

NINETEENTH DIVISION

[CA-G.R. SP NO. 06440, July 17, 2014]

HDA. HITA-AW/AGNES ESCALANTE, OWNER/ROLANDO DEOCADEZ, FARM OVERSEER, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION (7TH DIVISION CEBU CITY) BIENVENIDO V. PORRAS, RESPONDENTS.

D E C I S I O N

LAGURA-YAP, J.:

Before Us is this Petition for Certiorari^[1] under Rule 65 of the Rules of Court, seeking to assail the Resolutions dated March 4, 2011^[2] and June 30, 2011^[3], of the National Labor Relations Commission, 7th Division of Cebu City in NLRC Case No. VAC-01-000072-2011. Petitioners pray that We set aside the assailed Resolutions for having been issued with grave abuse of discretion, and that in their stead, We render a new one, ordering the NLRC to give due course to their appeal.

THE ANTECEDENTS

On August 17, 2009, a Complaint^[4] for *Illegal dismissal, Underpayment/ Non-payment of Salaries/Wages, and Non-payment of separation pay and 13th month pay*, was filed by private respondent, Bienvenido Porras against petitioners, Hda. Hita-aw, Agnes Escalante and Rolando Deocadez, before the Labor Arbiter of Bacolod City.

The Labor Arbiter summarized the assertions of the complaint, and that of the petitioners' answer thereto, as follows:

(Private Respondent) alleged that he was a regular employee of respondent Agnes Escalante, the owner of 108 hectare orchard plantation known as Hda. Germinal situated in Bgry. Guimbalaon, Silay City, Negros Occidental.

(Private Respondent) claims that He was hired to work was Watchman ("Ronda") in the orchard plantation of respondent.

Sometime in the first week of July 2009, five (5) children whose ages range from 9-10 years old approached (private respondent) and asked for "lanzones" to eat, so the latter allowed them to pick up from the tree just enough for the five(5) of them to partake. (Private Respondent) told the children that just in case other watchmen of the farm asked them, they will just inform them that he gave the "lanzones" to them.

Not long after, Renato Nato, the son-in-law of the overseer, arrived and inquired if indeed the (private respondent) gave those children some

"lanzones" to eat to which the latter answered in the affirmative.

(Private Respondent) gave those children lanzones to eat in good faith and never thought that it was such a big deal until he was summoned in the barangay by (petitioner) Rolando Deocadez who asked the same question if he gave the five (5) children lanzones to eat to which he admitted having done so. (Petitioner) Rolando Deocadez then informed him "INDI KA LANG ANAY MAG-OBRA KAY PABAL-ON PA ANG AMO." (Don't report for work yet because I still have to inform our employer.)

On 21 July 2009, (private respondent) took the liberty of asking (petitioner) Agnes Escalante who arrived in the farm as to the status of his employment to which the latter confirmed the suspension from work effective 15 July 2009 with the further instruction to just wait for a letter coming from her end without indicating as to the nature of the letter she will be sending.

With not a single memorandum to support his indefinite suspension and with nothing to support his family after more than a month of being jobless, (private respondent) was constrained to file the present case.

On the other hand, (petitioner) Agnes Escalante (Escalante) argues in substance, that (private respondent) was not illegally dismissed from employment as he was merely suspended for lawful and legitimate reasons.

(Private respondent) was suspended on 10 August 2010 because he was caught stealing from the orchard of respondents.

To make matters worse, there were several instances where (private respondent) was caught stealing fruits from the lanzones trees inside the orchard farm being managed by (petitioner) Escalante as shown by copies of the barangay complaints dated 06 November 2008 and 23 July 2009.

(Petitioner) Escalante denies that (private respondent) was dismissed from employment on 15 July 2009, the truth being that he worked until 10 August 2009 as evidenced by copies of petty cash vouchers.

