

## **PINAKAMASARAP CORPORATION, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSIONS (THIRD DIVISION) AND ISAIAS O. RICO, RESPONDENTS.**

Ponente: BARRIOS, J.

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### **BARRIOS, J.:**

In this special civil action for certiorari, the reversal and setting aside of the Resolutions of the National Labor Relations Commission (or NLRC) promulgated on August 5, 2002 and November 22, 2002 are prayed for on the allegation that these were issued with grave abuse of discretion. The earlier Resolution upheld the April 27, 2001 Decision of Labor Arbiter Fedriel Panganiban ordering the return of the cash bond, and the later one denied the motion for its reconsideration.

The petitioner Pinakamasarap Corporation (or hereafter Pinakamasarap) is a company engaged in the manufacture of food condiments. In 1995 its rank and file employees staged a strike and for this reason there was a production stoppage. As a stopgap measure, it offered a distributorship scheme to all its salesmen including the respondent Isaias Rico (hereafter Rico). The salesmen rejected the idea claiming that this would be tantamount to their constructive dismissal. Pinakamasarap nonetheless insisted, and so Rico and the other salesmen filed a case for unfair labor practice, illegal dismissal and damages which was docketed as case no. NCR-00-04-03043-95.

On January 23, 1996 the Labor Arbiter rendered a Decision on this, declaring Pinakamasarap guilty of unfair labor practice and ordering the salesmen's reinstatement with backwages. On appeal, the NLRC modified the Labor Arbiter's Decision. It upheld the reinstatement of the salesmen but deleted the awards of backwages in their favor. Also, it absolved Pinakamasarap from the charge of unfair labor practice. This NLRC's Decision attained finality on October 7, 1996 and an Entry of Judgment was issued on December 16, 1996. The salesmen including Rico were physically reinstated on January 27, 1997 but they allegedly failed to perform their jobs because Pinakamasarap refused to give them the products and further failed to provide them the delivery vans. Also on April 19, 1997 Pinakamasarap allegedly barred them from entering the premises. The salesmen were thus prompted to file another case, a claim for reinstatement compensation. Labor Arbiter Francisco Robles granted this on July 21, 1998 and Pinakamasarap was again directed to reinstate the salesmen without loss of seniority rights, privileges and benefits. This case again reached the NLRC where it was docketed as NLRC CA No. 010855-96. On appeal, the NLRC in its Decision of July 7, 1999 reduced the award of reinstatement compensation. The award was further reduced in its Decision of March 31, 2000 on motion for reconsideration. It further ordered the payment of separation pay in lieu of reinstatement.

Pinakamasarap and the salesmen assailed these two Decisions in separate petitions for certiorari with this Court. The petition of Pinakamasarap was dismissed, while that of the salesmen was given due course and granted in the Decision of November 21, 2001 decreeing that:

WHEREFORE, premises considered, the instant Petition is partially GRANTED, and the assailed Decision dated 31 March 2000 is hereby MODIFIED, declaring the award of separation pay in lieu of reinstatement as NULL and VOID.

Private respondent is hereby ORDERED:

- To pay petitioners their accrued income in the total amount of P2,923,904 for the period from 27 January 1997 to 27 June 1998;
- To reinstate petitioners as salesmen without loss of seniority rights and other privileges and benefits.

SO ORDERED. (p. 75, rollo)

In the meantime on July 18, 2000, Rico demanded from Pinakamasarap the return of the cash bond which was collected from him to ensure the payment of company goods. Pinakamasarap however refused, and so on September 4, 2000 Rico filed another complaint, this time for money claims with the Labor Arbiter which was docketed as NLRC NCR Case No. 09-04629-2000.

Pinakamasarap moved to dismiss this complaint on the ground of prescription. Citing Article 291 of the Labor Code, it asseverated that Rico should have filed his claim within three (3) years from the time he was terminated on June 15, 1993 and should have ventilated his claim in the illegal dismissal case he filed against Pinakamasarap. It was thus too late in the day for Rico to demand its return.

On April 27, 2001, the Labor Arbiter rendered a Decision disposing that:

WHEREFORE, premises considered, judgment is hereby rendered ordering respondents to refund unto the complainant his cash bond in the sum of P159,983.64.

SO ORDERED. (p. 29, rollo)

Pinakamasarap appealed to the NLRC imputing reversible error on the Labor Arbiter in granting Rico's claim. On August 5, 2002 the NLRC upheld the Labor Arbiter and ruled that:

FOR ALL THE FOREGOING, the decision appealed from is hereby AFFIRMED and the instant appeal DISMISSED for want of merits.

