

## THIRD DIVISION

[ G.R. NO. 160073, October 24, 2005 ]

**ABUNDIO BARAYOGA AND BISUDECO-PHILSUCOR CORFARM  
WORKERS UNION (PACIWU CHAP-TPC), PETITIONERS, VS.  
ASSET PRIVATIZATION TRUST,\* RESPONDENT.**

### DECISION

**PANGANIBAN, J.:**

Responsibility for the liabilities of a mortgagor towards its employees cannot be transferred via an auction sale to a purchaser who is also the mortgagee-creditor of the foreclosed assets and chattels. Clearly, the mortgagee-creditor has no employer-employee relations with the mortgagor's workers. The mortgage constitutes a lien on the determinate properties of the employer-debtor, because it is a specially preferred credit to which the worker's monetary claims is deemed subordinate.

#### The Case

Before us is a Petition for Review<sup>[1]</sup> under Rule 45 of the Rules of Court, assailing the January 30, 2003 Decision<sup>[2]</sup> and the August 27, 2003 Resolution<sup>[3]</sup> of the Court of Appeals (CA), in CA-GR SP No. 58813. The disposition or *fallo* of the questioned Decision reads as follows:

"IN VIEW OF ALL THE FOREGOING, the instant petition is **GRANTED** and the assailed NLRC Decision dated February 18, 2000 is hereby **RECALLED and SET ASIDE** insofar as herein petitioner APT is concerned. No cost."<sup>[4]</sup>

The reversed Decision<sup>[5]</sup> of the National Labor Relations Commission (NLRC) disposed as follows:

"WHEREFORE, premises considered, the decision appealed from is AFFIRMED with modifications as follows:

"1. Complainants are awarded their monetary claims for underpayment of salaries and payment of allowances per their computation on pp. 97-99 and 142-144 of the records;

"2. Complainants are declared to have been illegally dismissed and should be paid their backwages from 01 May 1991 to 30 October 1992."<sup>[6]</sup>

The challenged August 27, 2003 Resolution denied petitioners' Motion for Reconsideration.

#### The Facts

The CA summarized the antecedents in this portion of its Decision, which we quote:

"Bisudeco-Philsucor Corfarm Workers Union is composed of workers of Bicolandia Sugar Development Corporation (BISUDECO), a sugar plantation mill located in Himaaao, Pili, Camarines Sur.

"On December 8, 1986, [Respondent] Asset Privatization Trust (APT), a public trust was created under Proclamation No. 50, as amended, mandated to take title to and possession of, conserve, provisionally manage and dispose of non-performing assets of the Philippine government identified for privatization or disposition.

"Pursuant to Section 23 of Proclamation No. 50, former President Corazon Aquino issued Administrative Order No. 14 identifying certain assets of government institutions that were to be transferred to the National Government. Among the assets transferred was the financial claim of the Philippine National Bank against BISUDECO in the form of a secured loan. Consequently, by virtue of a Trust Agreement executed between the National Government and APT on February 27, 1987, APT was constituted as trustee over BISUDECO's account with the PNB.

"Sometime later, on August 28, 1988, BISUDECO contracted the services of Philippine Sugar Corporation (Philsucor) to take over the management of the sugar plantation and milling operations until August 31, 1992.

"Meanwhile, because of the continued failure of BISUDECO to pay its outstanding loan with PNB, its mortgaged properties were foreclosed and subsequently sold in a public auction to APT, as the sole bidder. On April 2, 1991, APT was issued a Sheriff's Certificate of Sale.

"On July 23, 1991, the union filed a complaint for unfair labor practice, illegal dismissal, illegal deduction and underpayment of wages and other labor standard benefits plus damages.

"In the meantime, on July 15, 1992, APT's Board of Trustees issued a resolution accepting the offer of Bicol-Agro-Industrial Cooperative (BAPCI) to buy the sugar plantation and mill. Again, on September 23, 1992, the board passed another resolution authorizing the payment of separation benefits to BISUDECO's employees in the event of the company's privatization. Then, on October 30, 1992, BAPCI purchased the foreclosed assets of BISUDECO from APT and took over its sugar milling operations under the trade name Peñafrancia Sugar Mill (Pensumil).

"On December 17, 1992, the union filed a similar complaint, later to be consolidated with its earlier complaint and docketed as RAB V Case No. 07-00184-91.

"On March 2, 1993, it filed an amended complaint, impleading as additional party respondents APT and Pensumil.

"In their Position Paper, the union alleged that when Philsucor initially took over the operations of the company, it retained BISUDECO's existing personnel under the same terms and conditions of employment. Nonetheless, at the start of the season sometime in May 1991, Philsucor started recalling workers back to work, to the exception of the union members. Management told them that they will be re-hired only if they resign from the union. Just the same, thereafter, the company started to employ the services of outsiders under the "pakyaw" system.

"BISUDECO, Pensumil and APT all interposed the defense of lack of employer-employee relationship.

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"After due proceedings, on April 30, 1998, Labor Arbiter Fructuoso T. Aurellano disposed as follows:

*"WHEREFORE, premises considered, respondent APT is hereby ordered to pay herein complainants of the mandated employment benefits provided for under Section 27 of Proclamation No. 50 which benefits had been earlier extended to other employees similarly situated.*

*"SO ORDERED."*

"Both the union and APT elevated the labor arbiter's decision before NLRC."<sup>[7]</sup>

The NLRC affirmed APT's liability for petitioners' money claims. While no employer-employee relationship existed between members of the petitioner union and APT, at the time of the employees' illegal dismissal, the assets of BISUDECO had been transferred to the national government through APT. Moreover, the NLRC held that APT should have treated petitioners' claim as a lien on the assets of BISUDECO. The Commission opined that APT should have done so, considering its awareness of the pending complaint of petitioners at the time BISUDECO sold its assets to BAPCI, and APT started paying separation pay to the workers.

