Supreme Court E-Library

FIRST DIVISION

[G.R. No. 80039. April 18, 1989]

ERNESTO M. APODACA, *petitioner, vs.* **NATIONAL LABOR RELATIONS COMMISSION, JOSE M. MIRASOL, AND INTRANS PHILS., INC.,** *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; NATIONAL LABOR RELATIONS COMMISSION; HAS NO JURISDICTION OVER INTRA-CORPORATE DISPUTE BETWEEN STOCKHOLDER AND THE CORPORATION.** — The NLRC has no jurisdiction to determine such intra-corporate dispute between the stockholder and the corporation as in the matter of unpaid subscriptions. This controversy is within the exclusive jurisdiction of the Securities and Exchange Commission.

2. **COMMERCIAL LAW; CORPORATION; UNPAID SUBSCRIPTION; NOT DUE AND DEMANDABLE UNTIL A CALL FOR PAYMENT IS MADE BY THE CORPORATION.** — The unpaid subscriptions are not due and payable until a call is made by the corporation for payment. Private respondents have not presented a resolution of the board of directors of respondent corporation calling for the payment of the unpaid subscriptions. It does not even appear that a notice of such call has been sent to petitioner by the respondent corporation.

3. **LABOR AND SOCIAL LEGISLATION; WAGE DEDUCTION; INSTANCES WHEN ALLOWED.** — The NLRC cannot validly set it off against the wages and other benefits due petitioner. Article 113 of the Labor Code allows such a deduction from the wages of the employees by the employer, only in three instances, to wit: "ART. 113. *Wage Deduction.* — No employer, in his own behalf or in behalf of any person, shall make any deduction from the wages of his employees, except: (a) In cases where the worker is insured with his consent by the employer, and the deduction is to recompense the employer for the amount paid by him as premium on the insurance; (b) For union dues, in cases where the right of the worker or his union to checkoff has been recognized by the employer or authorized in writing

Supreme Court E-Library

by the individual worker concerned; and (c) In cases where the employer is authorized by law or regulations issued by the Secretary of Labor."

APPEARANCES OF COUNSEL

Diego O. Untalan for petitioner.
The Solicitor General for public respondent.
Barcelona, Perlas, Joven & Academia Law Offices for private respondents.

D E C I S I O N

GANCAYCO, *J.*:

Does the National Labor Relations Commission (NLRC) have jurisdiction to resolve a claim for non-payment of stock subscriptions to a corporation? Assuming that it has, can an obligation arising therefrom be offset against a money claim of an employee against the employer? These are the issues brought to this court through this petition for review of a decision of the NLRC dated September 18, 1987.

The only remedy provided for by law from such a decision is a special civil action for *certiorari* under Rule 65 of the Rules of Court based on jurisdictional grounds or on alleged grave abuse of discretion amounting to lack or excess of jurisdiction, not by way of an appeal by *certiorari*. Nevertheless, in the interest of justice, this petition is treated as a special civil action for *certiorari*.

Petitioner was employed in respondent corporation. On August 28, 1985, respondent Jose M. Mirasol persuaded petitioner to subscribe to ₱1,500 shares of respondent corporation at ₱100.00 per share or a total of ₱150,000.00. He made an initial payment of ₱37,500.00. On September 1, 1975, petitioner was appointed President and General Manager of the respondent corporation. However, on January 2, 1986, he resigned.

On December 19, 1986, petitioner instituted with the NLRC a complaint against private respondents for the payment of his

Supreme Court E-Library

unpaid wages, his cost of living allowance, the balance of his gasoline and representation expenses and his bonus compensation for 1986. Petitioner and private respondents submitted their position papers to the labor arbiter. Private respondents admitted that there is due to petitioner the amount of ₱17,060.07 but this was applied to the unpaid balance of his subscription in the amount of ₱95,439.93. Petitioner questioned the set-off alleging that there was no call or notice for the payment of unpaid subscription and that, accordingly, the alleged obligation is not enforceable.

