

JUANITO P. VALENCIA, PETITIONER, V. NATIONAL LABOR RELATIONS COMMISSION (THIRD DIVISION), AND PADILLA BUILDING AND/OR ARLENE PADILLA AND ARNOLD PADILLA, OWNERS, RESPONDENTS.

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

For disposition is a Petition for Certiorari[1] filed under Rule 65 of the Rules of Court. The Petition assails the Resolution[2] dated December 19, 2007 of public respondent National Labor Relations Commission ("public respondent NLRC" or "NLRC" for brevity), which affirmed the Decision[3] dated January 29, 2007 of the Labor Arbiter in NLRC-NCR 00-08-07154-05. The Petition also questions public respondent NLRC's other Resolution[4] dated March 31, 2008, which denied petitioner's and private respondents' eventual Motions for Reconsideration[5].

Among the salient facts are those as stated in public respondent NLRC's Resolution[6] of December 19, 2007, which are as follows:

"On the part of the complainant (petitioner here), he finds fault with the Labor Arbiter for awarding him only retirement benefits when there is a finding that he was illegally dismissed from his work as 'bodegero' (warehouseman) of Padilla Building, owned by the late Ramon Padilla.

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Pleadings on file disclose that Juanito P. Valencia, (petitioner) in justifying his complaint for illegal dismissal, claims to have been taken in by the late Ramon Padilla as warehouseman when the Padilla Building was still under construction. He avers that he was allowed to stay on, (sic) a room having been built for him and among his tasks was (sic) the maintenance of the building and collection of rentals from tenants. His troubles began soon after his boss Mr. Ramon Padilla passed away on July 12, 2003. Arlene Padilla (private respondent here), his late boss' wife and Administratrix of the building, wanted him to vacate his room at the 5th floor of the building. When he asked for his retirement benefits, Valencia asserts that this was flatly rejected. The harsh words and shabby treatment he received at the hands of Arlene Padilla (sic) Valencia claims to be the major factor for his being hospitalized." [7] (Emphasis supplied)

On August 16, 2005, petitioner Juanito P. Valencia ("petitioner" for brevity) filed before the Labor Arbiter, a Complaint[8] "for illegal dismissal; underpayment of wages; nonpayment of overtime pay; holiday pay, premium pays for holiday and rest day; 13[th] month pay; separation pay; retirement pay; reimbursement of medical expenses, and attorney's fees"[9] against private respondents Padilla Building and/or Arlene Padilla and Arnold Padilla ("private respondents" for brevity), who were sued in their capacity as owners of Padilla Building[10].

The rest of the facts are continued in public respondent NLRC's Resolution[11] of December 19, 2007, to wit:

"The existence of an employer-employee relationship comprise the defense of the respondents from the charge of illegal dismissal. She countered that since the building had already been completed as far back 1987, there

was no longer any need for the position of 'bodegero', which complainant (petitioner) claims he was. For having collected without any authorization rentals from tenants and for failure to remit the P60,700.00 he had collected, Valencia was served by Arlene Padilla, through Allan Aquino, a notice to vacate the premises." [12]

On January 29, 2007, the Labor Arbiter rendered a Decision [13] which granted petitioner's claim for Retirement Pay and Attorney's Fees, but which denied his claim for the other monetary awards. The dispositive portion of the Decision stated:

"WHEREFORE, premises considered, respondent Arlene Padilla as Administratrix of the late Ramon Padilla, is directed to pay the complainant of (sic) his retirement pay, plus attorney's fees equivalent to ten percent (10%) thereof.

The NLRC Computation & Examination Unit is hereby directed to compute monetary awards forming part of this decision.

The rest of the monetary claims are dismissed.

SO ORDERED." [14]

Upon petitioner's appeal, public respondent NLRC issued its first assailed Resolution [15] of December 19, 2007, which affirmed the Labor Arbiter's Decision [16] and dismissed petitioner's appeal for lack of merit [17].

