SUPREME COURT
THIRD DIVISION

ALFREDO S. MARQUEZ, doing business under the name and style of LITTLE FOLKS SNACK MOBILE,
***Petitioner*,**

-versus-

G.R. No. 80685
March 16, 1989

HON. SECRETARY OF LABOR AND KAISAHAN NG MANGGAGAWANG PILIPINO (KAMPIL-KATIPUNAN) AND IN BEHALF OF ITS 79 MEMBERS,
***Respondents*.**
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D E C I S I O N

CORTES, *J.*:

Private respondent Kaisahan ng Manggagawang Pilipino (KAMPIL-KATIPUNAN) in behalf of seventy nine (79) of its members who are employed at the Little Folks Snack Mobile owned by petitioner, filed on July 16, 1986 with the Office of the Director of the National Capital Region, Department of Labor and Employment (DOLE) a complaint for underpayment of minimum wage, non-payment of ECOLA, non-payment of incentive leave benefits and non-payment of overtime pay *[Rollo, p. 22, Petition, Annex "C"].* The complaint was later amended

to include non-payment of holiday pay, non-payment of premium pay on rest day, non-payment of maternity leave benefits and illegal exaction *[Rollo, p. 23, Petition, Annex "D"].*

During the initial hearing, the employees were required to submit a computation of their claims while petitioner was ordered to submit his comment thereon immediately upon receipt. After several hearings, both parties were required to submit their respective position papers. While the employees were able to submit a position paper, petitioner failed to do so. Hence, the case was submitted for resolution.

On October 30, 1986, Minerva Peran, the representative of the employees during the proceedings before the hearing officer, filed a motion to dismiss claiming that Samahan ng mga Manggagawa sa Little Folks Snack Mobile (SAMAHAN) a local chapter of respondent KAMPIL-KATIPUNAN, to which the seventy nine (79) employees allegedly belong, and petitioner employer were able to settle amicably their dispute through a compromise agreement. *[Rollo, p. 24, Petition, Annex "E"].* The employees opposed the motion on the ground that Minerva Paran was not authorized to enter into the alleged compromise agreement and much less to move for the dismissal of the complaint. On January 20, 1987, the Regional Director rendered a decision *[Rollo, p. 37, Petition, Annex "H"]* denying the motion to dismiss and directing petitioner to pay the employees their various claims amounting to P625,000.94. On appeal, the Secretary of Labor affirmed the decision of the Regional Director. The two motions for reconsideration of the order of the Secretary having been denied, the present petition was fled on November 24, 1987 before the Court, alleging lack of jurisdiction and/or grave abuse of discretion on the part of the Secretary of Labor in affirming the decision of the Regional Director. The prayer in the petition for the issuance of temporary restraining order to prohibit the enforcement of the order of the Secretary of Labor was granted by the Court on December 2, 1987.

Petitioner relies heavily on the amicable settlement which was allegedly entered into with the employees through their representative Minerva Peran. According to petitioner, with the execution of the amicable settlement, the employees' complaint was

rendered moot and academic and petitioner's submission of a position paper became unnecessary.

Indeed, on October 29, 1986, Minerva Peran signed an agreement with petitioner reducing their claims from a total amount of P625,000 to only P80,000 to be paid in several installments. *[Rollo, pp. 24-26].* Peran signed as president of the SAMAHAN which had allegedly disaffiliated from respondent KAMPIL-KATIPUNAN. However, Peran failed to show any evidence that SAMAHAN had indeed disaffiliated from KAMPIL-KATIPUNAN. More importantly, the employees denied giving Peran the authority to enter into the amicable settlement and to move for the dismissal of the complaint.

The rule in this jurisdiction is that money claims due to laborers cannot be the object of settlement or compromise effected by the union, union officers or counsel without the specific individual consent of each laborer concerned *[Danao Development Corp. vs. NLRC, G.R. Nos. 40706-7, February 16, 1978, 81 SCRA 487].* This is so because the aggrieved parties are the individual complainants themselves. Their representative can only assist but not decide for them *[Kaisahan ng mga Manggagawa sa La Campana vs. Sarmiento, G.R. No. L-47853, November 16, 1984, 133 SCRA 220].* In the light of the categorical denial by the employees that Peran was authorized to enter into an amicable settlement as regards their claims, the Court holds that public respondent Secretary of Labor ruled correctly in upholding the Regional Director's rejection of the agreement.

