Supreme Court E-Library

dated March 25, 2008, and *AFFIRMS and REINSTATES* the Regional Trial Court's order dated April 23, 2007.

SO ORDERED.

Carpio (Chairperson), Leonardo-de Castro, Brion, and *Del Castillo, JJ.,* concur.

SECOND DIVISION

[G.R. No. 160146. December 11, 2009]

LESLIE OKOL, *petitioner, vs.* **SLIMMERS WORLD INTERNATIONAL, BEHAVIOR MODIFICATIONS, INC., and RONALD JOSEPH MOY,** *respondents.*

SYLLABUS

1. COMMERCIAL LAW; CORPORATION LAW; CORPORATIONS; CORPORATE OFFICER DISTINGUISHED FROM AN EMPLOYEE.— The issue revolves mainly on whether petitioner was an employee or a corporate officer of Slimmers World. Section 25 of the Corporation Code enumerates corporate officers as the president, secretary, treasurer and such other officers as may be provided for in the by-laws. In *Tabang v. NLRC*, we held that an "office" is created by the charter of the corporation and the officer is elected by the directors or stockholders. On the other hand, an "employee" usually occupies no office and generally is employed not by action of the directors or stockholders but by the managing officer of the corporation who also determines the compensation to be paid to such employee.

2. ID.; ID.; ID.; A CORPORATE OFFICER'S DISMISSAL IS AN INTRA-CORPORATE CONTROVERSY; QUESTION OF REMUNERATION INVOLVING A STOCKHOLDER AND OFFICER IS NOT A SIMPLE LABOR PROBLEM, BUT A CORPORATE CONTROVERSY.— In the present case,

Supreme Court E-Library

the respondents, in their motion to dismiss filed before the labor arbiter, questioned the jurisdiction of the NLRC in taking cognizance of petitioner's complaint. In the motion, respondents attached the General Information Sheet (GIS) dated 14 April 1998, Minutes of the meeting of the Board of Directors dated 14 April 1997 and Secretary's Certificate, and the Amended By-Laws dated 1 August 1994 of Slimmers World as submitted to the SEC to show that petitioner was a corporate officer whose rights do not fall within the NLRC's jurisdiction. The GIS and minutes of the meeting of the board of directors indicated that petitioner was a member of the board of directors, holding one subscribed share of the capital stock, and an elected corporate officer. x x x Clearly, from the documents submitted by respondents, petitioner was a director and officer of Slimmers World. The charges of illegal suspension, illegal dismissal, unpaid commissions, reinstatement and back wages imputed by petitioner against respondents fall squarely within the ambit of intra-corporate disputes. In a number of cases, we have held that a corporate officer's dismissal is always a corporate act, or an intra-corporate controversy which arises between a stockholder and a corporation. The question of remuneration involving a stockholder and officer, not a mere employee, is not a simple labor problem but a matter that comes within the are of corporate affairs and management and is a corporate controversy in contemplation of the Corporation Code.

3. ID.; ID.; ID.; THE DETERMINATION OF THE RIGHTS OF A DISMISSED DIRECTOR AND CORPORATE OFFICER, AS WELL AS THE CORRESPONDING LIABILITY OF A CORPORATION, IS AN INTRA-CORPORATE DISPUTE SUBJECT TO THE JURISDICTION OF THE REGULAR COURTS.— Prior to its amendment, Section 5(c) of Presidential Decree No. 902-A (PD 902-A) provided that intra-corporate disputes fall within the jurisdiction of the Securities and Exchange Commission (SEC): x x x Sec. 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: x x x c) Controversies in the election or appointments of directors, trustees, officers or managers of such corporations, partnerships or associations. Subsection 5.2, Section 5 of

> Republic Act No. 8799, which took effect on 8 August 2000, transferred to regional trial courts the SEC's jurisdiction over all cases listed in Section 5 of PD 902-A: x x x 5.2. The Commission's jurisdiction over all cases enumerated under Section 5 of Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Court. x x x It is a settled rule that jurisdiction over the subject matter is conferred by law. The determination of the rights of a director and corporate officer dismissed from his employment as well as the corresponding liability of a corporation, if any, is an intra-corporate dispute subject to the jurisdiction of the regular courts. Thus, the appellate court correctly ruled that it is not the NLRC but the regular courts which have jurisdiction over the present case.