After petitioner's and private respondents' Motions for Reconsideration [18] were denied by public respondent NLRC in its other assailed Resolution [19] of March 31, 2008, petitioner filed the Petition [20] at bench, praying as follows:

"WHEREFORE, premises considered, it is respectfully prayed of this Honorable Court as follows:

- a) to GIVE DUE COURSE to the instant Petition;
- b) after due proceedings, to ANNUL and SET ASIDE the Resolutions dated December 19, 2007 and March 31, 2008 both issued by the Honorable public respondent National Labor Relations Commission; and
- c) thereafter, to MODIFY the appealed partial judgment of the Honorable Labor Arbiter dated January 29, 2007, by AWARDING petitioner his additional monetary claims as embodied in his Complaint, Position Paper and Memorandum of Partial Appeal, and that the respondents be DIRECTED to pay petitioner, jointly and severally, the following amounts/benefits:
 - 1) full backwages and other benefits computed in their monetary equivalent pursuant to Article 279 of the Labor Code, as amended, to be computed from actual dismissal up to full payment thereof; and
 - 2) separation pay computed at 30 days per year of service because of impossibility of his reinstatement due to advanced age;
 - 3) monetary claims in accordance with the computations of the NLRC, indemnity pursuant to RA 8188, plus legal interest of 1% per month of 12% per annum;
 - 4) overtime pay, holiday pay, service incentive leave pay, and 13th month pay;
 - 5) reimbursement of medical expenses;
 - 6) moral damages of P50,000.00 and P25,000.00 for exemplary damages, or in the total amount of P75,000.00; and
 - 7) the amount of P10,000.00 as disturbance compensation, his dismissal being improper, irregular and unjustified as found by the Honorable Labor Arbiter in its Decision.

Other reliefs just and equitable in the premises are likewise prayed for."[21] (Capitalization was made in the original)

Petitioner raised the following grounds:

"REASON[S] RELIED ON FOR
THE ALLOWANCE OF THE PETITION

I

THE HONORABLE PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION (NLRC) COMMITTED A (sic) GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION IN REFUSING TO MODIFY THE DECISION OF THE HONORABLE LABOR ARBITER BY GRANTEING (sic) THE MONETARY AWARDS OF HEREIN PETITIONER.

II

THE HONORABLE PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION (NLRC) COMMITTED A (sic) GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION IN NOT HOLDING THAT DESPITE IMPOSSIBILITY OF PETITIONER'S REINSTATEMENT DUE TO ADVANCED AGE, HE IS NOT PRECLUDED FROM BEING ENTITLED TO THE MONETARY BENEFITS HE IS ENTITLED TO UNDER THE LAW AND JURISPRUDENCE ARISING FROM HIS ILLEGAL DISMISSAL BY THE PRIVATE RESPONDENTS AS AN EMPLOYEE OF SAID RESPONDENTS."[22] (Capitalization was made in the original)

Contrary to petitioner's arguments in his assigned grounds I and II, petitioner is only entitled to receive from private respondents, Retirement Pay and Attorney's Fees.

Petitioner had argued as follows:

"In his Partial Appeal from the Labor Arbiter's decision, petitioner prayed that, in addition to retirement fee and attorney's fees, he also be awarded the following benefits due an illegally dismissed employee, to wit: backwages, separation pay, reimbursement of medial (sic) expenses, overtime pay, holiday pay, service incentive leave pay, 13[th] month pay, indemnity, disturbance compensation, and moral and exemplary damages.

These additional awards had been prayed for by petitioner based on the specific finding of the Honorable Labor Arbiter in its decision that complainant-petitioner was illegally dismissed from his employment with respondents.

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Even further assuming that petitioner is already of advanced age, hence, he can no longer be reinstated to his position in respondents' employ, still private respondents cannot escape from the consequences of petitioner's illegal dismissal. The Labor Code and jurisprudence lay down the precept that in lieu of reinstatement, petitioner should be awarded his separation pay. It has been held that a person illegally dismissed is entitled to reinstatement, but in the event that reinstatement is no longer feasible, or if the employee decides not to be reinstated, the employer shall pay him separation pay in lieu of reinstatement. xxx

Equity and justice, therefore, dictate that petitioner be given his monetary claims, including moral and exemplary damages, payable to him by the respondents, jointly and severally, aside from the respondents' liability for retirement pay and attorney's fees in favor of petitioner."[23] (Emphasis supplied)

Defeating petitioner's arguments however is that, notwithstanding the illegality of his dismissal, petitioner was not

entitled to Backwages and Reinstatement. This is because, as the records showed, when petitioner was illegally dismissed on March 22, 2005, he was already sixty nine (69) years old[24] or beyond the compulsory retirement age of sixty five (65)[25] as provided for under Article 287 of the Labor Code, as amended. The Article states:

ART. 287. Retirement. — Any employee may be retired upon reaching the retirement age established in the collective bargaining agreement or other applicable employment contract.

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In the absence of a retirement plan or agreement providing for retirement benefits of employees in the establishment, an employee upon reaching the age of sixty (60) years or more, but not beyond sixty-five (65) years which is hereby declared the compulsory retirement age, who has served at least five (5) years in the said establishment, may retire and shall be entitled to retirement pay equivalent to at least one-half (1/2) month salary for every year of service, a fraction of at least six (6) months being considered as one whole year.

Unless the parties provide for broader inclusions, the term one-half (1/2) month salary shall mean fifteen (15) days plus one-twelfth (1/12) of the 13th month pay and the cash equivalent of not more than five (5) days of service incentive leaves.

Consequently, petitioner was only entitled to his Retirement Benefits, as was also found by the Labor Arbiter in the Decision of January 29, 2007[26], which finding was affirmed by public respondent NLRC in its assailed Resolution[27] dated December 19, 2007, to wit:

"Complainant filed his complaint on August 16, 2005 at the age of 69.

As of March 22, 2005, when complainant was already illegally dismissed, he had reached the compulsory retirement age of 65.

Complainant, should be paid of (sic) his retirement benefits pursuant to Republic Act 7641 computed at 22.5 days per year of service.

Besides, the employer of the complainant was Ramon Padilla who died on July 12, 2003. Therefore, the employment relationship between Ramon Padilla and the complainant ceased.

On July 12, 2003, complainant was in his retirement age of 67 years old.

Absolutely, the complainant should be paid of (sic) his retirement pay.

Complainant cannot claim for backwages because as of July 12, 2003 he had reached the compulsory age of retirement."[28] (Emphasis supplied)

An illegally dismissed employee who has reached the compulsory age of retirement[29] at the time of his dismissal, such as petitioner here, is not entitled to reinstatement and backwages, but is only entitled to his Retirement Benefits. This is as is pursuant to the following pronouncement of the Supreme Court in *The New Philippine Skylanders, Inc. and/or Jennifer M. Enano-bote vs. Francisco N. Dakila*, G.R. No. 199547, September 24, 2012:

"Following Article 279 of the Labor Code, an employee who is unjustly dismissed from work is entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages computed from the time he was illegally dismissed. However, considering that respondent Dakila was terminated on May 1, 2007, or one (1) day prior to his compulsory retirement on May 2, 2007, his reinstatement is no longer feasible. Accordingly, the NLRC correctly held him entitled to the payment of his retirement benefits pursuant to the CBA. On the other hand, his backwages should be computed only for days prior to his compulsory retirement which in this case is only a day. Consequently, the award of reinstatement wages pending appeal must be

deleted for lack of basis. " (Emphasis supplied)

Moreover, petitioner is not entitled to Service Incentive Leave, Holiday Pay, Overtime Pay and 13[th] Month Pay because he failed to show the factual and legal bases for these monetary claims. This was also found by the Labor Arbiter in the Decision[30] of January 29, 2007, to wit:

"Complainant has money claims for underpayment of wages, non-payment of overtime pay, holiday pay, service incentive leave pay, holiday pay, service incentive leave, 13[th] month pay and medical expenses.