On November 19, 2010, the Labor Arbiter rendered a Decision^[5] finding for private respondent Porras, viz:

Wherefore premises considered, judgment is hereby tendered DIRECTING (petitioner) AGNES ESCALANTE, Special Administratrix of HDA. HITA-AW, to pay (private respondent) BIENVENIDO V. PORRAS, the total amount of ONE HUNDRED TWENTY ONE THOUSAND TWO HUNDRED TEN and 59/100 PESOS (121,210.59) as his salary/wage differentials and 13th month pay.

The other claims are DISMISSED for lack of merit.

From the foregoing decision, petitioners then interposed an Appeal^[6] before the NLRC on December 21, 2010, and simultaneous thereto, they filed a Motion for Reduction of the Appeal Bond^[7] from Php 121,210.34, the amount of the judgment award, to only Php 20,000.00. The motion to reduce bond was premised on the fact that respondent Agnes Escalante is not the owner of Hacienda Hita-aw, but only the court-appointed special administratrix of the Estate of the Late Espinella Jison, the alleged owner of Hda. Hita-aw; and that the appeal bond was coming from her own personal pocket.

On March 4, 2011, the NLRC, in view of petitioners' Motion for Reduction of Appeal Bond, issued a Resolution, thus:

"WHEREFORE, premises considered, (petitioner Escalante) is, hereby ORDERED to post an additional appeal bond to complete the amount of equivalent to the monetary award, within an inextendible period of ten (10) days upon receipt of this Order, failing which (petitioners') appeal would be dismissed for not having been duly perfected."

The NLRC highlighted therein the jurisdictional nature of the posting of a bond for the perfection of an Appeal as set forth in Article 223 of the Labor Code; and noted that in the instant case, no evidence was presented by herein respondents to justify the reduction of the appeal bond required thereof.

On May 5, 2011, petitioners, instead of posting an additional bond, filed a Motion for Reconsideration^[8] of the March 4, 2011 Resolution. Petitioner Escalante reiterated that she is not the employer of private respondent, but merely the court appointed Special Administratrix of the Estate of the Late Espinella Jison, who is the owner of Hda. Hita-aw and the real employer of private respondent. She added that their posting of Php20,000 cash bond is substantial compliance under the rules. She cited Rule 87 Section 1 of the Revised Rules of Court to relieve her from being personally liable from the payment of the appeal bond. The said provision states:

"Actions which may and which may not be brought against executor or administrator.- No action upon a claim for the recovery of money or debt or interest thereon shall be commenced against the executor or administrator; but actions to recover real or personal property, or an interest therein, from the estate, or to enforce a lien thereon, and actions to recover damages for an injury to person or property, real or personal, may be commenced against him."

On June 30, 2011 however, the NLRC rendered a Resolution dismissing with finality the appeal of petitioners, viz:

"WHEREFORE, premises considered, the instant Motion for Reconsideration filed b

y (petitioner) Agnes Escalante is, hereby, DENIED. The Appeal filed by the (petitioner), dated 21 December 2010 is, hereby DISMISSED WITH FINALITY."

The NLRC stressed therein, that petitioner Escalante is impleaded not in her personal capacity, but as Special Administratrix of the Estate of Espinella Jison, part of which is Hacienda Hitaaw where private respondent worked as "Ronda" or watchman. It highlighted that the appeal bond is jurisdictional thus its non-

compliance by petitioners is fatal, and has the effect of rendering the judgment appealed from, final and executory.

Aggrieved, petitioners filed the present Petition, on the following grounds, to wit:

I.

THE PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION IN REQUIRING PETITIONER AGNES ESCALANTE AS SPECIAL ADMINISTRATIX TO PERSONALLY PAY THE ADDITIONAL BOND.

II.

THE PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION IN DISMISSING THE APPEAL FOR FAILURE OF PETITIONERS TO PAY THE ADDITIONAL BOND.

