Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

SUMIFRU (PHILIPPINES) CORP. (surviving entity of a merger with Fresh Banana Agricultural Corporation and other corporations),
Petitioner,

- versus -

NAGKAHIUSANG MAMUMUO SA SUYAPA FARM[1] (NAMASUFA-NAFLU-KMU),
Respondent.

G.R. No. 202091

Present:

SERENO, *C.J.*, Chairperson,
LEONARDO-DE CASTRO,
DEL CASTILLO,
PERLAS-BERNABE, and
CAGUIOA, *JJ.*

Promulgated:

JUN 07 2017

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DECISION

CAGUIOA, *J.*:

Before the Court is a Petition for Review on *Certiorari*[2] under Rule 45 of the Rules of Court filed by petitioner Sumifru (Philippines) Corp. (Sumifru), assailing the Decision[3] dated February 8, 2012 and Resolution[4] dated May 18, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 03574. The CA affirmed the Resolution dated February 8, 2010[5] of the Secretary of the Department of Labor and Employment (DOLE) which, in turn, affirmed the Order dated July 28, 2008[6] of DOLE Regional Office No. XI Circuit Mediator-Arbiter (Med-Arbiter), which ordered the conduct of certification election of the rank-and-file employees of Sumifru in P-1 Upper Siocon, Compostela, Comval Province.

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1 Also referred to as Nagkakahiusang Namumuo sa Suyapa Farm in some parts of the records.
2 *Rollo*, pp. 9-35.
3 Id. at 41-50. Penned by Associate Justice Edgardo T. Lloren, with Associate Justices Melchor Q. C. Sadang and Pedro B. Corales concurring.
4 Id. at 52-53.
5 Id. at 124-129.
6 Id. at 99-104. Penned by Circuit Med-Arbiter Gerardine A. Jamora.

Facts

Sumifru is a domestic corporation and is the surviving corporation after its merger with Fresh Banana Agricultural Corporation (FBAC) in 2008.[7] FBAC was engaged in the buying, marketing, and exportation of Cavendish bananas.[8]

Respondent Nagkahiusang Mamumuo sa Suyapa Farm (NAMASUFA-NAFLU-KMU) (NAMASUFA) is a labor organization affiliated with the National Federation of Labor Unions and Kilusang Mayo Uno.[9]

The CA summarized the start of the proceedings with the Med-Arbiter as follows:

> On March 14, 2008, the private respondent Nagkahiusang Mamumuo sa Suyapa Farm (NAMASUFA-NAFLU-KMU), a legitimate labor organization, filed a Petition for Certification Election before the Department of Labor and Employment, Regional Office No. XI in Davao City. NAMASUFA sought to represent all rank-and-file employees, numbering around one hundred forty, of packing plant 90 (PP 90) of Fresh Banana Agricultural Corporation (FBAC). NAMASUFA claimed that there was no existing union in the aforementioned establishment.
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> On May 9, 2008 FBAC filed an Opposition to the Petition. It argued that there exists no employer-employee relationship between it and the workers involved. It alleged that members of NAMASUFA are actually employees of A2Y Contracting Services (A2Y), a duly licensed independent contractor, as evidenced by the payroll records of the latter.
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> NAMASUFA, in its Comment to Opposition countered, among others, that its members were former workers of Stanfilco before FBAC took over its operations sometime in 2002. The said former employees were then required to join the Compostela Banana Packing Plant Workers' Cooperative (CBPPWC) before they were hired and allowed to work at the Packing Plant of FBAC. It further alleged that the members of NAMASUFA were working at PP 90 long before A2Y came.
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> In June 20, 2008, pending resolution of the petition, FBAC was merged with SUMIFRU, the latter being the surviving corporation.[10]

On July 28, 2008, the DOLE Med-Arbiter issued an Order granting the Petition for Certification Election of NAMASUFA and declared that Sumifru was the employer of the workers concerned. The dispositive portion of the Order states:

> **WHEREFORE**, premises considered, the petition for certification election filed by Nagkahiusang Mamumuo sa Suyapa Farm (NAMASUFA) – NAFLU – KMU is hereby **GRANTED**. Let a certification election among the rank-and-file workers of Fresh Banana Agricultural Corporation be

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7 Id. at 11.
8 Id. at 12.
9 Id. at 11.
10 Id. at 42-43.

conducted at the company premises located at P-1 Upper Siocon, Compostela, Comval Province with the following as choices:

1. Nagkahiusang Mamumuo sa Suyapa Farm (NAMASUFA) – NAFLU – KMU; and
2. No Union

Let the entire records of this case be forwarded to Comval Field Office, this Department, for the usual pre-election conference.

