Supreme Court E-Library

possible set-off of the petitioners' advances or debts against their total claim, their discontinuance from employment by abandonment or resignation, and other relevant developments.

ACCORDINGLY, the instant petition is dismissed and this case is remanded to the respondent National Labor Relations Commission for final determination of the award due the petitioners in the execution of the decision rendered by the labor arbiter on August 27, 1978, as affirmed by the said Commission on November 9, 1981.

SO ORDERED.

Yap (Chairman), Narvasa, Melencio-Herrera, and *Feliciano, JJ.,* concur.

FIRST DIVISION

[G.R. No. 68544. October 27, 1986]

LORENZO C. DY, ZOSIMO DY, SR., WILLIAM IBERO, RICARDO GARCIA AND RURAL BANK OF AYUNGON, INC., *petitioners, vs.* **NATIONAL LABOR RELATIONS COMMISSION AND EXECUTIVE LABOR ARBITER ALBERTO L. DALMACION, AND CARLITO H. VAILOCES,** *respondents.*

SYLLABUS

1. **CIVIL LAW; ESTOPPEL; CANNOT BE INVOKED TO PREVENT THE COURT FROM TAKING UP THE QUESTION OF JURISDICTION.**— Respondent Vailoces' invocation of estoppel as against petitioners with respect to the issue of jurisdiction is unavailing. In the first place, it is not quite correct to state that petitioners did not raise the point in the lower tribunal. Although rather off handedly, in their appeal to the NLRC they called attention to the Labor Arbiter's

Supreme Court E-Library

lack of jurisdiction to rule on the validity of the meeting of July 2, 1983, but the dismissal of the appeal for alleged tardiness effectively precluded consideration of that or any other question raised in the appeal. More importantly, estoppel cannot be invoked to prevent this Court from taking up the question of jurisdiction, which has been apparent on the face of the pleadings since the start of litigation before the Labor Arbiter. It is well settled that the decision of a tribunal not vested with appropriate jurisdiction is null and void.

2. **LABOR AND SOCIAL LEGISLATION; NATIONAL LABOR RELATIONS COMMISSION; HAS NO JURISDICTION OVER A PERSON WHO IS NOT A MERE EMPLOYEE BUT A STOCKHOLDER AND OFFICER OF A CORPORATION.**— To be sure, petitioners failed to raise the issue of jurisdiction in their petition before this Court. But this, too, is no hindrance to the Court's considering said issue. "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 proprio* (*Gov't. vs. American Surety Co.*, 11 Phil. 203 [1908]). x x x" These considerations make inevitable the conclusion that the judgment of the Labor Arbiter and the resolution of the NLRC are void for lack of jurisdiction, and this Court must set matters aright in the exercise of its judicial power. It is of no moment that Vailoces, in his amended complaint, seeks other relief which would seemingly fall under the jurisdiction of the Labor Arbiter, because a closer look at these — underpayment of salary and non-payment of living allowance — shows that they are actually part of the perquisites of his elective position, hence, intimately linked with his relations with the corporation. The question of remuneration, involving as it does, a person who is not a mere employee but a stockholder and officer, an integral part, it might be said, of the corporation, is not a simple labor problem but a matter that comes within the area of corporate affairs and

Supreme Court E-Library

management, and is in fact a corporate controversy in contemplation of the Corporation Code.

APPEARANCES OF COUNSEL

Marcelino C. Maximo and Ramon Barrameda for petitioners.
Carlito H. Vailoces for private respondent.

D E C I S I O N

NARVASA, *J*.:

Petitioners assail in this Court the resolution of the National Labor Relations Commission (NLRC) dismissing their appeal from the decision of the Executive Labor Arbiter[1] in Cebu City which found private respondent to have been illegally dismissed by them.

Said private respondent, Carlito H. Vailoces, was the manager of the Rural Bank of Ayungon (Negros Oriental), a banking institution duly organized under Philippine laws. He was also a director and stockholder of the bank.

On June 4, 1983, a special stockholders' meeting was called for the purpose of electing the members of the bank's Board of Directors. Immediately after the election the new Board proceeded to elect the bank's executive officers.