Petitioner next alleges denial of due process. It is claimed that when the Regional Director awarded the employees' claims in the same order denying Peran's motion to dismiss, even in the absence of petitioner's position paper, the latter was deprived of the right to be heard. However, the antecedent facts prove otherwise.

After the submission by the employees of their position paper on September 30, 1986, petitioner was required by the hearing officer to submit his own position paper and supporting documents on or before October 7, 1986. On said date, petitioner failed to submit his position paper but instead asked for an extension of seven days within which to submit the same. On October 14, 1986, petitioner's

representative failed to appear but the hearing officer accorded him leniency by resetting the hearing to October 21, 1986. Despite due notice, petitioner's representative again failed to appear and submit a position paper. Consequently, the case was deemed submitted for resolution. It was then on October 30, 1986 that Minerva Peran filed a motion to dismiss invoking the disputed amicable settlement.

There is denial of due process when a party is not accorded an opportunity to be heard in a case filed against him. *[Macabingkil vs. Yatco, G.R. No. L-23174, September 18, 1967, 21 SCRA 150, citing the cases U.S. vs. Ling Su Fun, 10 Phil. 104 (1908) and Lopez vs. Director of Lands, 47 Phil. 23 (1924)].* However, what the law prohibits is the absolute lack of an opportunity to be heard. *[Batangas, Laguna, Tayabas and Co. vs. Comm-Cadiao, G.R. No. L-28725, March 12, 1968, 22 SCRA 987; Superior Concrete Products vs. WCC, G.R. No. L-42020, March 31, 1978, 82 SCRA 270].* Hence, it has been ruled that there was no denial of due process where the employer was duly represented by counsel and given sufficient opportunity to be heard and present his evidence *[Pantranco vs. NLRC, G.R. No. 64152, December 29, 1983, 126 SCRA 526]* nor where the employer's failure to be heard was due to the various postponements granted to it *[Kiok Loy vs. NLRC, G.R. No. 54334, January 22, 1986, 141 SCRA 179]* or to his repeated failure to appear during the hearings. *[Divine Word High School vs. NLRC, G.R. No. 72207, August 6, 1986, 143 SCRA 346.]*

Petitioner, in this case, was given at least three chances by the hearing officer to submit his position paper but failed each time. Even prior to the hearing officer's order for the submission of the position paper, petitioner was given the opportunity to traverse the employees' complaint when he was ordered to comment on the employees' computation of their claims submitted on August 20, 1986. The comment was never submitted since petitioner failed to appear during the two hearings set for the purpose despite due notice. Clearly, petitioner was granted ample opportunity to present his case before the Regional Director.

Moreover, petitioner appealed the decision of the Regional Director with the Secretary of Labor. Two motions for reconsideration were likewise filed from the Secretary of Labor's order of affirmance.

Whatever defect the Regional Director committed based on an alleged denial of due process was deemed cured by the filing of an appeal and the motions for reconsideration. *[De Leon vs. Commission on Elections, G.R. No. 56968, April 30, 1984, 129 SCRA 117; Remerco Garments Manufacturing vs. Minister of Labor and Employment, G.R. Nos. 56176-77, February 28, 1985, 135 SCRA 167; Sampang vs. Inciong, G.R. No. 50992, June 19, 1985, 137 SCRA 56; Cebu Stevedoring Co., Inc., vs. The Honorable Regional Director/ Minister of Labor, G.R. No. 54285, December 8, 1988].*

Finally, petitioner impugns the jurisdiction of the Secretary of Labor and the Regional Director to award the money claims of the employees contending that all money claims of workers arising from an employer-employee relationship are within the exclusive jurisdiction of the Labor Arbiter as provided by Art. 217 of the Labor Code, as amended.

This contention, which is being raised for the first time in this petition, can no longer be considered by the Court at this stage, consistent with the ruling in Tijam vs. Sibonghanoy, G.R. No. L-21450, April 15, 1968, 23 SCRA 29, 35-36, that —

> x x x a party can not invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction. *(Dean vs. Dean, 136 Or. 694, 86 A.L.R. 79).* In the case just cited, by way of explaining the rule, it was further said that the question whether the court had jurisdiction either of the subject-matter of the action or of the parties is barred from such conduct not because the judgment or order of the court is valid and conclusive as an adjudication, but for the reason that such a practice can not be tolerated—obviously for reasons of public policy.