The complainant failed to show that he was underpaid. He did not indicate the difference between the minimum rate mandated by a wage Order and the wage he actually received.

He is also not entitled to service incentive leave, 10-day holiday pay, 13[th] month pay and even overtime pay. His complaint dated August 16, 2005 indicates that the complainant had no fixed hours of work he rendered in a day.

Lastly, the complainant failed to point out the factual and legal basis of the claims for reimbursement of medical expenses."[31] (Emphasis supplied)

That an employee, such as petitioner, has the burden to provide sufficient factual basis for his entitlement to his monetary claims is pursuant to the following declaration made by the Supreme Court in *C. Planas Commercial, et al vs. Marcial Cohu vs. National Labor Relations Commission (Second Division), Alfredo Ofialda, et al., G.R. No. 144619, November 11, 2005*:

"With respect to the other claims, i.e., overtime pay and premium pay for holiday and rest day, We find no reason to disturb the Labor Arbiter's ruling thereon, that there is no sufficient factual basis to award the claims because complainants failed to substantiate that they rendered overtime and during rest days. These claims, unlike claims for underpayment and non-payment of fringe benefits mandated by law, need to be proven by the claimants." (Emphasis supplied)

Indeed, the rule is settled that the findings of the Labor Arbiter, when affirmed by the NLRC, are accorded due respect and even finality, and are binding upon the court[32] especially when supported by substantial evidence, as in this case.

After careful consideration of all the facts, arguments, and issues appearing on the records, as well as of the pertinent laws and jurisprudence, public respondent NLRC was therefore shown not to have committed grave abuse of discretion, which in turn is meant as such capricious and whimsical exercise of judgment that is equivalent to an excess or lack of jurisdiction.[33]

IN VIEW OF ALL THESE, the Petition is DENIED.

SO ORDERED.

Didican (Chairman), and Paredes, JJ., concur.

[1] Rollo, pp. 5-21

[2] Rollo, pp. 23-26

[3] Rollo, pp. 76-83

[4] Rollo, pp. 29-30

[5] Rollo, pp. 111-122 and 123-130

- [6] Rollo, pp. 23-26
- [7] Rollo, p. 24
- [8] Rollo, p. 137
- [9] Rollo, p. 76
- [10] Rollo, p. 23
- [11] Rollo, pp. 23-26
- [12] Rollo, p. 24
- [13] Rollo, pp. 76-83
- [14] Rollo, p. 82-83
- [15] Rollo, pp. 23-26
- [16] Rollo, pp. 76-83
- [17] Rollo, p. 26
- [18] Rollo, pp. 111-122 and 123-130
- [19] Rollo, pp. 29-30
- [20] Rollo, pp. 5-21
- [21] Rollo, pp. 15-16
- [22] Rollo, p. 11
- [23] Rollo, pp. 12-15
- [24] Rollo, pp. 33, 81 and 84
- [25] Republic Act No. 7641 – An act Amending Article 287 of Presidential Decree No. 442, as amended, Otherwise known as the Labor Code of the Philippines, by providing for retirement pay to qualified private sector employees in the absence of any retirement plan in the establishment
- [26] Rollo, pp. 76-83
- [27] Rollo, pp. 23-26
- [28] Rollo, Rollo, pp. 81-82
- [29] Republic Act No. 7641 – An act Amending Article 287 of Presidential Decree No. 442, as amended, Otherwise known as the Labor Code of the Philippines, by providing for retirement pay to qualified private sector employees in the absence of any retirement plan in the establishment
- [30] Rollo, pp. 76-83
- [31] Rollo, pp. 82
- [32] La Union Cement Workers Union & Arnulfo Almoite vs. National Labor Relations Commission and Bacnotan Cement Corporation (now Holcim Philippines, Inc.), G.R. No. 174621, January 30, 2009

[33] First Women's Credit Corporation, et al. vs. Glicerio Perez, et al., G.R. No. 169026, June 15, 2006.

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