APPEARANCES OF COUNSEL

Chavez Miranda Aseoche Law Offices for petitioner.
Follosco Morallos & Herce for respondents.

D E C I S I O N

CARPIO, *J.*:

The Case

Before the Court is a petition for review on *certiorari*[1] assailing the Decision[2] dated 18 October 2002 and Resolution dated 22 September 2003 of the Court of Appeals in CA-G.R. SP No. 69893, which set aside the Resolutions dated 29 May 2001 and 21 December 2001 of the National Labor Relations Commission (NLRC).

The Facts

Respondent Slimmers World International operating under the name Behavior Modifications, Inc. (Slimmers World) employed petitioner Leslie Okol (Okol) as a management trainee

---

[1] Under Rule 45 of the 1997 Revised Rules of Civil Procedure.

[2] *Rollo*, pp. 32-39. Penned by Justice Danilo B. Pine with Justices Ruben T. Reyes (retired member of this Court) and Marina L. Buzon, concurring.

Supreme Court E-Library

on 15 June 1992. She rose up the ranks to become Head Office Manager and then Director and Vice President from 1996 until her dismissal on 22 September 1999.

On 28 July 1999, prior to Okol's dismissal, Slimmers World preventively suspended Okol. The suspension arose from the seizure by the Bureau of Customs of seven Precor elliptical machines and seven Precor treadmills belonging to or consigned to Slimmers World. The shipment of the equipment was placed under the names of Okol and two customs brokers for a value less than US$500. For being undervalued, the equipment were seized.

On 2 September 1999, Okol received a memorandum that her suspension had been extended from 2 September until 1 October 1999 pending the outcome of the investigation on the Precor equipment importation.

On 17 September 1999, Okol received another memorandum from Slimmers World requiring her to explain why no disciplinary action should be taken against her in connection with the equipment seized by the Bureau of Customs.

On 19 September 1999, Okol filed her written explanation. However, Slimmers World found Okol's explanation to be unsatisfactory. Through a letter dated 22 September 1999 signed by its president Ronald Joseph Moy (Moy), Slimmers World terminated Okol's employment.

Okol filed a complaint[3] with the Arbitration branch of the NLRC against Slimmers World, Behavior Modifications, Inc. and Moy (collectively called respondents) for illegal suspension, illegal dismissal, unpaid commissions, damages and attorney's fees, with prayer for reinstatement and payment of backwages.

On 22 February 2000, respondents filed a Motion to Dismiss[4] the case with a reservation of their right to file a Position Paper at the proper time. Respondents asserted that the NLRC had no jurisdiction over the subject matter of the complaint.

---

[3] Docketed as NLRC NCR Case No. 30-12-00989-99.

[4] *Rollo,* pp. 45-54.

Supreme Court E-Library

In an Order,[5] dated 20 March 2000, the labor arbiter granted the motion to dismiss. The labor arbiter ruled that Okol was the vice-president of Slimmers World at the time of her dismissal. Since it involved a corporate officer, the dispute was an intra-corporate controversy falling outside the jurisdiction of the Arbitration branch.

Okol filed an appeal with the NLRC. In a Resolution[6] dated 29 May 2001, the NLRC reversed and set aside the labor arbiter's order. The dispositive portion of the resolution states:

> WHEREFORE, the Order appealed from is SET ASIDE and REVERSED. A new one is hereby ENTERED ordering respondent Behavior Modification, Inc./Slimmers World International to reinstate complainant Leslie F. Okol to her former position with full back wages which to date stood in the amount of ₱10,000,000.00 computed from July 28, 1999 to November 28, 2000 until fully reinstated; and the further sum of ₱1,250,000.00 as indemnity pay plus attorney's fee equivalent to ten (10%) of the total monetary award. However, should reinstatement be not feasible separation pay equivalent to one month pay per year of service is awarded, a fraction of at least six months considered one whole year.
>
> All other claims are dismissed for lack of factual or legal basis.
>
> SO ORDERED.[7]

Respondents filed a Motion for Reconsideration with the NLRC. Respondents contended that the relief prayed for was confined only to the question of jurisdiction. However, the NLRC not only decided the case on the merits but did so in the absence of position papers from both parties. In a Resolution[8] dated 21 December 2001, the NLRC denied the motion for lack of merit.

