

FIRST DIVISION

[G.R. No. 116662, February 01, 1996]

**ANGELITO PAGUIO AND MODESTO ROSARIO, PETITIONERS, VS.
NATIONAL LABOR RELATIONS COMMISSION, REDGOLD
BROKERAGE CORPORATION, AND SPOUSES RODRIGO DE GUIA
AND CEFERINA DE GUIA, RESPONDENTS.**

R E S O L U T I O N

KAPUNAN, J.:

This petition for certiorari under Rule 65 of the Revised Rules of Court seeks to reverse and set aside the decision rendered by the National Labor Relations Commission dated 10 February 1994 and its resolution dated 19 May 1994 in NLRC NCR CA No. 003218-92 (NLRC-NCR CASE NO. 00-02-00679-89).

The basic facts are summarized in the NLRC's decision, to wit:

On July 20, 1979, the respondent Redgold Brokerage Corporation was registered with the Securities and Exchange Commission. Its stockholders and/or directors and their proportional interests in the corporation are as follows:

Name	No. of Shares	Amount Paid on Subscription
Rodrigo R. de Guia	5,500	P 55,000.00
Angel G. Magracia	1,000	10,000.00
Modesto P. Rosario	1,000	10,000.00
Jose A. Carabao	1,000	10,000.00
Ceferina P. de Guia	1,000	10,000.00
Angelito A. Paguio	450	4,500.00
Francisco L. Realiza	25	250.00
Vicente D. Manosca	25	250.00

Respondents Rodrigo de Guia, Ceferina de Guia and complainant Modesto Rosario, were, respectively, the President, Finance Manager and Treasurer of the corporation. On June 14, 1980, complainant Modesto Rosario was appointed as its Operations Manager with a monthly salary of P3,200.00. On or about the same date, complainant Angelito Pagulo was also appointed as Shipping Manager with a monthly salary of

P2,850.00. All the parties are related to each other: respondents Rodrigo and Ceferina de Guia are husband and wife; complainant Angelito Paguio is Ceferina's brother and complainant Modesto Rosario is her brother-in-law.

On February 1, 1989, the complainants instituted the instant case for illegal dismissal against respondents. They alleged that on separate occasions, they requested the respondents for copies of the financial statements of the company; that their simple request enraged the respondents, who demoted complainant Modesto Rosario as a sales representative and planned to deal similarly with complainant Angelito Paguio; that on January 8, 1989, the respondents offered to purchase their shareholdings in the company for the measly amount of P30,000.00 for each of them, which they rejected outright; that the respondents then informed complainant Modesto Rosario that he was going to be transferred to the Davao branch of the respondent corporation; and that when he continued reporting for work at the main office of the respondent corporation, he was threatened with a gun by respondent Rodrigo de Guia and thereafter refused entry into the premises of the respondent corporation.

The respondents, contended that sometime in 1987, the complainants manifested a changed attitude towards their work - they started doing less work and incurring frequent unexplained absences; that, furthermore, they tried to convince their co-workers to do less work; that it was later discovered that the complainants had established their own companies, which were engaged in the same business as the respondent corporation and in direct competition with it; that complainant Modesto Rosario established Advance Cargo Movers while complainant Angelito Paguio established PR Cargo; that to prevent the complainants from further jeopardizing the business operations of the respondent corporation, they ordered complainant Modesto Rosario's transfer to Davao City and complainant Angelito Paguio's transfer to the sales division; that subsequently, the complainants stopped reporting for work; that on February 17, 1989, complainant Angelito Paguio inflicted physical injuries upon respondent Ceferina de Guia in a fit of anger.^[1]

After the submission by the parties of the required pleadings, Labor Arbiter Ricardo C. Nora rendered a decision dated 31 March 1992, finding that the termination of petitioners' services was justified by their commission of acts inimical to the reputation and business interest of respondent corporation, but awarded them separation pay in view of their long years of service with the corporation and indemnity for private respondents' failure to comply with the requirement of due process before effecting their dismissal, the dispositive portion of which reads as follows:

WHEREFORE, the instant complaint must be, as it is hereby **DISMISSED** for lack of merit. However, respondents **REDGOLD BROKERAGE CORPORATION** and/or spouses Rodrigo de Guia and Ceferina de Guia are ordered to pay jointly and solidarity, to the complainants, the aggregate amount of **SIXTY THOUSAND FIVE**

HUNDRED (P60,500.00) **PESOS** as follows:

Angelito Paguio -	P28,500.00
Modesto Paguio -	32,000.00
Total	P 60,500.00

representing complainants' separation pay and indemnity for non-observance of due process, within ten (10) days from receipt of this Decision.

All other issues are dismissed for lack of merit.

SO ORDERED.^[2]

Not satisfied with the Labor Arbiter's decision, private respondents interposed an appeal to the NLRC which, in a decision dated 10 February 1994, dismissed the case for lack of jurisdiction. Petitioners' motion for reconsideration was denied on 19 May 1994.^[3]

Hence, the instant petition for certiorari.

Petitioners raise the following errors:

I

PUBLIC RESPONDENT NLRC ACTED WITH GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OF JURISDICTION WHEN IT RESOLVE (sic) AN ISSUE NOT RAISED ON APPEAL BY THE PARTIES.

II

PUBLIC RESPONDENT NLRC ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT DISMISSED THE CASE FOR ALLEGED LACK OF JURISDICTION.^[4]

The petition lacks merit.

Petitioners are stockholders and officers of respondent corporation. They filed a complaint against private respondent for illegal dismissal. Such being the case, it is the Securities and Exchange Commission (SEC) that has jurisdiction over the case as will be expansively discussed hereinafter. It is no hindrance to SEC's jurisdiction that a person raises in his complaint the issues that he was illegally dismissed and asks for remuneration where, as in this case, complainant is not a mere employee but a stockholder and officer of the corporation. The fact that the issue of jurisdiction was not raised before it did not prevent the NLRC from taking cognizance of the same as the issue of lack of jurisdiction was apparent upon the face of the record. In *Dy vs. National Labor Relations Commission*,^[5] it was held that: