

MANUEL QUING QUING DACARA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (FOURTH DIVISION), TAMARAW SECURITY SERVICES, INC. AND FULGENCIO O. DACARA, JR., RESPONDENTS.

Ponente: LIBREA-LEAGOGO, J.

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LIBREA-LEAGOGO, J.:

Before this Court is a Petition for Certiorari[1] dated 29 August 2014 under Rule 65 of the Rules of Court, assailing the Decision[2] dated 29 April 2014 and Resolution[3] dated 27 June 2014 of the National Labor Relations Commission (Fourth Division) in the case entitled "Manuel Quing Quing Dacara v. Tamaraw Security Services, Inc./Mr. Fulgencio O. Dacara, Jr.," docketed as NLRC LAC No. 03-000855-14; NLRC NCR Case No. 07-09778-13, which denied the appeal and affirmed the Decision[4] dated 30 January 2014 of Labor Arbiter Fedriel S. Panganiban, and denied the Motion for Reconsideration for lack of merit, respectively.

Private respondents filed their Comment[5] dated 29 September 2014. Petitioner then filed a Manifestation (In Lieu of Reply to Comment)[6] dated 10 October 2014. Thus, the third paragraph of the Resolution[7] dated 08 September 2014 is reiterated and the Petition is submitted for decision.

FACTUAL ANTECEDENTS

Complainant Manuel Quing Quing Dacara filed a Complaint[8] dated 05 July 2013 against respondents Tamaraw Security Services, Inc. ("Tamaraw," for brevity) and Fulgencio O. Dacara, Jr. ("Fulgencio," for brevity) for illegal dismissal, backwages, separation pay, moral damages, money claims, and attorney's fees.

In his Position Paper[9] dated 20 September 2013, complainant alleged, inter alia, that: sometime in September 1979, respondent Tamaraw hired him; he rose from the ranks until he became a personnel officer; he is a regular employee of Tamaraw; his monthly gross salary was Php16,653.36; on 09 November 2011, he received a Memorandum dated 08 November 2011 from respondent Fulgencio, the General Manager of Tamaraw; on 15 November 2011, he submitted an explanation to said Memorandum; he was wondering why he had an administrative case for gross negligence of work when it was baseless and without merit; PNP SOSIA did not stop the operations of Tamaraw; he explained that the delay was due to lack of Tamaraw's documents and they were hard to secure since Tamaraw had delinquencies which is the reason why the clearance cannot be released immediately; on 18 November 2011, he received another Memorandum from Fulgencio, instructing him to attend a committee administrative hearing on 21 November 2011, headed by Edith Cartagena ("Cartagena," for brevity); she said that as per verbal instruction of Fulgencio, 'Manny, gusto ka na i-terminate o tanggalin na sa trabaho'; he asked why there was no due process and investigation made, but Cartagena said she could not do anything as it was the instruction of Fulgencio; on 25 November 2011, he filed a leave of absence for 15 days from 28 November 2011 up to 14 December 2011; on 15 December 2011, he reported back to work and was shocked to find out that he was replaced by Melanie Dularte, a former telephone operator, who was at his work desk even when his things were still there; he felt he was a floating employee and it was humiliating for him; Tamaraw did not pay his salary starting January 2012; he could not apply for a loan from SSS and Pag-ibig because Tamaraw

did not pay his loan and premium in two years; Tamaraw did not give him the company profit-sharing from 2010-2011; Cartagena gave him two conditions, for the administrative case against him to push through or for him to resign voluntarily or retire early and he would be paid for his 32 years of service in the amount of Php394,200.00; he was paid Php21,576.35 per month for one year and five months and he received his last payment on July 2013; he was forced to sign a quitclaim and release and to copy a pro forma voluntary resignation in his own handwriting; the act of Tamaraw in replacing him after he got back from his leave and was left on floating status is a manifestation he was constructively dismissed; the act of removing him from his post without any justifiable reason is tantamount to constructive dismissal; since he was illegally dismissed from work, he is entitled to reinstatement without loss of seniority rights, backwages, inclusive of allowances and other monetary benefits from the time his compensation was withheld up to his actual reinstatement; he is entitled to separation pay in lieu of reinstatement, if the latter is no longer feasible; and since he was deprived of his substantial and procedural right to due process, his termination is illegal.

Respondents filed their Position Paper[10] dated 03 September 2013, admitting that complainant was their former employee, but denied he was dismissed as he voluntarily resigned. They alleged, inter alia, that: complainant commenced working for Tamaraw on 09 September 1979; on 23 February 2012, complainant filed his letter-resignation, effective on said date and executed a quitclaim and release; on 09 February 2012, a check voucher worth Php394,200.00 was prepared by Fulgencio, which constituted settlement for any claims of the complainant; since he resigned, there is no basis for his claim of illegal dismissal; he is not entitled to his money claims since he executed a quitclaim and release; and because of his quitclaim and release, which he signed knowingly and voluntarily, he is barred from filing any suit against them.

Complainant filed his Reply[11] dated 10 October 2013. Respondents also filed their Reply[12] dated 15 October 2013.

In his Decision[13] dated 30 January 2014, Labor Arbiter Fedriel S. Panganiban found that complainant was not forced to sign his letter-resignation, and quitclaim and release; his claim for illegal dismissal cannot be sustained; and the quitclaim and release barred him from any and all claims that he may have against respondents. The dispositive portion of the Decision reads:

"WHEREFORE, premises considered, judgment is hereby rendered DISMISSING the above(-)captioned case for lack of merit.

SO ORDERED."[14]

Complainant filed a Notice of Appeal with Manifestation and Memorandum of Appeal[15] dated 20 March 2014, to which respondents filed their Answer/Comment[16] dated 12 April 2014.

On 29 April 2014, the NLRC (Fourth Division) rendered the assailed Decision,[17] the fallo of which reads:

"WHEREFORE, the appeal is DENIED. The Decision of the Labor Arbiter is hereby AFFIRMED.

SO ORDERED."[18]

Complainant filed a Motion for Reconsideration[19] dated 15 May 2014, which was denied in the assailed Resolution[20] dated 27 June 2014.

Hence, this Petition for Certiorari.

RULING

Petitioner raises a lone ground for allowance of his Petition, viz:

"4. The public respondent, National Labor Relations Commission, committed grave abuse of discretion amounting to lack or excess of jurisdiction in finding that the petitioner was not illegally dismissed and thus, not entitled to his monetary claims. If this error will not be corrected, it would cause grave injustice and irreparable damage to the petitioner since he is left with no appeal or other plain, speedy and adequate remedy in the ordinary course of law." [21]

Petitioner contends, inter alia, that: he was illegally dismissed; the letter-resignation and the quitclaim and release were pro forma, prepared by Tamaraw and were made as conditions for his separation pay to be released; he was given two conditions by Tamaraw's HRD, an administrative case would be filed against him, or for him to resign voluntarily or retire early and be paid for his 32 years of service, by installment of 18 months, in the amount of Php394,200.00; there is no point to continue working for private respondents because his continued employment was rendered unreasonable, unjust and unfair; due to a tight financial situation, he chose the second option and was constrained to receive the amount of Php394,200.00, which was paid on installment basis; he felt deceived when private respondents gave him way below what was due him; the filing of a complaint negates voluntariness on his part to sever his employment; he was dismissed without any just or lawful cause; he was terminated from work and his right to due process was disregarded by private respondents; the burden is on the employer to prove that the termination was for a valid and authorized cause; private respondents failed to discharge that burden; an employee who is illegally dismissed is entitled to full backwages and reinstatement; if reinstatement is not viable, separation pay is awarded to the employee; if the amount of Php394,200.00 indicated in the voucher represents his separation pay, then he did not receive what he deserved; a quitclaim and release should not prejudice his right to receive what is legally due him; he served for 32 years in Tamaraw; he should have been allowed to recover the difference between the amount due him and the amount he actually received; for the years 2010 to 2011, he did not receive his profit-sharing in the amount of Php10,000.00, which has been given to Tamaraw employees every year since 1979; his entitlement to Tamaraw's profit-sharing is warranted in view of private respondent's failure to prove payment thereof; and he is entitled to moral and exemplary damages, as well as attorney's fees.

