

## TWENTY-FIRST DIVISION

[ CA-G.R. SP NO. 03501-MIN, January 30, 2014 ]

**ALVINO AGULAY, PETITIONER, VS. THE NATIONAL LABOR RELATIONS COMMISSION (FIFTH DIVISION), AND CITY FARM AND/OR JOEL KAAMINO, RESPONDENTS.**

### D E C I S I O N

**FRANCISCO, J.:**

This is a Petition<sup>[1]</sup> for Certiorari under Rule 65 of the Rules of Court assailing the Resolutions<sup>[2]</sup>, dated 30 September 2009 and 16 December 2009 of the National Labor Relations Commission (NLRC) in NLRC MAC-01-010628-09 (RAB X-02-00151-08) for *Illegal Dismissal with Money Claims*, granting respondents' appeal and denying petitioner's Motion for Reconsideration<sup>[2]</sup>, respectively. The NLRC Resolution set aside the Decision of the Labor Arbiter finding that Alvin Agulay (petitioner) was an employee of Kaamino (respondent).

#### **Factual Antecedents**

The case arose from a complaint for *Illegal Dismissal with Money Claims* filed by complainants Alvino Agulay and Jun Ric Agulay against respondent(s) City Farm and/or Joel Kaamino.

Complainants' allegations are summarized as follows:

1. That their services were engaged by defendant Kaamino sometime in September 2002 as maintenance workers/farmers in Kaamino's seven-hectare-farm known as City Farm located at Entavas, La Fortuna, Impasug-ong, Bukidnon ;
2. That they performed activities such as herding of farm animals, cultivating crops and overseeing the farm;
3. That they were paid P3,000.00 and P1,000.00 per month and that they were allowed to live inside the farm where Kaamino provided them with rice allowance;
4. That beginning June 2007, Kaamino stopped paying their wages and later filed a criminal case against complainant Alvino for estafa before the RTC-Branch 8, Malaybalay City; and
5. That, thereafter, they were forced to move out and stop working at the farm.

<sup>[4]</sup>

Defendant Kaamino, on the other hand, denied that the complainants were his employees. He averred the following:

1. That complainant Alvino was his business partner in his farm cultivation while complainant Jun Ric, the minor child of Alvino, was merely helping his father;
2. That complainants agreed on a crop-sharing of the net harvest, whereby, the proceeds of the net harvested products should be equally divided among them; and
3. That complainant Alvino withdrew from the partnership due to inefficiency; and
4. That complainant Alvino misappropriated the amount of P18,000.00 entrusted to him for the purchase of a cow; prompting Kaamino to file a case for estafa against complainant Alvino.<sup>[5]</sup>

### **Ruling of the Labor Arbiter**

On 30 October 2008, the Office of the Regional Arbitration Branch X of Cagayan de Oro City thru Executive Labor Arbiter Talon rendered the decision, *viz*

**"WHEREFORE**, foregoing premises considered, the above-complainant for illegal dismissal as to complainant Alvino Agulay is Dismissed for lack of merit. However, individual respondent Joel Kaamino is hereby ordered to pay complainant Alvino Gulay his unpaid salaries, 13<sup>th</sup> month pay and service incentive leave pay in the total amount of P21,774.88. His other money claims are likewise Dismissed for lack of merit.

The above-entitled case as to complainant Jun Ric Agulay is Dismissed for lack of cause of action, or want of jurisdiction.

**SO ORDERED.**"<sup>[6]</sup>

The Labor Arbiter relied on Kaamino's admission in the estafa case before the Office of the Prosecutor that complainant Alvino Agulay was the caretaker of his farm; hence, his employee. Consequently, Kaamino is precluded from claiming that Alvino was his business partner.

On the other hand, in ruling out the claim of illegal dismissal, the Labor Arbiter made reference to the admission of complainants during the conciliation and mediation conference that they voluntarily stopped working for Kaamino.

Respondent Kaamino, thereafter, interposed his appeal before the NLRC. On 30 September 2009, the NLRC reversed and set aside the 30 October 2008 Decision of the Labor Arbiter.

In granting the appeal, the NLRC held that the complainants failed to substantiate by evidence their affirmative allegation of the existence of an employer-employee relationship with Kaamino.

On 28 October 2009, the complainants filed their Motion for Reconsideration<sup>[7]</sup> of the 30 September 2009 NLRC Resolution.

In a Resolution<sup>[8]</sup> dated 16 December 2009, the NLRC denied the complainants' motion for reconsideration.