

**BENJAMIN WENCESLAO, ET AL., PLAINTIFFS AND APPELLEES, VS.
CARMEN ZARAGOZA, INC., DEFENDANT AND APPELLANT.**

G.R. No. L-22577. July 31, 1968

Ponente: DIZON, J.

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DIZON, J.:

Appellees commenced this action in the Municipal Court of Manila to recover their respective separation pay. Liability therefor was denied by appellant in its answer, alleging that in March 1962 when its film exchange business was taken over by Times Film Corporation, appellees were deemed to have impliedly resigned from, or abandoned their employment because they were immediately employed by the latter.

Upon trial, the lower court found for appellees and rendered judgment accordingly.

Appellant-employer appealed to the Court of First Instance of Manila where during the hearing held on September 20, 1963 the parties submitted the following:

"STIPULATION OF FACTS

The parties respectfully submit this Stipulation of Facts:

1. Plaintiffs re of legal age and their respective residences are indicated in paragraph 1 of the Complaint.
2. Defendant is a corporation organized under Philippine Laws with principal offices at Boie Building, Escolta, Manila.
3. For some years prior to February 28, 1962, defendant operates as a distinct department the 'Times Film Exchange' which department was holding office at Boie Building, Escolta, Manila, but was subsequently transferred at Alcazar Building, Estero Cedado, Manila, while defendant's main offices remained at Boie Building, for the booking of Frieder Films, Times-owned and Allied Artist motion pictures.'
4. Plaintiffs' respective service and salary during their employment in defendant's Times Film Exchange, follows:

NAMES

DATE OF EMPLOYMENT

SALARY

Benjamin Wenceslao

August, 1955

P160.00 a month

Manuel Eulano

January, 1954

80.00 a week

Juanito Barcelon

April, 1955

200.00 a month

Manuel Echavarria

March, 1954

130.00 a month

Teodoro Cabrera

March, 1954

30.00 a week

Vicente Gomez

November, 1954

35.00 a week

Valeriano Leano

April, 1955

30.00 a week

Maximo Cavinta

June, 1957

30.00 a week

5. On February 28, 1962, due to the projected closing of the film exchange business of defendant, the contract between Allied Artists Corporation and defendant was terminated, and said Allied Artists Corporation entered into another contract with Times Film Corporation, another corporation organized under the laws of the Philippines by the Rufino family, for the booking of Allied Artists motion pictures. Since then defendant closed the Times Film Exchange and ceased to engage in said business.

6. The employees of defendant's defunct 'Times Film Exchange,' including the plaintiffs, were employed by the Times Film Corporation effective March 1, 1962.

7. Plaintiffs were paid by the defendant the money value of their respective earned and unused vacation leave as of February 28, 1962.

8. Defendant terminated the services of the plaintiffs effective February 28, 1962 without advance notice or separation pay, of which termination plaintiffs were notified by defendant on March 5, 1962.

9. By virtue of a letter dated April 5, 1962, plaintiffs requested the defendant to give them separation pay under Republic Let No. 1787, a copy of which is hereto attached as Annex 'A' and made a part hereof.

10. Earlier, defendant delivered to Teodoro Cabrera, one of the plaintiffs, resignation papers, a sample copy of which is hereto attached as Annex 'B', for plaintiffs' signature, which however, were not signed by them.

11. Defendant denied the claim of the plaintiffs as per its letter dated April 12, 1962, a copy of which is hereto attached as Annex 'C'.

12. The parties reserve the right to present additional evidence not covered by the foregoing stipulation, on facts where they could not agree.

WHEREFORE, it is respectfully prayed that on the basis of the foregoing stipulation of facts and evidence the parties may further adduce, the right of the plaintiffs to separation pay under Republic Act No. 1787 be determined.

Manila, Philippines, September 20, 1963."

Pursuant to the right reserved in connection with the presentation of additional evidence, appellant submitted Exhibits 1 and 2.

Upon the aforesaid stipulation of facts and the additional evidence referred to above, the lower court made the following findings:

"x x x x x That the defendant is a corporation duly established under the laws of the Philippines with principal office at notice Bole Bldg., Escolta, Manila; that, the plaintiffs were defendant's employees with date of employment and monthly or weekly salaries, enumerated under par. 4 of the stipulation of facts; that defendant terminated the services of the plaintiffs effective February 28, 1962, without advance notice or separation pay, but were formally notified only on March 5, 1962; that on April 5, 1962, plaintiffs made a formal demand to the defendant for separation pay according to the provisions of Act 1787, the letter of demand was marked as Exhibit A; that the defendant denied the claims of the plaintiffs on April 12, 1962, according to Exhibit C."