The employer Fresh Banana Agricultural Corporation is hereby **DIRECTED** to submit within five (5) days from receipt of this Order, a certified list of the rank-and-file employees in the establishment or the payrolls covering the members of the bargaining unit for the last three (3) months prior to the issuance of this Order.

SO ORDERED.[11]

In ruling that an employer-employee relationship existed, the Med-Arbiter stated:

The "four-fold test" will show that respondent FBAC is the employer of petitioner's members. The elements to determine the existence of an employment relationship are: (a) the selection and engagement of the employee; (b) the payment of wages; (c) the power of dismissal; and (d) the employer's power to control the employee's conduct. The most important element is the employer's control of the employee's conduct, not only as to the result of the work to be done, but also as to the means and methods to accomplish it.

On the first factor, (selection and engagement of the employer), it is apparent that the staff of respondent FBAC advised those who are interested to be hired in the Packing Plant to become members first of CBPPWC and get a recommendation from it.

On the second factor (payment of wages), while the respondent tried to impress upon us that workers are paid by A2Y Contracting Services, this at best is but an administrative arrangement. We agree with petitioner that the payroll summary submitted does not contain the relevant information such as the employee's rate of pay, deductions made and the amount actually paid to the employee.

On the third factor, (the power of dismissal), it is very clear that respondent FBAC is the authority that imposes disciplinary measures against erring workers. This alone proves that it wields disciplinary authority over them.

Finally, on the fourth factor which is the control test, the fact that the respondent FBAC gives instructions to the workers on how to go about their work is sufficient indication that it exercises control over their movements. The workers are instructed as to what time they are supposed to report and what time they are supposed to return. They were required to fill up monitoring sheets as they go about their jobs and even the materials which they used in the packing plant were supplied by FBAC.

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[11] Id. at 103-104.

> Viewed from the above circumstances, it is clear that respondent FBAC is the real employer of the workers of Packing Plant 90. They are in truth and in fact the employees of the respondent and its attempt to seek refuge on A2Y Contracting Services as the ostensible employer was nothing but an elaborate scheme to deprive them their right to self-organization.[12]

Sumifru appealed to the DOLE Secretary and in a Resolution dated February 8, 2010, the DOLE Secretary dismissed the appeal, the dispositive portion of which states:

> **WHEREFORE**, considering the foregoing, the appeal is hereby **DISMISSED** for lack of merit and the assailed Order dated 28 July 2008 of DOLE Regional Office No. XI Circuit Mediator-Arbiter Gerardine A. Jamora is **AFFIRMED**.
>
> Let the entire records of this case be remanded to the Regional Office of origin for the immediate conduct of a certification election subject to the usual pre-election conference.
>
> **SO RESOLVED**.[13]

The DOLE Secretary ruled that Sumifru is the true employer of the workers, as follows:

> In the present case, it is undisputed that CBPPWC is supplying workers to FBAC (now Sumifru). In fact, FBAC required its applicants to become members of the cooperative first and seek recommendation from it before hiring them. Appellant Sumifru failed to proffer evidence to prove that CBPPWC is duly registered under Department Order No. 18-02. Also, it does not appear on record that CBPPWC possesses substantial capital or investment in relation with the work or services that are being performed by its members and that the employees placed by CBPPWC in Sumifru are performing activities distinct and independent from that of the main business of Sumifru. As such, this Office is inclined to believe that CBPPWC is engaged in labor-only contracting and the true employer of the subject workers is Sumifru.
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> The alleged partnership agreement between CBPPWC and A2Y is of no moment. It is well-settled that mere allegation without evidence to prove the same is self-serving that should not be given weight in any proceedings. Nonetheless, even if the alleged agreement indeed took place, the four-fold test in determining the existence of an employer-employee relationship still points to Sumifru as the employer.
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> x x x x
>
> In this case, Sumifru's control over the subject employees is evident. The fact that the subject workers are required by Sumifru to fill up monitoring sheets as they go about their jobs and the imposition of disciplinary actions for non-compliance with the "No Helmet – No Entry and No ID – No Entry" policies prove that it is indeed Sumifru, and not A2Y Contracting Services, that exercises control over the conduct of the subject workers.[14]

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12 Id. at 102-103.
13 Id. at 129.
14 Id. at 127-128.