In a decision dated April 28, 1987, the labor arbiter sustained the claim of petitioner for ₱17,060.07 on the ground that the employer has no right to withhold payment of wages already earned under Article 103 of the Labor Code. Upon the appeal of the private respondents to public respondent NLRC, the decision of the labor arbiter was reversed in a decision dated September 18, 1987. The NLRC held that a stockholder who fails to pay his unpaid subscription on call becomes a debtor of the corporation and that the set-off of said obligation against the wages and others due to petitioner is not contrary to law, morals and public policy.

Hence, the instant petition.

The petition is impressed with merit.

Firstly, the NLRC has no jurisdiction to determine such intra-corporate dispute between the stockholder and the corporation as in the matter of unpaid subscriptions. This controversy is within the exclusive jurisdiction of the Securities and Exchange Commission.[1]

Secondly, assuming *arguendo* that the NLRC may exercise jurisdiction over the said subject matter under the circumstances of this case, the unpaid subscriptions are not due and payable until a call is made by the corporation for payment.[2] Private

---

[1] Section 5, Presidential Decree No. 902-A.

[2] Section 67, Corporation Code of the Philippines, B.P. No. 68.

Supreme Court E-Library

respondents have not presented a resolution of the board of directors of respondent corporation calling for the payment of the unpaid subscriptions. It does not even appear that a notice of such call has been sent to petitioner by the respondent corporation.

What the records show is that the respondent corporation deducted the amount due to petitioner from the amount receivable from him for the unpaid subscriptions.[3] No doubt such set-off was without lawful basis, if not premature. As there was no notice or call for the payment of unpaid subscriptions, the same is not yet due and payable.

Lastly, assuming further that there was a call for payment of the unpaid subscription, the NLRC cannot validly set it off against the wages and other benefits due petitioner. Article 113 of the Labor Code allows such a deduction from the wages of the employees by the employer, only in three instances, to wit:

"ART. 113. *Wage Deduction.* — No employer, in his own behalf or in behalf of any person, shall make any deduction from the wages of his employees, except:

(a) In cases where the worker is insured with his consent by the employer, and the deduction is to recompense the employer for the amount paid by him as premium on the insurance;

(b) For union dues, in cases where the right of the worker or his union to checkoff has been recognized by the employer or authorized in writing by the individual worker concerned; and

(c) In cases where the employer is authorized by law or regulations issued by the Secretary of Labor."[4]

WHEREFORE, the petition is GRANTED and the questioned decision of the NLRC dated September 18, 1987 is hereby set aside and another judgment is hereby rendered ordering private respondents to pay petitioner the amount of ₱17,060.07 plus legal

---

[3] Letter dated 8 February 1986 of private respondents to Untalan, Dula, Bañares, Viernes and Associates, counsels of petitioner, pages 36 and 37, *Rollo*.

[4] Article 113, Labor Code.

Supreme Court E-Library

interest computed from the time of the filing of the complaint on December 19, 1986, with costs against private respondents.

SO ORDERED.

Narvasa, Cruz, Griño-Aquino, and *Medialdea, JJ.*, concur.

FIRST DIVISION

[G.R. No. 81833. April 18, 1989]

CATALINA B. *VDA. DE* ALVIR, ANTONIO MA. B. ALVIR, RENE MA. B. ALVIR, ROBERTO B. ALVIR AND DOUGLAS B. ALVIR, *petitioners, vs.* **THE HONORABLE COURT OF APPEALS and HOWARD J. WEBER,** *respondents.*

SYLLABUS

CIVIL LAW; PRESCRIPTION OF ACTION; RULE IN CASE OF A WRITTEN CONTRACT; CASE AT BAR. — It is true that under Article 1144 of the Civil Code an action upon a written contract must be brought within 10 years from the time the cause of action accrues. Under the terms of the contract in this case, the balance of ₱2,000.00 for the sale must be paid by private respondent within 30 days from and after the expiration of the 2-year period from the signing thereof. Private respondent asserts that he paid this balance on July 25, 1963. Thus, the obligation of petitioners, except Douglas Alvir, "to transfer, cede and convey" to private respondent "whatever rights and interests" petitioners may have over the property accrued when private respondent completed payment of the consideration of the sale. The opinion of the appellate court is that the cause of action accrued only when the rights and interest of said petitioners had been definitely determined. The terms of the contract do not support this conclusion. What it simply provides is that