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FIRST DIVISION

[G.R. No. 116662. February 1, 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*.

SYLLABUS

REMEDIAL LAW; JURISDICTION; JURISDICTION IS CONFERRED BY LAW AND NOT SUBJECT TO THE WHIMS OF THE PARTIES TO A CASE; IN CASE AT BAR, THE SECURITIES AND EXCHANGE COMMISSION (AND NOT THE NATIONAL LABOR RELATIONS COMMISSION) HAS JURISDICTION OVER THE CONTROVERSY; REASON. — 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*, it was held that: The failure of the appellees to invoke anew the aforementioned solid ground of want of jurisdiction of the lower court in this appeal should not prevent this Tribunal to take up that issue as the lack of jurisdiction of the lower court is apparent upon the face of the record and it is fundamental that a court of justice could only validly

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act upon a cause of action or subject matter of a case over which it has jurisdiction and said jurisdiction is one conferred only by law; and cannot be acquired through, or waived by, any act or omission of the parties (*Lagman vs. CA*, 44 SCRA 234 [1972]); hence may be considered by this court *motu proprio* (*Gov't. vs. American Surety Co.*, 11 Phil. 203 [1908]). Definitely, the NLRC was not barred by estoppel from dismissing the case before it for lack of jurisdiction: . . . [E]stoppel does not apply to confer jurisdiction to a tribunal that has none over a cause of action. Jurisdiction is conferred by law. Where there is none, no agreement of the parties can provide one. Settled is the rule that the decision of a tribunal not vested with appropriate jurisdiction is null and void. x x x In other words, issues of jurisdiction are not subject to the whims of the parties involved. We all defer to what the law says. Hence, in the case at bench, the petitioners cannot validly claim that the question of jurisdiction has been waived. There cannot be any doubt that petitioners' complaint falls within the jurisdiction of the SEC in accordance with Sec. 5, paragraphs (b) and (c) of P.D. 902-A, quoted hereunder: Section 5. In addition to the regulatory and *adjudicative functions of the Securities and Exchange Commission* over corporations, partnerships an other forms of associations registered with it as expressly granted under existing laws and decrees, *it shall have original and exclusive jurisdiction to hear and decide cases* involving a) Devices and schemes employed by or any *acts, of the board of directors,* business associates, its officers or partners, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or stockholders, partners, members of associations or organizations registered with the Commission; b) *Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members, or associates;*

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between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity; c) *Controversies in the election or appointment of directors, trustees, officers or managers of such corporations, partnership or associations.* Petitioners' argument that the instant case involves their termination from employment and not their appointment as managers of respondent corporation is a mere play of words. We reiterate our ruling in the recent case of *Lozon v. NLRC,* G.R. No. 10766O, 2 January 1995 citing *Fortune Cement Corp. v. NLRC,* 193 SCRA 258 (1991) and *Dy v. NLRC,* where we were confronted with a similar situation, thus: x x x a corporate officer's dismissal is always a corporate act and/or intra-corporate controversy and that nature is not altered by the reason or wisdom which the Board of Directors may have in taking such action. x x x Petitioner contends that the jurisdiction of the SEC excludes its cognizance over claims for vacation and sick leaves, 13th month pay, Christmas bonus, medical expenses, car expenses, and other benefits, as well as for moral and exemplary damages and attorney's fees. *Dy vs. NLRC* categorically states that the question of remuneration being asserted by an officer of a corporation is "not a simple labor problem but a matter that comes within the area of corporate affairs and management, and is in fact, a corporate controversy in contemplation of the Corporation Code.

APPEARANCES OF COUNSEL

Lorenzo D. Sanchez for petitioners.
The Solicitor General for public respondent.
Francisco M. de los Reyes for private respondents.

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RESOLUTION

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 Paguio was also appointed

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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

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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 solidarily, to the complainants, the aggregate amount of SIXTY THOUSAND FIVE HUNDRED (P60,500.00) PESOS as follows:

Angelito Paguio -	P	28,500.00
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.

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[1] *Rollo*, pp. 30-32.

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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

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[2] *Id.* at 27-28.
[3] *Id.* at 35; 38.
[4] *Id.*, p. 6.

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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:

> The failure of the appellees to invoke anew the aforementioned solid ground of want of jurisdiction of the lower court in this appeal should not prevent this Tribunal to take up that issue as the lack of jurisdiction of the lower court is apparent upon the face of the record and it is fundamental that a court of justice could only validly act upon a cause of action or subject matter of a case over which it has jurisdiction and said jurisdiction is one conferred only by law; and cannot be acquired through, or waived by, any act or omission of the parties (Lagman *vs.* CA, 44 SCRA 234 [1972]); hence may be considered by this court *motu propio* (Gov't. *vs.* American Surety Co., 11 Phil. 203 [1908]).

Definitely, the NLRC was not barred by estoppel from dismissing the case before it for lack of jurisdiction:

> . . . [E]stoppel does not apply to confer jurisdiction to a tribunal that has none over a cause of action. Jurisdiction is conferred by law. Where there is none, no agreement of the parties can provide one. Settled is the rule that the decision of a tribunal not vested with appropriate jurisdiction is null and void.[6]

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[5] 145 SCRA 211 (1986).

[6] Southeast Asia Fisheries Development Center -- Aquaculture Department *v.* NLRC, 206 SCRA 283 (1992).

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. . . Lack of jurisdiction over the subject matter of the suit is yet another matter. Whenever it appears that the court has no jurisdiction over the subject matter, the action shall be dismissed (Section 2, Rule 9, Rules of Court). This defense may be interposed at any time, during appeal (Roxas *vs.* Rafferty, 37 Phil. 957) or even after final judgment (Cruzcosa *vs.* Judge Concepcion, et al., 101 Phil. 146). Such is understandable, as this kind of jurisdiction is conferred by law and not within the courts, let alone the parties, to themselves determine or conveniently set aside.[7]

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Where the court itself clearly has no jurisdiction over the subject matter or the nature of the action, the invocation of this defense may be done at any time. It is neither for the courts nor the parties to violate or disregard that rule, let alone to confer that jurisdiction, this matter being legislative in character. Barring highly meritorious and exceptional circumstances, such as hereinbefore exemplified, neither estoppel nor waiver shall apply.[8]

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It is indubitable that at the time the Labor Arbiter took cognizance of the complaint for illegal dismissal, he was devoid of jurisdiction. Consequently, the decision promulgated by him is null and void having been rendered without jurisdiction and may be struck down any time — even on appeal to the Supreme Court.[9]

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[7] *La Naval Drug Corp. v. CA,* 236 SCRA 78 (1994).
[8] *Ibid.*
[9] *Phil. Singapore Ports Corp. v. NLRC,* 218 SCRA 77 (1993).

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In other words, issues of jurisdiction are not subject to the whims of the parties involved. We all defer to what the law says. Hence, in the case at bench, the petitioners cannot validly claim that the question of jurisdiction has been waived.

On the second and final issue, there cannot be any doubt that petitioners' complaint falls within the jurisdiction of the SEC in accordance with Sec. 5, paragraphs (b) and (c) of P.D. 902-A, quoted hereunder:

Section 5. In addition to the regulatory and *adjudicative functions of the Securities and Exchange Commission* over corporations, partnerships and other forms of associations registered with it as expressly granted under existing laws and decrees, *it shall have original and exclusive jurisdiction to hear and decide cases involving.*

a) Devices and schemes employed by *or any acts, of the board of directors*, business associates, its officers or partners, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or stockholders, partners, members of associations or organizations registered with the Commission;

b) *Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members, or associates*; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity;

c) *Controversies in the election or appointment of directors, trustees, officers or managers of such corporations, partnership or associations.* (Italics ours.)

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Petitioners' argument that the instant case involves their termination from employment and not their appointment as managers of respondent corporation is a mere play of words We reiterate our ruling in *the recent case of Lozon v. NLRC*,[10] citing *Fortune Cement Corp. v. NLRC*,[11] and *Dy v. NLRC*[12] where we were confronted with a similar situation, thus:

x x x a corporate officer's dismissal is always a corporate act and/or intra-corporate controversy and that nature is not altered by the reason or wisdom which the Board of Directors may have in taking such action.

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Petitioner contends that the jurisdiction of the SEC excludes its cognizance over claims for vacation and sick leaves, 13th month pay, Christmas bonus, medical expenses, car expenses, and other benefits, as well as for moral and exemplary damages and attorney's fees. *Dy v. NLRC* categorically states that the question of remuneration being asserted by an officer of a corporation is "not a simple labor problem but a matter that comes within the area of corporate affairs and management, and is in fact, a corporate controversy in contemplation of the Corporation Code."

The above-quoted ruling squarely applies to petitioners herein who are not only managers of respondent corporation but stockholders and directors as well. Moreover, the records show that the reason why petitioners were allegedly relieved of their managerial status was their persistent demands for a financial audit of respondent corporation — clearly an intra-corporate matter.

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[10] G.R. No. 107660, 2 January 1995.
[11] 193 SCRA 258 (1991).
[12] *Supra*, See Note 5.

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Finally, it is of no consequence that petitioers were appointed and not elected managers of respondent corporation. Sec. 5(c) of P.D. 902-A clearly includes both.

WHEREFORE, premises considered the petition is hereby DISMISSED.

SO ORDERED.

Padilla, Bellosillo, Vitug, and *Hermosisima, Jr., JJ.*, concur.

THIRD DIVISION

[G.R. No. 84680. February 5, 1996]

SUMMA INSURANCE CORPORATION, *petitioner, vs.* COURT OF APPEALS and METRO PORT SERVICE, INC., *respondents.*

SYLLABUS

1. CIVIL LAW; OBLIGATIONS AND CONTRACTS; ARRASTRE SERVICE; ARRASTRE OPERATOR IS LIABLE FOR THE LOSS OF THE SHIPMENT SINCE IT HAS BEEN ESTABLISHED THAT THE SHIPMENT WAS LOST WHILE IN ITS CUSTODY. — Petitioner was subrogated to the rights of the consignee. The relationship therefore between the consignee and the arrastre operator must be examined. This relationship is much akin to that existing between the consignee or owner of shipped goods and the common carrier, or that between a depositor and a warehouseman. In the performance of its