Sumifru then filed a Petition for *Certiorari* with the CA raising the issue of whether the DOLE Secretary committed grave abuse of discretion in declaring it as the employer of the workers at PP 90.[15] But the CA dismissed the petition. The dispositive portion of the CA Decision states:

> **WHEREFORE**, finding no grave abuse of discretion on the part of the public respondent, the petition is DENIED. The Resolution dated February 8, 2010 issued by the public respondent Honorable Secretary of the Department of Labor and Employment is hereby AFFIRMED.
>
> **SO ORDERED**.[16]

The CA ruled that the DOLE Secretary did not commit grave abuse of discretion because the latter's ruling that Sumifru was the employer of the workers was anchored on substantial evidence, thus:

> SUMIFRU raises the same issue of non-existence of employer-employee relationship, which had been squarely resolved in the negative by the Med-Arbiter and the DOLE Secretary. We find no traces of abuse in discretion in the ruling of the DOLE Secretary anchored as it is on substantial evidence.
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> The Court has consistently applied the "four-fold test" to determine the existence of an employer-employee relationship: the employer (a) selects and engages the employee; (b) pays his wages; (c) has power to dismiss him; and (d) has control over his work. Of these, the most crucial is the element of control. Control refers to the right of the employer, whether actually exercised or reserved, to control the work of the employee as well as the means and methods by which he accomplishes the same.
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> In this case, the records are replete with evidence which would show that SUMIFRU has control over the concerned workers, to wit:
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> 1. FBAC memorandum on "Standardized Packing Plant Breaktime";
> 2. Material Requisition for PP 90;
> 3. Memorandum dated February 9, 2008 on "no helmet, no entry" policy posted at the packing plant;
> 4. Memorandum dated October 15, 2007 on "no ID, no entry policy";
> 5. Attendance Sheet for General Assembly Meeting called by FBAC on February 18[,] 2004;
> 6. Attendance Sheet for Packers ISO awareness seminar on February 11, 2004 called by FBAC;
> 7. FBAC Traypan Fruit Inspection Packer's Checklist issued by FBAC for the use of workers in the Packing Plant;
> 8. FBAC KD Gluing Pattern Survey.

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15 Id. at 46.
16 Id. at 50.

> The above orders issued by SUMIFRU/FBAC would show that not only does it have control over the results of the workers in PP 90 but also in the manners and methods of its accomplishment.[17]

The CA, after reviewing the records, accorded respect to the findings of facts of the DOLE Secretary, which affirmed the Med-Arbiter, as they have special knowledge and expertise over matters under their jurisdiction. The CA ruled:

> As stated beforehand, there is no cogent reason to set aside the ruling of the DOLE Secretary which affirmed the findings of the Med-Arbiter. By reason of their special knowledge and expertise over matters falling under their jurisdiction, they are in a better position to pass judgment thereon and their findings of fact in that regard are generally accorded respect and even finality by the courts when supported by substantial evidence, as in this case.[18]

Sumifru moved for reconsideration but the CA denied this in its Resolution dated May 18, 2012.

Hence, this Petition.

Issues

As stated in its Petition, Sumifru raised the following:

> THE COURT OF APPEALS COMMITTED PALPABLE MISTAKE AND RULED CONTRARY TO LAW AND SETTLED JURISPRUDENCE WHEN IT AFFIRMED THE FINDINGS OF THE DOLE SECRETARY AND CONCLUDED THAT HEREIN PETITIONER, SUMIFRU, IS THE EMPLOYER OF THE WORKERS ENGAGED BY THE COOPERATIVE AND/OR A2Y FOR THE UPPER SIOCON GROWERS' PACKAGING OPERATIONS IN PACKING PLANT 90.
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> A. A2Y Contracting Services was engaged either by the Upper Siocon Growers or the Cooperative for the packing operations at PP 90.
>
> B. Even assuming, for the sake of argument, that the Cooperative and/or A2Y are not legitimate labor contractors, only the Upper Siocon Growers, and not SUMIFRU, may be deemed the employer of the workers at PP 90.
>
> C. The Department of Labor and Employment committed grave and palpable mistake when it grossly misapprehended the facts and evidence on record, that if properly appreciated will clearly establish that SUMIFRU is not the employer of the members of NAMASUFA working at PP 90.
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> D. The reliance on the alleged inconsistencies in the pleadings submitted by SUMIFRU is misplaced as there are no inconsistencies at all.[19] (Emphasis omitted)

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17 Id. at 46-47.
18 Id. at 49.
19 Id. at 18-19.

The Court's Ruling

The Petition is denied.

Sumifru's arguments raise questions of facts. Indeed, it even submitted to this Court, as annexes to its Petition, the very same evidence it had presented before the Med-Arbiter, the DOLE Secretary, and the CA in its attempt to try to convince the Court that the members of NAMASUFA are not its employees.

