

THIRTEENTH DIVISION

[CA-G.R. SP NO. 78385, August 31, 2006]

**SOUTHWOOD CONSTRUCTION SUPPLY AND/OR ALLAN SY AND
CHARLYN SY, PETITIONERS, VS. NATIONAL LABOR RELATIONS
COMMISSION AND ADOLFO BOLIMA, RESPONDENTS.**

D E C I S I O N

CRUZ, J.:

Before the National Labor Relations Commission (or "NLRC") Arbitration Branch was a complaint for illegal dismissal, underpayment of salary and non-payment of overtime pay, premium pay for rest day and holiday pay, 13th month pay, legal holiday pay and service incentive leave pay filed by Adolfo Bolima (or "private respondent") on December 15, 1998 against Southwood Construction Supply (or "Southwood") and/or Allan Sy and Charlyn Sy (or "Sy spouses").

In his position paper, private respondent averred that he was employed on July 5, 1996 as stay-in helper in Ana Ong Hardware owned by the Sy spouses and located at Pasig City; that when the business moved to Las Piñas City, Ana Ong Hardware's name was changed to Southwood; that due to an illness last August 11, 1998, he informed the Sy spouses that he would resume work only on August 17, 1998; and that when he reported for work on that date, he learned that he was already dismissed.

On the other hand, Southwood and the Sy spouses (or "petitioners", when collectively) denied employer-employee relationship with private respondent and asserted that the complaint was merely filed to harass the Sy spouses and extort money from petitioners. They contended that Southwood is owned by Ana Ong but is being managed by the Sy spouses; that private respondent was a laborer of a certain Vicente Magsakay, a building constructor, who had a project near Southwood; that upon private respondent's plea, Allan Sy (or "Allan") leased to the former a small room on the right side of the store; and that private respondent paid one-month advance rental but not the succeeding rentals, which led to the padlocking of the room by Allan.

On July 2, 1999, Labor Arbiter Fatima Jambaro-Franco rendered a decision dismissing the complaint for "lack of merit". The dismissal was founded on the "failure of (private respondent) to introduce evidence showing that he had been an employee of (petitioners)".

Private respondent appealed to the NLRC. Finding need for further hearing, the NLRC issued a resolution dated March 31, 2000, the decretal portion of which reads:

"PREMISES CONSIDERED the Decision on July 2, 1999 is hereby VACATED and records herein be REMANDED to Arbitration Branch of origin for immediate appropriate proceedings.

SO ORDERED."

After conducting further hearing, Labor Arbiter Jovencio Mayor, Jr. rendered a decision dated July 10, 2001 dismissing the case for "lack of employer-employee relationship". Private respondent appealed to the NLRC which, on September 30, 2002, rendered a decision (or "NLRC decision") disposing, thus:

"WHEREFORE, the decision appealed from is hereby REVERSED and SET ASIDE and a new one ENTERED finding complainant's dismissal illegal. Accordingly, in lieu of reinstatement, respondents are further ordered to pay the complainant his separation pay equivalent to one (1) month salary for every year of service, from date of hire in July 1995 up to finality hereof in addition to full backwages from August 17, 1998 to July 10, 2001.

SO ORDERED."

Petitioners did not appeal the NLRC decision. After the Research and Information Unit made a computation of the judgment award totaling P245,117.72, the labor arbiter issued a writ of execution on June 24, 2003 for said amount.

Only then did petitioners institute the instant petition, imputing grave abuse of discretion on the part of the NLRC in (i) "rendering a decision which is null and void for want of notice and jurisdiction over (their) person x x x which is, in effect, a denial of due process of law"; and (ii) "rendering a decision which is contrary to law and to the facts obtaining in this case."

Petitioners assert that they were denied due process on the theory that subsequent to the remand of the case to the labor arbiter, they did not receive any notice/court processes, including the NLRC decision. They assert that since they were denied their right to oppose/appeal the NLRC decision, the same is null and void; and that even assuming that it is valid, said decision is not yet final and executory. Petitioners further contend that the Sy spouses are not liable as they are not the owners of Southwood; and that the computation of the Research and Information Unit included 13th month pay and service incentive leave pay in contravention of the NLRC decision which merely awarded separation pay and backwages.

Commenting on the petition, private respondent avers that the instant petition was filed beyond the reglementary period and that he is entitled to the monetary claims. He asserts that petitioners' allegation of want of notice is belied by the fact that on February 5, 2001, petitioners' counsel, Atty. Rodolfo Galing (or "Atty. Galing"), filed a Comment/Objections to Complainant's Formal Offer of Exhibits with Motion/Manifestation to Adopt the Allegations Contained in Respondents' Position Paper dated February 23, 1999 in Lieu of Respondents' Evidence (Annex "2", Comment); and that copy of the NLRC decision was received by Atty. Galing on October 15, 2002 as evidenced by the xerox copy of the registry return receipt (Annex "1", id.) signed by him.

We now resolve.

The essence of due process is the reasonable opportunity to be heard and submit any evidence one may have in support of one's defense; what is repugnant to due