

THIRD DIVISION

[G.R. No. 122791, February 19, 2003]

PLACIDO O. URBANES, JR., DOING BUSINESS UNDER THE NAME & STYLE OF CATALINA SECURITY AGENCY, PETITIONER, VS. THE HONORABLE SECRETARY OF LABOR AND EMPLOYMENT AND SOCIAL SECURITY SYSTEM, RESPONDENTS.

D E C I S I O N

CARPIO MORALES, J.:

Before this Court is a Petition for Certiorari under Rule 65 of the Revised Rules of Court assailing the June 22, 1995 Order of the Department of Labor and Employment (DOLE) Secretary which set aside the September 16, 1994 Order of the Regional Director, National Capital Region (NCR).

The antecedent facts of the case are as follows:

Petitioner Placido O. Urbanes, Jr., doing business under the name and style of Catalina Security Agency, entered into an agreement^[1] to provide security services to respondent Social Security System (SSS).

During the effectivity of the agreement, petitioner, by letter of May 16, 1994,^[2] requested the SSS for the upward adjustment of their contract rate in view of Wage Order No. NCR-03 which was issued by the Regional Tripartite Wages and Productivity Board-NCR pursuant to Republic Act 6727 otherwise known as the Wage Rationalization Act, the pertinent provision of which wage order reads:

Section 9. **In the case of contracts** for construction projects and **for security**, janitorial and similar services, **the prescribed amount set forth herein for covered workers shall be borne by the principals or the clients** of the construction/service contractors **and the contract shall be deemed amended accordingly. In the event, however, that the principal or client failed to pay the prescribed increase, the construction/service contractors shall be jointly and severally liable with the principal or client.** (Emphasis and underscoring supplied.)

As his May 16, 1994 letter to the SSS remained unheeded, petitioner sent another letter,^[3] dated June 7, 1994, reiterating the request, which was followed by still another letter,^[4] dated June 8, 1994.

On June 24, 1994, petitioner pulled out his agency's services from the premises of the SSS and another security agency, Jaguar, took over.^[5]

On June 29, 1994, petitioner filed a complaint^[6] with the DOLE-NCR against the

SSS seeking the implementation of Wage Order No. NCR-03.

In its position paper,^[7] the SSS prayed for the dismissal of the complaint on the ground that petitioner is not the real party in interest and has no legal capacity to file the same. In any event, it argued that if it had any obligation, it was to the security guards.

On the other hand, petitioner in his position paper,^[8] citing *Eagle Security Agency, Inc. v. NLRC*,^[9] contended that the security guards assigned to the SSS do not have any legal basis to file a complaint against it for lack of contractual privity.

Finding for petitioner, the Regional Director of the DOLE-NCR issued an Order ^[10] of September 16, 1994, the dispositive portion of which reads, quoted *verbatim*:

WHEREFORE, premises considered, the respondent Social Security System (SSS) is hereby Ordered to pay Complainant the total sum of ONE MILLION SIX HUNDRED THOUSAND EIGHT HUNDRED FIFTY EIGHT AND 46/100 (P 1,600,858.46) representing the wage differentials under Wage Order No. NCR-03 of the ONE HUNDRED SIXTY EIGHT (168) Security Guards of Catalina Security Agency covering the period from December 16, 1993 to June 24, 1994, inclusive within ten (10) days from receipt hereof, otherwise a writ of execution shall be issued to enforce this Order.

The claims for the payment of interest and Attorney's fees are hereby ordered dismissed for want of jurisdiction.

SO ORDERED.

The SSS moved to reconsider the September 16, 1994 Order of the Regional Director, praying that the computation be revised.^[11]

By Order^[12] of December 9, 1994, the Regional Director modified his September 16, 1994 Order by reducing the amount payable by the SSS to petitioner. The dispositive portion of the Regional Director's Order of December 9, 1994 reads:

WHEREFORE, premises considered, the Order of this Office dated September 16, 1994 is hereby modified. Respondent Social Security System is hereby ordered to pay complainant the amount of ONE MILLION TWO HUNDRED THIRTY SEVEN THOUSAND SEVEN HUNDRED FORTY PESOS (P 1,237,740.00) representing the wage differentials under Wage Order No. NCR-03 of the one hundred sixty-eight (168) security guards of Catalina Security Agency covering the period from December 16, 1993 to June 20, 1994, inclusive, within ten (10) days from receipt of this Order, otherwise, execution shall issue.

The SSS appealed^[13] to the Secretary of Labor upon the following assigned errors, quoted *verbatim*:

A. THE REGIONAL DIRECTOR HAS NO JURISDICTION OF THE CASE AT BAR.

B. THE HONORABLE REGIONAL DIRECTOR ERRED IN FINDING THAT COMPLAINANT IS THE REAL PARTY IN INTEREST AND HAS LEGAL CAPACITY TO FILE THE CASE.

