

GALILEE INTEGRATED SCHOOL AND/OR SEVERINO A. GABUYO, PETITIONERS, V. NATIONAL LABOR RELATIONS COMMISSION, AND RITZEL BERNADETTE M. CABANIZAS, 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 January 28, 2010 of public respondent National Labor Relations Commission (“NLRC” for brevity) in NLRC CA NO. 11-002965-09 (NLRC CN. RAB II 07-0089-09), which dismissed petitioners' Appeal. The Petition also questions the Resolution[3] dated June 11, 2010, which affirmed the Labor Arbiter's Decision[4] of September 28, 2009 and which addressed petitioner's eventual Motion for Reconsideration[5].

Among the salient facts are those as stated in public respondent NLRC's Resolution[6] dated June 11, 2010, which are as follows:

“Complainant (private respondent here) was hired as a pre-school teacher of respondent (petitioner here) school sometime in May 2006 with a monthly salary of six thousand pesos (P[hp]6,000.00).

Complainant (private respondent) averred that on May 5, 2009, the school directress, Esther Gabuyo Pangilinan, called her a (sic) forced her to resign for fear of the former that the complainant (private respondent) will become pregnant in the middle of the school year. Despite assurances from the complainant (private respondent) that she is not pregnant and is very much passionate with her job, Ms. Pangilinan retorted 'You should resign. You should leave and learn to let go.' Aggrieved complainant (private respondent) instituted the instant complaint.

Respondents (petitioners) on the other hand vehemently deny terminating the services of the complainant (private respondent) as it was the latter who abandoned her post. They were surprised when complainant (private respondent) brought all her thing (sic) home on May 9, 2009 thus they sent her a letter dated June 8, 2009 signed by Mr. Severino Gabuyo, Chairman, Board of Trustee xxx

xxx

On July 5, 2009, respondents wrote complainant (private respondent) anew reiterating their previous letter.

In her reply complainant (private respondent) pointed out that the letters were mere afterthoughts as a replacement had already been hired. To bolster her claim, complainant (private respondent) submitted in evidence the affidavit of Ms. Armie M. Chang-A, attesting that sometime in the first week of June 2009, she learned from Ms. Esther Gabuya that complainant (private respondent) will no longer be teaching at Galilee School and that a replacement had already been hired.”[7] (Emphasis Supplied)

Private respondent Ritzel Bernadette M. Cabanizas (“private respondent” for brevity) filed a Complaint before the Labor Arbiter for “illegal dismissal, separation pay in lieu of reinstatement, damages, as well as, attorney's fees”[8] against petitioner Galilee Integrated School, and Severino A. Gabuyo, who was sued in his capacity as Chairman of the Board of Trustees[9] (“petitioners” for brevity).

On September 28, 2009, the Labor Arbiter rendered a Decision[10], which found private respondent to have been illegally dismissed by petitioners, and which ordered petitioners to pay backwages, separation pay, salary differential, and Attorney's Fees to private respondent. The dispositive portion of the Decision stated:

“WHEREFORE, foregoing premises considered, judgment is hereby rendered declaring that complainant was illegally dismissed from the service. Consequently, respondents Galilee Integrated School and/or Severino A. Gabuyo are hereby ordered to pay complainant Ritzel Bernadette M. Cabanizas the following:

Backwages -----

P30,000.00

Separation pay-----

18,000.00

TOTAL ----- P48,000.00

plus P4,800.00 as attorney's fees. Thus a total award of FIFTY TWO THOUSAND EIGHT HUNDRED (P52,800.00), Philippine Currency.

All other claims are hereby dismissed for lack of merit.

SO ORDERED.”[11] (Emphasis was made in the original)

Petitioners filed an appeal with public respondent NLRC. On January 28, 2010, public respondent NLRC issued its first assailed Resolution[12], which dismissed petitioners' Appeal because the “verification was signed by a certain Daniel P. Gabuyo without any evidence to show that he was duly authorized to sign for and in behalf of the [petitioners]. Likewise, the appeal was not accompanied by a certificate of non-forum shopping.”[13]

Upon petitioners' Motion for Reconsideration[14], public respondent NLRC rendered its other assailed Resolution[15] of June 11, 2010. In such assailed Resolution, public respondent NLRC reconsidered its Resolution[16] dated January 28, 2010 but still dismissed the appeal on the merits, and affirmed in toto the Labor Arbiter's Decision.

Petitioner then filed the Petition[17] at bench praying as follows:

“WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Court of Appeals that judgment be rendered granting the instant petition and reversing and setting aside the assailed Resolution dated 11 June 2010.

Other just and equitable relief under the premises is also prayed for.”[18] (Emphasis was made in the original)

Petitioners raised the following grounds:

“GROUNDS FOR THE PETITION

[1] PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN AFFIRMING IN TOTO THE LABOR ARBITER'S DECISION DATED 28 SEPTEMBER 2009;

[2] PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN RULING THAT THE LABOR ARBITER DID NOT ERR IN FINDING THAT PRIVATE RESPONDENT WAS

ILLEGALLY DISMISSED;

[3] PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN AFFIRMING THE AWARD OF BACKWAGES, SEPARATION PAY AND ATTORNEY'S FEES IN FAVOR OF THE PRIVATE RESPONDENT.”[19] (Emphasis was made in the original)

Contrary to petitioners' arguments in their assigned grounds 1 and 2, private respondent was illegally dismissed by petitioners.

