

## FIRST DIVISION

[ G.R. No. 205688, July 04, 2018 ]

**VALENTINO S. LINGAT AND APRONIANO ALTOVEROS,  
PETITIONERS, V. COCA-COLA BOTTLERS PHILIPPINES, INC.,  
MONTE DAPPLES TRADING, AND DAVID LYONS,<sup>[\*]</sup>  
RESPONDENTS.**

### D E C I S I O N

**DEL CASTILLO, J.:<sup>[\*\*]</sup>**

This Petition for Review on *Certiorari* assails the July 4, 2012 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R SP No. 112829, which modified the July 7, 2009 Decision<sup>[2]</sup> of the National Labor Relations Commission (NLRC) in NLRC LAC No. 03-000855-09. Also challenged is the January 16, 2013 CA Resolution<sup>[3]</sup> which denied petitioners Valentino S. Lingat (Lingat) and Aproniano Altoveros' (Altoveros) (petitioners) Motion for Reconsideration.

#### ***Factual Antecedents***

On May 5, 2008, petitioners filed a Complaint<sup>[4]</sup> for illegal dismissal, moral and exemplary damages, and attorney's fees against Coca-Cola Bottlers Phils., Inc. (CCBPI), Monte Dapples Trading Corp. (MDTC), and David Lyons (Lyons) (respondents).

Petitioners averred in their Position Paper<sup>[5]</sup> and Reply<sup>[6]</sup> that, in August 1993 and January 1996, CCBPI employed Lingat and Altoveros as plant driver and forklift operator, and segregator/mixer respectively. They added that they had continually worked for CCBPI until their illegal dismissal in April 2005 (Lingat) and December 2005 (Altoveros).

According to petitioners, they were regular employees of CCBPI because it engaged them to perform tasks necessary and desirable in its business or trade. They explained that CCBPI made them part of its operations, and without them its products would not reach its clients. They asserted that their work was the link between CCBPI and its sales force.

Petitioners alleged that CCBPI engaged Lingat primarily as a plant driver but he also worked as forklift operator. In particular, he drove CCBPI's truck loaded with softdrinks and its other products, and thereafter, returned the empty bottles as well as the unsold softdrinks back to the plant of CCBPI. On the other hand, as segregator/mixer of softdrinks, Altoveros was required to segregate softdrinks based on the orders of the customers. Altoveros declared, that when a customer needed cases of softdrinks, such need was relayed to him since no sales personnel was allowed in the loading area.

Petitioners further stated, that after becoming regular employees (as they had been employed for more than a year), and by way of a *modus operandi*, CCBPI transferred them from one agency to another. These agencies included Lipercon Services, Inc., People Services, Inc., Interserve Management and Manpower Resources, Inc. The latest agency to where they were transferred was MDTC. They claimed that such transfer was a scheme to avoid their regularization in CCBPI.

In addition, petitioners stressed that the aforesaid agencies were labor-only contractors which did not have any equipment, machinery, and work premises for warehousing purposes. They insisted that CCBPI owned the warehouse where they worked; the supervisors thereat were CCBPI's employees; and petitioners themselves worked for CCBPI, not for any agency. In fine, they maintained that they were regular employees of CCBPI because:

[Petitioners] worked within the premises of [CCBPI,] use the equipment, the facilities, cater on [its] products, [and served] the Sales Forces x x x. In other words, while at work, [petitioners] were under the direction, control and supervision of respondent Coca-Cola's regular employees. The situation calls for the over-all control of the operations by Coca-Cola employees as [petitioners] perform[ed] their work with x x x Coca-Cola and [its] premises. x x x<sup>[7]</sup>

Finally, petitioners argued that CCBPI dismissed them after it found out that they were "overstaying." As such, they posited that they were illegally dismissed as their termination was without cause and due process of law.

For their part, CCBPI and Lyons, its President/Chief Executive Officer, countered in their Position Paper<sup>[8]</sup> and Reply<sup>[9]</sup> that this case must be dismissed because the Labor Arbiter (LA) lacked jurisdiction, there being no employer-employee relationship between the parties.

CCBPI and Lyons declared that CCBPI was engaged in the business of manufacturing, distributing, and marketing of softdrinks and other beverage products. By reason of its business, CCBPI entered into a Warehousing Management Agreement<sup>[10]</sup> with MDTC for the latter to perform warehousing and inventory functions for the former.

