

TENTH DIVISION

[CA-G.R. SP NO. 92164, August 31, 2006]

**STORCK PRODUCT MFG., CORP., PETITIONER, VS. HON.
SECRETARY OF LABOR AND EMPLOYMENT, DOLE REGIONAL
DIRECTOR MAXIMO LIM AND 100 EMPLOYEES OF STORCK
PRODUCT MFG. CORP., RESPONDENTS.**

D E C I S I O N

TAYAG, J.:

This is a Petition for Certiorari under Rule 65 of the Rules of Court filed by the petitioner Storck Product Mfg., Corp., ("STORCK" for brevity) which seeks to annul, reverse and set aside the following:

- a. Order of Director Maximo Lim of the Department of Labor and Employment, Regional Office IV-A dated October 14, 2004, directing Petitioner . . .

"to pay its affected employees within ten (10) days from receipt the aggregate amount of Four Hundred Eight Thousand Pesos (P408,000.00) representing underpayment of wages and other salary related benefits."

- b. the Order of Secretary of the Department of Labor and Employment dated April 16, 2005 dismissing Respondent-Appellant's Appeal, the dispositive portion of which provides that:

"WHEREFORE, the Appeal filed by Storck Product Mfg. Inc. is hereby dismissed for lack of merit. The Order dated October 14, 2004 of the Regional Director, directing appellant to pay the one hundred (100) Appellees, the aggregate amount of Four hundred Eight Thousand Pesos (P408,000.00) representing their wage differentials and Holiday pay is affirmed."

- c. the Order of the Acting Secretary of Labor and Employment dated October 19, 2005, denying Respondent-Appellant's Motion for Reconsideration, the dispositive portion of which provides that:

"WHEREFORE, the Motion for Reconsideration filed by Storck Product Mfg., Corp., is hereby denied for lack of merit. Our Order dated April 26, 2005, affirming the Order dated October 14, 2004 of the Regional Director directing the Appellant to pay the one hundred (100) appellees, the aggregate amount of Four Hundred Eight Thousand Pesos (408,000.00) representing their wage differentials and holiday pay is Affirmed."

Allegedly, the above-mentioned three (3) Orders were issued by respondents Regional Director Maximo Lim, Secretary of Labor and Employment Patricia Sto. Tomas and Acting Secretary of Labor Manuel Imson, respectively with grave abuse of discretion amounting to acting without and/or in excess of jurisdiction.

The antecedent facts of the case are as follows:

On July 10, 2003, appellee Jeffrey Corcuera filed a complaint against appellant for underpayment of wages, non-payment of holiday pay, non-payment of overtime pay, non-payment of night shift differential premium and non-remittance of SSS premiums.

On July 16, 2003, the Regional Office conducted an inspection at the premises of the appellant, where the following violations were noted:

1. Record keeping-payrolls and daily time records are kept at the main office;
2. Underpayment of wages;
3. Non-payment of holiday pay;
4. Inadequate personal protective equipment;
5. No policy on Anti-Sexual Harassment;
6. No Committee on Decorum and Investigation; and
7. Copy of the Republic Act 7877 not posted/disseminated.

The above-findings are contained in the Notice of Inspection Results, which was received by and explained to appellant's personnel staff Resty Cipres. In the said Notice, appellant was directed to effect restitution within five (5) days from receipt of the Notice or to submit to the Regional Office any questions relating to the said findings. Appellant failed to comply with the directive despite due notice. Likewise, during the course of inspection, the Labor Enforcement Officer uncovered that based on the payrolls covering the period from May 26, 2003 to June 1, 2003 presented by the appellant, there were ninety-nine (99) employees of the latter who were either unpaid or underpaid.

On August 7, 2003, the Regional Director issued a Subpoena Duces Tecum, directing the appellant to produce the following: 1) Payrolls with corresponding daily time records covering the period from July 2000 to date for examination; 2) Proof of restitution to the affected employees; 3) Proof of provision of personal protective device; and 4) Proof of having HIV-AIDS Preventive Program, Anti Sexual Harassment Act posted and organized Committee on Decorum and Investigation. Appellant instead submitted the Release and Quitclaim of appellees Mylene A. Canales and Ruccel Billones.

On 14 October 2004, the Regional Director issued an Order in favor of herein private respondents (Rollo, pp. 49-52).

Herein petitioner STORCK filed its appeal at the Regional Office of DOLE. Said Regional Office endorsed the same to the office of public respondent Secretary of Labor. In the said appeal, petitioner STORCK principally alleged that the Regional Director committed grave abuse of discretion in awarding salary differentials, considering that it is the Labor Arbiter which has jurisdiction over the case. Petitioner further contended therein that the Regional Director had no basis in granting the monetary claims of the herein private respondents. However, the

Secretary of the Department of Labor and Employment, on 26 April 2006 Order (Rollo, pp. 20-23), dismissed the said appeal for lack of merit.

Thereafter, a Motion for Reconsideration was filed by herein petitioner. Unfortunately for the herein petitioner STORCK, the same was also denied.

Hence, this Petition for Certiorari was filed by herein petitioner assigning the following grounds:

I

PUBLIC RESPONDENTS SECRETARY OF LABOR AND EMPLOYMENT AND ACTING SECRETARY OF LABOR AND EMPLOYMENT RESPECTIVELY ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT ACTED ON AND EVEN DECIDED ON THE APPEAL A QUO WHEN IT HAS NO LEGAL BASIS TO ACT ON IT, MUST LEST DECIDE ON THE SAID APPEAL.

II

PUBLIC RESPONDENTS REGIONAL DIRECTOR MAXIMO LIM, SEC. OF LABOR AND EMPLOYMENT PATRICIA STO. TOMAS AND ACTING SEC. OF LABOR AND EMPLOYMENT MANUEL IMSON ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION SUSTAINING THE FINDINGS OF PUBLIC RESPONDENT DIRECTOR MAXIMO LIM THAT ORDERED THAT PETITIONER IS LIABLE FOR UNDERPAYMENT OF WAGES AND ANOTHER BENEFITS IN FAVOR OF THE EMPLOYEES NAMED IN ORDER.

III

PUBLIC RESPONDENTS REGIONAL DIRECTOR MAXIMO LIM SEC. OF LABOR AND EMPLOYMENT PATRICIA STO. TOMAS AND ACTING SEC. OF LABOR AND EMPLOYMENT MANUEL IMSON ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO ACTING WITHOUT OR IN EXCESS OF JURISDICTION IN HOLDING THAT PETITIONER SHOULD PAY THE AFFECTED EMPLOYEES THE AWARD MENTIONED THEREAT.

(Rollo p. 6)

Petitioner principally argues that public respondent Secretary of Labor acted with grave abuse of discretion amounting to lack or excess of jurisdiction in taking cognizance of its appeal considering that it did not intend to appeal before the Office of public respondent but before the National Labor Relations Commission (NLRC) taking into consideration Art. 129 since pursuant to R.A. 7730, appeals from the orders or resolutions issued by the Regional Directors by virtue of their visitorial powers under Article 128 of the Labor Code, as amended, should be decided or resolved by the NLRC.

Petitioner further contends that the findings of the Regional Office has no factual basis considering that there was nothing in Order of the aforesaid office which would show how did the same computed the amount of the liability. Moreover, petitioner contends that the ninety-nine (99) other private respondents should not be