In interposing this Petition, petitioners reiterate their arguments before the NLRC, that as special administratix, petitioner Escalante merely took possession and charge of the goods, chattels, rights and, credits, and estate of the deceased Espinella Jison. She did not act as owner or employer of private respondent, as erroneously ruled by the Honorable Labor Arbiter and the Honorable Commission, and as such she should not be held personally liable for the payment of the monetary award ordered against them, nor of the appeal bond. Petitioners furthered that in filing the appeal before the NLRC, petitioner Escalante is merely protecting the interest of the Late Espinella Jison. She therefore should not be made to pay the additional bond requirement, in consonance with Rule 80 Section 2 of the Revised Rules of Court, which states: *xxx A special administrator shall not be liable to pay any debts of the deceased unless so ordered by the court.* By virtue of such provision, petitioners add that the Estate of the Late Espinella Jison should have been impleaded in the original case, so the payment of the additional bond can be justified before the Estate Proceedings pending before the RTC 69.

Moreover, petitioners pray for a relaxation of the rules, particularly the rule providing for the bond requirement in the perfection of an appeal before the NLRC. For this purpose, they cite Article 221 of the Labor Code, which reads:

Art. 221. Technical rules not binding and prior resort to amicable settlement. In any proceeding before the Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process. xxx

OUR RULING

This being a Petition for Certiorari, the main question for Our resolution is whether or not the agency a quo acted with grave abuse of discretion, in the rendition of the

assailed Resolutions.^[9] An act of a court or tribunal may constitute grave abuse of discretion, when the same is performed in a capricious or whimsical exercise of judgment amounting to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of positive duty, or to a virtual refusal to perform a duty enjoined by law, as where the power is exercised in an arbitrary and despotic manner because of passion or personal hostility.^[10]

After a judicious study of the the instant petition, We find no such grave abuse of discretion on the part of the NLRC. The Resolution rendered are in accord with the facts, the law and applicable jurisprudence, thus there is no whimsical, arbitrary or capricious exercise of judgment by it, as that which is equivalent in the eyes of the law, to a lack or in excess of jurisdiction.^[11]

To explain our position, We shall address the grounds submitted by petitioners one by one.

On the first ground, it is worth mentioning that the arguments posed by petitioners are hinged upon their obstinate yet mistaken assumption that herein petitioner Escalante, is being impleaded and held liable to pay the appeal bond, in her personal capacity. This however has been negated and clarified by the NLRC, in its June 30, 2011 Resolution, when it stated in its disquisition, viz:

xxx It bears to stress that Respondent Agnes Escalante is impleaded, herein not in her personal capacity but in her capacity as Special Administratrix of the Estate of the Espinella Jison, part of which is Hacienda Hitaaw where complainant worked as a "Ronda" or watchman. We agree with the Labor Arbiter that, respondent Escalante maybe held answerable in her capacity as the special Administratrix of the estate of Espinella Jison, based on Article 212 of the Labor Code, which provides:

"Employer" includes any person acting in the interest of an employer, directly or indirectly. xxx

Respondent Escalante did not deny the fact that as an Administratrix, she took part in the management of the Hacienda, thus acting for and on behalf of the estate in matters concerning its operation. She was the one who confirmed to, hereincomplainant that he was suspended from his work as a "Ronda" for having given away lanzones fruits to the children without permission from the owner. In her position paper she contended that the act of suspending complainant was an exercise of management prerogative, and suggested that it was a form of business judgment on the part of the hacienda, but nobody else was pointed to as the one particularly exercising such management rights and prerogatives. What appears obvious to us is that respondent Agnes Escalante was, in all matters, the only visible representation of the estate of Espinella Jison, particularly of the hacienda. Simply put, she acted in the interest of complainant's employer which is the hacienda or estate, hence, she could not, now conveniently excuse herself from complying with the liabilities or responsibilities appertaining to the estate.

We find nothing arbitrary with the ratiocination of the NLRC above-quoted. It is supported by the facts as appreciated by the NLRC in the original case, and the