Pursuant to Article IV of the bank's by-laws,[2] providing for the election by the entire membership of the Board of the executive officers of the bank, i.e., the president, vice-president, secretary, cashier and bank manager, in that board meeting of June 4, 1983, petitioners Lorenzo Dy, William Ibero and Ricardo Garcia were elected president, vice-president and corporate secretary, respectively. Vailoces was not re-elected as bank manager,[3] Because of this development, the Board, on July 2,

---

[1] In Case No. RAB-VII-0637-83 of the NLRC Regional Arbitration Branch No. 7.

[2] p. 52, *Rollo.*

[3] p. 53, *Rollo.*

Supreme Court E-Library

1983, passed Resolution No. 5, series of 1983, relieving him as bank manager.

On August 3, 1983, Vailoces filed a complaint for illegal dismissal and damages with the Ministry of Labor and Employment against Lorenzo Dy and Zosimo Dy, Sr. The complaint was amended on September 22, 1983 to include additional respondents — William Ibero, Ricardo Garcia and the Rural Bank of Ayungon, and additional causes of action for underpayment of salary and non-payment of living allowance.

In his complaint and position paper, Vailoces asserted that Lorenzo Dy, after obtaining control of the majority stock of the bank by buying the shares of Marcelino Maximo, called an illegal stockholders' meeting and elected a Board of Directors controlled by him; that after its illegal constitution, said Board convened on July 2, 1983 and passed a resolution dismissing him as manager, without giving him the opportunity to be heard first; that his dismissal was motivated by Lorenzo Dy's desire to take over the management and control of the bank, not to mention the fact that he (Dy) harbored ill feelings against Vailoces on account of the latter's filing of a complaint for violation of the Corporation Code against him and another complaint for compulsory recognition of natural child with damages against Zosimo Dy, Sr. [4]

In their answer, Lorenzo Dy, et al. denied the charge of illegal dismissal. They pointed out that Vailoces' position was an elective one, and he was not re-elected as bank manager because of the Board's loss of confidence in him brought about by his absenteeism and negligence in the performance of his duties; and that the Board's action was taken to protect the interest of the bank and was "designed as an internal control measure to secure the check and balance of authority within the organization."[5]

The Executive Labor Arbiter found that Vailoces was:

---

[4] Executive Labor Arbiter's decision, p. 42, *Rollo*.

[5] Executive Labor Arbiter's decision, p. 43, *Rollo*.

Supreme Court E-Library

(a) Illegally dismissed, first not because of absenteeism and negligence, but of the resentment of petitioners against Vailoces which arose from the latter's filing of the cases for recognition as natural child against Zosimo Dy, Sr. and for violation of the Corporation Code against Lorenzo Dy; and second, because he was not afforded the due process of law when he was dismissed during the Board meeting of July 2, 1983 the validity of which is seriously doubted;

(b) Not paid his cost of living allowance; and

(c) Underpaid with only P500 monthly salary.

and consequently ordered the individual petitioners — Lorenzo Dy and Zosimo Dy — but not the Bank itself, to:

(a) Pay Vailoces jointly and severally, the sum of P111,480.60 representing his salary differentials, cost of living allowances, back wages from date of dismissal up to the date of the decision (November 29, 1983), moral and exemplary damages, and attorney's fees; and

(b) Reinstate Vailoces to his position as bank manager, with additional backwages from December 1, 1983 on the adjusted salary rate of P620.00 per month until he is actually reinstated, plus cost-of-living allowance.[6]

Lorenzo Dy, et al. appealed to the NLRC, assigning error to the decision of the Labor Arbiter on various grounds, among them: that Vailoces was not entitled to notice of the Board meeting of July 2, 1983 which decreed his relief because he was no longer a member of the Board on said date; that he nonetheless had the opportunity to refute the charges against him and seek a formal investigation because he received a copy of the minutes of said meeting while he was still the bank manager (his removal was to take effect only on August 15, 1983), instead of which he simply abandoned the work he was supposed to perform up to the effective date of his relief; and that the matter of his relief was within the adjudicatory powers of the Securities and Exchange Commission.[7]

The NLRC, however bypassed the issues raised and simply dismissed the appeal for having been filed late. It ruled that:

---

[6] Decision, p. 49, *Rollo*.