Furthermore, it has also been held that after voluntarily submitting a cause and encountering an adverse decision on the merits, it is too late for the loser to question the jurisdiction or power of the court. And in Littleton vs. Burges, 16 Wyo, 58, the Court said that it is not right for a party who has affirmed and invoked the jurisdiction of a

court in a particular matter to secure an affirmative relief, to afterwards deny that same jurisdiction to escape a penalty.

Elaborating on this ruling, the Court in Crisostomo vs. CA, G.R. No. L-27166, March 25, 1970, 32 SCRA 54, 60, stated that:

x x x

> The petitioners, to borrow the language of Mr. Justice Bautista Angelo *(People vs. Archilla, G.R. No. L-15632, February 28, 1961, 1 SCRA 699, 700-701)*, cannot adopt a posture of double-dealing without running afoul of the doctrine of estoppel. The principle of estoppel is in the interest of a sound administration of the laws. It should deter those who are disposed to trifle with the court by taking inconsistent positions contrary to the elementary principles of right dealing and good faith. *(People vs. Acierto, 92 Phil. 534, 541 [1953])*. For this reason, this Court closes the door to the petitioners' challenge against the jurisdiction of the Court of Appeals and will not even honor the question with a pronouncement.

A reading of the above-quoted statements may give the impression that the doctrine applies only to the plaintiff or the party who, by bringing the action, initially invoked but later repudiated the jurisdiction of the court. But while the rule has been applied to estop the plaintiff from raising the issue of jurisdiction *[Tolentino vs. Escalona, G.R. No. L-26886, January 24, 1969, 26 SCRA 613; Rodriguez vs. Court of Appeals, G.R. No L-29264, August 29, 1969, 29 SCRA 419; Crisostomo vs. Reyes, G.R. No. L-27166, March 25, 1970, 32 SCRA 54; Ong Ching vs. Ramolete, G.R. No. L-35356, May 18, 1973, 51 SCRA 13; Capilitan vs. Dela Cruz, G.R. Nos. L-29536-7, February 28, 1974, 55 SCRA 706; Florendo vs. Coloma, G.R. No. 60544, May 19, 1984, 129 SCRA 304; Solicitor General vs. Coloma, Adm. Matter No. 84-3-886-0, July 7, 1986, 142 SCRA 511; Sy vs. Tuvera, G.R. No. L-76639, July 16, 1987, 152 SCRA 103]* it has likewise been applied to the defendant *[Carillo vs. Allied Worker's Association of the Phils., G.R. No. L-23689, July 31, 1968, 24 SCRA 566; People vs. Munar, G.R. No. L-37642, October 22, 1973, 53 SCRA 278; Solano vs. Court of Appeals, G.R. No. L-41971, November 29, 1983, 126 SCRA 122; Royales vs. Intermediate Appellate Court, G.R.*

No. 65072, January 31, 1984, 127 SCRA 470] and more specifically, to the respondent employer in a labor case. *[Tajonera vs. Lamaroza, G.R. Nos. L-48907-49035, December 19, 1981, 110 SCRA 447; Akay Printing Press vs. Ministry of Labor and Employment, G.R. No. 56951, December 6, 1985, 140 SCRA 38].; Philippine Overseas Drilling and Oil Development Corporation vs. Minister of Labor, G.R. No. 55703, November 27, 1986, 146 SCRA 79; Cebu Institute of Technology vs. Ople, G.R. Nos. 58870, 68345, 692245, 70832, 76521, 76596, December 18, 1987; 156 SCRA 629].* The active participation of the party against whom the action was brought, coupled with his failure to object to the jurisdiction of the court or quasi-judicial body where the action is pending, is tantamount to an invocation of that jurisdiction and a willingness to abide by the resolution of the case and will bar said party from later on impugning the court or body's jurisdiction.

