

BENITO REYES, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, (7TH DIVISION) HN TRADING AND/OR NESTOR LIM AND NONOY LIM, RESPONDENTS.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is a Petition for Certiorari under Rule 65 of the Rules of Court assailing the following issuances of public respondent National Labor Relations Commission (NLRC) in NLRC Case No. VAC-03-0000131-2013, to wit: (1) Decision[1] dated August 23, 2013 which affirmed with modification the decision of the labor arbiter dated January 28, 2013;[2] and (2) Resolution[3] dated November 28, 2013 which denied petitioner's motion for reconsideration.

The Antecedents

Petitioner filed with the labor arbiter a case for illegal dismissal and money claims against private respondents. He alleged that he was hired as laborer for private respondents' copra and hardware/trading business in 1985. His employment was reported to the Social Security System starting June 2003. He had a total of 98 monthly contributions and his last posted payment was for April 2012. He received a daily wage of P86.00, which was paid to him in cash every week. Private respondents provided him and his family a one-room dwelling. During his rest day, private respondents made him plant eucalyptus in their land but they did not pay him for this work.

On June 27, 2012, petitioner was approached by private respondents' checker named Evelyn and told that Ma'am Bebeth, the wife of one of the private respondents, no longer wanted him to report for work and that he'd better go home since his services were no longer needed. Upon receiving the information, petitioner wanted to talk to Ma'am Bebeth but she was not in the office, hence, he was forced to go home. Petitioner came back the next day, hoping that his employer did not really mean his dismissal, but the security guard of HN Trading prevented him from getting in.

After the mandatory conference, the parties were directed to submit their respective position papers. Petitioner submitted his Position Paper[4] on October 31, 2012. Private respondents, on the other hand, requested for a 3-day extension to file the said pleading. Private respondents' position paper would have been due on November 5, 2012, but unfortunately, it was not filed on that date. On January 18, 2013, their counsel filed a motion[5] to admit private respondents' position paper, reasoning out that he overlooked its submission due to his volume of work, and it was only when he was preparing a position paper for another case that he discovered the inadvertence.

In their Position Paper,[6] private respondents denied petitioner's claim of illegal dismissal. They averred that HN Trading was registered in the name of Nestor and Hayne Lim and the entity already ceased to operate since July 16, 2012 due to business reverses. It was the second time that petitioner complained of illegal dismissal. His previous complaint in 1998 was amicably settled. Around June 2003, petitioner approached Hayne Lim and asked if he could work again in private respondents' business as he had a hard time raising his family. Petitioner was

re-hired and was even constructed with a modest dwelling by private respondents. Petitioner's salary was P168.00.00 per day. Petitioner often went on prolonged absences but he was always given consideration since he had to raise several children. He failed to work for the whole month of June 2012. Hayne Lim was not around when petitioner reported for work. However, upon verification of what happened, private respondents learned that petitioner was teased by his co-workers for having gone AWOL (absent without leave) and that he was no longer allowed to work. Petitioner had a hard time comprehending the situation, hence, private respondents requested one Mr. Dionesio Belingan, officer-in-charge of the PESO program for Bayawan City to explain to petitioner that he was not dismissed. Petitioner, however, did not take the explanation, thus, the case.

When the labor arbiter prepared his decision, he did not consider private respondents' position paper. He resolved the case based only on the position paper of petitioner and declared private respondents to have waived their right to present evidence. The labor arbiter ruled in petitioner's favor and found the latter to be illegally dismissed, hence awarded him with backwages and separation pay. The labor arbiter also declared petitioner entitled to his monetary claims. Specifically, he awarded the following amounts to petitioner, to wit:

Salary differential =

P155,844.00

13th month pay =

P19,942.00

Service incentive leave pay =

3,835.00

Holiday pay =

7,670.00

Separation pay =

193, 050.00

Backwages =

42,900.00

TOTAL

P423,241.00

The dispositive portion of the labor arbiter's decision reads, viz.:

WHEREFORE, judgment is hereby rendered that the complainant was illegally dismissed and the respondents are hereby directed to pay complainant the sum of P423,241.00 as shown in the above computation plus 10% attorney's fees.

SO ORDERED.[7]

Private respondents appealed to the NLRC. Together with their Appeal Memorandum,[8] they also filed a Motion to Reduce Appeal Bond.[9] On April 30, 2013, the NLRC issued a Resolution[10] declaring that the bond posted by private respondents was not in a reasonable amount. Due to their failure to post the required appeal bond, private respondents' appeal was never perfected, hence, the NLRC dismissed it.

