

VALENCIA RUBBERTEX, INC., PETITIONER, VS. EMMYLOU L. PEPITO, NATIONAL LABOR RELATIONS COMMISSION, REGIONAL ARBITRATION BRANCH NO. X, RESPONDENTS.

Ponente: CAMELLO, J.

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CAMELLO, J.:

This Petition for Certiorari assails the Resolution dated 8 August 2012 of the National Labor Relations Commission dismissing petitioner's appeal and the subsequent Resolution dated 26 September 2012 denying petitioner's motion for reconsideration.

The facts as disclosed by the decisions of the Labor Arbiter and the National Labor Relations Commission [NLRC] and the pleadings on record are as follows:

In July 1997, private respondent Emmylou Pepito was employed by petitioner Valencia Rubbertex, Inc. as its Administrative/Human Resource Manager with a monthly salary of P13,000.00. During that time, petitioner's General Manager was Masaaki Kanamori. Petitioner alleged that respondent was grossly negligent and inefficient. On several occasions, she was reprimanded by the General Manager because of the following: 1) She recommended cash disbursement without proper approval from its General Manager.; 2) She gave wrong information about the labor laws of the Philippines to Kanamori, who is unfamiliar of such laws, thus, leading to improper cash disbursements to employees; and 3) She erred in submitting manpower billings as well as in recommending its payments without the necessary documentation verifying actual work done by the employees.

On 10 June 2010, respondent tendered her letter of resignation[1] with the understanding that petitioner would give her separation pay. On 20 September 2010, complainant received an e-mail from a certain Charlotte Uchang advising her of the schedule of payment of her separation pay. The payments were to be made in four installments in the total amount of P178,775.06, to wit:

1. 30 September 2010 - P28,775.06
2. 31 October 2010 - P50,000.00
3. 30 November 2010 - P50,000.00
4. 31 December 2010 - P50,000.00[2]

On 30 September 2010, respondent received from petitioner the first installment of P28,775.00.[3]

On 18 October 2010, respondent was informed that by instruction of Kanamori, her separation pay would be reduced to one-half month pay for every year of service.[4]

On 21 November 2010, respondent received the remaining balance of P65,500.00 and signed the receipt with a note "Received with protest".[5]

On 1 February 2011, respondent filed a complaint for illegal dismissal and underpayment of separation pay

against the petitioner.[6] The labor arbiter dismissed the complaint in his decision[7] of 30 September 2011. We quote significant portions of that decision:

xxx xxx xxx

Indeed, complainant could not have chosen to finally tender her resignation had Mr. Kanamori did (sic) not offer and assure her of a separation pay equivalent to one (1) month pay for every year of service, otherwise she would face the prospect of demotion or being transferred to a lower position. In fact, she did not relent from pursuing her claim for the full measure of her separation pay, exhibiting in the process her vehement protest and objection, which she documented from the time respondents have a change of mind and reneged on their obligation.

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WHEREFORE, the charge for illegal dismissal is hereby DISMISSED for lack of merit.

However, respondent Valencia Rubbertex, Inc. is hereby ORDERED to pay complainant Emmylou L. Pepito the amount of P84,500.00 representing the unpaid balance of her separation pay, plus attorney's fees equivalent to 10% thereof in the amount of P8,450.00, or a total amount of P92,950.00

The complaint against respondent Masaaki Kanamori and the rest of the money claims are hereby DISMISSED for lack of merit.

SO ORDERED.[8]

On appeal by the petitioner, the above decision was affirmed in full. According to the NLRC, respondent was not terminated but voluntarily resigned, therefore, she is not entitled to separation pay. Nevertheless, due to the facts obtaining in her case, the payment of separation pay was warranted. The NLRC reasoned:

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It is our considered view that respondents are precluded from denying the truth and genuineness of the contents of the email message of Charlotte Uchang, handwritten notation of Rybert Gonzales and the disbursement vouchers, which established the true intent of the company to pay complainant her separation pay equivalent to one (1) month pay for every year of service. Respondents cannot anymore plead the defense that the payment was in the form of financial assistance and given out of generosity under the principle of estoppel. Estoppel precludes respondents from raising such issue. Thus, respondents should bear the consequence of their act. They cannot be allowed to profit from their own omission or mistake to the damage and prejudice of the complainant.

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WHEREFORE, the appeal is hereby DISMISSED for lack of merit. Accordingly, the Labor Arbiter's Decision is hereby AFFIRMED in toto.

SO ORDERED.[9]

Petitioner's motion for reconsideration was denied in a Resolution[10] dated 26 September 2012, hence, this recourse.[11]

Petitioner submits the following issues for the consideration of this Court:

A. WHETHER OR NOT THE PUBLIC RESPONDENTS COMMITTTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN GRANTING SEPARATION PAY TO PEPITO.

