

ELEVENTH DIVISION

[CA-G.R. SP No. 137166, March 05, 2015]

ROMEO B. BOCAYA, PETITIONER, VS. COMMANDER SECURITY AGENCY INC. AND/OR MR. CARMELO AYSON, PRESIDENT/GENERAL MANAGER, AND DEPARTMENT OF LABOR AND EMPLOYMENT, RESPONDENTS.

DECISION

LIBREA-LEAGOGO, C.C., J.:

Before this Court is a Petition for *Certiorari*^[1] dated 05 September 2014 under Rule 65 of the Rules of Court, seeking the nullification of the Order^[2] dated 09 May 2013 and Resolution^[3] dated 28 April 2014 of Undersecretary Rebecca C. Chato, by authority of the Secretary of the Department of Labor and Employment (DOLE), in *NCR00-QCFO-1202-IS-008; OS-LS-0319-0903-2012*, which treated petitioner's Partial Motion for Reconsideration from the Orderiv dated 18 July 2012 of the DOLE-National Capital Region (DOLE-NCR) Regional Director Atty. Alan M. Macaraya ("Macaraya," for brevity) as an appeal and dismissed the same for being moot and academic, and denied petitioner's Motion for Reconsideration for lack of merit, respectively.

Private respondents filed their Comment^[5] dated 24 January 2015. Per JRD verification,^[6] no reply was filed. Thus, the fifth paragraph of the Resolution^[7] dated 18 December 2014 is reiterated, and the Petition is submitted for decision.

FACTUAL ANTECEDENTS

A Request for Assistance under the Single-Entry Approach (SENA)^[8] dated 02 February 2012 was filed by complainant Romeo B. Bocaya against Commander Security Agency, Inc./Carmelo Ayson, for non-payment of legal/special holiday pay and 13th month pay, underpayment of wages, and non-payment of service incentive leave pay and overtime pay.

An inspection was conducted by Labor and Employment Officer Jose S. Tumanguil, and in the Notice of Inspection Results^[9] dated 12 March 2012, it was stated that: that there was no access to employment records; and the notice was explained to and received by private respondent's representative Flor Baltar.

DOLE-NCR Regional Director Macaraya issued an Order^[10] dated 18 July 2012 in *Case No. NCR00-QCFO-1202-IS-008*, the dispositive portion of which reads:

"WHEREFORE, premises considered, COMMANDER SECURITY AGENCY, INC. and/or CARMELO T. AYSON is/are ordered to pay ROMEO B. BOCAYA, the aggregate amount of ONE HUNDRED TWENTY

EIGHT THOUSAND FIVE HUNDRED SIX AND 83/100 (P128,506.83) within ten (10) days from receipt hereof. Failure to comply with this Order within the period prescribed shall cause the imposition of a penalty of double indemnity pursuant to Republic Act No. 8188, otherwise known as "An Act Increasing the Penalty and Imposing Double Indemnity for Violation of the Prescribed Increase or Adjustment in the Wage Rates."

A Writ of Execution shall be issued upon finality of this Order.

Further, premises considered, the establishment is directed to give the Labor and Employment Officer access to its premises and records in order to question, copy and investigate any fact, condition or matter which may be necessary to determine compliance with labor laws. Criminal charges will be filed in the regular court for violation of Article 128 of the Labor Code, as amended, in relation to Article 288 of the same Code, if the Office would be denied access the second time around.

SO ORDERED.^[11]

Complainant filed a Partial Motion for Reconsideration^[12] dated 30 July 2012 praying that the Order dated 18 July 2012 be partially reconsidered to include his overtime pay.

In the meantime, a Complaint^[13] dated 30 July 2012 was filed by complainant before the NLRC against respondents Commander Security Agency, Inc./Ca(r)melo Ayson, for illegal dismissal, underpayment of salary/wages, money claims, and reinstatement, docketed as *NLRC-NCR No. 07-11445-12*.

Labor Arbiter Marcial Galahad T. Makasiar issued a Resolution^[14] dated 04 September 2012 in *NLRC-NCR No. 07-11445-12*, the dispositive portion of which reads:

"ACCORDINGLY, this case is DISMISSED without prejudice for failure of complainant to appear during the Mandatory Conciliation and Mediation Conference despite due notice."^[15]

It appears that complainant refiled his complaint before the NLRC^[16] which was docketed as *NLRC-NCR Case No. 09-13230-12* wherein complainant executed a Release and Quitclaim^[17] dated 13 November 2012 before Labor Arbiter Cheryl M. Ampil ("Ampil," for brevity), pertinent portions of which read:

"Kaugnay sa aking Malaya at boluntaryong pagbibitiw (resign) o pagreretiro (retire) sa tungkulin ako ay tumatanggap ng sapat nahalagang DALAWAMPUNG LIBONG PISO (P20,000.00) bilang kabayaran sa aking mga benepisyo at karapatang pinansyal mula sa tagapamahala ng nasabing kompanya at taos puso na ako ay nagpapaubaya, nagpapawalang halaga at di maghahabol at tuluyang pagtigil sa aking karapatan, kapakinabangan, pinansyal na benepisyo kasama ang SSS, retirement pay, obertaym, ECOLA, 13th month pay, night shift differentials, premium pay para sa araw ng pahinga at pista opisyal, at iba pa na noon ay para sa akin na mula sa nasabing

kompanya, sa tagapamahala nito, mga kasapi ng board opisyal at mga kawani.

