

JOWIE DUBLUIS AND DANILO AMORES, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, PENTAGON STEEL CORPORATION, MARIANO CHAN AND PABLITO ALCOVER RESPONDENTS.

Ponente: DICDICAN, J.

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DICDICAN, J.:

Before us is a Petition for Certiorari[1] filed by Jowie Dubluis and Danilo Amores (“petitioners”) pursuant to Rule 65 of the 1997 Revised Rules of Court seeking to reverse and set aside the Decision[2] of the National Labor Relations Commission (“NLRC”) dated August 15, 2013 in NLRC NCR Case No. 07-11283-12 (LAC No. 02-000803-13) as well as the Resolution[3] promulgated on October 31, 2013 denying the Motion for Reconsideration thereof.

The material and relevant facts of the case, as culled from the record, are as follows:

Pentagon Steel Corporation is a domestic corporation organized and existing under the law of the Philippines which is engaged in the manufacture of steel. It is represented by its General Manager, Mario Chan, and Human Resources Manager, Pablito Alcover (“private respondents”).

The herein petitioner Dubluis was employed by the private respondents in August 2009 as machine operator in the wire drawing department of the company. On the other hand, petitioner Amores had been in the private respondents' company since June 6, 1996 and was likewise employed as machine operator.

As synthesized by Labor Arbiter Joel S. Lustria in his Decision[4] dated December 27, 2012, the factual antecedents are as follows:

“In their position paper, complainants narrated that:

“Owing to perceived unfair labor practice committed by the company, complainants joined their co-employees in conducting a peaceful moving picket therein during their break time;

“Respondent company resented the matter and sent notices to explain;

“The said notices to explain, however, mentioned only the provisions of the company rules and regulations allegedly violated by complainants without specifying the details of the accusations against them. The said notices to explain even failed to mention the date and time when the violations were committed. Moreover, the notices to explain gave complainants only 48 hours within which to come out with their explanation;

“Complainants still submitted their explanation, explaining that the concerted actions they committed, along with other workers in the company were committed during break time. They also pointed out that the company rules and regulations being alluded to by the company have not been approved, being still discussed by the company and the union. They pointed out that the freedom to engage in lawful picketing is part of their rights;

“The company scheduled clarificatory conferences with respect to the charges against the complainants. The

hearing of complainant Danilo Amores' case took place on June 13, 2012. xxx he and respondent Pablito Alcover had a heated discussion regarding this case. On that day, June 13, 2012, respondent Alcover issued a memorandum dismissing complainant Amores from his job immediately;

"With respect to complainant Jowie Dubluis, the company issued him a memorandum terminating him from employment on June 30, 2012 xxx.

"xxxx.

"On the other hand, respondents disclaimed liability and posit their defense in their Position Paper, and contend the following:

"Complainants used to be employees of respondent Pentagon Steel Corporation and are members of the Pentagon Workers Union – PTGWO;

"Respondent Pentagon Steel Corporation has an existing Collective Bargaining Agreement (CBA) with Pentagon workers Union-PTGWO xxx;

"As employees of respondent Pentagon Steel Corporation and as member of the Pentagon Workers Union-PTGWO, the complainants are required to abide with all the terms and conditions imposed in the Collective Bargaining Agreement executed between the union and Pentagon Steel Corporation. They are also required to obey the company's rules and regulations xxx;

"Despite the effectivity of the CBA, the complainants lead a picket and disrupted the operation of the respondent without consent of the union. The complainants committed the following:

"They picketed at the compound at the respondents xxx;

"They conducted noise barrage at the compound of the respondents by hitting empty cans, drums, GI Sheets, and other metals with steel bars;

"The complainants even maligned the good name and integrity of the personnel manager, Pablito Alcover, and had even threatened the latter, causing the latter to file criminal complaints against the complainants xxx.

"Complaints also told their co-workers the following:

"Si Alcover ay bakla at di niya kami kayang tanggalin sa trabaho kahit pa anong violation namin sa sinasabi niyang CRR at bale wala ang kanyang CRR..."

"On account of the various violations of the company's rules and regulation committed by the complainants, the respondent Pentagon Steel Corporation gave them several memorandum concerning the violations they committed xxx.

"Complainants filed their answer xxx and alleged that their actions cannot be considered violations of the CRR because the CRR is allegedly not valid since they did not approve the said CRR xxx.

"The complainants forgot that the CRR was promulgated with prior consultation to PWU-PTGWO and to the employees of respondent Pentagon Steel Corporation;

"To afford the complainants the fullest opportunity to be heard, respondent Pentagon Steel Corporation conducted a formal investigation and required the complainants to attend the investigation;

"During the investigation xxx at the office of respondent, the General Manager, Chan requested complainant Amores to remove his hat as he was inside the office and courtesy demands that he remove his hat. However, complainant Danilo Amores shouted at Mariano Chan and told him the following:

“Hindi ko tatanggalin ang sombrero ko, gagawin ko kung ano ang gusto ko, gawin nyo kung ano gusto nyo.”