B. WHETHER OR NOT A TEMPORARY RESTRAINING ORDER AND/OR WRIT OF PRELIMINARY MANDATORY INJUNCTION BE ISSUED TO RESTRAIN THE ENFORCEMENT OF THE ASSAILED RESOLUTIONS.[12]

We rule that public respondent NLRC did not act with grave abuse of discretion in granting separation pay to the private respondent.

There is compelling reason for rejecting the contention of the petitioner. Factual findings of labor officials who are deemed to have acquired expertise in matters within their respective jurisdictions are generally accorded not only respect, but even finality.[13] Verily, their conclusions are accorded great weight upon appeal, especially when supported by substantial evidence.[14]

Respondent asserts that prior to resigning, the Finance Manager of the company, a certain Rybert Gonzales, told her that she would be transferred to a lower position unless she resigned. As instructed by Kanamori, respondent would be given separation pay equivalent to her present monthly salary for every year of service inclusive of other statutory benefits as customarily practiced by the company. Thus, petitioner lured her to resigning. She further alleges that the P178,775.06 separation pay was the pay-off offered by the petitioner in exchange for her resignation. Respondent claims further that she would not have resigned her employment were it not for the threatened demotion and alternative offer of separation pay.

Petitioner, on the other hand, maintains the validity of respondent's resignation. Petitioner countered that respondent's resignation was voluntary, and that she was neither coerced nor forced to resign. It also denied the existence of any agreement between respondent and petitioner or any of its officials, claiming that the initiative to resign came from respondent alone. Thus, it contends that the public respondent gravely abused its discretion when it granted the award of separation pay which was inconsistent with the finding that there was no illegal dismissal. Petitioner insists that no law grants separation pay to a voluntarily resigning employee.

Voluntary resignation is defined as the voluntary act of an employee who "finds himself in a situation where he believes that personal reasons cannot be sacrificed in favor of the exigency of the service and he has no other choice but to disassociate himself from his employment." [15]

The factual findings of the Labor Arbiter, as affirmed by the NLRC, reveal that respondent resigned from her work, with the understanding that petitioner would give her separation pay. Unfortunately, it seems that petitioner did not keep its promise to grant the separation pay, prompting respondent to institute the present action for underpayment of separation pay.

After a careful perusal of the evidence on hand, we are of the opinion that the position taken by the respondent is more credible than that of the petitioner. We agree with the observation of the NLRC and we find it appropriate to call attention to its pronouncement, to wit:

xxx xxx xxx

As we see from the obtaining, the decision of the Labor Arbiter was founded on clear factual basis. We share the posture adopted by the Labor Arbiter that complainant's entitlement to separation pay is supported by substantial evidence, consisting of the resignation letter dated June 10, 2010 where there is a handwritten notation and signature of Rybert Gonzales, Finance Manager, stating that 'As per instruction by GM Kanamori, separation pay will be 1 month per year of service; sworn statement of Rybert Gonzales executed on December 31, 2010, corroborating the truthfulness of the aforesaid notation as well as the amount of separation pay due to complainant computed at the rate of one (1) month pay for every year of service; email message of Ms. Charlotte Uchang dated September 20, 2010 wherein the schedule of payments (4 installments with the corresponding amount) are expressly mentioned; Disbursement Voucher No. 0000520804 dated

November 18, 2010 in the amount of P65,500; and Certification and Clearance dated June 30, 2010 issued by GM Masaaki Kanamori, with a notation, which reads '(S)ubject to the qualification that xxx constraint to severe employment under such terms and conditions agreed with management including but not limited to the payment of separation pay equal to one month pay for every year of service.'

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From the foregoing, it clearly appears that the respondent voluntarily resigned from the company for a valuable consideration. She opted for resignation on account of these negotiated benefits. It must be emphasized that the respondent is not an ordinary laborer or rank-and-file personnel who may not be able to completely comprehend and realize the consequences of her acts. The respondent is a managerial employee holding a responsible position. She is an educated individual. Respondent has been working for the petitioner for 13 years and immediately assumed a ranking position in the company. Under these circumstances, it can hardly be said that she was coerced into resigning from the company.

At this point, the court is tasked to resolve the sole question of whether or not the private respondent is entitled to separation pay under the law after having resigned voluntarily.

Separation pay is defined as the amount that an employee receives at the time of his severance and is designed to provide the employee with the wherewithal during the period that he is looking for another employment.[16] Under the Labor Code, the award of separation pay is sanctioned when termination was due to an authorized cause, i.e., (a) installation of labor saving device, redundancy, retrenchment to prevent losses, closure or cessation of business operations not due to serious business losses or financial reverses;[17] and, (b) disease prejudicial to the health of the employee and his fellow employees.[18]

Separation pay is, likewise, awarded in lieu of reinstatement if it can be shown that the reinstatement of the employee is no longer feasible, as when the relationship between employer and employee has become strained.[19] In some cases, it is awarded as a measure of social justice.[20] As declared in *Philippine National Construction Corporation v. NLRC*,[21] reiterating *Philippine Long Distance Telephone Co. v. NLRC*: [22]

