AMADOR G. CAPIRAL, PETITIONER AND APPELLEE VS. MANILA ELECTRIC CO., INC., ET AL., RESPONDENTS AND APPELLANTS.

G.R. No. L-15721. December 27, 1963

Ponente: PAREDES, J.

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PAREDES, J.:

On May 21, 1958, Amador G. Capiral, presented with the CFI of Manila a petition for Mandamus and directed against the Manila Electric Company and its officers alleging" that he had been illegally dismissed and praying that the Manila Electric Company be ordered to reinstate him to his position and to pay all his salaries at P200.00 per month from his dismissal until his reinstatement, with legal interest; moral damages in the amount of P120,000.00, plus exemplary damages which the Court may deem sufficient; the further sum of P5 000.00 for attorney's fee; P1,000.00 for litigation expenses and costs.

The Manila Electric Company (Meralco for short), moved to dismiss the petition on the grounds that there was a misjoinder of parties and lack of cause of action and that mandamus was not the proper remedy. The resolution of the motion to dismiss was, however, suspended until after the trial on the merits.

Respondents interposed the following separate and special defenses:

> 1) The petition states no cause of action. If entitled to any relief, petitioner has a plain, adequate and speedy remedy in the ordinary course of law by the institution of an ordinary civil action.
> 2) Respondents other than respondent Manila Electric Company did not hire petitioner as "News Photographer" either on probationary or permanent basis.
> 3) Petitioner has no cause of action of any kind against the officers of the respondent Company who have been made corespondents in the instant special civil action of mandamus.
> 4) Under the provisions of Republic Act No. 1052, as amended by Republic Act No. 1787, petitioner's employment could be terminated for any cause whatever, * * and respondent * * was given one full month's salary, in accordance with law; that petitioner's employment was terminated by respondent company because the position of "News Photographer" that he was occupying was abolished. There was not enough work to warrant the position, and, in fact, most of the time petitioner had no work to perform.
> 5) On November 29, 1957, petitioner was advised by respondent Van Hoven that the position of "News Photographer" would be abolished for the reasons hereinabove stated and suggested to Petitioner tn look for work elsewhere.
> 6) Petitioner's employment was not terminated due to any Union activities on his part. In fact, at one time the Meralco Worker's Union thought that the termination of petitioner's employment was due to union activities and made efforts to have petitioner reinstated, but after investigating the facts, the said Union made no further request to the respondent company for the reinstatement of petitioner.

Counterclaims of various amounts totalling P800,000.00 were also asked by respondents claiming; that the institution of the instant petition was in bad faith, destined to harass and vexed the officers of the Meralco and for which moral damages have been sustained by them. By way of attorney's fees, the sum of P20,000.00 was also asked by respondents.

On March 6, 1957, Capiral was extended by the Meralco, in its Public Relations Office, a probationary appointment to the position of "news-photographer", which appointment was converted into a regular and permanent appointment to the same position, on August 7, 1957, with a monthly compensation of P200.00. On March 5, 1958, Capiral became a member of the Meralco Worker's Union! which had an existing collective bargaining agreement with the Meralco, in which the status of "Temporary", "probationary", and "regular" or so called "permanent" employees and their rights and privileges were defined. On March 31, 1958, Capiral's services were terminated by the Meralco, giving him one month full pay, in lieu of written notice.

Capiral claims that he was dismissed because he joined the Union; that the position of "news photographer" was not abolished as stated by the Meralco, for on March 17, 1958, before Capiral was given his separation papers, one Amado Wycoco was hired by the Meralco and Vanj Hoven, Capiral's immediate Chief, instructed him (Capiral), to acquaint Wycoco with the mechanics of his work, informing him (Capiral) that he will be appointed as "General Contact Man"; that having been appointed as "regular and permanent" employee, he could not be dismissed except for cause, in the absence of which would ntitle him to continue working until the age of retirement (60- years) and/or at least after serving for thirty (30) years.

Upon the other hand, Meralco maintains that the dis-missal of Capiral was due to the abolition of his position for reasons of economy and not for his affiliation with the Union; that the created position for which he was appointed, was merely experimental; that Wycoco was hired as a "journalist'"; that although a regular and permanent appointment was extended to Capiral, this did not mean that he could not be dismissed at all.