CCBPI and Lyons insisted that MDTC was a legitimate and independent contractor, which only assigned petitioners at CCBPI's plant in Otis, Manila. They posited that MDTC carried on a distinct and independent business; catered to other clients, aside from CCBPI; and possessed sufficient capital and investment in machinery and equipment for the conduct of its business as well as an office building.

CCBPI and Lyons likewise stressed that petitioners were employees of MDTC, not CCBPI. They averred that MDTC was the one who engaged petitioners and paid their salaries. They also claimed that CCBPI only coordinated with the Operations Manager of MDTC in order to monitor the end results of the services rendered by the employees of MDTC. They added that it was MDTC which imposed corrective action upon its employees when disciplinary matters arose.

Finally, CCBPI and Lyons averred that when the Warehousing Management Agreement between CCBPI and MDTC expired, the parties no longer renewed the

same. Consequently, it came as a surprise to CCBPI that petitioners filed this complaint considering that CCBPI was not their employer, but MDTC.

Meanwhile, LA Catalino R. Laderas declared that despite notice, MDTC failed to file its position paper on this case.<sup>[11]</sup>

### ***Ruling of the Labor Arbiter***

On December 9, 2008, the LA ruled for the petitioners, the dispositive portion of his Decision reads:

WHEREFORE, premised on the foregoing considerations[,] judgment is hereby rendered declaring that complainants were ILLEGALLY DISMISSED from their employment.

Respondent CCBPI is hereby ordered, viz.:

1. To reinstate complainants to their former positions without loss of seniority rights and privileges and to pay complainants backwages from the time they were illegally dismissed up to the time of this decision.

The computation unit of this Office is hereby directed to compute the monetary award of the complainant[s] which forms part of this decision.

Other claims are DISMISSED for lack of merit

SO ORDERED.<sup>[12]</sup>

The LA ruled that respondents failed to refute that petitioners were employees of CCBPI and the latter undermined their regular status by transferring them to an agency. The LA decreed that, per the identification cards (IDs) of petitioners, CCBPI hired Lingat in 1993, and Altoveros in 1996. Moreover, as plant driver, and segregator/mixer, petitioners performed activities necessary in the usual business or trade of CCBPI; and, their continued employment for more than one year proved that they were regular employees of CCBPI.

The LA likewise ratiocinated that the contracts of employment which petitioners may have entered with CCBPI's contractors could not undermine their (petitioners) tenure arising from their regular status with CCBPI.

In sum, the LA decreed that, since respondents failed to debunk the allegations raised by petitioners, then judgment must be rendered in favor of petitioners.

### ***Ruling of the National Labor Relations Commission***

On appeal, the NLRC dismissed the illegal dismissal case. It, nonetheless, ordered MDTC to pay Altoveros separation pay amounting to P10,725.00.

According to the NLRC, Lingat stated that CCBPI illegally dismissed him in April 2005. However, he only filed his complaint for illegal dismissal on May 5, 2008, which was beyond three years from his dismissal. Thus, Lingat's complaint must be dismissed on the ground of prescription.

Also, the NLRC decreed that the complaint of Altoveros was bereft of merit. It explained that per Altoveros' ID, CCBPI employed him in January 1996 until September 19, 1996; thereafter, he was employed by Genesis Logistics and

Warehouse Corporation; and, on April 7, 2003, MDTC hired him and assigned him as loader/mixer at CCBPI's warehouse in Paco, Manila until December 2005 when MDTC's contract with CCBPI expired.

In ruling that Altoveros was an employee of MDTC, the NLRC gave credence to the Warehousing Management Agreement between MDTC and CCBPI as well as to MDTC's Amended Articles of Incorporation. It held that MDTC did not appear to be a mere agent of CCBPI but was one that provided stock handling and storage services to CCBPI. It held that, considering MDTC was the employer of Altoveros, then it must pay him separation pay of 1/2 month pay for every year of his service.

On November 4, 2009, the NLRC denied<sup>[13]</sup> petitioners' Motion for Reconsideration prompting them to file a Petition for Certiorari with the CA.

### ***Ruling of the Court of Appeals***

On July 4, 2012, the CA modified the NLRC Decision in that it ordered MDTC to pay separation pay to both petitioners.

