

DOMINADOR S. JAMILANO, PETITIONER, VS. COURT OF APPEALS AND PAGBILAO ACADEMY, RESPONDENTS.

G.R. No. L-26059. October 31, 1969

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Before us for review is a decision of the Court of Appeals[1] concerning the employer's power of dismissal and the corresponding right of the employee not to be dismissed without just cause during the effectivity, of his contract of employment for a fixed period.

This appeal had its roots in a rather trifling incident. The record shows that on 11 January 1956 the teaching force of herein appellee Pagbilao Academy was convened by the school principal to select the muse of the sophomore class. During the meeting, a disagreement in the choice of the muse arose between present appellant Dominador Jamilano and his co-teacher Catalina Luna. As found by the Court of Appeals, the following remarks were exchanged (C. A. decision, petition, Annex "C", pages 3-4, Record, pages 21-22):

"Jamilano: No, that cannot be, Miss Luna, I have chosen Miss Sophomore, Miss Lourdes Pavillon.

Luna: No, Mr. Jamilano, the principal gave me the authority for having Miss Conchita Sabio Miss Sophomore.

Jamilano (in Tagalog): Miss Luna, ako ang dapat masunod dito pagka't ako'y matanda ng guro dito as Pagbilao Academy (Miss Luna, I should be the one to be obeyed here because I am an old teacher in the Pagbilao Academy).

Luna (also in Tagalog): Yabang naman ninyo, Mr. Jamilano (You are boastful, Mr. Jamilano).

Jamilano (still in Tagalog): Mayabang nga ako pero ginagawa ko ang kayabangan ko. (It is true I am boastful, but I make good my boasts)."

Feeling insulted by the word "yabang", Jamilano absented himself from his classes for the next two days and went to Manila to consult a lawyer.

In the evening of 13 January 1956, Luna, accompanied by two other teachers, went to Jamilano's house to apologize and settle the case amicably. She was, however, advised by Jamilano to arrange the matter with his lawyer.

Apparently, the case was not settled because on 17 January 1956 Jamilano filed a criminal complaint for serious oral defamation against Luna in the Justice of the Peace Court of Pagbilao, Quezon.

The following day, or on 18 January 1956, the Board of Trustees of the Pagbilao Academy hastily convoked a special meeting to probe the Jamilano-Luna tiff. After the investigation, the board passed a resolution finding Jamilano guilty of the following charges, to wit:

"1. For grave misconduct as teacher in the Academy for having deliberately disregarded the Board of Trustees

and immediately brought their case before the Court of the Justice of the Peace of Pagbilao, with-out first giving the Board of Trustees a chance to in-vestigate their case;

"2. For violation of civil service rules for absent-ing from his teaching on January 12 and 13, 1956, with-out permission from the Principal of the Academy, and went to Manila for his personal interests in order to look for a lawyer to handle his case against Miss Luna;

"3. For violation of the professional ethics of the teaching profession;

"4. For refusing to amicably settle his case with Miss Luna unless he be paid with P500.00;

"5. And for other cases of inefficiency in school."

and suspended him from his teaching position in the academy from 19 January 1956 up to the end of the school year, without pay. The board denied Jamilano's subsequent motion for reconsideration.

On 5 March 1957, Jamilano lodged with the Bureau of Private Schools an administrative complaint against the Pagbilao Academy. After due hearing, the director of the bureau handed down his decision clearing Jamilano of all the above-enumerated charges. With the suspension having been consequently declared unjustified, the academy was directed to pay the complainant teacher's salary for the period covered by said suspension. The decision was affirmed on appeal by the Secretary of Education. The Pagbilao Academy thereafter elevated the case to the President.

On 18 February 1957, another case, a civil case for damages that was to become the immediate precursor of the instant appeal, was initiated by Jamilano in the Court of First Instance of Quezon.[2] This was decided on 26 September 1957 again in favor of Jamilano who was found by the trial court innocent of each and every culpable act or conduct imputed against him. His suspension was thus adjudged also as one without just cause, in violation of the terms of his contract of employment with the Pagbilao Academy. According to the contract, Jamilano bound himself, for P150-a-month salary, to teach in the Pagbilao Academy for the school year 1955-1956, during which period the academy bound itself, in turn, not to dismiss or suspend him, subject to a certain condition, to wit:

"(T)he services of the above-mentioned instructor (Jamilano) will not be terminated or suspended during the term of the contract (1 June 1955 to 31 March 1956) without notifying the Director of Private Schools."

The suspension was, as previously intimated, effected in the middle of the school year, and the report or notice thereof was filed with the Bureau of Private Schools only after the receipt by the academy of a copy of the complaint in the administrative case instituted by Jamilano against it. In view of the foregoing, the trial court ordered the Pagbilao Academy to pay Jamilano P360.00,[3] representing his salary for the period starting 19 January to 31 March 1956; P900.00 as compensatory damages; P1,500.00 as moral damages; P1,000.00 as attorney's fees and expenses of litigation; and costs.

Meanwhile, the criminal case against Luna was remanded to the same Court of First Instance of Quezon,[4] which court, after trial, rendered a judgment of conviction for slight oral defamation. Luna appealed to the Court of Appeals[5] and won an acquittal. The appel-late court held that, considered in the context it was uttered, the word "yabang" (boastful or arrogant) was not defamatory and did not lower other's estimation of the person of Jamilano nor cast approbrium on his character or reputation. Then towards the end of the decision, the court dropped a remark to the effect that Jamilano's "subsequent recourse to the law (court) on oral defamation" was "not justified at all".