Finding their computation to be in order, the NLRC awarded to petitioners their money claims for underpayment, labor-standard benefits, and ECOLA. It also awarded them their back wages, computed at the prevailing minimum wage, for the period May 1, 1991 (the date of their illegal dismissal) until October 30, 1992 (the sale of BISUDECO assets to the BAPCI). On the other hand, the NLRC ruled that petitioners were not entitled to separation pay because of the huge business losses incurred by BISUDECO, which had resulted in its bankruptcy.

Respondent sought relief from the CA via a Petition for Certiorari under Rule 65 of the Rules of Court.

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

The CA ruled that APT should not be held liable for petitioners' claims for unfair labor practice, illegal dismissal, illegal deduction and underpayment of wages, as

well as other labor-standard benefits plus damages. As found by the NLRC, APT was not the employer of petitioners, but was impleaded only for possessing BISUDECO's mortgaged properties as trustee and, later, as the highest bidder in the foreclosure sale of those assets.

Citing *Batong Buhay Gold Mines v. Dela Serna*,<sup>[8]</sup> the CA concluded that petitioners' claims could not be enforced against APT as mortgagee of the foreclosed properties of BISUDECO.

Hence, this Petition.<sup>[9]</sup>

### **Issues**

In their Memorandum, petitioners raise the following issues for our consideration:

"I. Whether or not the Court of Appeals erred in ruling that Respondent Asset Privatization Trust (APT) should not be held liable for the petitioner union's claim for unfair labor practice, illegal dismissal, illegal deduction and underpayment of wages and other labor standard benefits plus damages.

"II. Whether or not the claims of herein petitioners cannot be enforced against APT/PNB as mortgagee of the foreclosed properties of BISUDECO.

"III. Whether or not the entitlement of petitioners upon their claims against Respondent APT is recognized under the law."<sup>[10]</sup>

In brief, the main issue raised is whether Respondent APT is liable for petitioners' monetary claims.

### **The Court's Ruling**

The Petition has no merit.

#### **Main Issue:**

#### **Whether APT Is Liable for the Claims of Petitioners Against Their Former Employer**

It should be stressed at the outset that, pursuant to Administrative Order No. 14, Series of 1987,<sup>[11]</sup> PNB's assets, loans and receivables from its borrowers were transferred to APT as trustee of the national government. Among the liabilities transferred to APT was PNB's financial claim against BISUDECO, not the latter's assets and chattel. Contrary to petitioners' assertions, BISUDECO remained the owner of the mortgaged properties in August 1988, when the Philippine Sugar Corporation (Philsucor) undertook the operation and management of the sugar plantation until August 31, 1992, under a so-called Contract of Lease between the two corporations. At the time, APT was merely a secured creditor of BISUDECO.<sup>[12]</sup>

It was only in April 1991 that APT foreclosed the assets and chattels of BISUDECO because of the latter's continued failure to pay outstanding loan obligations to PNB/APT. The properties were sold at public auction to APT, the highest bidder, as

indicated in the Sheriff's Certificate of Sale issued on April 2, 1991. It was only in September 1992 (after the expiration of the lease/management Contract with Philsucor in August 1992), however, when APT took over BISUDECO assets, preparatory to the latter's privatization.

In the present case, petitioner-union's members who were not recalled to work by Philsucor in May 1991 seek to hold APT liable for their monetary claims and allegedly illegal dismissal. Significantly, prior to the actual sale of BISUDECO assets to BAPCI on October 30, 1992, the APT board of trustees had approved a Resolution on September 23, 1992. The Resolution authorized the payment of separation benefits to the employees of the corporation in the event of its privatization. Not included in the Resolution, though, were petitioner-union's members who had not been recalled to work in May 1991.

The question now before the Court is whether APT is liable to pay petitioners' monetary claims, including back wages from May 1, 1991, to October 30, 1992 (the date of the sale of BISUDECO assets to BAPCI).

We rule in the negative. The duties and liabilities of BISUDECO, including its monetary liabilities to its employees, were not all automatically assumed by APT as purchaser of the foreclosed properties at the auction sale. Any assumption of liability must be specifically and categorically agreed upon. In *Sundowner Development Corp. v. Drilon*,<sup>[13]</sup> the Court ruled that, unless expressly assumed, labor contracts like collective bargaining agreements are not enforceable against the transferee of an enterprise. Labor contracts are in personam and thus binding only between the parties.

No succession of employment rights and obligations can be said to have taken place between the two. Between the employees of BISUDECO and APT, there is no privity of contract that would make the latter a substitute employer that should be burdened with the obligations of the corporation. To rule otherwise would result in unduly imposing upon APT an unwarranted assumption of accounts not contemplated in Proclamation No. 50 or in the Deed of Transfer between the national government and PNB.

Furthermore, under the principle of absorption, a bona fide buyer or transferee of all, or substantially all, the properties of the seller or transferor is not obliged to absorb the latter's employees.<sup>[14]</sup> The most that the purchasing company may do, for reasons of public policy and social justice, is to give preference of reemployment to the selling company's qualified separated employees, who in its judgment are necessary to the continued operation of the business establishment.<sup>[15]</sup>

In any event, the national government (in whose trust APT previously held the mortgage credits of BISUDECO) is not the employer of petitioner-union's members, who had been dismissed sometime in May 1991, even before APT took over the assets of the corporation. Hence, under existing law and jurisprudence, there is no reason to expect any kind of bailout by the national government.<sup>[16]</sup> Even the NLRC found that no employer-employee relationship existed between APT and petitioners. Thus, the Commission gravely abused its discretion in nevertheless holding that APT, as the transferee of the assets of BISUDECO, was liable to petitioners.