Petitioners had argued as follows:

“xxx records show that herein petitioner never had the intention to terminate the services of the private respondent for whatever reason. The letters dated 08 June 2009 and 05 July 2009 xxx clearly show that private complainant (respondent) was never dismissed by herein respondents, much less on the alleged ground of abandonment. Even the Position Paper and Reply of herein petitioner readily reveal the utter absence of statement or argument that complainant was terminated for abandonment of her job.

Petitioner's lack of intention to terminate the services of the private respondent is reflected in its afore-said letters to the latter. While the private complainant (respondent) was requested, not directed or ordered, to submit her resignation in writing, a reading of the entire contents of the letter reveals the clear intention of the management to hear from her and to ascertain her response or explanation in connection with her act of bringing home her materials and belongings. In fact, the last paragraph of the 08 June 2009 letter conveyed the expectation of herein petitioner for a response from the private respondent, totally bereft of insinuation for a mandatory tender of resignation letter from the latter, xxx

xxx

Private respondent, however, opted to remain silent despite receipt of the said letter xxx and ignored the request therein of herein petitioner xxx

xxx

Keen in securing her explanation and knowing her stance relative to the previous letter of 08 June 2009 and due to her failure to report to her job on 15 June 2009, petitioner wrote another letter to the private complainant (respondent) on 05 July 2009, which was received by her on 07 July 2009 xxx requesting her to submit her plan in writing or to personally go (sic) the school to thresh out matters affecting her and the latter. It was also stated therein that her position is still vacant, open and waiting for her xxx

Said written communications unequivocally indicate that complainant (private respondent) was never actually terminated or considered to have abandoned her job as of July 5, 2009 when the second letter was sent to her and more so, when private respondent instituted the instant complaint xxx

xxx

For the record, even now, complainant (private respondent) can still report to her job and she would be treated under the same terms and conditions when she left, if she so desires.

xxx

In affirming the Decision of the Labor Arbiter dated 29 September 2009 on appeal, the National Labor Relations Commission xxx relied on the alleged statement of petitioner school's directress, 'You should resign. You should leave and learn to let go.'. (Italics was made in the original)

The National Labor and Relations Commission gravely erred and abused its discretion when it believed hook,

line and sinker such unsubstantiated, uncorroborated and self-serving allegation of the private complainant notwithstanding the strong and vehement denial thereof by the petitioner's directress, MS. ESTHER G. PANGILINAN, in her Affidavit dated 29 August 2009 that was attached and marked as Annex "1" of petitioner's Reply dated 01 September 2009.

xxx

The National Labor Relations Commission also committed grave abused its (sic) discretion amounting to lack or excess of jurisdiction when it gave credence to the statement of one of the parents that private respondent was already replaced by the petitioner. xxx"[20] (Emphasis supplied)

Defeating petitioners' arguments however, is that petitioners failed to sufficiently prove by preponderant evidence[21] that private respondent had abandoned her work. This is because, as the records revealed, petitioners were not able to prove that private respondent's act of bringing home her materials and personal belongings constituted abandonment of work.

However, private respondent could not be considered to have deliberately and unjustifiably refused to resume her employment by her act of bringing home her materials and belongings.

The circumstances of the case would show that private respondent had no intention to abandon her work, and instead showed petitioners' intention to dismiss private respondent.

First, it was petitioners' school directress who instructed private respondent to resign. This was as also found by public respondent NLRC, as follows:

"xxx the actuation by no less that (sic) the school directress herself in insisting for complainant's (private respondent's) resignation and in uttering 'You should resign. You should leave and learn to let go' constitutes dismissal. Given the position of Ms. Pangilinan, being the school directress, complainant would indeed be left with no other recourse but to leave the school. xxx"[22] (Emphasis supplied)

Second, petitioners had actually dismissed private respondent from work on May 2009 because the latter's position was given to another instructor on June 2009. This was attested to by private respondent's witness, Armie M. Chang-A ("Ms. Chang" for brevity), a parent of two former students of private respondent. Ms. Chang stated in her Affidavit that "on the first week of June 2009, xxx Esther Gabuyo Pangilinan xxx, school directress xxx has already hired a replacement for"[23] private respondent. Such fact in turn, was undisputed by petitioners. These matters were as also found by public respondent NLRC, to wit:

"xxx Moreover, the affidavit of one of the parents whose children were enrolled with respondent (petitioners) school bolstering complainant's (private respondent's) allegation that she already replaced (sic) was left undisputed by the respondents. Thus, with respondents' bare allegation that complainant (private respondent) was not terminated vis-a-vis the evidence presented by the complainant (private respondent), the latter's allegations deserves more weight and credence.