In connection with the main defenses interposed below by appellant, the trial court said the following:

"This case was filed by the plaintiffs, as has been previously stated in order to demand from the defendant, separation pay. On April 12, 1962, the defendant wrote the plaintiffs a letter Exhibit C, stating the reasons why they were separated. The im-portant reason was the fact that the plain-tiffs after the defunct Times Film Exchange" was taken over by the Luzon Theaters, Inc. starting March 1, 1962, 'accepted employment with Luzon Theaters', x x x 'hence, we con-sidered you to have resigned as of that date from TIMES FILM EXCHANGE.

x x x x x

"Besides, when Times Film Exchange totally ceased operation of its business, separation from employment of its employees - granting arguendo that there was positive act of dismissal - would be with just cause, to wit: closing of an enterprise x x x.

"The plaintiffs denied having accepted a new employment. They were merely continuing their work as such employees during the transition period of changing the management. It was not practically a change of ownership. It was merely to change the hands of administration and consequently, the employees are en-titled to the protection of Republic Act 1052, as amended by Republic Act No. 1787. It was not also a mere closing of an enterprise, either. Even if there was change of ownership, and the contract of transfer of sale of the enterprise from the first owner to the buyer did not mention about the fate of the employees affected, the employees are protected or got to be pro-ected by law - any doubt should be interpreted in their favor."

Finding for the appellees, the trial court, therefore, rendered judgment as follows:

"WHEREFORE, judgment is hereby rendered for the plaintiffs and against the defendant, ordering the latter to pay plaintiff Benjamin Wenceslao, Five Hundred Thirty (P530.00) Pesos, Manuel Eulano, One Thousand Three Hundred Six Pesos (P1,306.00); Juanita Barcelon, Six hundred Eighty Three Pesos & Thirty Three

Centavos (P683.33); Manuel Echevarria, Five hundred Fourteen Pesos and Fifty Eight Centavos (P514.58); Teodoro Cabrera, Four Hundred Seventy Pesos (P470.00); Vicente Gomez, Five Hundred Thirteen Pesos and Thirty Three Centavos (P513.33); Valeriano Leano, Four Hundred Ten (P410.00) Pesos; Maximo Cavinta, Two Hundred Eighty (P280.00) Pesos; representing the latters' separation pay as evidenced by Annex A, or a total of Four Thousand Seven Hundred Seven Pesos and Twenty Four Centavos (P4,707.24) with interest thereon at the legal rate from the date of the filing of this complaint, until fully paid; plus the amount of P1,000.00 as attorney's fees and the costs of this suit."

It is appellant's contention in this instance that appellees should be deemed to have been dismissed for cause, namely, the closing or cessation of its business, there being no showing that the closing was for the purpose of defeating the intention of the law; that, at any rate, having been immediately employed by Times Film Corporation, appellees should be deemed to have abandoned their employment with appellant, or, at least, to be no longer entitled to one month's notice prior to the termination of their services.

We find both contentions to be without merit.

True, appellant's film exchange business where appellees worked was closed as of February 28, 1962, but what the law considers as just cause for terminating an employment without a definite period is the closing or cessation of operation of the establishment or enterprise of the employer, and not merely the closing or cessation of operation of any particular division or department of the employer's business. To sustain appellant's contention in this regard would amount to reading this into the law - something which we are not ready to do, considering its adverse effects upon the rights of the employees. If it must be so, let the law say it clearly.

Regarding the alleged abandonment by appellees of their employment with appellant, suffice it to say that they did not apply for employment with the Times Film Corporation. What happened was that appellant, probably inspired by a desire to give them immediate employment elsewhere, or by some other reason, worked things out so that, immediately after the closure of its own film exchange business, appellees would find work elsewhere. This, while laudable, does not seem to be in full satisfaction of the purpose of the law requiring advance notice to be served upon employees whose services are to be terminated, which is to give them sufficient time to look for another perhaps better place of employment. In the present case, in the predicament, they found themselves when appellant notified them of the termination of their services, appellees had no reasonable alternative but to accept the new employment which appellant had found for them; the other alternative was the street. In this connection it must be further observed that while their employment was not interrupted, their new employer re-fused to tack in their years of service under appellant. This meant that as far as the new employer was concerned, they were starting from scratch. This, of course, was prejudicial to appellees because it would in due time affect their right to bigger separation pay and other privileges.

WHEREFORE, finding the appealed decision to be in accordance with law and the evidence, the same is hereby affirmed, with costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Sanchez, Angeles, and Fernando, JJ., concur.
Ruiz Castro, J., did not take part.

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