After trial, the lower court rendered judgment, the pertinent portions of which read—

> "The Court lias not seen any indication in the evidence that Amador was dismissed because of his alleged union activities; Exhibit Plaintiff 9 would even show the contrary; it is there seen that his own union deserted him in his fight with the Meralco; according to Mr. H. B. Reyes, and the Court finds no reason not to accept his testimony, the management came to know that Amador was a member of the union after, not before the discharge; * * *; It has yet to be determined if this is a case where dismissal had been validly made; for the best of motives might produce bad results. * * * the conclusion of the Court is that Exhibit Plaintiff 2 when under the same, plaintiff was made a permanent and regular employee, carried with it the implication of clear permanence with the result that the occupant could not be ejected just like that, by calling for him extemporaneously and telling him that he was dismissed * * *
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> In view whereof, the Court desists from issuing the peremptory of mandamus, but orders reinstatement of plaintiff to his position, and condemns Manila Electric Co. to pay unto him his back salary of P200.00 a month from April, 1958 up to the final rein-statement, deducting the salary from July to December, 1958 when plaintiff was employed by Bayne Adjustment Co.; the Court also condemns Manila Electric Co. to pay him the sum of P200.00 as attorney's fees, and the costs.

The above judgment was brought directly to this Court on both factual and legal issues, the amount of the claim of respondents herein (by way of counterclaim and attorney's fees) far exceeding P200.000.00. Respondents-appellants claim that the trial Court erred—

> 1) In refusing .to apply to the principal issue the relevant provision of Rep. Act No. 1052 as amended by Rep. Act No. 1787 as well as the pertinent decisions of this Honorable Court;
> 2) In not holding that appellant company's termination of appellee's employment was, lawful because it was for cause;
> 3) In ordering appellee's reinstatement with backpay, and finding appellant company liable for attorney's fees and costs;
> 4) In not holding appellee liable on appellants' counterclaim; and
> 5) In not dismissing the petition for mandamus.

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The case at bar rests on the interpretation and application of the following legal provisions, to wit—

> "Section 1. In cases of employment, without a definite period, in a commercial, industrial, or agricultural establishment or enterprise the employer or the employee may terminate at any time the employment with just cause; or without just cause in the case of an employee by serving written notice on the employer at least one month in advance, or in the case of an employer, by serving such notice to the employee at least one month in advance or one-half month for every year of service of the employee, which ever is longer a fraction of at least six months being considered as one whole year.
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> "The employer, upon whom no such notice was served in case of termination of employment without just cause may hold the employee liable for damages.
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> "The employee, upon whom no such notice was served in case of termination of employment without just cause shall he entitled to compensation from the date of termination of his employment in an amount equivalent to his salaries or wages corresponding to the required period of notice.

"The following are just causes for terminating an employment without a definite period;

> 1. By the employer—
> a. The closing or cessation of operation of the establishment or enterprise, unless the closing is for the purpose of defeating the intention of this law;
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> * * * * * * * * * * *
> f. Other causes analogous to any of the foregoing." (R.A. No. 1052, as amended by R.A. No. 1787).

The dominant issue posed, therefore, would he whether the employment of Capiral is with or without a definite period. Capiral maintains that upon the extension to him of a regular and permanent appointment, his employment with the Meralco became so impressed with definiteness that he should stop working only after he shall have reached the age of retirement or completed 30 years service with the company. Meralco holds the contrary view, contending that Capiral's regular or permanent appointment, did not in any way make his employment with a definite period, such regular appointment having been extended only to afford Capiral with the fringe benefits due permanent or regular employees, and not to make his tenure of office with a definite period.