“After shouting at the General Manager Mariano Chan, complainant Amores turned to the personnel manager, Pablito Alcover and hurled malicious accusation against him. Complainants keep turns with each other in hurling insidious words against Pablito Alcover. Hence, heated arguments took place and the investigation was terminated;

“On account of the violations of the company’s rules and regulations and on the disrespect displayed by the complainants, the respondent Pentagon Steel Corporation was left with no alternative but to dismiss the complaints.”

Thus, the herein petitioners filed their Complaint for illegal dismissal with prayer for reinstatement, payment of backwages, overtime pay, 13[th] month pay, damages and attorney's fees against the herein private respondents before the Labor Arbiter in Quezon City.

By reason of the filing by the petitioners of the said Complaint against the private respondents, proceedings were conducted by the Labor Arbiter. First, there was a mandatory conciliatory conference with the parties which was held by the Labor Arbiter. When no settlement was arrived at, the parties were directed to file their respective position papers which the parties filed in due time.

Eventually, on December 27, 2012, Labor Arbiter Lustria rendered a Decision in favor of the private respondents. The pertinent portion of the said Decision reads:

“WHEREFORE, responsive to the foregoing, judgment is hereby rendered, DISMISSING the above-entitled case for lack of merit. However, as above-discussed, respondents are ordered to pay complainants, namely, Dalino Amores and Jowie Dubluis, the amount of P30,000.00 pesos each, by way of financial assistance.

“xxx.

“SO ORDERED.”

Unsatisfied with the Labor Arbiter’s disposition, petitioners filed their partial appeal from the former’s Decision to the NLRC. On August 15, 2013, the NLRC rendered the herein assailed Decision which modified the findings of the Labor Arbiter. The decretal portion of the NLRC Decision reads:

“WHEREFORE, premises considered, the assailed Decision of the Labor Arbiter dated December 27, 2012 is MODIFIED to grant an award of nominal damages in the sum of P20,000.00 each in favor of Danilo E. Amores and Jowie E. Dubluis. The rest is AFFIRMED in toto.

“SO ORDERED.”

Petitioners then filed a Motion for Reconsideration[5] of the said Decision of the NLRC. On October 31, 2013, the NLRC issued the herein assailed Resolution denying petitioners' Motion for Reconsideration.

Unperturbed, petitioners filed the present petition before this Court assigning the following acts of grave abuse of discretion purportedly committed by the NLRC:

I.

THE NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT FAILED TO HOLD THAT PRIVATE RESPONDENTS FAILED TO ESTABLISH THE EXISTENCE OF A VALID CAUSE FOR THE TERMINATION OF THE PETITIONERS FROM THEIR EMPLOYMENT.

II.

THE NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT FAILED TO HOLD THAT PENALTY OF DISMISSAL WAS NOT COMMENSURATE AND PROPORTIONATE TO PETITIONERS' ALLEGED OFFENSE.

After a careful and judicious scrutiny of the whole matter, together with the applicable laws and jurisprudence in the premises, we find the instant petition devoid of merit.

In the case at bench, petitioners contended that the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it ruled that there was a valid cause for the termination of the herein petitioners from their employment. According to the petitioners, they were merely conducting a peaceful picket during lunch break without disrupting the private respondents' operation. The herein petitioners likewise argued that the penalty of dismissal from work was too harsh and not proportionate for the supposed offense of the petitioners. In their petition, the herein petitioners asserted that:

“It must be emphasized that the workers conducted their picket in a very short and brief time and only during their break time. The operations in the company were not affected or disrupted. There was no stoppage of work whatsoever. In fact, the company failed to allege that it sustained any damage at all. It is clear that the company's charges against the petitioners are unfounded. Respondent NLRC thus acted with grave abuse of discretion in holding that petitioners, particularly Jowie Dubluis, committed acts which constituted a serious violation of company rules and regulations.

“xxxx.

“The charges against petitioner Danilo Amores are uncorroborated. The evidence against him consists mainly of the self-serving statements of Pablito Alcover, the company's HR Manager who has a score to settle against him. This being the case, the quantum of evidence against petitioner Danilo Amores is far from substantial.”

Petitioners' contentions, ingenious as they may seem, are utterly baseless and bereft of merit.

Prefatorily, a petition for the writ of certiorari does not deal with errors of judgment nor does it include a mistake in the appreciation of the contending parties' respective evidence or the evaluation of their relative weight[6]. It bears stressing that a writ of certiorari can be availed of only if the public respondent has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. The burden is on the part of the petitioner to prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent issuing the impugned decision or order. Mere abuse of discretion is not enough; it must be grave.[7]

By grave abuse of discretion is meant such capricious and whimsical exercise of judgment which is equivalent to an excess or lack of jurisdiction[8]. A public respondent judge acts without jurisdiction if it does not have the legal power to determine the case; there is excess of jurisdiction where the respondent, being clothed with the power to determine the case, oversteps its authority as determined by law[9]. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility[10].