It is fundamental that in a petition for review on *certiorari*, the Court is limited to only questions of law. As specifically applied in a labor case, the Court is limited to reviewing only whether the CA was correct in determining the presence or absence of grave abuse of discretion on the part of the DOLE Secretary. Thus, in *Holy Child Catholic School v. Sto. Tomas,*[20] the Court ruled:

> Our review is, therefore, limited to the determination of whether the CA correctly resolved the presence or absence of grave abuse of discretion in the decision of the [Secretary of Labor and Employment (SOLE)], not on the basis of whether the latter's decision on the merits of the case was strictly correct. Whether the CA committed grave abuse of discretion is not what is ruled upon but whether it correctly determined the existence or want of grave abuse of discretion on the part of the SOLE.[21]

In this regard, as held in *Telefunken Semiconductors Employees Union-FFW v. Court of Appeals,*[22] findings of fact of quasi-judicial agencies are entitled to great respect when they are supported by substantial evidence and, in the absence of any showing of a whimsical or capricious exercise of judgment, the factual findings bind the Court:

> We take this occasion to emphasize that the office of a petition for review on *certiorari* under Rule 45 of the Rules of Court requires that it shall raise only questions of law. **The factual findings by quasi-judicial agencies, such as the Department of Labor and Employment, when supported by substantial evidence, are entitled to great respect in view of their expertise in their respective fields.** Judicial review of labor cases does not go so far as to evaluate the sufficiency of evidence on which the labor official's findings rest. It is not our function to assess and evaluate all over again the evidence, testimonial and documentary, adduced by the parties to an appeal, particularly where the findings of both the trial court (here, the DOLE Secretary) and the appellate court on the matter coincide, as in this case at bar. The Rule limits that function of the Court to the review or revision of errors of law and not to a second analysis of the evidence. Here, petitioners would have us re-calibrate all over again the factual basis and the probative value of the pieces of evidence submitted by the Company to the DOLE, contrary to the provisions of Rule 45. **Thus, absent any showing of whimsical or capricious exercise of judgment, and unless lack of any basis for the conclusions made by the appellate court be amply demonstrated, we may not disturb such factual findings.**[23] (Emphasis supplied.)

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20 714 Phil. 427 (2013).
21 Id. at 456-457.
22 401 Phil. 776 (2000).
23 Id. at 791-792.

Here, the CA was correct in finding that the DOLE Secretary did not commit any whimsical or capricious exercise of judgment when it found substantial evidence to support the DOLE Secretary's ruling that Sumifru was the employer of the members of NAMASUFA.

As defined, substantial evidence is "that amount of relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds, equally reasonable, might conceivably opine otherwise."[24] Here, the Med-Arbiter found, based on documents submitted by the parties, that Sumifru gave instructions to the workers on how to go about their work, what time they were supposed to report for work, required monitoring sheets as they went about their jobs, and provided the materials used in the packing plant.[25]

In affirming the Med-Arbiter, the DOLE Secretary relied on the documents submitted by the parties and ascertained that Sumifru indeed exercised control over the workers in PP 90. The DOLE Secretary found that the element of control was present because Sumifru required monitoring sheets and imposed disciplinary actions for non-compliance with "No Helmet – No Entry" "No ID – No Entry" policies.[26]

In turn, the CA, even as it recognized that the findings of facts of the DOLE Secretary and the Med-Arbiter were binding on it because they were supported by substantial evidence, even went further and itself reviewed the records — to arrive, as it did arrive, at the same conclusion reached by the DOLE Secretary and Med-Arbiter: that is, that Sumifru exercised control over the workers in PP 90.[27]

In light of the foregoing, the Court cannot re-calibrate the factual bases of the Med-Arbiter, DOLE Secretary, and the CA, contrary to the provisions of Rule 45, especially where, as here, the Petition fails to show any whimsicality or capriciousness in the exercise of judgment of the Med-Arbiter or the DOLE Secretary in finding the existence of an employer-employee relationship.

WHEREFORE, premises considered, the petition for review is hereby **DENIED.** The Decision of the Court of Appeals dated February 8, 2012 and Resolution dated May 18, 2012 are hereby **AFFIRMED.**

SO ORDERED.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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24 *T & H Shopfitters Corp./Gin Queen Corp. v. T & H Shopfitters Corp./Gin Queen Workers Union*, 728 Phil. 168, 180-181 (2014).

25 *Rollo*, pp. 102-103.

26 Id. at 128.

27 Id. at 47.

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice