

SECOND DIVISION

[G.R. No. 108710, September 14, 1999]

ARMANDO T. DE ROSSI, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (FIRST DIVISION), MATLING INDUSTRIAL AND COMMERCIAL CORPORATION AND RICHARD K. SPENCER, RESPONDENTS.

RESOLUTION

QUISUMBING, J.:

This petition for certiorari, under Rule 65 of the Rules of Court, assails the Decision^[1] of the National Labor Relations Commission (NLRC) which ruled that jurisdiction over a complaint by a corporate executive and management officer for illegal dismissal rests with the Securities and Exchange Commission, and not the Labor Arbiter and the NLRC. Said Decision reversed and set aside the holding of the Labor Arbiter^[2] who sustained petitioner's claim for reinstatement and damages.

The antecedent facts are as follows:

An Italian citizen, petitioner was the Executive Vice-President and General Manager of private respondent, Matling Industrial and Commercial Corporation (MICC). He started work on July 1, 1985. On August 10, 1988, MICC terminated his employment.

Aggrieved, petitioner filed with the NLRC, National Capital Region on September 21, 1989, a complaint^[3] for illegal dismissal with corresponding damages.

MICC based petitioner's dismissal on the ground that the petitioner failed to secure his employment permit, grossly mismanaged the business affairs of the company, and misused corporate funds. However, petitioner argued that it was the duty of the company to secure his work permit during the term of his office, and that his termination was illegal for lack of just cause.

On November 27 1991, Labor Arbiter Asuncion rendered a decision in favor of petitioner, disposing as follows:

"WHEREFORE, respondents, Matling Industrial and Commercial Corporation and Richard K. Spencer, are jointly and severally ordered:

1. To reinstate the complainant Armando T. de Rossi to his former positions as Executive Vice-President and General Manager, without loss of seniority rights, and other privileges and with full backwages, from the date his salary was withheld until he is actually reinstated. His reinstatement is immediately executory;

2. To pay the complainant the sum of P800,000 as moral damages, and another P700,000.00 as exemplary damages.
3. To pay Attorney's fee equivalent to 10% of the total amount awarded.

SO ORDERED."^[4]

MICC appealed the decision of the labor arbiter to the NLRC (First Division) on the ground that Asuncion committed grave abuse of discretion amounting to lack of jurisdiction in reinstating the petitioner and awarding him backwages and damages, because the termination of petitioner was for a valid cause.

On January 6, 1992, petitioner filed a motion for issuance of writ of execution,^[5] stating that the reinstatement order is immediately executory, even pending appeal pursuant to Article 223 of the Labor Code.

On January 16, 1992, respondents opposed the said motion. On February 6, 1992, petitioner filed a manifestation reiterating his request for reinstatement.

On February 26, 1992, and March 12, 1992, respectively, private respondents filed a counter manifestation and motion; they reiterated their vehement objection thereto as already signified in their opposition. Further, they contended that the position of executive vice-president is an elective post, specifically provided by the corporate's by-laws. Thus, the dismissal of the petitioner was an intra-corporate matter within the jurisdiction of the Securities and Exchange Commission (SEC) and not with the Labor Arbiter nor the NLRC. Therein, private respondents cited several cases decided by the Court in support of their contention, among them: *Dy vs. National Labor Relations Commission*, 145 SCRA 211, *Fortune Cement Corp. vs. National Labor Relations Commission*, 193 SCRA 258, *PSBA vs. Leano*, 127 SCRA 778.

On July 7, 1992, OIC and Executive Labor Arbiter Lita Aglibut issued a writ of execution. Aglibut directed Sheriff Max Lago to collect the backwages of petitioner de Rossi, in the amount of six hundred seventy five thousand (P675,000.00) pesos from MICC. Further, she gave MICC the option to reinstate de Rossi physically or constructively through payroll reinstatement until the final resolution of the case by the NLRC.

On August 5, 1992, private respondents filed a motion for reconsideration of the writ of execution, reiterating their argument that the SEC and not the NLRC has original and exclusive jurisdiction over the subject matter which involves the removal of a corporate officer.

On October 30, 1992, the NLRC rendered its decision dismissing the case by virtue of Section 5, paragraph (c), of P.D. No. 902-A. However, the Commission stated that, although in its view it has jurisdiction over the case, it must yield to the Supreme Court's decisions recognizing SEC's jurisdiction over such a case, to wit:

"It is our view that notwithstanding the provisions of Presidential Decree No. 902-A, we in this Commission, have jurisdiction over this case. The

reason being, Article 217 of the Labor Code was amended on March 21, 1989 by Section 9, Republic Act 6715, viz.:

x x x

On the other hand, we are mindful of a rule in this jurisdiction (geared towards stability of jurisprudence) that:

'If a judge of a lower court feels, in the fulfillment of his mission of deciding cases, that the application of a doctrine promulgated by his superiority is against his way of reasoning, or against his conscience, he may state his opinion on the matter, but rather than disposing of the case in accordance with his personal views, he must first think that it is his duty to apply the law as interpreted by the highest court of the land, and that any deviation from a principle laid down by the latter would unavoidably cause, as a sequel, unnecessary inconveniences, delay and expenses to the litigants.'(emphasis by NLRC, *People vs. Santos*, 56 O.G. 3546)

Guided by the above mandate, we thus have stated our 'opinion on the matter, but rather than disposing of the case in accordance with our views, we cannot but apply the law as interpreted by the highest court of the land', and rule that jurisdiction here is not with us but with the Securities and Exchange Commission.

WHEREFORE, the appealed decision is hereby set aside, and this case is dismissed for want of jurisdiction.

SO ORDERED."^[6]

In his petition for certiorari dated February 11, 1993, petitioner contends that:

"I. THE NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION OR ACTED IN EXCESS OF ITS JURISDICTION IN HOLDING THAT THE SECURITIES AND EXCHANGE COMMISSION HAS JURISDICTION OVER THE COMPLAINT FOR ILLEGAL DISMISSAL FILED BY PETITIONER.

"II. THE ISSUES RAISED IN THE COMPLAINT FOR ILLEGAL DISMISSAL ARE RIPE FOR ADJUDICATION BY THIS HONORABLE COURT."^[7]

Petitioner asserts that even managerial employees are entitled to the protection of labor laws. He states that his case is peculiar, and not similar to those cited by private respondents. Petitioner claims that he was neither elected to the post nor stockholder of MICC. Furthermore, petitioner avers that during the proceedings before the Labor Arbiter, private respondents never questioned the issue of jurisdiction; it would be too late to raise it now.

Respondent NLRC argues that under the Corporation Code, there is no requirement that an executive vice-president of a corporation should be a stockholder or a