Private respondents moved for reconsideration of the dismissal.[11] Subsequently, they also filed an Entry of Appearance with Motions to File Supplemental Motion for Reconsideration and Supplemental Memorandum,[12] with the intended pleadings[13] attached to the motion.

In the assailed Decision[14] dated August 23, 2013, the NLRC reconsidered its earlier Resolution dismissing the appeal and opted to decide the case on its merits. It dismissed the complaint for illegal dismissal and deleted the monetary awards granted by the labor arbiter, except for the 13th month pay. The dispositive portion of the NLRC's decision reads, viz.:

WHEREFORE, premises considered, respondents' motion for reconsideration is partly granted, and the decision of the Labor Arbiter, dated 24 January 2013, is, hereby AFFIRMED WITH MODIFICATION. The complaint for illegal dismissal is dismissed. We, however, grant the claim for 13th month pay, pursuant to Presidential Decree No. 851. As to the other money claims, We dismiss the same for lack of sufficient basis. Consequently, respondents are ordered to pay the complainant the total amount of PESOS: NINETEEN THOUSAND NINE HUNDRED FORTY-TWO (P19,942.00), Philippine Currency, representing 13th month pay pursuant to P.D. No. 851.

SO ORDERED.[15]

Petitioner moved for reconsideration[16] but the NLRC stood pat on its decision.[17] Aggrieved, petitioner brought the matter to Us and raised the following issues in his petition, viz.:

WHETHER OR NOT THE HONORABLE NATIONAL LABOR RELATIONS COMMISSION (NLRC)-7[TH] DIVISION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN RULING THAT PETITIONER WAS NOT ILLEGALLY DISMISSED;

WHETHER OR NOT THE HONORABLE NATIONAL LABOR RELATIONS COMMISSION (NLRC)-7[TH]DIVISION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN RULING THAT PETITIONER IS NOT ENTITLED TO SALARY DIFFERENTIAL, SERVICE INCENTIVE LEAVE PAY, HOLIDAY PAY, SEPARATION PAY AND BACKWAGES.

This Court's Ruling

The petition is impressed with merit.

We discuss the issues ad seriatim.

ON THE VALIDITY OF PETITIONER'S DISMISSAL

In reversing the labor arbiter and ruling that petitioner was not illegally dismissed, the NLRC declared that petitioner failed to substantiate his claim of illegal dismissal. According to the labor arbiter, what petitioner had was only his allegation that his co-workers teased him that he was already dismissed, and the claim that he was not allowed entry by the guard was also without evidence.

In making such finding of fact, the NLRC appeared to have mixed up the accounts of the parties regarding the circumstance of the dismissal. To straighten things out, the story that petitioner was teased by his co-workers did not come from petitioner, but was actually the version of private respondents. What petitioner claimed was that he was told by Evelyn that Ma'am Bebeth no longer wanted him to report for work and that he'd better go home since his services were no longer needed.

Sifting through the parties' conflicting accounts, We find that petitioner was actually dismissed and the dismissal was without due process. Dismissals have two facets: first, the legality of the act of dismissal, which constitutes substantive due process; and, second, the legality of the manner of dismissal, which constitutes procedural due process.[18] In this case, private respondents failed to observe the second requisite.

In order to comply with procedural due process for termination of employment based on just causes as defined in Article 282 of the Code, the following must be complied with, to wit:

a)

a written notice served on the employee specifying the ground or grounds for termination, and giving said employee reasonable opportunity within which to explain his side;

b)

a hearing or conference during which the employee concerned, with the assistance of counsel if he so desires is given opportunity to respond to the charge, present his evidence, or rebut the evidence presented against him; and

c)

a written notice of termination served on the employee, indicating that upon due consideration of all the circumstances, grounds have been established to justify his termination.[19]

None of the above requirements was observed by private respondents since they just verbally and summarily terminated petitioner's employment via the information coursed through their checker Evelyn. However, although the dismissal was without due process, this Court finds that it was with just cause.

Private respondents claimed that petitioner often went on prolonged absences and even failed to report to work for the whole month of June 2012. Notably, in all of his pleadings found in the record, petitioner never confronted or refuted this allegation of private respondents. We keenly observe that in his pleadings, petitioner had been prompt and specific in addressing all of private respondents' allegations, except that he said nothing about their averment regarding his lamentable attendance. Petitioner's silence on the matter sways Us to conclude that his absences were actually the reason why private respondents caused their checker Evelyn to relay to petitioner that his services were no longer needed.