[7] Memorandum of Appeal, p. 57, *Rollo*.

Supreme Court E-Library

"The record shows that a copy of the decision sent by registered mail to respondents' counsel, Atty. Edmund Tubio, was received on January 11, 1984 by a certain Atty. Ramon Elesteria, a law office partner of Atty. Tubio. x x x This fact is corroborated by the certification issued by the Postmaster of Dumaguete City. x x x Moreover, the same is admitted by no less than Atty. Ramon Elesteria himself in his affidavit. It further appears in the record that on January 30, 1984 a certain Atty. Francisco Zerna, a new lawyer engaged by the respondents for the appeal, received a copy of the decision in this case as certified by Julia Pepito in an affidavit subscribed before the Senior Labor Arbitration Specialist. The appeal was filed only on February 17, 1984.

"Considering that it was a law partner of the respondents' counsel who received on January 11, 1984 the registered letter, his actual receipt thereof completes the service. x x x And even assuming that such was not a valid service, since the respondents received another copy of the decision on January 30, 1984, through their newly engaged counsel, it is therefore our opinion that the appeal herein was filed out of time, whether the time is reckoned from the receipt by Atty. Elesteria or Atty. Zerna, and, for this reason, we can not give due course to his appeal."[8]

In this Court, petitioners assail said ruling as an arbitrary deprivation of their right to appeal through unreasonable adherence to procedural technicality. They argue that they should not be bound by the service of the Labor Arbiter's decision by Atty. Elesteria on January 11, 1984 or by Atty. Zerna on January 30, 1984, because neither lawyer was authorized to accept service for their counsel, Atty. Tubio, and that their 10-day period of appeal should be counted from February 10, 1984 when they actually received the copy of the decision from Atty. Zerna. On the merits, they assert that the Arbiter's finding of illegal dismissal was without evidentiary basis, that it was error to impose the obligation to pay damages upon the individual petitioners, instead of the Rural Bank of Ayungon, which was Vailoces' real employer, and that the damages awarded are exorbitant and oppressive.

While the comment of Vailoces traverses the averments of the petition, that of the Solicitor General on behalf of public

[8] NLRC Resolution, p. 39, *Rollo*.

Supreme Court E-Library

respondents perceives the matter as an intracorporate controversy of the class described in Section 5, par. (c), of Presidential Decree No. 902-A, namely:

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

explicitly declared to be within the original and exclusive jurisdiction of the Securities and Exchange Commission, and recommends that the questioned resolution of the NLRC as well as the decision of the Labor Arbiter be set aside as null and void.[9]

In truth, the issue of jurisdiction is decisive and renders unnecessary consideration of the other questions raised.

There is no dispute that the position from which private respondent Vailoces claims to have been illegally dismissed is an elective corporate office. He himself acquired that position through election by the bank's Board of Directors at the organizational meeting of November 17, 1979.[10] He lost that position because the Board that was elected in the special stockholders' meeting of June 4, 1983 did not re-elect him. And when Vailoces, in his position paper submitted to the Labor Arbiter, impugned said stockholders' meeting as illegally convoked and the Board of Directors thereby elected as illegally constituted,[11] he made it clear that at the heart of the matter was the validity of the directors' meeting of June 4, 1983 which, by not re-electing him to the position of manager, in effect caused termination of his services.

The case thus falls squarely within the purview of Section 5, par. (c), No. 902-A just cited. In *PSBA vs. Leaño,*[12] this Court, confronted with a similar controversy, ruled that the Securities and Exchange Commission, not the NLRC, has jurisdiction:

---

[9] pp. 220-228, *Rollo.*

[10] P. 199, *Rollo.*

[11] Cited in Labor Arbiter's Decision, p. 42, *Rollo.*

[12] 127 SCRA 778.

Supreme Court E-Library

"It was at a Board regular monthly meeting held on August 1, 1981, that three directors were elected to fill vacancies. And it was at the regular Board meeting of September 5, 1981 that all corporate positions were declared vacant in order to effect a reorganization, and at the ensuing election of officers, Tan was not re-elected as Executive Vice-President.