When the complaint was pending before the Regional Director, petitioner did not raise the issue of jurisdiction but instead actively participated in the hearings. After the adverse decision of the Regional Director and upon the elevation of the case on appeal to the Secretary of Labor, still no jurisdictional challenge was made. Even in the two motions for reconsideration of the DOLE decision of affirmance, petitioner did not assail the jurisdiction of the Secretary of Labor or the Regional Director. The Court will not now allow petitioner to raise this issue, estoppel having already set in to bar the challenge.

To be sure, the Court is not unaware of the ruling in Calimlim vs. Ramirez, G.R. No. L-34362, November 19, 1982, 118 SCRA 399, reiterated in Dy vs. NLRC, G.R. No. 68544, October 27, 1986, 146 SCRA 211, to the effect that the ruling in Sibonghanoy being an exception to the general rule that the lack of jurisdiction of a court may be raised at any stage of the proceedings, even on appeal should not be applied in the absence of the pivotal element of laches. The Court, however, will not hesitate to apply the doctrine laid down in the Sibonghanoy case even absent the extraordinary circumstances therein *[See Akay Printing Press vs. Minister of Labor and Employment, supra; Cebu Institute of Technology vs. Ople, supra]* where the entertainment of the jurisdictional issue at a belated stage of the proceedings will result in a failure of justice and render

nugatory the constitutional imperative of protection to labor. *[See Article II, Section 18 and Article XIII, Section 3 of the 1987 Constitution].*

Illustrative is the case of Carillo vs. Allied Worker's Association of the Philippines, supra, where certain employees filed a case with the Court of Agrarian Reform against their employer seeking reinstatement to their positions as security guards. When the Court of Agrarian Reform decided in favor of the workers, the employer filed a petition with the Supreme Court questioning for the first time the jurisdiction of the Court of Agrarian Reform invoking Dequito vs. Lopez, G.R. No. L-27757, March 28, 1968, 22 SCRA 1352, which held that the work performed by a security guard is not embraced in the term "agrarian relations" and that a matter of this character should be litigated either in an ordinary judicial tribunal or where a reinstatement is sought, in the Court of Industrial Relations. The Court in rejecting the jurisdictional challenge applied the Sibonghanoy ruling adding that:

x x x

> Social justice would be a meaningless term if in a situation like the present, an element of rigidity would be affixed to procedural precepts and made to cover the matter. Flexibility should not be ruled out. Precisely, what is sought to be accomplished by such a fundamental principle expressly so declared by the Constitution *(Article, II Section 5, [1935] Constitution of the Philippines)* is the effectiveness of the community's effort to assist the economically underprivileged. For under existing conditions, without such succor and support, they might not, unaided, be able to secure justice for themselves. To make them suffer, even inadvertently, from the effect of a judicial ruling, which perhaps they could not have anticipated, the Dequito decision having been promulgated only last March 28th, when such a deplorable result could be avoided, would be to disregard what the social justice concept stands for.

Moreover, there is equally the obligation on the part of the State to afford protection to labor. *(Article XIV, Section 5, [1935] Constitution*

of the Philippines). The responsibility is incumbent then, not only on the legislative and executive branches but also on the judiciary, to translate this pledge into a living reality. The present case is an appropriate occasion for the discharge of such a trust. To preclude relief under the circumstances herein disclosed would be to fail to submit to the dictates of a plain constitutional command. That we should not allow to happen. *[Carillo vs. Allied Worker's Association of the Philippines, supra, at pp. 573-574].*

In the case at bar, the various money claims of the employees were never disputed by petitioner during the proceedings before the Regional Director and the Secretary of Labor. What was sought was the reduction of petitioner's liability by entering into an amicable settlement with the representative of the employees who turned out to be not authorized. Having failed in his attempt to reduce the claims of the employees, the ends of justice and equity require that petitioner be not allowed to defeat the employees' right by the expedient of raising the issue of jurisdiction.

WHEREFORE, in view of the foregoing, the petition is **DISMISSED** for lack of merit. The Temporary Restraining Order issued by the Court on December 2, 1987 enjoining the enforcement of the order of the Secretary of Labor dated November 12, 1987 is hereby **LIFTED** and **SET ASIDE**.

SO ORDERED.

Fernan, *C.J.*, Gutierrez, Jr. and Bidin, *JJ.*, concur.
Feliciano, *J.*, is on leave.