

RUFINO CIELOS, ET AL., PLAINTIFFS-APPELLANTS, VS. BACOLOD MURCIA MILLING CO., INC., DEFENDANT-APPELLEE.*G.R. No. L-20991. August 30, 1967*

Ponente: ZALDIVAR, J.

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This is an appeal from the decision of the Court of First Instance of Negros Occidental, in its Civil Case No. 6453, dismissing the complaint filed by plain-tiffs for the collection of their termination pay, un-der Republic Act 1052, upon the ground that their ac-tion had already prescribed.

The facts of this case are not disputed. The herein plaintiffs and appellants, seven in number, were former employees or laborers of defendant-appellee Bacolod Murcia Milling Co., Inc., hereinafter referred to as company. The employment of the plaintiffs was without a definite period. The plaintiffs were members of the Allied Workers Association (AWA), the labor union which had a closed shop agreement with the com-pany, by virtue of the collective bargaining contract entered into between them. Sometime in 1953, the plaintiffs and many of their co-employees who were still members of the AWA, and while the closed shop agreement was then subsisting, affiliated themselves with another labor union known as the National Employees Workers Security Union (NEWSUN). Because of their affiliation with another union, the plaintiffs, along with others, were expelled from the AWA; and upon demand by the AWA from the company for their dismissal from employment pursuant to the closed shop agreement, the company dis-missed them from the service.

Some of the dismissed laborers filed a complaint for unfair labor practice against the company before the Court of Industrial Relations, while others simply received their termination pay and did not join in the case against the company. The plaintiffs also did not join the unfair labor practice case; and neither did they receive the separation pay offered to them by the company, for fear that their acceptance of the separa-tion pay might prejudice their right for reinstatement in the event that the unfair labor practice case filed by their co-employees would be decided in their favor. It turned out, however, that the case was decided against the complainants. In the decision rendered on December 21, 1956, in G.R. No. L-9003, entitled Bacolod-Murcia Milling Co., Inc., et al. v. National Employees Workers's Union, this Court held that the dismissal by the company, of those laborers who were former members of the AWA but who affiliated with the NEWSUN during the existence of the closed shop agree-ment, was justified and legal.

Having lost their hope of being reinstated to their former employment, on January 25, 1961, plaintiffs filed a complaint against the company, before the city court of Bacolod City, to recover their separation or termination pay, pursuant to the provisions of Repu-blic Act 1052, equivalent to one month's pay for each, aggregating P863.00, as follows:

Rufino Cielos ----- P124.00

Carlos Zamora ----- 124.00

Pedro de los Reyes -----	133.50
Solomon Baylon -----	120.00
Timoteo Perez -----	120.00
Antonio Zamora -----	121.50
Aquilino Palmes -----	120.00

The complaint further prays for the payment of legal interest on their claims from the date of the filing of the complaint, for attorney's fees in the sum of P200.00, and for costs.

The city court of Bacolod City dismissed plain-tiffs' complaint. On appeal to the Court of First In-stance of Negros Occidental, plaintiffs' complaint was likewise dismissed upon the ground that the action was already barred by the statute of limitations. The trial court found that the plaintiffs had been working for the company for a period of about five years until June 16, 1954, when they were dismissed from the ser-vice; that the plaintiffs were not given by the com-pany thirty days notice of dismissal before they were actually dismissed from the service, and that the com-pany had not paid the plaintiffs their separation pay equivalent to one month salary or wages. The trial court, however, declared that the action of the plain-tiffs was barred, it appearing that the plaintiffs were dismissed on June 16, 1954 and they filed their com-plaint on January 25, 1961, or after the lapse of six years and seven months. The trial court held that the action of the plaintiffs was barred under Article 1146, paragraph (1), of the Civil Code, which provides that actions "upon an injury to the rights of the plaintiffs" must be instituted within four years from the time the right of action accrues. In other words, the trial court held that the failure of the company to pay plain-tiffs their separation pay constitutes "an injury to the rights of the plaintiffs."

The plaintiffs appealed directly to this Court on a question of law.

The plaintiffs contend that their action had not prescribed because the law applicable to their case is paragraph (2) of Article 1144 of the Civil Code, which provides that actions "upon an obligation created by law" must be brought within ten years from the time the right of action accrues. In other words, plaintiffs contend that the obligation of the company to pay them their separation pay, under Republic Act 1052, is an obligation created by law.

We find merit in the contention of the plaintiffs. Republic Act 1052 provides as follows:

"Section 1. In cases of employment, without a definite period, in a commercial, industrial, or agricultural establishment or enterprise, neither the employer nor the employee shall terminate the employ-ment without serving notice on the other at least one month in advance.