Private respondents riposte, inter alia, that: petitioner was not illegally dismissed and that the Decisions of both the Labor Arbiter and public respondent are in accord with the facts on record, and applicable law and jurisprudence; the quitclaim and release was executed freely with full awareness of its consequences, hence, legally binding on petitioner; and as ruled by the Labor Arbiter in his Decision which was affirmed by public respondent, the signed quitclaim and release discharged them from any and all claims that petitioner may have.

Stripped of verbiage, the pivotal issue in this special civil action for certiorari is whether or not public respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction in affirming the Decision of the Labor Arbiter and denying petitioner's Motion for Reconsideration.

We find in the negative.

(I)n a special civil action for certiorari brought against a court or quasi-judicial body with jurisdiction over a case, petitioner carries the burden of proving that the court or quasi-judicial body committed not a merely reversible error but a grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the impugned order. Showing mere abuse of discretion is not enough, for it is necessary to demonstrate that the abuse of discretion was grave.[22] Grave abuse of discretion, amounting to lack or excess of jurisdiction, has been defined as the capricious and whimsical exercise of judgment amounting to or equivalent to lack of jurisdiction. There is grave abuse of discretion when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[23]

Factual questions are for the labor tribunals to resolve and whether the petitioner voluntarily executed the subject

(resignation letter and quitclaim and release) is a question of fact.[24] Here, both the Labor Arbiter and public respondent found that petitioner was not illegally dismissed as he (voluntarily) resigned and executed a quitclaim and release.[25] (F)indings of fact made by Labor Arbiters and affirmed by the NLRC are not only entitled to great respect, but even finality, and are considered binding if the same are supported by substantial evidence.[26] In labor cases, as in other administrative proceedings, only substantial evidence or such relevant evidence as a reasonable mind might accept as sufficient to support a conclusion is required.[27]

Here, no such grave abuse of discretion was committed by public respondent. Thus, We find no cogent reason to disturb the findings of both the Labor Arbiter and public respondent which are supported by substantial evidence.

It is undisputed that private respondent Fulgencio issued a Memorandum[28] dated 08 November 2011, charging petitioner with gross neglect of duty for his failure to process private respondent Tamaraw's License to Operate (LTO) certificate and his unauthorized absences, and he was required to submit his explanation, viz:

"Last October 28, 2011(.) you left your request of (sic) leave of absence to your office trainee and it was stated there that you will return (sic) November 5, 2011. Up to the time of this writing(.) you have not reported nor call (sic).

Long before your absence, you are (sic) supposed to file for the renewal of the company's LTO; that was July 2011. All the financial requirements for the fast tract (sic) were in your hand that same month. Last October 13, 2011(.) you were asked to give feedback on the status of the LTO certificate. And you gave negative response(.) hence(.) you were given a deadline of up to Oct. 21 xxx. The Oct. 21 deadline pass (sic) by and you have not accomplished what is (sic) expected of you.

The management xxx decided to seek the help of an officer of our consultant company to help us process the company's LTO. And while it is being remedied for its release as soon as possible, you made a leave of absence.

xxx you are being charge (sic) of gross negligence of duty. Such negligence has put the operation of our agency at stake. Also(.) your long absence(.) without proper notice and approval of your superior officer(.) is deemed unauthorized.

Please submit your written explanation why no administrative sanction shall be meted upon you xxx."[29]

Petitioner submitted his Explanation[30] dated 15 November 2011, admitting that his leave was without approval as it was urgent that he attend to a family problem in Bicol and that he immediately filed Tamaraw's renewal but it was only officially received on 17 August 2011 because of lacking documents and sudden changes of the command at PNP, CSG and SOSIA. Private respondent Fulgencio issued another Memorandum[31] dated 18 November 2011, which was received by petitioner, instructing him to attend an administrative hearing in connection with the administrative charges of unauthorized leave of absence and negligence in his task related to the renewal of Tamaraw's LTO. Thereafter, petitioner executed a handwritten letter-resignation,[32] and Quitclaim and Release,[33] both dated 23 February 2012.