C. THE HONORABLE REGIONAL DIRECTOR ERRED IN ADOPTING COMPLAINANT'S COMPUTATION FOR WAGE ADJUSTMENT UNDER WAGE ORDER NO. NCR-03 AS BASIS OF RESPONDENT'S LIABILITY.

[14]

The Secretary of Labor, by Order^[15] of June 22, 1995, set aside the order of the Regional Director and remanded the records of the case "for recomputation of the wage differentials using P 5,281.00 as the basis of the wage adjustment." And the Secretary held petitioner's security agency "JOINTLY AND SEVERALLY liable for wage differentials, the amount of which should be paid DIRECTLY to the security guards concerned."

Petitioner's Motion for Reconsideration of the DOLE Secretary's Order of June 22, 1995 having been denied by Order^[16] of October 10, 1995, the present petition was filed, petitioner contending that the DOLE Secretary committed grave abuse of discretion when he:

1. . . . TOTALLY IGNORED THE PROVISION OF ARTICLE 129 OF THE LABOR CODE FOR PERFECTING AN APPEAL FROM THE DECISION OF THE REGIONAL DIRECTOR UNDER ARTICLE 129 INVOKED BY RESPONDENT SSS;
2. . . . DISREGARDED THE PROVISION ON APPEALS FROM THE DECISIONS OR RESOLUTIONS OF THE REGIONAL DIRECTOR, DOLE, UNDER ARTICLE 129 OF THE LABOR CODE, AS AMENDED BY REPUBLIC ACT NO. 6715;
3. . . . TOTALLY OVERLOOKED THE LAW AND PREVAILING JURISPRUDENCE WHEN IT ACTED ON THE APPEAL OF RESPONDENT SSS.^[17]

Petitioner asserts that the Secretary of Labor does not have jurisdiction to review appeals from decisions of the Regional Directors in complaints filed under Article 129 of the Labor Code^[18] which provides:

ART. 129. RECOVERY OF WAGES, SIMPLE MONEY CLAIMS AND OTHER BENEFITS. – Upon complaint of any interested party, the regional director of the Department of Labor and Employment or any duly authorized hearing officers of the Department is empowered, through summary proceeding and after due notice, to hear and decide any matter involving the recovery of wages and other monetary claims and benefits, including legal interest, owing to an employee or person employed in domestic or household service or househelper under this Code, arising from employer-employee relations: Provided, That such complaint does not include a claim for reinstatement; Provided, further, That the aggregate money claim of each employee or househelper does not exceed Five Thousand pesos (P5,000.00). The regional director or hearing officer shall decide or resolve the complaint within thirty (30) calendar days

from the date of the filing of the same. Any sum thus recovered on behalf of any employee or househelper pursuant to this Article shall be held in a special deposit account by, and shall be paid on order of, the Secretary of Labor and Employment or the regional director directly to the employee or househelper concerned. Any such sum not paid to the employee or househelper, because he cannot be located after diligent and reasonable effort to locate him within a period of three (3) years, shall be held as a special fund of the Department of Labor and Employment to be used exclusively for the amelioration and benefit of workers.

Any decision or resolution of the regional director or officer pursuant to this provision may be appealed on the same grounds provided in Article 223 of this Code, within five (5) calendar days from receipt of a copy of said decision or resolution, **to the National Labor Relations Commission** which shall resolve the appeal within ten (10) calendar days from submission of the last pleading required or allowed under its rules.

x x x (Emphasis supplied).

Petitioner thus contends that as the appeal of SSS was filed with the wrong forum, it should have been dismissed.^[19]

The SSS, on the other hand, contends that Article 128, not Article 129, is applicable to the case. Article 128 provides:

ART. 128. VISITORIAL AND ENFORCEMENT POWERS –

x x x

(b) Notwithstanding the provisions of Article 129 and 217 of this Code to the contrary, and in cases where the relationship of employer-employee still exists, **the Secretary of Labor and Employment or his duly authorized representatives shall have the power to issue compliance orders to give effect to labor legislation based on the findings of labor employment and enforcement officers or industrial safety engineers made in the course of inspection.**

x x x

An order issued by the duly authorized representative of the Secretary of Labor and Employment under this article may be appealed to the latter.

x x x (Emphasis supplied).

Neither the petitioner's contention nor the SSS's is impressed with merit. *Lapanday Agricultural Development Corporation v. Court of Appeals*^[20] instructs so. In that case, the security agency filed a complaint before the Regional Trial Court (RTC) against the principal or client Lapanday for the upward adjustment of the contract rate in accordance with Wage Order Nos. 5 and 6. Lapanday argued that it is the National Labor Relations Commission, not the civil courts, which has jurisdiction to