"The employee, upon whom no such no-tice was served, shall be entitled to one month's compensation from the date of ter-mination of his employment.

"Sec. 2. Any contract or agreement contrary to the provisions of section one of this Act shall be null and void.

"Sec. 3. This Act shall take effect upon its approval."[1]

Under the provisions of Republic Act 1052, above-cited, the employer, in terminating the employment of his/its employee, must perform one of two things: (1) serve notice upon the employee at least one month in advance of the termination date of the employment, or (2) if no notice of termination is served, to pay the employee one month's compensation from the date of ter-mination of employment. It is clear that this obliga-tion of the employer is one that is specially created by law. This obligation does not have to be stipulated in the contract of employment. It is the law that im-poses this obligation, whether the parties to the con-tract of employment like it

or not. Any agreement in the contract of employment which would eliminate this obligation is contrary to law.

We hold, therefore, that the obligation of the employer to pay one month's compensation to his/its employee under Republic Act 1052 is an obligation created by law, and the action of the employee to enforce compliance by the employer of that obligation may be instituted any time within the period of ten years from the time the right of action accrues. We sustain the contention of the plaintiffs that the law applicable to their case is Article 1144(2) of the Civil Code and not Article 1146(1) as held by the lower court.

The defendant, in contending that the action of the plaintiffs is barred under paragraph 1 of Article 1146 of the Civil Code, cites the decision in the case of *Felix V. Valencia v. Cebu Portland Cement Co., et al.*, G. R. No. L-13715, December 23, 1959, wherein this Court held that the cause of action of the plaintiff which arose upon plaintiff's separation from the service was barred because the complaint was not filed within four years from the date that the plaintiff was separated from the service - the date when the cause of action accrued. That decision is not applicable to the case now before Us. In the *Valencia* case the plaintiff, who was separated from the service but who was later reinstated because the court declared his separation illegal, sued the employer for actual or compensatory damages, nominal or temperate damages, attorney's fees and contingent fees - amounting to P229,509.00 -- alleging that his dismissal was the result of the malicious, illegal, unjust, oppressive and high-handed acts of persons in the management of the employer corporation, so that the plaintiff and his family had been terribly humiliated and had suffered an irreparable injury to their good name, reputation, honor, social dealings and prestige. The plaintiff in that case did not sue for separation pay under Republic Act 1052. This Court held in that case that the action of the plaintiff was one for injury to the rights of the plaintiff, and because the action was instituted after four years from the time that plaintiff was separated from the service the action was already barred.

The defendant also invokes the decision in the case of *Felix Abe, et al. v. Foster Wheeler Corporation and Caltex (Phil.) Inc.*, G. R. No. L-14785, November 29, 1960, where this Court made an observation of the provision of Republic Act 1052, as follows:

"It is clear therefrom that this provision on payment may only be availed of in case of failure to comply with the regulation on the giving of the 30-day advance notice; that it partakes more of a penalty for violation of the requirement, which is within the power of the legislature to impose."

and contends that Republic Act 1052 did not create any right in favor of the plaintiffs. The stand of the defendant cannot be sustained. Precisely Republic Act 1052 has extended a protection to the employee in the sense that if he is not served with notice of his dismissal one month in advance of the day of his actual dismissal the employee "shall be entitled to one month's compensation from the date of termination of his employment." Even if the provision of the law on the payment of the one month's compensation partakes of a penalty for failure on the part of the employer to comply with the requirement regarding notice, it cannot be disputed that the law has created an obligation on the part of the employer in favor of the employee. This Court has ruled that compensation under the Workmen's Compensation Act is an obligation created by law and, unless the claim for compensation is timely controverted by the employer, the action for compensation may be filed within ten years from the time the right of action accrues.[2] Similarly, We rule that the obligation of the employer to pay separation pay under Republic Act 1052 is an obligation created by law and the action for separation pay may be filed within ten years from the time the right of action accrues.

IN VIEW OF THE FOREGOING, the decision appealed from is reversed and another one entered, ordering the defendant-appellee to pay the plaintiffs-appellants their separation pay, with interest and attorney's fees, as prayed for in the complaint; and with costs in all instances.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, Dizon, Makalintal, Bengzon, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

[1] Republic Act 1052 was approved on June 12, 1954.

[2] Pan-Philippine Corporation v. Workmen's Compensation Commission, 101 Phil., 66; Luzon Stevedoring Co. v. De Leon, G. R. No. L-9521, November 29, 1959; Manila Railroad Co. v. Perez and Workmen's Compensation Commission, G. R. No. L-21071, June 29, 1965.

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