Petitioner posits that he was forced to write his letter-resignation.

We are not persuaded.

As keenly pointed out by the Labor Arbiter, viz:

"Records show that complainant executed his letter of resignation xxx. This resignation xxx (was) due to the offer of respondents to the complainant to choose whether he would like his administrative case to push through or for him to resign voluntarily or to retire early and he will be paid for his 32 years of service with the company by installment of 18 months in the sum of P394,200.00. Obviously, complainant chose the

latter."[34]

It should be noted that the fact of resignation is now undisputed. What remains to be determined is whether (petitioner) voluntarily resigned or was constructively dismissed by (private respondents).[35] Hence, petitioner cannot take refuge in the argument that it is the employer who bears the burden of proof that the resignation is voluntary and not the product of coercion or intimidation. Having submitted a (letter-resignation), it is then incumbent upon (him) to prove that the resignation was not voluntary but was actually a case of constructive dismissal with clear, positive, and convincing evidence.[36] Here, petitioner failed to discharge his burden.

Furthermore, a scrutiny of the letter-resignation evinces that it was wholly handwritten by petitioner and simply worded, viz: "I hereby tender my voluntary and irrevocable resignation from Tamaraw Security Service Inc. effective this date Feb. 23, 2012(.)"[37] (N)o element of force can be deduced from (his letter-resignation) as the same even contained expressions of gratitude xxx,[38] viz: "(t)hank you for giving me the opportunity of working with your agency(.)"[39] (Thus,) We do not find anything irregular with (petitioner's) handwritten letter. The letter came about because (he) was faced with an (administrative case) and opted for an honorable severance from employment. That (petitioner) voluntarily resigned is a logical conclusion. (As) correctly observed, (petitioner's) infraction and the inevitable and justifiable consequence of that infraction, i.e., termination of employment, induced (him) to resign xxx. Given the indications of voluntary resignation, (W)e rule that there is no constructive dismissal in this case. There is constructive dismissal when there is cessation of work, because continued employment is rendered impossible, unreasonable or unlikely, as an offer involving a demotion in rank or a diminution in pay and other benefits. Aptly called a dismissal in disguise or an act amounting to dismissal but made to appear as if it were not, constructive dismissal may, likewise, exist if an act of clear discrimination, insensibility, or disdain by an employer becomes so unbearable on the part of the employee that it could foreclose any choice by him except to forego his continued employment. There was here no discrimination committed by (private respondents). While (petitioner) did not tender (his) resignation wholeheartedly, circumstances of (his) own making did not give (him) any other option.[40]

Petitioner claims that he was forced to sign a Quitclaim and Release, and due to his tight financial situation, he chose the second option and was constrained to receive the amount of Php394,200.00.

We are unswayed. Public respondent did not act with grave abuse of discretion in not disturbing the finding of the Labor Arbiter that petitioner's Quitclaim and Release discharged private respondents from whatever claims he may have against them.

Petitioner does not deny signing the Quitclaim and Release, but claims that he did the same supposedly due to his dire economic necessity. While "it may be accepted as ground to annul [a] quitclaim if the consideration is unconscionably low and the employee was tricked into accepting it, [dire necessity is not, however,] an acceptable ground for annulling the release when it is not shown that the employee has been forced to execute it."[41] Not all waivers and quitclaims are invalid as against public policy. If the agreement was voluntarily entered into and represents a reasonable settlement, it is binding on the parties and may not later be disowned simply because of a change of mind. It is only where there is clear proof that the waiver was wangled from an unsuspecting or gullible person, or the terms of settlement are unconscionable on its face, that the law will step in to annul the questionable transaction. But where it is shown that the person making the waiver did so voluntarily, with full understanding of what he was doing, and the consideration for the quitclaim is credible and reasonable, the transaction must be recognized as a valid and binding undertaking.[42]

