

THIRD DIVISION

[G.R. NO. 142351, November 22, 2006]

**ST. MARTIN FUNERAL HOMES, PETITIONER, VS. NATIONAL
LABOR RELATIONS COMMISSION , AND BIENVENIDO ARICAYOS,
RESPONDENTS.**

D E C I S I O N

VELASCO, JR., J.:

This is a Petition for Review^[1] on Certiorari under Rule 45 of the 1997 Revised Rules of Civil Procedure, seeking to reverse and set aside the September 30, 1999 Decision^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 49183, which affirmed the June 13, 1997 Resolution of the National Labor Relations Commission (NLRC) in NLRC Case No. 012311-97 remanding the complaint of respondent Aricayos to the Labor Arbiter for further proceedings, and the February 11, 2000 Resolution^[3] of the Court of Appeals, denying petitioner's Motion for Reconsideration.^[4]

The instant petition originated from a complaint for illegal dismissal with prayer for reinstatement, payment of back wages, and damages filed by private respondent Aricayos against petitioner. The initiatory pleading was filed before the NLRC Regional Arbitration Branch (RAB) No. III in San Fernando, Pampanga and docketed as RAB III-05-7022-96.

The facts culled from the records are:

The owner of petitioner St. Martin Funeral Homes, Inc. (St. Martin) is Amelita Malabed. Prior to January 1996, Amelita's mother managed the funeral parlor; respondent Aricayos, on the other hand, was formerly an overseas contract worker. Sometime in 1995, Aricayos was granted financial assistance by Amelita's mother. As a sign of appreciation, respondent extended assistance to Amelita's mother in managing St. Martin without compensation. There was no written employment contract between Amelita's mother and respondent Aricayos; furthermore, respondent Aricayos was not even listed as an employee in the Company's payroll.

When Amelita's mother died in January 1996, Amelita took over as manager of St. Martin. Much to her chagrin, she found out that St. Martin had arrearages in the payment of BIR taxes and other fees owing to the government, but company records tended to show that payments were made thereon. As a result, Amelita removed the authority from respondent Aricayos and his wife from taking part in managing St. Martin's operations.

Aggrieved, respondent Aricayos accused St. Martin of his illegal dismissal as Operations Manager of the company. He believed that the cause of his termination was Amelita's suspicion that he pocketed Php 38,000.00 which was set aside for payment to the BIR of St. Martin's valued added taxes.

On October 25, 1996, the Labor Arbiter rendered a Decision, in favor of petitioner declaring that his office had no jurisdiction over the case, in this wise:

We rule in favor of the respondent since this office has no jurisdiction over the instant complaint, because as held in *Dela Salle University vs. NLRC*, 135 SCR 674, 677 (1988) where the existence of an employer-employee relationship is disputed and not assumed, as in these cases, the determination of that question should be handled by the regular courts after full dress trial and not by the Labor Arbiter. The Supreme Court ruled:

We hold that the Labor Arbiter and the NLRC have no jurisdiction over the case. It was properly brought to the Civil Court. The issue was the existence of the employer-employee relationship between Lao and the University. Under Article 265 (5) – The existence of employer-employee relations is assumed – not disputed.

In this case, it is necessary to determine whether Lao became a permanent employee after she was hired as a probationary employee. The determination of the question could be more competently handled by the court after a full dress trial and not by the Labor Arbiter by means of position paper procedure followed by him.^[5]

Aggrieved, respondent Aricayos appealed the Labor Arbiter's adverse ruling to the NLRC. On June 13, 1997, the NLRC issued a Resolution annulling the Arbiter's Decision and remanded the case to him for appropriate proceedings, to determine the factual issue of the existence of employer-employee relationship between the parties, ratiocinating this way:

Considering the diametrically opposing contentions of the parties herein on the issue of employer-employee relationship, it was imperative on the Labor Arbiter to have threshed out the issue in further appropriate proceedings. The Labor Arbiter is so authorized under our Rules when the facts are not too clear. As it is, the conclusions herein are not well substantiated.

Indeed, the ends of justice would better be served if both parties are given further opportunity to ventilate their respective positions on issues at hand.^[6]

When its motion for reconsideration was rejected by the NLRC, petitioner filed a petition for certiorari under Rule 65 before this Court, docketed as G.R. No. 130866.

On September 16, 1998, this Court through Justice Jose Vitug, rendered the landmark Decision in this case then docketed as G.R. No. 130866, holding for the first time that all petitions for certiorari under Rule 65 assailing the decisions of the NLRC should henceforth be filed with the CA, thus:

Therefore, all references in the amended section 9 of B.P. No. 129 to supposed appeals from the NLRC to the Supreme Court are interpreted

and refer to petitions for certiorari under Rule 65. Consequently, all such petitions should henceforth be initially filed in the Court of Appeals in strict observance of the doctrine on the hierarchy of courts as the appropriate forum for the relief desired.

Thus, the petition was remanded to the CA and redocketed as CA-G.R. SP No. 49183.

Subsequently, the CA rendered the assailed September 30, 1999 Decision, dismissing petitioner's appeal for lack of merit with the finding that respondent NLRC did not commit grave abuse of discretion, in its pronouncement that the Labor Arbiter did not make any finding on the alleged employer-employee relationship between the parties, reasoning this way:

Actually the Labor Arbiter did not determine whether there is an employer-employee relation between the parties because according to him, such issue should be resolved by the regular court pursuant to the ruling of the Supreme Court in *De la Salle University vs. NLRC* (135 SCRA 674, 677 (1988)).

For its part, respondent NLRC, is remanding the case to the Labor Arbiter, reminded the latter that he is authorized by the NLRC Rules to determine, in an appropriate proceeding the existence of an employer-employee relationship.^[7]

In its February 11, 2000 Resolution, petitioner's Motion for Reconsideration was likewise denied. Thus, the instant petition.

Petitioner insists that, contrary to the findings of the NLRC as affirmed by the CA, the Labor Arbiter actually concluded that there was no employer-employee relationship between the parties considering the memoranda, position papers, and the documentary evidence presented in support of their respective positions. St. Martin asserts that the Labor Arbiter already undertook the "appropriate proceeding" referred to by the NLRC and the CA and therefore, the NLRC and the CA decided the case contrary to the evidence presented, the applicable laws, and jurisprudence.

The petition must fail.

The main issue is whether the Labor Arbiter made a determination of the presence of an employer-employee relationship between St. Martin and respondent Aricayos based on the evidence on record.

Petitioner St. Martin contends that the Labor Arbiter indeed made a finding of the non-existence of any relationship between respondent Aricayos and the company based on the position papers and memoranda of the parties. In addition, petitioner claims several affidavits of its employees were attached to its position paper whereby they attested under oath that respondent Aricayos was never an employee of St. Martin. It concludes that the Arbiter made the determination of the absence of an employer-employee relationship only after considering the documentary evidence on record and hence, substantial evidence supports such finding.

On the other hand, respondent Aricayos supports the pronouncement of the NLRC