

FIRST DIVISION

[G.R. NO. 166136, August 18, 2006]

MARIO DANILO B. VILLAFLORES, PETITIONER, VS. RAM SYSTEM SERVICES, INC. AND ROGELIO U. YAP, RESPONDENTS.

D E C I S I O N

CALLEJO, SR., J.:

Assailed in this Petition for Review on *Certiorari* is the Decision^[1] of the Court of Appeals (CA), 9th Division, in CA-G.R. SP No. 84941 and its Resolution^[2] denying the motion for reconsideration thereof.

Petitioner Mario Danilo and Avelita Villaflores filed separate complaints against RAM System Services, Inc. (RSSI) and its President, Rogelio U. Yap, for illegal dismissal and monetary benefits. The complaints were docketed as National Labor Relations Commission (NLRC) NCR Cases Nos. 00-06-04135-97 and 00-66-04136-97, which were eventually ordered consolidated.

According to Mario, he was employed by RSSI on November 2, 1992 as computer coordinator with a basic salary of P20,000.00 a month. For her part, Avelita alleged that she was employed by RSSI on June 1, 1994 as computer instructor with a basic monthly salary of P6,500.00. RSSI terminated their services on June 9, 1997.

In their Position Paper, respondents alleged that Mario was the treasurer and an incorporator of RSSI; he was not its employee. The RSSI entered into a Memorandum of Agreement (MOA) with the Our Lady of Perpetual Succor College (OLOPSC) where the latter pledged to provide computer education curricula. Rogelio Yap, however, signed the MOA in his personal capacity. Thereafter, he and Mario entered into a "loose partnership," and the MOA was renewed from 1994 to 1998. In the meantime, Avelita was not rehired as instructor for the school year 1997-1998. The souring relationship of Yap and Mario took a turn for the worse when the latter accused Yap of being involved in irregularities in the collection of P2,500,000.00 from OLOPSC from June 18, 1996 to December 21, 1996 without his (Mario's) knowledge. This was followed by Mario's demand to be allowed to inspect the books of accounts and other records of the RSSI. When Yap refused, Mario filed a complaint with the Securities and Exchange Commission (SEC). The case was docketed as SEC Case No. 11-97-5827,^[3] later transferred to the RTC of Marikina City for resolution pursuant to Republic Act No. 8799. Mario alleged in his SEC complaint that he and Yap received funds from the RSSI from August 1993 to May 1996 as advance distribution of profits over and above their remuneration as teacher-coordinator and coordinator, respectively.

In his Reply to the Position Paper of respondents, Mario insisted that while he was an incorporator, director and treasurer of RSSI, he was also an employee who received a salary of P20,000.00 payable on a bi-monthly basis. He appended

photocopies of alleged payroll checks drawn against the account of RSSI and payable to him and his wife during the period of June 29, 1994 to March 25, 1997; and disbursement vouchers showing that the spouses were employees of RSSI.^[4] As evidenced by the said checks, Mario had a monthly salary of P15,000.00 in 1994; P15,000.00 from February to July 1995; P18,000.00 from September to December 1995; P18,000.00 from January to May 1996; P20,000.00 from June to December 1996; and P20,000.00 from January to March 1997.^[5] Mario then filed a supplement to his reply appending thereto photocopies of RSSI checks payable to him and Yap during the period from May 3, 1994 to December 1994,^[6] and receipts of remittances to him for assorted payments.^[7]

Respondents replied that the checks, disbursement vouchers and receipts submitted by the spouses Villaflores to prove that they were employees of RSSI and the amounts of their salary were hearsay and inadmissible; the checks, per se, cannot serve as basis for a finding of an employee-employer relationship.

On October 14, 1998, the Labor Arbiter rendered judgment ordering the dismissal of the two complaints, since complainants were not employees of RSSI. The *fallo* of the decision reads:

CONFORMABLY WITH THE FOREGOING, judgment is hereby rendered dismissing NLRC NCR No. 00-06-04135-97 for lack of jurisdiction. While NLRC NCR Case No. 00-06-04136-97 is dismissed for lack of merit.

SO ORDERED.^[8]

On appeal, the NLRC rendered judgment on October 29, 1999 affirming the decision of the Labor Arbiter.^[9] The spouses Villaflores filed a motion for reconsideration, which the NLRC denied.

The spouses Villaflores filed a petition for *certiorari* with the CA assailing the decision and resolution of the NLRC. They maintained that they were employees of RSSI. The case was docketed as CA-G.R. SP No. 58836 and raffled to the 16th Division of the court.

On March 28, 2001, the CA rendered judgment^[10] in favor of petitioners. The appellate court declared that there was ample evidence to show that Mario Villaflores was, in fact, an employee of RSSI receiving salaries on a bi-monthly basis as proven by the various paychecks in his name covering the period of June 19, 1994 to February 26, 1997; and disbursement vouchers from December 15, 1992 to January 29, 1993. The appellate court noted that the disbursement voucher dated January 29, 1993 even states that the amount of P2,500.00 was for the **salary** of Mario for the period of January 16 to 30, 1993.^[11] The *fallo* of the decision reads:

WHEREFORE, the petition is **GRANTED**. The decisions of Labor Arbiter Melquiades Sol Del Rosario dated October 14, 1998 and the National Labor Relations Commission (First Division) dated October 29, 1999 are **REVERSED and SET ASIDE**. The termination of petitioners Mario Danilo Villaflores and Avelita Villaflores is hereby declared ILLEGAL. Accordingly, private respondents RAM System Services, Inc. (RSSI) and Rogelio Yap are hereby **ORDERED** to reinstate herein petitioners to their former

positions without loss of seniority and any other benefits, or to pay them their respective separation pay should reinstatement be no longer feasible. Private respondents are, likewise, ordered to pay petitioner full backwages from June 9, 1997 until the date of their actual reinstatement.