The dismissal of Capiral was not due to his affiliation with the Union or union activities (unfair labor practice). s is clear from the context of the decision heretofore Produced and the action taken by the Union, as per trial court's finding. No appeal was ever taken by appellee against the decision on this issue Appellants, in explaining why the position of "news photographer" was abolished, proved that it was more economical to engage the services of an outside photographic advertiser, than having a regular "news photographer". The trial court recognized this fact when it said: "and it was found out in due time that Meralco would spend less by dispensing with the services of a regular news photographic advertiser; and here there is some proof that after dismissal, Meralco spend less for its photographic advertisements, Exhs. 1, 2 and 3, defendants;". This being true, it would appear that the separation of the appellee herein was justified, under the law heretofore quoted. Even in the supposition that appellee's dismissal was without cause at all, still the appellants could terminate his services because his employment was not for a definite period. Period is length of existence; duration. A point of time marking a termination as of a cause or an activity; an end, a limit; a bound; conclusion; termination. A series of years, months cr days in which something is completed. A time of definite length. Definite, having distinct or certain limits; determinate in extent or character; limited; fixed—-as definite period. (Webster's International Dictionary) , In other words, a definite period limits the period from one fixed date to another fixed date, which is not the case in the present action. This Court, expounding on the right of an employer to terminate the services of its employees, with whcn no agreement existed, fixing or specifying a definite period of employment, said'—

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> "* * It is high time in my opinion that all doubts on this point be cleared and that the relation between employer and employee and the rights and obligations of each be clearly ascertained and defined. Whatever the courts, including this Tribunal may, in the past have said about the validity or impropriety of dismissals of employees by their employers, the law or rule is and laws always been that in the absence of a contract of employment for a specific period, just as an employee in a commercial or industrial establishment may quit at any time, singly or collectively, with a it out cause, so the employer can dismiss any employee at any the and without cause. This right of the employee is commonly red to as his right to hire and fire his employees in the same that the employee can stop working by himself or go on strike with his fellow employees.
>
> "This right of the employer, in the absence of a contract fixing period of employment, to dismiss its employees has always been reorganized in this jurisdiction. Art. 302 of the Code of Commerce provides that where the contract docs not have a fixed period, anyone of the parties (employer and employee) may terminate it upon giving one month advance notice, thereof to the other. Under this codal provision the courts, including the Court of Industrial Relations had been awarding a month's pay or mesada not only to commercial employees as contemplated by the Code of Commerce but even to industrial employees or laborers. This means that in the absence of a contract fixing the period of employment, the employee may quit at any time and the employer may dismiss him at any time, in either case even without cause, by giving one month notice in advance; in the absence of such notice the employee laid off or dismissed is entitled to one month pay.
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> "This traditional right of the employer to dismiss his employee without cause' is properly recognized, nay, taken for granted in the new law (Republic Act No. 1052) entitled "AN ACT TO PROVIDE FOR THE MANNER OF TERMINATING EMPLOYMENT WITHOUT A DEFINITE PERIOD IN COMMERCIAL, INDUSTRIAL, OR AGRICULTURAL ESTABLISHMENT OR ENTERPRISE." .
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> * * * * * * * * * * *
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> We may not say as does Mr. Justice Pablo in his opinion, concurring in that of the majority that Republic Act No. 1052 is reactionary legislation because in his opinion said act destroys ' conquests cf labor, one of which was the stability of his employment, which the Chief Justice calls the security of employment. As already demonstrated, there has never been such stability or priority of employment except when provided for in statutory wision, like those acts I shall later enumerate. Repubblic Act could it have destroyed what had never existed. All it did was, as already stated, to recognize the instability and insecuritty of employment, and to extend partial protection of the laborer against the same" (Italics supplied; reiterated in Ernesto Robles vs. Visayan Transportation Company, G. R. No. L-1062C. May 15, 1959; Manuel Tanguilig1 and Silveria Calica Tanguilig vs. Theo If. Davies & Co., Far East Ltd., G.R. No. L-9144, May 30, 1959; Can-dido Bautista vs. Philippine Steamship Navigation Co., G.R. No. L-12621, December 29, 1959. (Gutierrez vs. Baehrach, 105 Phil., 9,)

It is worthy of note that the above principles find invigoration in Act No. 1787, amending Act No. 1052, referred to in the above case.

With the conclusion reached, We deem it unnecessary and of no practical value, to further discuss the other issues raised in the appeal.

Wherefore, finding that the decision appealed from, insofar as it finds the appellants liable for back salaries, ordering the Meralco to reinstate herein appellee to his abolished position, and awarding him attorney's fees, contrary to the facts, the law and jurisprudence on the matter, the same should be, as it is hereby reversed, and another entered absolving therefrom appellants who had not shown that they were entitled to their counter-claims. No costs in both instances.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Regala, and Makalintal, JJ., concur.
Reyes, J. B. L., I concur, there being no unfair labor practice.
Barrera, J. concur in the result.

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