"Basically, therefore, the question is whether the election of directors on August 1, 1981 and the election of officers on September 5, 1981, which resulted in Tan's failure to be re-elected, were validly held. This is the crux of the question that Tan has raised before the SEC. Even in his position paper before the NLRC, Tan alleged that the election on August 1, 1981 of the three directors was in contravention of the PSBA By-Laws providing that any vacancy in the Board shall be filled by a majority vote of the stockholders at a meeting specially called for the purpose. Thus, he concludes, the Board meeting on September 5, 1981 was tainted with irregularity on account of the presence of illegally elected directors without whom the results could have been different.

"Tan invoked the same allegations in his complaint filed with the SEC. So much so, that on December 17, 1981, the SEC (Case No. 2145) rendered a Partial Decision annulling the election of the three directors and ordered the convening of a stockholders' meeting for the purpose of electing new members of the Board. The correctness of said conclusion is not for us to pass upon in this case. Tan was present at said meeting and again sought the issuance of injunctive relief from the SEC.

"The foregoing indubitably show that, fundamentally, the controversy is intra-corporate in nature. It revolves around the election of directors, officers or managers of the PSBA, the relation between and among its stockholders, and between them and the corporation. Private respondent also contends that his `ouster' was a scheme to intimidate him into selling his shares and to deprive him of his just and fair return on his investment as a stockholder received through his salary and allowances as Executive Vice-President. Vis-a-vis the NLRC, these matters fall within the jurisdiction of the SEC. Presidential Decree No. 902-A vests in the Securities and Exchange Commission:

'x x x Original and exclusive jurisdiction to hear and decide cases involving:

'a) Devices or schemes employed by or any acts, of the board of directors, business associates, its officers or partners, amounting

Supreme Court E-Library

to fraud and misrepresentation which may be detrimental to the interest of the public and or of the stockholders, partners, members of associations or organizations registered with the Commission.

'b) Controversies arising out of intracorporate or partnership relations, between and among stockholders, members or associates; between any of 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 appointments of directors, trustees, officers or managers of such corporations, partnership or associations.'

"This is not a case of dismissal. The situation is that of a corporate office having been declared vacant, and of Tan's not having been elected thereafter. The matter of whom to elect is a prerogative that belongs to the Board, and involves the exercise of deliberate choice and the faculty of discriminative selection. Generally speaking, the relationship of a person to corporation, whether as officer or as agent or employee, is not determined by the nature of the services performed, but by the incidents of the relationship as they actually exist."

Respondent Vailoces' invocation of estoppel as against petitioners with respect to the issue of jurisdiction is unavailing. In the first place, it is not quite correct to state that petitioners did not raise the point in the lower tribunal. Although rather off handedly, in their appeal to the NLRC they called attention to the Labor Arbiter's lack of jurisdiction to rule on the validity of the meeting of July 2, 1983, but the dismissal of the appeal for alleged tardiness effectively precluded consideration of that or any other question raised in the appeal. More importantly, estoppel cannot be invoked to prevent this Court from taking up the question of jurisdiction, which has been apparent on the face of the pleadings since the start of litigation before the Labor Arbiter. It is well settled that the decision of a tribunal not vested with appropriate jurisdiction is null and void. Thus, in *Calimlim vs. Ramirez,*[13] this Court held:

[13] 118 SCRA 399.

Supreme Court E-Library

"A rule that had been settled by unquestioned acceptance and upheld in decisions so numerous to cite is that the jurisdiction of a court over the subject matter of the action is a matter of law and may not be conferred by consent or agreement of the parties. The lack of jurisdiction of a court may be raised at any stage of the proceedings, even on appeal. This doctrine has been qualified by recent pronouncements which stemmed principally from the ruling in the cited case of *Sibonghanoy*. It is to be regretted, however, that the holding in said case had been applied to situations which were obviously not contemplated therein. The exceptional circumstances involved in *Sibonghanoy* which justified the departure from the accepted concept of non-waivability of objection to jurisdiction has been ignored and, instead a blanket doctrine had been repeatedly upheld that rendered the supposed ruling in *Sibonghanoy* not as the exception, but rather the general rule, virtually overthrowing altogether the time honored principle that the issue of jurisdiction is not lost by waiver or by estoppel.