Ang pagpapaubaya at pagbibitiw na ito ay aking lubos na nauunawaang matapos basahin at ako ay malayang lumagda/thumbmark dito. Ang kasulatang ito ay may bisa para sa aking mga magulang, asawa, anak, pinsan, at tagapamahala. Pinahihintulutan ko rin ang paggamit nito sa anumang usaping legal pati narin sa husgado o anumang opisina ng gobyerno.”^[18]

Labor Arbiter Ampil issued an Order^{xix} dated 28 December 2012 in NLRC-NCR Case No. 09-13230-12, which reads:

*“In view of an amicable settlement reached by the parties evidenced by Affidavit of Quitclaim and Release duly executed by complainant upon receipt of the amount of Php20,000.00 on 13 November 2012, the instant case is hereby **DISMISSED WITH PREJUDICE** and declared **CLOSED AND TERMINATED**.*

SO ORDERED.”^[20]

Respondent security agency filed before the DOLE-NCR a Motion to Dismiss^[21] dated 05 April 2013 in Case No. *NCR00-QCFO-1202-IS-008*, wherein it alleged, *inter alia*, that: the parties have reached a complete and final settlement, resulting in the execution by complainant of a Release and Quitclaim before Labor Arbiter Ampil; in view of the amicable settlement reached by the parties, the case *NLRC-NCR Case No. 09-13230-12* was dismissed in the Order dated 28 December 2012; the claims of complainant have already been completely settled; and the case should be dismissed and considered closed and terminated.

On 09 May 2013, the DOLE issued the first assailed Order,^[22] the dispositive portion of which reads:

*“**WHEREFORE**, premises considered, the Motion for Reconsideration, herein treated as an Appeal, filed by Romeo B. Bocaya is hereby **DISMISSED** for being moot and academic. The Release, Waiver and Quitclaim dated 13 November 2012 executed by Complainant-Appellant before the NLRC as the complete and final settlement of his claims is hereby **ADOPTED** as full settlement of the 18 July 2012 Order of the DOLE-NCR. Accordingly, Respondent's Motion to Dismiss is hereby **GRANTED**.*

SO ORDERED.”^[23]

Complainant filed a Motion for Reconsideration^[24] dated 28 June 2013, which was denied in the second assailed Resolution^[25] dated 28 April 2014.

Hence, this Petition.

RULING

Petitioner raises the following grounds for allowance of his Petition, *viz*:

"I. THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN GRANTING THE RESPONDENTS' MOTION TO DISMISS DESPITE THE FACT THAT IT WAS TAINTED WITH IRREGULARITIES.

II. THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT ADOPTED THE RELEASE WAIVER AND QUITCLAIM EXECUTED BY PETITIONER BEFORE THE NLRC AS FULL SETTLEMENT OF THE DOLE'S ORDER DATED JULY 18, 2012 DESPITE THE FACT THAT IT WAS TAINTED WITH FRAUD AND DECEITS (sic)."^[26]

Petitioner contends, *inter alia*, that: public respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction in granting private respondents' motion to dismiss despite the fact that it was tainted with deceit and fraud; the motion was unknown to petitioner since he was not furnished a copy thereof; he was not given an opportunity to file an opposition or comment thereto; the motion would have been resolved in his favor considering that he has meritorious grounds to oppose the same; there is serious error in the findings of fact of public respondent; the amount of Php20,000.00 in the quitclaim executed by petitioner before the NLRC appears to be highly unconscionable considering that an order involving a monetary award of Php128,506.(83) in favor of petitioner is pending on partial appeal before the DOLE-NCR; sometime in February 2014 or three (3) months after the settlement of the NLRC case, private respondent tried to settle with petitioner regarding his pending case before the DOLE; this proves that the settlement before the NLRC was without prejudice to the case pending before the DOLE; public respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction when it adopted the quitclaim executed by petitioner before the NLRC as full settlement of DOLE's Order dated 18 July 2012 despite the fact that it was tainted with fraud and deceit; there was already a judgment rendered by DOLE prior to the settlement of the case before the NLRC; it was petitioner who appealed thereto concerning non-payment of overtime pay, and not private respondents; there was error in adopting the settlement since it was DOLE that made an inspection of private respondent's premises and issued an order awarding petitioner the amount of Php128,506.(83); the jurisdiction of the NLRC was over the illegal dismissal of petitioner; public respondent erred in giving basis to the complaint filed before the office of Labor Arbiter Ampil since only the complaint filed before the office of Labor Arbiter Ma(k)asiar was attached to the Motion to Dismiss; what the petitioner agreed to settle for Php20,000.00 was his separation pay for almost three (3) years of service and withdrawal of cash bond in the amount of Php5,000.00; neither the quitclaim nor the order of Labor Arbiter Ampil shows that the case before the DOLE was included in the settlement; the amount of Php128,506.(83) compared to Php20,000.00 is unreasonable and contrary to law, public order, morals or good customs; the inspection results show that petitioner was rendering twelve (12) hours of duty everyday without the corresponding overtime pay; and entitlement to overtime pay is subject of the partial appeal.

Private respondents riposte, *inter alia*, that: the assailed Order and Resolution of the DOLE are in accordance with law and jurisprudence; petitioner freely and voluntarily entered into the Compromise Agreement; the DOLE found the said agreement as just and fair settlement of the claims of petitioner; he merely entertained an afterthought after its execution; and upon the approval of the agreement, petitioner