Contrary to the finding of the NLRC, the CA found that the illegal dismissal case filed by Lingat had not yet prescribed. It held that, aside from money claims, Lingat prayed for reinstatement, as such, pursuant to Article 1146 of the Civil Code, Lingat had four years within which to file his case. It noted that Lingat filed this suit on May 5, 2008 or only three years and one day from his alleged illegal dismissal; thus, he timely filed his case against respondents.

Nevertheless, the CA agreed with the NLRC that MDTC was an independent contractor and the employer of petitioners. It gave weight to petitioners' latest IDs, which were issued by MDTC as well as to the Articles of Incorporation of MDTC, which indicated that its secondary purpose was "to engage in the business of land transportation" and "the business of warehousing services." It further ruled that MDTC had substantial capital stock, as well as properties and equipment, which supported the conclusion that MDTC was a legitimate labor contractor.

On January 16, 2013, the CA denied the Motion for Reconsideration on the assailed Decision.

### **Issues**

Undaunted, petitioners filed this Petition raising these issues:

1. Whether or not there exists [an] employer-employ[ee] relationship between Petitioners and Respondent CCBPI;
2. Whether or not Petitioner Lingat's complaint is barred by prescription;
3. Whether or not the Court of Appeals gravely erred in declaring [that] Petitioners [were] not regular employees of Respondent CCBPI;
4. Whether or not Petitioners were dismissed without cause and due process;
5. Whether or not moral and exemplary damages lie; and
6. Whether or not the Petitioners are entitled to attorney's fees.<sup>[14]</sup>

Petitioners maintain that they were regular employees of CCBPI. They insist that their engagement by CCBPI in 1993 (Lingat) and 1996 (Altoveros) proved that they were its employees from the beginning. They also aver that they worked at CCBPI's warehouse, wore its uniforms, operated its machinery, and were under the direct control and supervision of CCBPI. They likewise contend that CCBPI illegally dismissed them from work. On this, they insist that respondents themselves admitted that petitioners' employment contract expired; and thereafter, they were no longer given any new assignments. They remain firm that such termination of contract was not a valid cause for their dismissal from work.

CCBPI and Lyons, for their part, counter that this Petition was not a proper recourse because petitioners seek a recalibration of facts and evidence which is not within the scope of the Petition because only pure questions of law may be raised herein. They add that MDTC was a legitimate and independent job contractor and was the employer of petitioners, not CCBPI.

### **Our Ruling**

The Petition is impressed with merit.

As a rule, the determination of whether an employer-employee relationship exists between the parties involves factual matters that are generally beyond the ambit of this Petition as only questions of law may be raised in a petition for review on *certiorari*. However, this rule allows certain exceptions, which include an instance where the factual findings of the courts or tribunals below are conflicting. Given the situation here where the factual findings of the NLRC and the CA are divergent from those of the LA, the Court deems it proper to re-assess and review these findings in order to arrive at a just resolution of the issues on hand.<sup>[15]</sup>

Moreover, pursuant to Article 295 of the Labor Code, as amended and renumbered, a regular employee is a) one that has been engaged to perform tasks usually necessary or desirable in the employer's usual business or trade – without falling within the category of either a fixed or a project or a seasonal employee; or b) one that has been engaged for a least one year, whether his or her service is continuous or not, with respect to such activity he or she is engaged, and the work of the employee remains while such activity exists.

In this case, petitioners described their respective duties at CCBPI in this manner:

x x x I, V. Lingat, x x x was also engaged as forklift operator [but] my main work as plant driver [required me] to take out truck loaded with softdrinks/Coca-Cola products after the same has been checked by the checker area; [I also] drive back Coca-Cola trucks loaded with empty bottles or sometimes x x x unsold softdrinks x x x This represented [my] daily chores while employed at Coca-Cola[.]

x x x I, A. Altoveros, was with the latest work as segregator/mixer of softdrinks according to the demands of the customers, that is, when a customer needed ten (10) cases of Royal Tru-Orange or five (5) cases of Coke Sakto, the same is relayed to me in the loading area (as no sales personnel is allowed therein)[.] I have to segregate softdrinks accordingly to fill up the order of [the] customer.<sup>[16]</sup>