Viewed against the foregoing, the foregoing assailed Decision dated August 15, 2013 and Resolution dated October 31, 2013 promulgated by the NLRC do not appear to have been issued with grave abuse of discretion.

In the case of *Santa Rosa Coca-Cola Plant Employees Union v. Coca-Cola Bottlers Phils., Inc.*[11], the Supreme Court elucidated that picketing involves merely the marching to and fro at the premises of the employer, usually

accompanied by the display of placards and other signs making known the facts involved in a labor dispute. As applied to a labor dispute, to picket means the stationing of one or more persons to observe and attempt to observe. The purpose of pickets is said to be a means of peaceable persuasion.

Relatively, a labor dispute includes any controversy or matter concerning terms or conditions of employment or the association or representation of persons in negotiating, fixing, maintaining, changing or arranging the terms and conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.[12]

As correctly pointed out by the NLRC in its Decision dated August 15, 2013, there was no labor dispute to speak of in the present case but it was more of an intra-union dispute, thus:

“At the outset, this case, therefore, must be resolved against the factual backdrop that, rather than a labor dispute, complainant's action sprung from and is inextricably linked to an intra-union dispute. This much is evident from Amore's Admission in his June 22, 2012 letter to Alcover xxx.

Withal, it is beyond cavil that petitioners failed to prove the purported act of grave abuse of discretion amounting to lack or excess of jurisdiction committed by the public respondent in issuing the impugned Decision and Resolution. Evidently, the NLRC merely applied the basic precepts of law and jurisprudence regarding the issues involved in the case at bench.

Indeed, the NLRC, in its Decision dated August 15, 2013, exhaustively discussed and ratiocinated the violations of company rules/policies committed by the herein petitioners which amounted to willful disobedience:

“Having laid down the indispensable factual milieu, we now confront the legality of complainant's termination. Two requisites must be satisfied to constitute a valid dismissal, viz: (1) the legality of the act of dismissal- the dismissal must be for a just cause under Article 282 of the Labor Code—which constitutes substantive due process, and (2) legality of the manner of dismissal – the employee must be given ample opportunity to be heard and defend himself – which constitutes procedural process.

“xxxx.

“As to the first element of willful disobedience, there is no quibbling that complainants intentionally refused to comply with the May 14, 21, and 28, 2012 Memoranda, Inasmuch as the exercise of the right to picket may not be done at will but should bridge a causal link to the presence of a labor dispute, the absence of such dispute to our mind, considerably weakened complainants' cause'.

“xxxx.

“Conceding arguendo that complainants'plaint partook the nature of a labor dispute, the subject CBA precisely lays down a multi-step grievance procedure starting from the lowest level of decision-making and ending at the highest official of Pentagon and thereafter, automatic referral to arbitration. All these must be availed of and exhaust first before employee may resort to concerted action.

“xxxx.

“Even as we find the dismissal valid for compliance with substantive due process, we, however hold that complainants were not accorded procedural process. xxx.

“xxxx.

“Fealty to the foregoing standards of due process, however, impels us to discount merit from the 48 hours afforded complainants to present their side. Jurisprudence construes 'reasonable opportunity' as period of at least five (5) calendar days from receipt of notice.”

On this score, the Supreme Court's ruling in the case of *Suico, et. al, vs. NLRC, et. al* [13] is instructive, to wit:

"All told, the procedure adopted by PLDT in dismissing *Suico, et al.* fell short of the requirements of due process.

"It should be emphasized, however, that, consistent with our ruling in *Agabon*, the procedural deficiency in the dismissal of *Suico, et al.* did not affect the validity or effectivity of the dismissal as the substantive bases thereof were never put in issue. Thus, the April 12, 2002 CA Decision in G.R. No. 163793 was erroneous as it declared the dismissal of *Borje* illegal merely for failure of PLDT to observe due process. The CA should have affirmed the validity of the dismissal of *Borje* and awarded him nominal damages for the impairment of his statutory right to due process."

Considering the foregoing, the herein assailed Decision dated August 15, 2103 and the Resolution dated October 31, 2013 promulgated by the NLRC do not appear to have been issued with grave abuse of discretion. Evidently, there was no hint of whimsicality nor gross and patent abuse of discretion as would amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act at all in contemplation of law.

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DENYING the instant petition for lack of merit.

SO ORDERED.

Elbinias and Paredes, JJ., concur.

[1] Rollo, pages 3-18

[2] *Id.*, pp. 23-38.

[3] *Id.*, pp. 40-42.

[4] *Id.* p. 91-96.

[5] *Id.*, pp. 34-48.

[6] *Tan vs. Sps. Antazo* G.R. No. 187208, February 23, 2011.

[7] *Id.*

[8] *First Women's Credit Corporation v. Perez*, G.R. No. 169026, June 15, 2006.

[9] *People of the Philippines v. Court of Appeals*, G.R. No. 144332, June 10, 2004.

[10] *Estrada v. Desierto*, G.R. No. 156160, December 9, 2004.

[11] G.R. No. 164302-03, January 24, 2007.

[12] *Id.*

[13] G.R. No. 146762, January 30, 2007

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