x x x x x x x x x

"It is neither fair nor legal to bind a party by the result of a suit or proceeding which was taken cognizance of in a court which lacks jurisdiction over the same irrespective of the attendant circumstances. The equitable defense of estoppel requires knowledge or consciousness of the facts upon which it is based. The same thing is true with estoppel by conduct which may be asserted only when it is shown, among others, that the representation must have been made with knowledge of the facts and that the party to whom it was made is ignorant of the truth of the matter (*De Castro vs. Gineta*, 27 SCRA 623). The filing of an action or suit in a court that does not possess jurisdiction to entertain the same may not be presumed to be deliberate and intended to secure a ruling which could later be annulled if not favorable to the party who filed such suit or proceeding in a court that lacks jurisdiction to take cognizance of the same, such act may not at once be deemed sufficient basis of estoppel. It could have been the result of an honest mistake or of divergent interpretation of doubtful legal provisions. If any fault is to be imputed to a party taking such course of action, part of the blame should be placed on the court which shall entertain the suit, thereby lulling the parties into believing that they pursued their remedies in the correct forum. Under the rules, it is the duty of the court to dismiss an action 'whenever it appears that court has no jurisdiction over the subject matter.' (Section 2, Rule 9, Rules of Court) Should the Court render a judgment without

Supreme Court E-Library

jurisdiction, such judgment may be impeached or annulled for lack of jurisdiction (Sec. 30, Rule 132, *Ibid*), within ten (10) years from the finality of the same (Art. 1144, par. 3, Civil Code)."

To be sure, petitioners failed to raise the issue of jurisdiction in their petition before this Court. But this, too, is no hindrance to the Court's considering said issue.

"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 proprio* (*Gov't. vs. American Surety Co.*, 11 Phil. 203 [1908]). x x x"[14]

These considerations make inevitable the conclusion that the judgment of the Labor Arbiter and the resolution of the NLRC are void for lack of jurisdiction, and this Court must set matters aright in the exercise of its judicial power. It is of no moment that Vailoces, in his amended complaint, seeks other relief which would seemingly fall under the jurisdiction of the Labor Arbiter, because a closer look at these — underpayment of salary and non-payment of living allowance — shows that they are actually part of the perquisites of his elective position, hence, intimately linked with his relations with the corporation. The question of remuneration, involving as it does, a person who is not a mere employee but a stockholder and officer, an integral part, it might be said, of the 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.

WHEREFORE, the questioned decision of the Labor Arbiter and the Resolution of the NLRC dismissing petitioners' appeal from said decision are hereby set aside because rendered without

[14] *PLDT Co. vs. Free Telephone Workers' Union*, 116 SCRA 145.

Supreme Court E-Library

jurisdiction. The amended complaint for illegal dismissal, etc., basis of said decision and Resolution, is ordered dismissed, without prejudice to private respondent's seeking recourse in the appropriate forum.

SO ORDERED.

Yap (Chairman), Melencio-Herrera, Cruz, and *Feliciano, JJ.,* concur.

FIRST DIVISION

[G.R. No. 73611. October 27, 1986]

MARIA PEÑALES and CONSORCIA PEÑALES, Accompanied by her Husband, FELIPE LUSTRIA, *petitioners, vs.* **HON. INTERMEDIATE APPELLATE COURT; SALVACION LUSTRIA, Accompanied by her Husband, ALVARO PORRAS; MADONNA LUSTRIA, Accompanied by her Husband, ELADIO DASMARIÑAS; and SEGUNDO LUSTRIA, JR.,** *respondents.*

SYLLABUS

REMEDIAL LAW; SPECIAL PROCEEDINGS; SUMMARY SETTLEMENT OF ESTATE; LIABILITY OF DISTRIBUTEES AND ESTATE; ANNOTATION OF AN ENCUMBRANCE BECOMES *FUNCTUS OFICIO* AT THE EXPIRATION OF THE TWO-YEARS.— An annotation under Section 4, Rule 74, reads only as subject to "the rights of any legal heir or claims of any creditor of the deceased which have not been paid." Under the erroneous view of the Appellate Tribunal, the heirs and creditors of the deceased would, in effect, be "*owners*" of the PROPERTY of the deceased extra-judicially