An examination of the Quitclaim and Release[43] dated 23 February 2012, notarized by by Notary Public Antonio K. Templado, shows that it was simply worded and could easily be comprehended by petitioner who was private

respondents' Personnel Officer.[44] Thus, he cannot claim that he is an unsuspecting or gullible person who was taken advantage of by private respondents. It is highly unlikely and incredible for a man of petitioner's position and educational attainment to so easily succumb to private respondent company's alleged pressures xxx. (B)eing a man of high educational attainment and qualification, he is expected to know the import of everything that he executes, whether written or oral.[45] In addition, evidence of the authenticity and due execution of the subject (Quitclaim and Release) is the fact that it was notarized. The notarization of a private document converts it into a public document.[46]

(T)he constitutional policy to provide full protection to labor is not meant to be an instrument to oppress the employers. The commitment of the court to the cause of the labor should not embarrass (U)s from sustaining the employers when they are right, as here.[47]

Considering the foregoing disquisition, We find no necessity to resolve the other matters raised by petitioner.

WHEREFORE, premises considered, the Petition is DENIED. No pronouncement as to costs.

SO ORDERED.

Diamante, and Sadang, JJ., concur.

[1] Rollo, pp. 02-21

[2] Id. at 22-29

[3] Id. at 38-40

[4] Id. at 90-94

[5] Id. at 118-122

[6] Id. at 132-135

[7] Id. at 112

[8] Id. at 129

[9] Id. at 42-51

[10] Id. at 66-69

[11] Id. at 73-77

[12] Id. at 79-82

[13] Id. at 90-94

[14] Id. at 94

[15] Id. at 95-106

[16] Id. at 107-111

[17] Id. at 22-29

[18] Id. at 28

- [19] Id. at 31-37
- [20] Id. at 38-40
- [21] Id. at 08
- [22] Zuellig Freight and Cargo Systems v. National Labor Relations Commission, et al., G.R. No. 157900, 22 July 2013
- [23] Carlo F. Sunga v. Virjen Shipping Corporation, et al., G.R. No. 198640, 23 April 2014
- [24] Hypte R. Aujero v. Philippine Communications Satellite Corporation, G.R. No. 193484, 18 January 2012
- [25] Rollo, pp. 28, 93
- [26] Malayang Manggagawa ng Stayfast Phils., Inc. v. National Labor Relations Commission, et al., G.R. No. 155306, 28 August 2013
- [27] INC Shipmanagement, Inc., et al. v. Alexander L. Moradas, G.R. No. 178564, 15 January 2014
- [28] Rollo, p. 54
- [29] Id.
- [30] Id. at 55
- [31] Id. at 64
- [32] Id. at 70
- [33] Id. at 71
- [34] Id. at 93
- [35] Hechanova Bugay Vilchez Lawyers, et al. v. Atty. Leny O. Matorre, G.R. No. 198261, 16 October 2013
- [36] Id., citing Vicente v. Court of Appeals (Former 17th Division), 557 Phil. 777 (2007), 786-787
- [37] Rollo, p. 70
- [38] Cf. Dionisio F. Auza, Jr., et al. v. MOL Philippines, Inc., et al., G.R. No. 175481, 21 November 2012
- [39] Rollo, p. 70
- [40] Chiang Kai Shek College, et al. v. Rosalinda M. Torres, G.R. No. 189456, 02 April 2014
- [41] Lenn Morales v. National Labor Relations Commission, et al., G.R. No. 182475, 21 November 2012
- [42] Intel Technology Philippines, Inc. v. National Labor Relations Commission, et al., G.R. No. 200575, 05 February 2014, citing Goodrich Manufacturing Corporation v. Ativo, G.R. No. 188002, 01 February 2010, 611 SCRA 261, citing Periquet v. NLRC, 264 Phil. 1115, 1122 (1990)
- [43] Rollo, p. 71
- [44] Id. at 04
- [45] Intel Technology Philippines, Inc. v. National Labor Relations Commission, et al., supra, citing Callanta v. National Labor Relations Commission, G.R. No. 105083, 20 August 1993, 225 SCRA 526

[46] Cf. *Skunac Corporation, et al. v. Roberto S. Sylianteng, et al.*, G.R. No. 205879, 23 April 2014

[47] *Manila Water Company v. Carlito Del Rosario*, G.R. No. 188747, 29 January 2014

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