We hold that, henceforth, separation pay should be allowed as a measure of social justice only in those instances where the employee is validly dismissed for causes other than serious misconduct or those reflecting on his moral character. Where the reason for the valid dismissal is, for example, habitual intoxication or an offense involving moral turpitude, like theft or illicit sexual relations with a fellow worker, the employer may not be required to give the dismissed employee separation pay, or financial assistance, or whatever other name it is called, on the ground of social justice.[23]

Obviously, therefore, there is no provision in the Labor Code which grants separation pay to employees who voluntarily resign. The grant of separation pay is inconsistent with voluntary resignation, for it presupposes illegal dismissal.[24] The only recognized exception is when it is stipulated in the employment contract or CBA or such payment is authorized by the employer's practice or policy, xxx.[25]

That exception does not obtain here, literally. Respondent was separated from her employment not on the grounds mentioned above. Neither was there a stipulation in her employment contract or CBA or even a company practice or policy that would grant separation pay to employees who voluntarily resigned.

Nevertheless, the labor tribunals found as fact that the primary consideration that impelled respondent to tender her resignation letter was the assurance that she would be paid her separation pay. It is thus unlikely for someone to just leave her employer for whom she has worked for thirteen (13) years without any expectation of financial assistance.

We emphasize that in the case of *Alfaro v. Court of Appeals*,^[26] the Supreme Court declared that as a general rule, separation pay need not be paid to an employee who voluntarily resigns. However, an employer who agrees to extend such benefit as an incident of the resignation should not be allowed to renege on the fulfillment of such commitment. The employer is estopped from doing so.^[27]

Finally, we find that the conclusions reached by respondent NLRC in its questioned decision and resolution are supported by substantial evidence, or that amount of evidence which a reasonable mind may accept as adequate to justify a conclusion. Succinctly put, with no showing that the public respondent NLRC gravely abused its discretion, or otherwise acted without or in excess of jurisdiction, we are bound by its findings. Accordingly, the writ of certiorari sought will not issue.

FOR THE REASONS STATED, the petition is DENIED. The assailed Resolutions dated 29 June 2012 and 26 September 2012 of the National Labor Relations Commission in NLRC MAC-12-012377-2011 are AFFIRMED.

SO ORDERED.

Inting and Perez, JJ., concur.

[1] Rollo, p. 54.

[2] Rollo, p. 164.

[3] Rollo, p. 165.

[4] Rollo, p.175.

[5] Rollo, p. 166.

[6] Rollo, p. 9.

[7] Decided by Labor Arbiter Rammex C. Tiglao of The National Labor Relations Commission, Regional Arbitration Branch No. X, Cagayan de Oro City, rollo, pp. 80-85.

[8] Rollo, pp. 84-85.

[9] Written by Commissioner Proculo T. Sarmen and concurred in by Commissioners Bario Rod M. Talon [Presiding] and Dominador B. Medroso, Jr., rollo, pp. 42-48.

[10] Rollo, pp. 51-52.

[11] The Court declared the case submitted for resolution upon receipt on 3 May 2013, of petitioner's Memorandum signed by Attys. Ma. Caridad N. San Jose and Maria Rosario Consuelo S. Tumalak. Respondent's Memorandum, signed by Atty. Vicar Loureen G. Lofranco., was received by this Court on 15 May 2013.

[12] Rollo, pp. 12-13.

[13] *C. Planas Commercial v. NLRC*, 303 SCRA 49, February 11, 1999.

[14] *Barros v. NLRC*, 315 SCRA 23, September 22, 1999.

[15] *PHIMCO Industries, Inc. v. NLRC*, G.R. No. 118141, 11 June 1997.

[16] *A' Prime Security Services, Inc. v. NLRC*, 220 SCRA 142 (1993).

[17] Article 283 of the Labor Code.

[18] Article 284 of the Labor Code.

[19] Perpetual Help Credit Cooperative, Inc. v. Faburada, 366 SCRA 693 (2001).

[20] Aparente, Sr. v. NLRC, 331 SCRA 82 (2000).

[21] 307 SCRA 218 (1999).

[22] 164 SCRA 671 (1988).

[23] Id. at 682.

[24] Zarate, Jr. v. Olegario, October 7, 1996; Torillo v. Leogardo, Jr., 197 SCRA 471, 477, May 27, 1991.

[25] Id.; Travelaire Tours Corp. and/or Christine B. Ojeda v. National Labor Relations Commission and Nenita I. Medelyn, G.R. No. 131523, August 20, 1998.

[26] G.R. No. 140812, August 28, 2001, 363 SCRA 799, 801.

[27] Article 1431 of the Civil Code provides: "Through estoppel an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon."

Estoppel can also be found in Rule 131, Section 2 (a) of the Rules of Court, viz.:

Sec. 2. Conclusive presumptions. — The following are instances of conclusive presumptions:

(a) Whenever a party has by his own declaration, act or omission, intentionally and deliberately led another to believe a particular thing true, and to act upon such belief, he cannot, in any litigation arising out of such declaration, act or omission be permitted to falsify it.

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