the petition after the filing by the NLRC and the private respondent of their separate comments.

Petitioner Natividad Pondoc was the legitimate wife of Andres Pondoc. After her death on 5 December 1994, she was substituted by Hipolito Pondoc, her only legitimate son.^[2]

The Office of the Solicitor General summarized the factual antecedents of this case in its Manifestation and Motion in Lieu of Comment:

Private respondent Eulalio Pondoc is the owner-proprietor of Melleonor General Merchandise and hardware Supply located at Poblacion, Sindangan, Zamboanga del Norte. Respondent is engaged, among others, in the business of buying and selling copra, rice, corn, "binangkol," junk iron and empty bottles. He has in his employ more than twenty (20) regular workers (Records, pp. 9-11).

Records disclose that Andres Pondoc was employed by Eulalio Pondoc as a laborer from October 1990 up to December 1991, receiving a wage rate of P20.00 per day. He was required to work twelve (12) hours a day from 7:00 AM to 8:00 PM, Monday to Sunday. Despite working on his rest days and holidays, he was not paid his premium pay as required by law (Ibid).

Consequently, on May 14, 1992, Natividad Pondoc, on behalf of her husband, filed a complaint for salary differential, overtime pay, 13th month pay, holiday pay and other money claims before the Sub-Regional Arbitration Branch No. 9 of the NLRC, docketed as Sub-RAB Case No. 09-05-10102-92 (Records, p. 1).

In his position paper, private respondent questioned, among others, the existence of [an] employer-employee relationship between them. He further averred that Melleonor General Merchandise and Hardware Supply is a fictitious establishment (Records, pp. 64-68).

On June 17, 1993, labor Arbiter Esteban Abecia rendered a Decision finding the existence of [an] employer-employee relationship between the parties. The dispositive portion of the Decision reads:

WHEREFORE, judgment is hereby rendered: (a) ordering respondent Eulalio Pondoc to pay complainant the following claims:

- (1) Salary differential for
reason of underpayment P35,776.00;
- (2) Regular holiday and
premiumpayforholidayservices
902.00;
- (3)Premiumpayforrestdayservices
3,840.00;
- (4) 13th month pay 3,600.00

or the total amount of FOURTY-FOUR [sic] THOUSAND AND ONE HUNDRED EIGHTEEN PESOS (P44,118.00).

Other claims are denied for lack of merit.

SO ORDERED (Records, pp. 323-324).

On his last day to perfect an appeal, private respondent filed a manifestation before the Labor Arbiter praying that his liabilities be set-off against petitioner's alleged indebtedness to him (Records, pp. 325-327). The Labor Arbiter denied, however, the compensation, and instead, issued a writ of execution as prayed for by petitioner (Records, p. 328).

Before the execution order could be implemented, however, private respondent was able to obtain a restraining order from the NLRC, where he filed a Petition for "Injunction and Damages," docketed as NLRC Case No. ICM-000065.

On February 28, 1994, public respondent NLRC allowed compensation between petitioner's monetary award and her alleged indebtedness to private respondent. It disposed:

WHEREFORE, the appealed order is hereby vacated and set aside. A new one is entered declaring the setting-off of complainant's indebtedness which allegedly amounted to P41,051.35 against the complainant's monetary award in the amount of P44,118.00. The additional amount of P5,000.00 which complainant allegedly got from respondent on 10 July 1993 could not be credited in view of appellant's failure to submit evidence to prove that complainant was really paid P5,000.00.

Accordingly, respondent Eulalio Pondoc is hereby directed to pay complainant Natividad Pondoc the amount of P3,066.65.

The Temporary restraining order issued herein is hereby made permanent.

SO ORDERED (Annex "D" of Petition).^[3]

Her motion for reconsideration of the judgment having been denied by the NLRC, the petitioner instituted this special civil action for certiorari under Rule 65 of the Rules of Court wherein she prays this Court annul the challenged decision of the NLRC, Fifth Division (Cagayan de Oro City), in NLRC Case No. IC No. M-000065, and direct the enforcement of the writ of execution in NLRC Case No. SRAB-09-05-10102-92, on the ground that the NLRC, Fifth Division, acted without or in excess of jurisdiction or with grave abuse of discretion when it proceeded to determine the alleged indebtedness of the petitioner and set-off the same against the liabilities of the private respondent. The petitioner asserts that the decision of the labor Arbiter in NLRC Case No. SRAB-09-05-10102-92 was already final and executory when the private respondent tried to defeat the judgment by asserting an alleged indebtedness of Andres Pondoc as a set-off, a claim not pleaded before the Labor Arbiter at any time before judgment, hence deemed waived. Moreover, the indebtedness "did not evolve out [sic] employer-employee relationship, hence, purely civil in aspect."

The Office of the solicitor General agreed with the petitioner and stressed further that the asserted indebtedness was never proven to have arisen out of or in connection with the employer-employee relationship between the private respondent and the late Andres Pondoc, or to have any causal connection thereto. Accordingly, both the Labor Arbiter and the NLRC did not have jurisdiction over the private respondent's claim.

As expected, the private respondent and the NLRC prayed for the dismissal of this case.

We rule for the petitioner.

The proceedings before the NLRC were fatally flawed.

In the first place, the NLRC should not have entertained the private respondent's separate or independent petition for "Injunction and Damages" (NLRC IC No. M-000065). It was obvious that the petition was a scheme to defeat or obstruct the enforcement of the judgment in NLRC Case No. SRAB-09-05-10102-92 where, in fact, a writ of execution had been issued. Article 218(e) of the Labor Code does not provide blanket authority to the NLRC or any of its divisions to issue writs of