SO ORDERED.^[12]

Respondents then filed a petition for review on certiorari before this Court, which was, however, denied due course; *hence, the decision in CA-G.R. SP No. 58836 became final and executory.*

The records were then remanded to the Labor Arbiter for the enforcement of the CA decision. Mario filed a Motion for Execution^[13] dated July 29, 2002. The Labor Arbiter required respondents to comment on the motion.

During the pre-execution conference on September 10, 2002, respondents prayed for an extension of time to file their comment on the motion.^[14] Respondents then settled Avelita's claims, but the monetary award to Mario remained unpaid. In the meantime, Mario submitted his computation of the monetary award, alleging that the CA decision declared his monthly salary to be P20,000.00, thus, he was entitled to a total amount of P1,567,000.00.^[15]

In their Joint Comment, respondents prayed that the computation of the monetary award should be done by the Labor Arbiter in direct coordination with the concerned department of the NLRC, and that the same should not be based on the self-serving computation of Mario.^[16] Respondents claimed that there is no factual basis for the latter's claim that he received a monthly salary of P20,000.00 from RSSI. Such claim, they insist, is inadmissible and self-serving.

Upon motion by the respondents, the Labor Arbiter set the case anew for pre-execution conference on November 25, 2002.^[17] However, the parties failed to appear on the said date. The arbiter, hence, declared the matter submitted for resolution and required the Research and Computation Unit (RCU) of the NLRC to compute the monetary awards of Mario.^[18]

On December 10, 2002, the RCU submitted its computation of the award based on Mario's monthly salary of P20,000.00. The total monetary award of Mario was pegged at P1,553,898.00.^[19] The RCU computed his separation pay based on one-half month for every year of service. However, he moved that the computation be revised and that his separation pay be based on one-month salary for every year of service.^[20]

For their part, respondents moved for the recomputation of the aforesaid award on the ground that nothing in the dispositive portion of the decision of the CA directly state that Mario had a monthly salary of P20,000.00. If ever, respondents submit, such computation should be at par with that of his wife (P6,500.00 a month).^[21]

On January 23, 2003, the Labor Arbiter issued an Order^[22] affirming the computation of the RCU, considering that it was made in accordance with the

decision of the CA, the Court and the Rules of the NLRC.

Respondents appealed the order to the NLRC, which, however, dismissed the appeal on September 30, 2003.^[23] On respondents' claim that Mario's backwages should be equal to the salary of his wife, the Commission declared that it was only at this late stage in the case that respondents raised the matter; it was never mentioned in any of their earlier pleadings.

The NLRC declared that the documents on record show that the last two checks for March 1997 submitted in evidence (dated March 11, 1997 and March 25, 1997) were P10,000.00 each. It is thus logical to conclude that Mario had a monthly salary of P20,000.00.^[24]

Respondents' motion for the reconsideration of the resolution was also denied by the NLRC.

Respondents filed a petition for certiorari with the CA, seeking to reverse the NLRC resolutions on the following ground:

Public respondent NLRC (1st Division) acted with manifest error and grave abuse of discretion in affirming the computation made by the NLRC-NCR Research and Computation Unit which was approved by Labor Arbiter Melquiades Sol Del Rosario, in particular, the monetary award granted to respondent Mario Danilo Villaflores, as it transgressed petitioners' sacrosanct right to due process.^[25]

On August 31, 2004, the CA rendered judgment granting the petition and reversed the assailed NLRC resolution. The *fallo* of the decision reads:

WHEREFORE, premises considered, petition for certiorari is hereby **GIVEN DUE COURSE** and the January 23, 2003 Order of the Labor Arbiter in NLRC NCR Case Nos. 00-06-04135-97 and 00-06-04136-97, and the September 30, 2003 Resolution and June 8, 2004 Order of the National Labor Relations Commission, are hereby **REVERSED** and **SET ASIDE**, and the matter of computation of monetary awards for Mario Danilo Villaflores is hereby **REMANDED** to the Labor Arbiter and he is hereby **DIRECTED** to recompute the monetary award due Mario Danilo Villaflores based on P6,500.00 "salary" as computer instructor, just like his wife's "salary" which shall be different from what constitutes "other compensation as officer and as stockholder."

SO ORDERED.^[26]

The CA denied the motion of Mario for the reconsideration of the decision.

Mario, hence, filed a petition for review on *certiorari* alleging that:

THE COURT OF APPEALS COMMITTED GRAVE ERROR IN SETTING ASIDE THE FINDING OF THE NLRC WHICH WAS SUPPORTED BY SUBSTANTIAL EVIDENCE OF (SIC) RECORD.^[27]