In *Agullano v. Christian Publishing*,^[20] the Supreme Court sustained this Court when it decreed that absenteeism is a form of neglect of duty that constitutes as just cause for termination. Notwithstanding the existence of just cause, however, petitioner's dismissal was still infirm because the procedural due process requirement was not properly observed.

Nonetheless, the validity of the termination can exist independently of the procedural infirmity in the dismissal.^[21] In *Agabon v. NLRC*,^[22] it was ruled that where the dismissal is for a just cause, the lack of statutory due process should not nullify the dismissal, or render it illegal, or ineffectual. However, the employer should indemnify the employee for the violation of his statutory rights. The employer must, thus, pay indemnity to the employee in the form of nominal damages. The amount therefor is addressed to the sound discretion of the court, taking into account the relevant circumstances. In the instant case, We find the amount of P30,000.00 as appropriate and reasonable to serve the purposes of recognizing and vindicating petitioner's right under the Labor Code, and for deterring employers from future violations of the statutory due process rights of employees.

ON THE MONETARY AWARDS DUE TO PETITIONER

In deleting the money claims awarded by the labor arbiter to petitioner, except for the 13th month pay, the NLRC gave weight to the payrolls attached to private respondents' position paper. However, the authenticity of private respondents' documentary evidence had been assailed by petitioner when he filed a motion for reconsideration on the NLRC's decision. In his motion, petitioner went to point out at length that:

xxx these pieces of evidence are fabricated is shown no less by complainant's pay slips and that of his co-worker Mr. Jonathan Manlangit xxx respectively marked as Annex "A-1" and Annex "B" to complainant's Answer to respondents-appellants' Memorandum of Appeal ('Answer' for brevity). It is therefore error for the Honorable Commission to state in the questioned Decision that not a single evidence was shown nor attached to complainant's pleadings to prove that he was paid below the statutory minimum. These pay slips seriously lend credence to complainant's allegation that respondents' payrolls are fabricated or at the very least, cast doubt to the truthfulness of those payrolls. xxx

As had been mentioned by complainant early on in his Answer, these payrolls were also utilized by respondent Hayne Lim in a later case filed against him by Mr. Manlangit which was then pending before Sub-Regional Arbitration Branch No. VII, Dumaguete City xxx, proof of which hereto attached is respondent Hayne Lim's position paper in the said case. Thereupon, Mr. Manlangit submitted his Reply attaching thereto his pay slips to controvert the claim of respondent. As these documents of Mr. Manlangit corroborate the claim of herein complainant, Mr. Benito Reyes, the same were presented as additional evidence of Mr. Reyes in this extant case and annexed to his Answer submitted to this Honorable Commission.

It is worthy to state that the Honorable Labor Arbiter for the purpose of really ascertaining the true facts objectively and in the interest of substantial justice, set this case of Mr. Manlangit for a CLARIFICATORY HEARING on June 19, 2013 after the parties submitted their respective position papers. After said hearing, respondent was even accorded time to submit his supplemental position paper.

Just this August 23, 2013, xxx Mr. Manlangit xxx received the Decision of the Labor Arbiter whereby it is declared that the payrolls submitted in evidence by respondent Hayne Lim which are exactly the same payrolls submitted by herein respondents in this extant case ARE SADDLED WITH MANY DEFICIENCIES SERIOUSLY CASTING DOUBTS ON THEIR VERACITY [AND] LEGITIMACY. Said the Honorable Labor Arbiter:

"To prove that they paid the mandated wages of the complainant, respondent attached payrolls to his position paper. However, this Office observes that the payroll has a lot of deficiencies that creates [sic] serious doubt to wit:

- The payrolls does [sic] not contain the signature of the person who prepared it;
- The payrolls does [sic] not contain the signature of the person approving the same;
- The payrolls, more than half of it, does [sic] not contain the signature of the complainant acknowledging he received the said amounts;
- The payrolls does [sic] not have the government mandated deductions from the employees purported salary of the of the personnel such as withholding taxes, PAG-IBIG, SSS, Philhealth;
- The persons receiving in behalf of the complainant does not have necessary authority to receive such amounts from the complainant.

xxx His (referring to respondent) supplemental position paper thereto created more doubt to the mind of this Office as to what to believe. Xxx We cannot give weight for the purpose it has been offered.

xxx xxx xxx

Anent the denial of service incentive leave pay and holiday pay, it is apparent that the said findings proceed from the Honorable Commission's appreciation of the aforementioned fabricated payrolls. Truth is, there are more than ten (10) workers employed and they are enumerated in detail with specific designations by complainant in his Reply-Affidavit attached to his Answer, to wit:

Furthermore, there are not only seven (7) employees of respondents as these falsified documents would desperately want to tell us but in truth there are more than ten (10) of us. Among my co-workers are: Jonathan Manlangit (watchman), Armando Vargas (driver), Dioscora Dela Cruz (cashier), Eliza Yurong (secretary), Eling Torres (laborer), Susan Estrada (saleslady) Antonio Alabado (driver), Oliver Palmes (driver), Julie Clemente (checker), Tarning Tangal (guard), Johnny Sadred (laborer), Tendoy Merallo (laborer), Leopoldo Valde (laborer), Jose Canoy (driver), Onyot (driver), Janice (Clerk), Beboy (driver), Boy Tuway (checker), and Bebe (cook)."[23]

Yet, even with the foregoing things that petitioner brought to the NLRC's attention, the NLRC disregarded petitioner's motion for reconsideration and just tersely declared that:

The arguments raised by complainant in his motion have already been examined and considered in the assailed decision. No new evidence and argument is being raised.[24]

We find the NLRC to have committed grave abuse of discretion in summarily denying petitioner's motion without even addressing the questions regarding the payrolls that were pointed out by petitioner. Notably, the said payrolls were the NLRC's basis in deleting the monetary awards, except for the 13th month pay, that were supposedly due to petitioner according to the labor arbiter. Considering that the authenticity of the documents were questioned, it behooved upon the NLRC to, at least, take into account the serious matters pointed out by petitioner and to properly address these in resolving the latter's motion for reconsideration.

This Court cannot sanction the NLRC's perfunctory denial of petitioner's motion, especially since the matters that were raised therein strongly spawn doubts on private respondents' evidence. Thus, considering the qualms regarding the authenticity of the payrolls, the findings of the labor arbiter regarding petitioner's entitlement to the unpaid monetary benefits must be sustained. In adopting this position, We are guided by the time-honored principle that if doubts exist between the evidence presented by the employer and the employee, the scales of justice must be tilted in favor of the latter. It is the rule in controversies between a laborer and his master that doubts reasonably arising from the evidence, or in the interpretation of agreements and writing, should be resolved in the former's favor.[25]

The reinstatement of the monetary awards, however, does not include the awards for backwages and separation

pay. Considering Our earlier discussion that petitioner's dismissal was with just cause, the award for backwages and separation pay have no more basis, these being awarded only when there is illegal dismissal.

WHEREFORE, the petition is GRANTED. The Decision of the National Labor Relations Commission dated August 23, 2013 and the Resolution dated November 28, 2013 in NLRC Case No. VAC-03-0000131-2013 are hereby NULLIFIED.

Petitioner's dismissal is DECLARED valid, but private respondents are ORDERED to pay P30,000.00 to petitioner as nominal damages for violating the latter's statutory right.

The monetary awards granted by the labor arbiter in the Decision in RAB VII-07-0080-12-D dated January 28, 2013 are REINSTATED, except the awards for separation pay and backwages.

SO ORDERED.

Hernando, Chairperson and Azcarraga-Jacob, JJ., concur.

[1] Rollo, pp. 78-83.

[2] Rollo, pp. 40-44.

[3] Rollo, pp. 94-95.

[4] Rollo, pp. 19-28.

[5] Rollo, pp. 33-34.

[6] Rollo, pp. 35-39.

[7] Rollo, p. 41.

[8] Rollo, pp. 47-53.

[9] Rollo, pp. 45-46.

[10] Rollo, pp. 55-56.

[11] Rollo, pp. 57-59.

[12] Rollo, pp. 60-61.

[13] See Supplemental Motion for Reconsideration, rollo, pp. 62-63, and Supplemental Appeal Memorandum, rollo, pp. 64-69.

[14] Rollo, pp. 78-83.

[15] Rollo, pp. 82-83.

[16] Rollo, pp. 84-92.

[17] See Resolution dated November 28, 2013, rollo, pp. 94-95.

[18] See *Tirazona v. Court of Appeals*, G.R. No. 169712, March 14, 2008, citing *Shoemart, Inc. v. NLRC*, G.R. No. 74229, August 11, 1989.

[19] See Section 2 (d) of Rule I of Book VI of the Omnibus Rules Implementing the Labor Code.

[20] G.R. No. 164850. September 25, 2008.

[21] See DAP Corporation v. Court of Appeals, G.R. No. 165811. December 14, 2005.

[22] G.R. No. 158693. November 17, 2004.

[23] Rollo, pp. 86-90.

[24] Rollo, p. 94.

[25] E.G. & I Construction Corporation v. Sato, G.R. No. 182070. February 16, 2011.

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