As told, the Labor Arbiter did not err in finding complainant (private respondent) to have been illegally dismissed."[24] (Emphasis supplied)

Third, private respondent's having filed a Complaint for Illegal Dismissal against petitioners indicated that she did not abandon her work. That this is so, is pursuant to the following pronouncement of the Supreme Court in GSP Manufacturing Corporation and Charo Apacible vs. Paulina Cabanban, G.R. No. 150454, July 14, 2006:

"xxx it is a settled doctrine that the filing of a complaint for illegal dismissal is inconsistent with abandonment of employment. An employee who takes steps to protest his dismissal cannot logically be said to have abandoned his work. The filing of such complaint is proof enough of his desire to return to work, thus negating

any suggestion of abandonment.” (Emphasis supplied)

Given that petitioners, as the employer, failed to prove by substantial evidence that private respondent, as the employee, had abandoned her work, then private respondent's dismissal from employment was illegal. This is pursuant to the following pronouncement of the Supreme Court in *Josan, JPS, Santiago Cargo Movers, and Mary Grace S. Parungao vs. Eduardo Ramos Aduna*, G.R. No. 190794, February 22, 2012:

“In an illegal dismissal case, the onus probandi rests on the employer, who has to prove that the dismissal of an employee was for a valid cause. Since petitioners based their defense on abandonment by respondent, it is likewise incumbent upon them, as employers, to prove that he clearly, voluntarily, and intentionally abandoned his work. As previously discussed, it is clear from the evidence on record that petitioners failed to discharge this burden xxx Accordingly, the finding of illegal dismissal must be upheld.” (Emphasis supplied)

Considering also that petitioners' dismissal of private respondent was illegal, then, contrary to petitioners' arguments in their assigned ground [3], the awards of Separation Pay, Backwages and Attorney's Fees to private respondents by the Labor Arbiter, and as affirmed by public respondent NLRC, were proper. Such consequence is in accordance with the Supreme Court's ruling in *Armando Aliling vs. Jose B. Feliciano, Manuel F. San Mateo III, Joseph R. Lariosa, and Wide Wide World Express Corporation*, G.R. No. 185829, April 25, 2012, as follows:

“[In] *Macasero v. Southern Industrial Gases Philippines* instructs:

xxx under Article 279 of the Labor Code and as held in a catena of cases, an employee who is dismissed without just cause and without due process is entitled to backwages and reinstatement or payment of separation pay in lieu thereof:

Thus, an illegally dismissed employee is entitled to two reliefs: backwages and reinstatement. The two reliefs provided are separate and distinct. In instances where reinstatement is no longer feasible because of strained relations between the employee and the employer, separation pay is granted. In effect, an illegally dismissed employee is entitled to either reinstatement, if viable, or separation pay if reinstatement is no longer viable, and backwages.

The normal consequences of respondents' illegal dismissal, then, are reinstatement without loss of seniority rights, and payment of backwages computed from the time compensation was withheld up to the date of actual reinstatement. Where reinstatement is no longer viable as an option, separation pay equivalent to one (1) month salary for every year of service should be awarded as an alternative. The payment of separation pay is in addition to payment of backwages. xxx

xxx

Petitioner Aliling is also entitled to attorney's fees in the amount of ten percent (10%) of his total monetary award, having been forced to litigate in order to seek redress of his grievances xxx

xxx

In *Producers Bank of the Philippines v. Court of Appeals* this Court ruled that:

Attorney's fees may be awarded when a party is compelled to litigate or to incur expenses to protect his interest by reason of an unjustified act of the other party.” (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[25] 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.[26]

IN VIEW OF ALL THESE, the Petition is DENIED.

SO ORDERED.

Didican (Chairman) and Dimagiba,[*] JJ., concur.

[*] Acting Junior Member vice J. Paredes per Office Order No. 34-14-RSF dated January 30, 2014.

[1] Rollo, pp. 3-18

[2] Rollo, pp. 27-29

[3] Rollo, pp. 30-34

[4] Rollo, pp. 20-25

[5] Rollo, pp. 77-84

[6] Rollo, pp. 30-34

[7] Rollo, pp. 31-32

[8] Rollo, p. 20

[9] Rollo, p. 4

[10] Rollo, pp. 20-25

[11] Rollo, p. 25

[12] Rollo, pp. 27-29

[13] Rollo, p. 23

[14] Rollo, pp. 77-84

[15] Rollo, pp. 30-34

[16] Rollo, pp. 27-29

[17] Rollo, pp. 3-18

[18] Rollo, pp. 14

[19] Rollo, pp. 7-8

[20] Rollo, pp. 8-12

[21] Enrico S. Eulogio vs. Spouses Clemente Apeles and Luz Apeles, G.R. No. 167884, January 20, 2009

[22] Rollo, p. 33

[23] Rollo, p. 68

[24] Rollo, p. 33

[25] La Union Cement Workers Union and Arnulfo Amoite vs. National Labor Relations Commission and Bacnotan Cement Corporation, G.R. No. 174621, January 30, 2009

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

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