On 16 October 1957, the Pagbilao Academy filed with the trial court a motion for new trial of the civil case

Jamilano vs. Pagbilao Academy which had earlier been adversely decided against it. The ground was newly discovered evidence consisting of the above decision in *People vs. Luna* rendered on 30 August 1957 by the Court of Appeals. The Pagbilao Academy advanced the view that since the filing of the criminal case against Luna was "the main cause of (Jamilano's) suspension" the trial court could not have held that Jamilano's suspension was unjustified, and the corresponding award to him proper, had the appellate court's decision in the criminal case in question been duly considered in the disposition of the civil case. The motion for new trial was, however, denied on the ground that the decision of the Court of Appeals in the criminal case did not constitute *res judicata* in the later civil case.

Thereupon, the Pagbilao Academy duly appealed to the Court of Appeals. After lengthily quoting that portion of the decision in *People vs. Luna* discussing the non-defamatory nature of the word "yabang" and ending with a one-sentence comment that Jamilano's subsequent recourse to the court was unwarranted, the Court of Appeals concluded that the actuations of Jamilano in accusing Luna of a crime in court although he "knew beforehand that he had no justiciable case," in refusing "to consider all overtures for amicable settlement . . . in his vindictive determination to embarrass not only Miss Luna but also the Pagbilao Academy", and in maligning the Board of Trustees by uttering such expression as "Board of Trustees, puwit nila" (Board of Trustees, their * * * *), upon being reminded by one of his co-teachers who went to his house in the evening of 13 January 1956 that he should have first reported to the board before "consulting lawyer, rendered him "no longer . . . a desirable member of the teaching staff of the Pagbilao Academy who (could) measure up to the moral responsibility of his calling to set by example and precept the proper norms of conduct to be emulated by the students of the school;" that "(h)is continued presence (therein) would have been prejudicial to the welfare and discipline and good name of the school;" and that "the suspension was, therefore, in the best interest of defendant-appellant (Pagbilao Academy) to avoid the evil consequences of probable factional strife and tension among the teachers and students". The court further ruled that implied in the academy's right of appointment as an employer was its power of dismissal or suspension of its employees, which power was, under the circumstances surrounding the present case, properly exercised. From this decision, Jamilano resorted to this Tribunal.

We find ourselves unable to concur in the views of the Court of Appeals. Jamilano was no lawyer, and could not have known "before-hand that he had no justiciable case". Even the Justice of the Peace Court of Pagbilao and the Court of First Instance of Quezon found that he had been slandered by his co-teacher, and although the latter was ultimately acquitted by a superior court, the events previously narrated support Jamilano's good faith (which must also be presumed) in making the charge. Hence, it can not be said that his "recourse to the law is not justified at all".

There is no showing that the regulations of the Academy required Jamilano to first refer his case to the Trustees of the Pagbilao Academy. The incident with Miss Luna was a personal matter, and anyway, the Trustees were not competent to determine whether the felony of oral defamation had been committed or not. As aptly remarked by the trial court, "by entering into a contract of service with the school" Jamilano "did not surrender his right to seek justice from the courts when occasion so demands".

Petitioner is characterized by the Court of Appeals as vindictive because of his refusal to settle the case amicably. We find the conclusion unwarranted. His refusal was not absolute. The decision appealed from (page 4) quotes Jamilano as saying "it is for you to drop at my attorney's office and arrange the case with him", which is reasonable; petitioner had contracted for legal services before he was approached and could not expect that his counsel would waive compensation if he decided to drop the charge.

Finally, as to the remark made by petitioner to his co-teacher (Paulino Orito), in answer to the plea that Jamilano should have first reported the incident to the Academy Trustees - "board of trustees, puwit nila" - the anatomical

expletive does not appear to have been made with deliberate intent to denigrate the Trustees, but as an expression, in the heat of pique or chagrin, of a belief that the affair was not within the jurisdiction of the trustees.

The public officials charged with the duty of supervising the school have found, after hearing, that Jamilano's conduct did not warrant the suspension decreed by the Academy authorities, and with that conclusion this Court concurs, having due regard to the surrounding circumstances. It is well to recall here that the employer's discretion to select and discipline his employees, retaining the best and weeding out the undesirable, is not absolute but must remain subject to such reasonable regulation as the police power of the State may impose, pursuant to the Constitutional prescription to afford protection to labor and promote social justice. One employed without definite term can not be dismissed without just cause (R. A. 1787); one employed for a specified period should enjoy no less protection.

Considering, however, that petitioner Jamilano is not altogether blameless, since he was not justified in abandoning his classes and students for two days without notice or provision for his replacement, thereby recklessly disregarding the supreme interest of the students (and, incidentally, those of the school) and subordinating them to his private resentment, and that he brought this action without giving respondent Academy opportunity to comply with the executive directives for his reinstatement, this Court is of the opinion that the petitioner is not entitled to recover damages beyond the compensation due him for the period of his suspension, plus a reasonable amount for attorney's fees and expenses of litigation.

WHEREFORE, the decision of the Court of Appeals is set aside, and that of the Court of First Instance reaffirmed with the modification that petitioner Jamilano recover from respondent Pagbilao Academy damages in the sum of P360.00 plus legal interest from the filing of the complaint, and a further P1,000.00 as counsel fees and litis expenses. Costs against respondent.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, Teehankee, and Barredo, JJ., concur.

[1] C. A. - G. R. No. 22632-R.

[2] Civil Case No. 5958, Jamilano vs. Pagbilao Academy.

[3] With legal interest from the time of the filing of the complaint in Civil Case No. 5958.

[4] Criminal Case No. 12461, People vs. Luna.

[5] C. A. - G. R. No. 18868-R.

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