Respondents then filed an appeal with the Court of Appeals, docketed as CA-G.R. SP No. 69893.

---

[5] *Id.* at 74-75.

[6] *Id.* at 83-89.

[7] *Id.* at 88.

[8] *Id.* at 91-92.

Supreme Court E-Library

The Ruling of the Court of Appeals

In a Decision[9] dated 18 October 2002, the appellate court set aside the NLRC's Resolution dated 29 May 2001 and affirmed the labor arbiter's Order dated 20 March 2000. The Court of Appeals ruled that the case, being an intra-corporate dispute, falls within the jurisdiction of the regular courts pursuant to Republic Act No. 8799.[10] The appellate court added that the NLRC had acted without jurisdiction in giving due course to the complaint and deprived respondents of their right to due process in deciding the case on the merits.

Okol filed a Motion for Reconsideration which was denied in a Resolution[11] dated 22 September 2003.

Hence, the instant petition.

The Issue

The issue is whether or not the NLRC has jurisdiction over the illegal dismissal case filed by petitioner.

The Court's Ruling

The petition lacks merit.

Petitioner insists that the Court of Appeals erred in ruling that she was a corporate officer and that the case is an intra-corporate dispute falling within the jurisdiction of the regular courts. Petitioner asserts that even as vice-president, the work that she performed conforms to that of an employee rather than a corporate officer. Mere title or designation in a corporation will not, by itself, determine the existence of an employer-employee relationship. It is the "four-fold" test, namely (1) the power to hire, (2) the payment of wages, (3) the power to dismiss, and (4) the power to control, which must be applied.

---

[9] *Id.* at 32-39.

[10] The Securities Regulation Code, approved on 19 July 2000 and took effect on 8 August 2000.

[11] *Rollo*, p. 41.

Petitioner enumerated the instances that she was under the power and control of Moy, Slimmers World's president: (1) petitioner received salary evidenced by pay slips, (2) Moy deducted Medicare and SSS benefits from petitioner's salary, and (3) petitioner was dismissed from employment not through a board resolution but by virtue of a letter from Moy. Thus, having shown that an employer-employee relationship exists, the jurisdiction to hear and decide the case is vested with the labor arbiter and the NLRC.

Respondents, on the other hand, maintain that petitioner was a corporate officer at the time of her dismissal from Slimmers World as supported by the General Information Sheet and Director's Affidavit attesting that petitioner was an officer. Also, the factors cited by petitioner that she was a mere employee do not prove that she was not an officer of Slimmers World. Even the alleged absence of any resolution of the Board of Directors approving petitioner's termination does not constitute proof that petitioner was not an officer. Respondents assert that petitioner was not only an officer but also a stockholder and director; which facts provide further basis that petitioner's separation from Slimmers World does not come under the NLRC's jurisdiction.

The issue revolves mainly on whether petitioner was an employee or a corporate officer of Slimmers World. Section 25 of the Corporation Code enumerates corporate officers as the president, secretary, treasurer and such other officers as may be provided for in the by-laws. In *Tabang v. NLRC*,[12] we held that an "office" is created by the charter of the corporation and the officer is elected by the directors or stockholders. On the other hand, an "employee" usually occupies no office and generally is employed not by action of the directors or stockholders but by the managing officer of the corporation who also determines the compensation to be paid to such employee.

In the present case, the respondents, in their motion to dismiss filed before the labor arbiter, questioned the jurisdiction of the NLRC in taking cognizance of petitioner's complaint. In the

---

[12] G.R. No. 121143, 21 January 1997, 266 SCRA 462, 467.

Supreme Court E-Library

motion, respondents attached the General Information Sheet[13] (GIS) dated 14 April 1998, Minutes[14] of the meeting of the Board of Directors dated 14 April 1997 and Secretary's Certificate,[15] and the Amended By-Laws[16] dated 1 August 1994 of Slimmers World as submitted to the SEC to show that petitioner was a corporate officer whose rights do not fall within the NLRC's jurisdiction. The GIS and minutes of the meeting of the board of directors indicated that petitioner was a member of the board of directors, holding one subscribed share of the capital stock, and an elected corporate officer.

