SUPREME COURT
SECOND DIVISION

RUBY INDUSTRIAL CORPORATION,
***Petitioner*,**

-versus-

G.R. No. L-38893
August 31, 1977

THE COURT OF FIRST INSTANCE OF MANILA, BRANCH XXVII, FELIX FLORES, in his capacity as Compulsory Arbitrator of the National Labor Relations Commission and LEONILA RAMIREZ,
***Respondents*.**
x----------x

D E C I S I O N

CONCEPCION, JR., *J.*:

SEPARATE OPINION:

AQUINO, J., concurring:

Before the National Labor Relations Commission Unit, Regional Office No. IV, Leonila Ramirez, a worker, filed a complaint against her employer, the Ruby Industrial Corporation, for underpayment,

overtime pay and separation pay (NLRC-R04, Case No. 8-1583-73) covering the period from November, 1969 to October, 1972. Respondent filed a motion to dismiss on the ground that "the Honorable Commission has no jurisdiction over the above-entitled case."

In her opposition, the complainant prays for the denial of respondent's motion.

Acting upon the foregoing pleadings, the Commission issued an order on October 13, 1973, denying the motion to dismiss, and resetting the case for hearing.

Unsatisfied, respondent Ruby Industrial Corporation sought redress in the Court of First Instance of Manila by way of a petition for certiorari, mandamus and prohibition, alleging that the National Labor Relations Commission has no jurisdiction over the subject matter of the complaint, to which an answer was duly filed.

On a "Motion For Judgment On the Pleadings" filed by the petitioner, judgment was rendered on June 7, 1974, "dismissing the petition and setting aside this Court's restraining order."

Still unsatisfied, the petitioner appears before us, citing the following reasons for the allowance of certiorari:

> "1. Respondent Court erred, as a matter of law, in holding that the National Labor Relations Commission has jurisdiction to arbitrate and adjudicate respondent Ramirez' claim against the petitioner for separation pay, wage differential pay under Republic Act 602, as amended, and overtime pay under the Eight Hour Labor Law.
>
> "2. Respondent Court erred, as a matter of law, in considering extraneous matters in the application of Presidential Decree No. 21."

The issue therefore is whether or not the National Labor Relations Commission has jurisdiction to arbitrate and adjudicate the claim of private respondent against petitioner.

On October 18, 1972, respondent National Labor Relations Commission promulgated a set of rules and regulations defining further its jurisdiction, and the pertinent portion thereof, as later amended, reads:

> "**WHAT COMPLAINTS MAY BE FILED WITH THIS COMMISSION**
>
> "Section 5. (1) All matters involving employer-employee relations, including all disputes and grievances which may otherwise lead to strikes and lockouts under Republic Act No. 875, and irrespective of the date of accrual of action thereof, not pending in and court on September 21, 1972;
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> "(2) All strikes and lockouts overtaken by Proclamation 1081;
>
> "(3) All pending cases in the Bureau of Labor Relations;
>
> "(4) All dismissals, terminations and shutdowns after Proclamation 1081 but prior to Presidential Decree No. 21." — (Emphasis supplied)

Therefore, the only claims arising from employer-employee relationships which are beyond the jurisdiction of the National Labor Relations Commission are those already pending in courts on or before September 21, 1972. Inasmuch as respondent Leonila Ramirez' claim (NLRC-RO4-Case No. 8-1583-73) was instituted on July 31, 1973, it is well within the jurisdiction of respondent National Labor Relations Commission.

WHEREFORE, the instant Petition is hereby dismissed for lack of merit.

SO ORDERED.

Fernando, *J.*, *(Chairman)*, Barredo, Antonio and Santos, *JJ.*, concur.

SEPARATE OPINION

AQUINO, J., concurring:

I concur. The appeal of Ruby Industrial Corporation under Republic Act No. 5440 from the decision of Judge Rafael S. Sison, dismissing its petition for certiorari, mandamus and prohibition against the arbitrator of the old National Labor Relations Commission, is frivolous and palpably unmeritorious.

Leonila Ramirez, 25 years old, filed on August 1, 1973 with the old NLRC a complaint for the recovery of overtime pay and separation pay. She claimed to have worked in the carton department of Ruby Industrial Corporation from November 1, 1969 to September 30, 1972. She was dismissed allegedly without cause on October 2, 1972.

She alleged in her complaint that during that period she worked daily for fourteen hours: six o'clock in the morning to twelve noon and one o'clock to nine o'clock at night.

That claim was within the jurisdiction of the old NLRC because section 2 of Presidential Decree No. 21 provides that the NLRC would have original and exclusive jurisdiction over "all matters involving employee-employer relations" (See Jacqueline Industries vs. National Labor Relations Commission, L-37034, August 29, 1975, 66 SCRA 397).

The NLRC arbitrator had jurisdiction to hear and investigate the claim. The petition of Ruby Industrial Corporation assailing the NLRC's jurisdiction was unwarranted. It was rightly dismissed by Judge Sison.

The jurisdiction over the case was transferred to the new NLRC as provided in article 300 of the Labor Code.

It is lamentable and unfortunate that, because of the baseless petition of Ruby Industrial Corporation, action on the claim of Leonila Ramirez was considerably delayed.