SO ORDERED. (pp. 35-36, rollo)

A Motion for Reconsideration was filed but this was struck down in the Resolution dated November 22, 2002.

Pinakamasarap then sought relief through this Petition for Certiorari, advancing this ground for its allowance:

CONTRARY TO LAW AND WITH GRAVE ABUSE OF DISCRETION, RESPONDENT COMMISSION VALIDATED A TORPID CLAIM BARRED BY TIME AND LACHES. (p. 11, rollo)

Article 291 of the Labor Code provides that (A)ll money claims arising from employer-employee relationship accruing during the effectivity of this Code shall be filed within three years from the time the cause of action accrued; otherwise they shall be forever barred. Citing this provision, Pinakamasarap insists that Rico should have filed his claim within three (3) years from the time he was dismissed on June 15, 1993. Unfortunately he failed to do so. Rico demanded the return of the salesman's bond only in 2000 or seven (7) years from the time of his dismissal, by then the claim was already stale.

The pivotal question in this case is when did Rico's cause of action accrue for this sets the reckoning date of the prescriptive period. Pinakamasarap posits that his cause of action accrued on June 15, 1993 when Rico was terminated. On the other hand Rico claims that it only accrued from the time he demanded for its return, which was in 2000.

A cause of action is defined as an act or omission by which a party violates the right of another. It requires, as essential elements, not only a legal right of the plaintiff and a correlative obligation of the defendant but also an

act or omission of the defendant in violation of said legal right. Thus contrary to Pinakamasarap's claim, a cause of action does not accrue until the party obligated refuses, expressly or impliedly, to comply with its duty (Texon Manufacturing vs. Millena, G. R. No. 141380, April 14, 2004).

Accordingly Rico's cause of action only accrued when a futile demand to return the cash bond was made, and that was on August 11, 2000. Clear as the light of day, the filing of the money claim with the Labor Arbiter on September 4, 2000 was well within the three-year prescriptive period and this defense of Pinakamasarap must be rejected.

The claim of bar by laches has to be rejected too. For one, laches was never raised as a defense in the proceedings a quo. The only ground relied upon by Pinakamasarap in moving for the dismissal of the complaint with the Labor Arbiter was prescription. The NLRC cannot thus be considered whimsical in not considering laches in resolving its appeal.

Besides laches is principally a question of equity. Necessarily, there is no absolute rule as to what constitutes laches or staleness of demand; each case is to be determined according to its particular circumstances. The question of laches is addressed to the sound discretion of the court and since laches is an equitable doctrine, its application is controlled by equitable considerations. Remedies in equity address only situations tainted with inequity, not those expressly governed by statutes (Agra vs. Philippine National Bank, G. R. No. 133317, June 29, 1999). Unfortunately for Pinakamasarap, it failed to show that Rico's claim for refund is inequitable. As ratiocinated by the NLRC:

. . . we do not believe that it would be in adherence to the principles of justice and equity where we to deprive complainant of his right to pursue other claims attendant or relative to his employment including his cash bond. In the first place, apart from the fact that prescription to our mind accrued only beginning from the time he made a formal demand for its return – we do not believe that respondents have any legal, moral or factual right to hold on to a sum of money that does not belong to them. This is so because relative to their posturing that the cash bond was attendant to complainant's continued employment and was required to ensure proper conduct of business affairs for and in behalf of the company by the complainant as a salesman, then, the more that it should now be reimbursed as the reason for its being, no longer exist. To hold the opposing view would be to countenance unjust enrichment on part of respondents. (p. 35, rollo)

In fine, a resort to judicial review of the decisions of the NLRC in a special civil action for certiorari under Rule 65 of the Rules of Court, is limited only to the questions of grave abuse of discretion amounting to lack or excess of jurisdiction (Bascon vs. Court of Appeals, G. R. No. 144899, Feb. 5, 2004). By grave abuse of discretion is meant such capricious and whimsical exercise of judgment, or is equated to lack of jurisdiction. It must be shown that the discretion was exercised arbitrarily, or despotically, or whimsically (Security Bank Corp. vs. Victorio, G. R. No. 155099, August 31, 2005). In this case, it has not been shown by Pinakamasarap that the assailed Resolutions were issued with grave of discretion.

Considering the foregoing premises –

WHEREFORE, the petition is DENIED DUE COURSE and DISMISSED.

**SO ORDERED.**

Guariña III and Romilla-Lontok, JJ., concur.

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