

SECOND DIVISION

[G.R. No. 125671, January 28, 2000]

**CONDO SUITE CLUB TRAVEL, INC., PETITIONER, VS. NATIONAL
LABOR RELATIONS COMMISSION (THIRD DIVISION) AND
FLORENCIO LALO, RESPONDENTS.**

D E C I S I O N

QUISUMBING, J.:

This special civil action for certiorari assails the decision of public respondent dated January 29, 1996 in NLRC NCR Case 09-06751-94, and its resolution dated June 28, 1996, which denied petitioner's motion for reconsideration.

The records show that private respondent was first employed by Sunette Realty Development Corporation as "housekeeper" with a monthly compensation of P8,000.00. After two months, private respondent signed a new employment contract with petitioner, Condo Suite Club Travel Inc., under the same terms of employment. Both firms belong to ARCON Group of Companies, run by the same management and board of directors.

In July 1992, private respondent's salary was reduced to P6,000.00 because of adverse business conditions. Expectedly, private respondent complained with the management. To placate him, private respondent's salary was adjusted to P6,500.00. Private respondent was receiving such salary until his dismissal although he was then already performing the duties and responsibilities of a front desk supervisor in petitioner's hotel. Aside from his employment with petitioner, private respondent owned a car-for-hire, which he regularly rented to a certain Joselito Landrigan at the rate of P400.00 a day. Landrigan, in turn, operated the car as a taxi with himself as driver.

On August 15, 1994, Landrigan approached Editha Mariano, front desk clerk at petitioner's hotel. He requested Mariano that his alleged collectible from a certain In Hu, a Korean guest in the hotel, be included in the hotel bill of said guest. He claimed that Mr. Hu owed him P2,000.00 for two-day rental of private respondent's car. Acceding to Landrigan's request, Mariano entered the amount in the statement of account of the guest to make the total billing of P16,710.00. Upon checking-out from the hotel, Mr. Hu paid his bill through his credit card. As he was in a hurry, he left without verifying his statement of account. This incident is reflected in the handwritten account of Mariano dated September 23, 1994, herein below quoted:

"I was the front desk clerk on duty when Mr. In Hu Rm. 2002 checked-out on August 15, 1994. Before he checked-out Lito (driver) approached me and told me that a Korean from Room 2002 hired him for two days. He told me to charged (sic) him (the guest) P2,000.00

I entered P2,000.00 to his Statement of Account and inform him of the

total. He was so much in a hurry that he didn't get the latest Statement of Account for P16,710.00. I gave him the Card Holder's Copy and Company's Receipt for the same amount."^[1]

While in Korea, Mr. Hu noticed the discrepancy between the statement of account issued by petitioner and the charge slip of his credit card. Thus, on coming back to the Philippines, he dropped by at petitioner's hotel and complained about the overbilling. The report of Allan Padua dated September 13, 1994, regarding the incident states:

"Last August 8, 1994, Mr. In Hu checked in at Rm. 2002. He stayed for seven (7) days. He was so in a hurry when he checked out on August 15, 1994. He was charged thru his Visa card the amount of P16,710.00 without noticing that the written amount on his Statement of Account is only P14,710.00. He only noticed the discrepancy when he reached Korea.

Yesterday, September 12, 1994 in the morning, he came to the Front Desk and was complaining. I approached him and he showed me his charge slip and Statement of Account. Both seem not to tally. I made an investigation and found out that Front Desk personnel made a big mistake by charging him P2,000.00 higher than his actual bill in his (Mr. Hu) Statement of Account which is only P14,710.00.

Upon further investigation, I found out that the P2,000.00 in contention was entered as a transportation account which the guest denied because he (Mr. Hu) paid for his own transportation from the airport to [the] Condo Suite.

This incident resulted to Mr. Hu's transfer to the competitor, Suite Shine."^[2]

In response to the abovequoted report, private respondent averred that although Padua's report did not mention him as the one responsible for the overbilling, he had to explain his side being the front desk supervisor and owner of the car involved in the controversy. He pointed out that the statement of account referred to by Mr. Hu was given a day before he checked out and did not reflect the latest charges, hence, the total billing shown amounted only to P14,710.00. Private respondent related that on his last day at the hotel, Mr. Hu was informed of his total account amounting to P16,710.00 which the latter acknowledged by signing and accepting the corresponding receipt. He recalled that Mr. Hu was indeed in a hurry so that the Korean did not get his latest statement of account which by then reflected the additional P2,000.00 and making the total charges P16,710.00.^[3]

In the investigation that ensued, it was shown that there was really no car accommodation as claimed by Landrigan. In his handwritten statement dated September 16, 1994, Landrigan admitted that he approached Mariano at the front desk and demanded payment for Mr. Hu's alleged transportation expense. He also claimed to have received the amount P2,000.00 through a check issued by petitioner on August 17, 1994 or two days after Mr. Hu left for Korea. However, he asserted that he returned the said amount on September 16, 1994, in order not to tarnish the image of petitioner hotel.^[4]

Eventually, petitioner's staff confirmed the error in the billing of Mr. Hu. Upon return of the P2,000.00 by Landrigan, petitioner refunded the amount to the Korean.

On September 26, 1994, petitioner terminated the services of private respondent on the ground of loss of confidence for the latter's malicious intent to defraud a guest of the hotel.^[5]

On September 14, 1994, before his dismissal, private respondent filed a complaint for diminution of salary before the Arbitration Branch of NLRC. Subsequently, after having been dismissed, private respondent amended aforesaid complaint and included the charge of illegal dismissal from employment. During the arbitration proceedings, petitioner offered to reinstate private respondent which the latter rejected. Thereafter, the labor arbiter, in a decision dated July 6, 1995, dismissed said complaint for diminution of salary and illegal dismissal for lack of merit.

On appeal, public respondent NLRC affirmed the order dismissing the complaint for diminution of salary, but modified the decision of the labor arbiter as regards illegal dismissal. It held that the overbilling incident is the singular handiwork of Landrigan as there is no evidence linking private respondent with the anomaly. It also ordered the reinstatement of private respondent with backwages but only up to the time when the offer of reinstatement was made on January 31, 1995. It disposed of the case as follows:

"WHEREFORE, premises considered, the respondents are hereby ordered to reinstate herein complainants with backwages in the amount of P26,866.64. Accordingly, the dismissal of the complaint for diminution of salary is affirmed.

The appealed Decision is thus accordingly modified.

SO ORDERED."^[6]

Its motion for reconsideration having been denied, petitioner filed the present petition. It seeks to annul the decision of public respondent ordering the reinstatement of private respondent. However, petitioner does not state the grounds relied upon for said annulment. We note that petitioner imputes neither lack or excess of jurisdiction, nor grave abuse of discretion, on the part of public respondent in rendering the assailed judgment.

Resort to a special civil action for certiorari under Rule 65 of the Rules of Court is limited to the resolution of jurisdictional issues, that is, lack or excess of jurisdiction and grave abuse of discretion amounting to lack of jurisdiction.^[7] The respondent acts without jurisdiction if he does not have the legal power to determine the case. There is excess of jurisdiction where the respondent, being clothed with the power to determine the case, oversteps his authority as determined by law. And there is grave abuse of discretion where the respondent acts in a capricious, whimsical, arbitrary or despotic manner in the exercise of his judgment as to be said to be equivalent to lack of jurisdiction.^[8] Since petitioner neither assails the jurisdiction of public respondent nor attributes grave abuse of discretion on part of the labor tribunal, this petition must fail.