

TWELFTH DIVISION

[CA-G.R. SP. No. 127141, January 14, 2014]

**MRNS SECURITY AGENCY/MARY ROSE SARAZA SORIANO,
PETITIONER, V. NATIONAL LABOR RELATIONS COMMISSION
AND BIENVENIDO SANTIAGO, RESPONDENTS.**

D E C I S I O N

ELBINIAS, J.:

For disposition is a Petition for Certiorari^[1] filed under Rule 65 of the Rules of Court. The Petition assails the Decision^[2] dated May 28, 2012 of the National Labor Relations Commission ("public respondent NLRC" for brevity), which affirmed the Decision^[3] dated July 15, 2011 of the Labor Arbiter in NLRC-NCR Case No. 04-05538-10. The Petition also questions public respondent NLRC's Resolution^[4] dated July 31, 2012, which denied petitioner's eventual Motion for Reconsideration^[5].

Among the salient facts are those as stated in public respondent NLRC's Decision^[6] of May 28, 2012, which are as follows:

"Respondent (*petitioner MRNS here*) **MRNS Security Services Agency (MRNS), used to be known as Imus Security Agency (Imus Security)** that was then under the management of Rogelio Saraza. **Imus Security was known as Saraza Investigation and Security Services Agency** xxx. MRNS is managed by Saraza's daughter, Mary Rose N. Saraza (*petitioner here*). Its business address is at 177 Rizal Avenue Extension, Caloocan City. xxx

During his stint at **Saraza Security Agency (Saraza), complainant (*private respondent here*) was designated on 08 November 1995 as its Security Officer. His employment however started on 05 August 1995 xxx. Imus Security referred to him as its Inspector/Collector on 01 August 2003, the same position that respondent MRNS admitted he started occupying on 15 November 2004 (Employee Identification Cards, xxx). He also served as Accounting Clerk of respondent security agency from the time it was known as Saraza up to its present name of MRNS xxx.**

Effective 16 January 2010, complainant severed his employment with MRNS.

xxx

Respondents (*petitioners*) upon the other hand and by way of controversion allege that respondent MRNS hired complainant (*private respondent*) only in 2004 as Collector/Inspector. At that time he was already sixty-five (65) years old. In January 2010, he

submitted a resignation letter which MRNS accepted. Respondents claim that having voluntarily severed his employment with them, complainant has no cause of action against them.”^[7] (*Emphasis Supplied*)

Private respondent Bienvenido Santiago (“private respondent” for brevity) filed before the Labor Arbiter, a Complaint “for non-payment of overtime pay, service incentive leave, and non-payment of retirement benefits”^[8] against petitioners MRNS Security Agency, and Mary Rose Saraza Soriano, the latter being sued in her capacity as owner/operator^[9] (“petitioners” for brevity).

On July 15, 2011, the Labor Arbiter rendered a Decision^[10], which found that private respondent “started his employment with respondent agency in 1995 when he was not yet of retirement age, thus until his formal severance of employment he was qualified for retirement”^[11]. The dispositive portion of the Decision stated:

“WHEREFORE, judgment is hereby rendered ordering respondents to pay complainant the amount of Php141,750.00, representing his retirement benefits entitlement.

SO ORDERED.”^[12]

On May 28, 2012, public respondent NLRC rendered the questioned Decision^[13] which dismissed the appeal and affirmed the Labor Arbiter's Decision.

After petitioners' Motion for Reconsideration^[14] was denied by public respondent NLRC in its assailed Resolution^[15] of July 31, 2012, petitioners filed the Petition at bench praying as follows:

“**WHEREFORE**, premises considered, it is most respectfully prayed unto the Honorable Court of Appeals to modify the Decision of the National Labor Relations Commission in NLRC LAC No. 01-000226-12 as follows:

1. Declaring private respondent Bienvenido Santiago as employee of petitioner MRNS Security Agency from November 05, 2004 up to January 15, 2010 and not from the year 1995 up to January 15, 2010; and
2. Declaring private respondent to be entitled to his retirement pay amounting to Fifty Thousand Six Hundred Twenty Five Pesos (Php 50,625.00).

Other equitable remedies under the foregoing premises are likewise prayed for.”^[16] (*Emphasis was made in the original*)

Petitioners raised this sole ground:

“**WHETHER OR NOT THE NATIONAL LABOR RELATIONS COMMISSION (SIXTH DIVISION) COMMITTED GRAVE ABUSE OF DISCRETION IN AWARDING THE PRIVATE RESPONDENT RETIREMENT PAY COMPUTED FROM THE YEAR 1995 WHEN IN TRUTH PETITIONER STARTED ITS BUSINESS ONLY IN THE YEAR 2004.**”^[17] (*Emphasis was made in the original*)

Contrary to petitioners' arguments in their *sole ground*, private respondent started his employment with petitioners in the year 1995.

Petitioners had argued as follows:

"xxx It is very much impossible that private respondent has been employed by the petitioner since 1995 since MRNS Security Agency came in to (sic) existence only in the year 2004. This fact is clearly proven and shown by the petitioner in the Mayor's Permit and Certificate of Business Name Registration with the Department of Trade and Industry xxx. These two documents clearly show that the petitioner started in the business only in the year 2004. Private Respondent contends that Saraza Investigation and Security Services Agency and Imus Security Agency are continuations of MRNS Security Agency. However, petitioner strongly argue **that Saraza Investigation and Security Services Agency and Imus Security Agency is not and was never a continuation of MRNS Security Agency. This is based on the fact that Saraza Investigation and Security Services Agency is owned by Ronaldo G. Saraza. Imus Security Agency was owned by one Mr. Roman Hipolito, who is not in any way a relative of petitioner Mary Rose Saraza Soriano.** This can be seen from the Certificate of Business Name Registration of Saraza Investigation and Security Services Agency and Imus Security Agency xxx

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It is noteworthy to state that Saraza Investigation and Security Services Agency and Imus Security Agency are both sole-proprietor type of business. Hence, the above-mentioned decision of the Supreme Court is very much applicable in the present case. **Since labor contracts are in personam, in the absence of express stipulation from MRNS Security Agency and private respondent Bienvenido Santiago that the former is assuming his labor contract from his two former employers, MRNS Security Agency cannot be held liable to pay private respondent his retirement pay starting from the year 1995.** If indeed petitioner is liable to pay the private respondent his retirement pay, the computation should start only from November 05, 2004 up to January 10, 2010 when private respondent resigned from his job.

xxx

In view of the discussions stated above, the number of years of service of private respondent Bienvenido Santiago to MRNS Security Agency should only be five (5) years, two (2) months and ten (10) days – From November 05, 2004 to January 15, 2010. This will be the basis of the computation of private respondent's retirement benefits. As provided for in Paragraph 3 and 4 of Article 287 of the Labor Code:

xxx

Php 13,500.00 – one month salary or Php 450.00/day