The relevant portions of the Amended By-Laws of Slimmers World which enumerate the power of the board of directors as well as the officers of the corporation state:

Article II
The Board of Directors

1. Qualifications and Election – The general management of the corporation shall be vested in a board of five directors who shall be stockholders and who shall be elected annually by the stockholders and who shall serve until the election and qualification of their successors.

x x x x x x x x x

Article III
Officers

x x x x x x x x x

4. Vice-President – Like the Chairman of the Board and the President, the Vice-President shall be elected by the Board of Directors from [its] own members.

The Vice-President shall be vested with all the powers and authority and is required to perform all the duties of the President during the absence of the latter for any cause.

---

[13] *Rollo*, pp. 58-59.

[14] *Id.* at 60.

[15] *Id.* at 61.

[16] *Id.* at 62-71.

Supreme Court E-Library

The Vice-President will perform such duties as the Board of Directors may impose upon him from time to time.

x x x x x x x x x

Clearly, from the documents submitted by respondents, petitioner was a director and officer of Slimmers World. The charges of illegal suspension, illegal dismissal, unpaid commissions, reinstatement and back wages imputed by petitioner against respondents fall squarely within the ambit of intra-corporate disputes. In a number of cases,[17] we have held that a corporate officer's dismissal is always a corporate act, or an intra-corporate controversy which arises between a stockholder and a corporation. The question of remuneration involving a stockholder and officer, not a mere employee, is not a simple labor problem but a matter that comes within the area of corporate affairs and management and is a corporate controversy in contemplation of the Corporation Code.[18]

Prior to its amendment, Section 5(c) of Presidential Decree No. 902-A[19] (PD 902-A) provided that intra-corporate disputes fall within the jurisdiction of the Securities and Exchange Commission (SEC):

Sec. 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:

x x x x x x x x x

c) Controversies in the election or appointments of directors, trustees, officers or managers of such corporations, partnerships or associations.

---

[17] *Estrada v. NLRC,* G.R. No. 106722, 4 October 1996, 262 SCRA 709; *Lozon v. NLRC,* 310 Phil. 1 (1995); *Espino v. NLRC,* 310 Phil. 61 (1995); *Fortune Cement Corporation v. NLRC,* G.R. No. 79762, 24 January 1991, 193 SCRA 258.

[18] *Supra* note 12, *citing Dy v. NLRC,* 229 Phil. 234 (1986).

[19] Reorganization of the Securities and Exchange Commission with Additional Powers and Placing the said Agency under the Administrative Supervision of the Office of the President. Took effect on 11 March 1976.

Supreme Court E-Library

Subsection 5.2, Section 5 of Republic Act No. 8799, which took effect on 8 August 2000, transferred to regional trial courts the SEC's jurisdiction over all cases listed in Section 5 of PD 902-A:

> 5.2. The Commission's jurisdiction over all cases enumerated under Section 5 of Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Court.
>
> x x x x x x x x x

It is a settled rule that jurisdiction over the subject matter is conferred by law.[20] The determination of the rights of a director and corporate officer dismissed from his employment as well as the corresponding liability of a corporation, if any, is an intra-corporate dispute subject to the jurisdiction of the regular courts. Thus, the appellate court correctly ruled that it is not the NLRC but the regular courts which have jurisdiction over the present case.

WHEREFORE, we *DENY* the petition. We *AFFIRM* the 18 October 2002 Decision and 22 September 2003 Resolution of the Court of Appeals in CA-G.R. SP No. 69893. This Decision is without prejudice to petitioner Leslie Okol's taking recourse to and seeking relief through the appropriate remedy in the proper forum.

SO ORDERED.

Carpio Morales,[*] *Leonardo-de Castro,*[**] *Del Castillo,* and *Abad, JJ.,* concur.

---

[20] See *Estrada v. NLRC, supra* note 17; *Paguio v. NLRC*, 323 Phil. 203 (1996).

[*] Designated additional member per Special Order No. 807.

[**] Designated additional member per Special Order No. 776.