

SHELLER P. ANOS, ARNULFO I. ABING, JULIUS S. ABADILLA, JOSE P. ALO, JR., JAN MICHAEL P. ADLAWAN, CHARINO M. BAYLOSIS, RAZI T. MANAYON, ELMER B. CAJEFE, JULIET M. SINGSON, RHODERI...

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

Two petitions for certiorari under Rule 65 of the Rules of Court, are filed before Us: the first docketed as CA-G.R. CEB SP NO. 05289 and the second docketed as CA-G.R. CEB SP NO. 05296, both petitions assail the Decision[1] dated March 30, 2010 of the National Labor Relations Commission [NLRC], Seventh Division, Cebu City, docketed as NLRC Case No. VAC-01-000005-2010 [RAB Case No. VII-12-2962-08; 12-2975-08; 12-2985-08; 12-2991-08; 12-2997-08; 12-3020-08; 01-0022-09; 01-0284-09; 02-0353-09] which affirmed the Decision[2] dated November 20, 2009, of the Regional Arbitration Branch VII, Cebu City, in dismissing the complaints for illegal dismissal/retrenchment against herein respondent Lear Automotive Services (Netherlands).

The Antecedent Facts

Lear Automotive Services (Netherlands) B.V., Philippine Branch [Lear for brevity] is a branch office of Lear Automotive Services (Netherlands) B.V., a private limited company, established and organized under the governing laws of Netherlands.[3] Lear was granted a License to Transact Business by the Securities and Exchange Commission on November 22, 2002 and it was likewise registered as a zone export enterprise with the Philippine Export Zone Authority [PEZA].[4]

Lear's business is the production of automotive electrical systems, with focus on wire harnesses which connects all essential electrical and electronic functions in motor vehicles and automobiles. In 1999, Lear acquired United Technologies Automotive and started to operate its plants. United Technologies Automotive at the time of Lear's acquisition, had operated 3 plants namely: plant Lapu-Lapu, plant Rizal and plant Aquino. The existing clients of United Technologies Automotive are Ford, Crysler and General Motors. Sometime in 2005, Lear opened plant Gabriela which cater mostly to Asian customers. Lear's operation grew and among its valued customers are Mazda, Ford, Nissan, General Motors, Suzuki, Mitsubishi, Toyota and Honda. Taken collectively, the automotive electrical systems ordered by these car companies account for the entire business dealings of Lear.[5]

Prior to their retrenchment, petitioners were hired by Lear in various positions or capacities.[6]

Sometime in 2008, there was a global financial crisis in the automobile industry which began during the second half of 2008. The automotive sector was first weakened by the substantially more expensive automobile fuels linked to the 2003-2008 oil crisis, which, in particular, caused customers to forgo buying sport utility vehicles [SUV's] and pickup trucks, the main market of the American "Big Three"[composed of General Motors, Ford and Chrysler], two of which- Ford and General Motors, are customers of Lear. In 2008, the situation became critical because of the global financial crisis and the related credit crunch placed pressure on the prices of raw materials. Falling sales and market share have resulted in Big Three's plants operating below capacity, leading to production cuts, plant closures and layoffs.[7]

Lear's clients, as a consequence, were either suffering from a net loss or revenue decline. On June 9, 2008, Lear received a production termination notice for its J3FC program, effective August 25, 2008. Production termination from other automotive companies followed suit. On October 2, 2008, Mazda informed Lear to control production and inventory for both finished goods and raw materials,[8] the production of materials for Mazda constituted 76% of the Rizal Plant.

Due to Lear's decision to transfer the production of wire harnesses to Mexico in order to cater to Ford plant, Aquino's output was drastically cut short. Likewise, production in Gabriela plant was significantly cut in 2008, which plant catered to Ford and Nissan clients.

Thereafter, Lear's total sales output dropped by 23% during the fourth [4th] quarter of 2008.[9] In its Audited Financial Statement for 2008, there was considerable reduction of income of at least 48.45%. During the first four [4] months of 2009, it incurred a loss amounting to \$4,637,000.00 or roughly P222,576,000.00 at P48=\$1 conversion. The Certified Income Statement of plant Gabriela from January to April 2009 posted a net loss of \$1,907,000.00 [P91,536,000.00] while the consolidated Certified Income Statement of plants Rizal and Aquino incurred a total net loss of \$2,732,000.00 [P131,136,000.00].[10]

In order to cope with the global financial crisis in the automotive industry, Lear implemented cost reduction measures: long shutdown/vacation; short workweek or rotation of workers; mandatory/forced leaves; compressed work weeks; reduction of work days; end contract of all OJT's from CITE under the dual training system program and in-sourcing of all businesses given to outsourcing partners.[11]

Due to a decline in production, Lear consolidated the plants Rizal and Aquino into one team and now known as plant Aquino. Anticipating a decline or termination of production orders, Lear decided to retrench 191 of its employees ranging from managers, supervisors and rank and file, effective January 12, 2009.

Complainants in CA-G.R. CEB SP No. 05289 and CA-G.R. CEB SP No. 052896 aver that on December 12, 2008 at around 7:30 o'clock in the morning, they were picked up from their respective working areas and were brought at Lear's corporate training room. When they arrived at the room, they were surprised to see that the other employees of the graveyard shift were already there.[12] They were then told that there was a management instruction for them to suspend from going home during that day's noon break period.[13]

Not long after, Gemma Cabansay, Lear's Plant Manager and Annabele Abella, corporate HR, announced that the corporation is suffering from losses and for that reason they will all be retrenched. The announcement of the officers of Lear caused chaos and confusion among the petitioners since several of them rendered perfect attendance and have not committed an infraction of any of the management policies.[14]

After being detained for hours, some of the petitioners decided to relieve themselves but they were not allowed to go out of the premises unless they were accompanied by any of the company staff and were thereafter asked to promptly return to the training room. Petitioners assert that they were compelled to receive the ill-prepared waiver, quitclaims and releases, separation benefit despite their open resistance thereto. They were then forcibly brought to their respective locker rooms and were ordered to empty their respective lockers and were told not to enter the company premises anymore.[15]

Lear counters that in selecting employees who will be retrenched, they used reasonable standards as well as fair and reasonable criteria upon which the termination process was based.[16] Furthermore, in order to comply with the statutory and jurisprudential requirements for a valid retrenchment, Lear sent a written notice to Dole Regional Office No. VII on December 11, 2008[17] as well as written notice to petitioners on December 12, 2008, one [1] month before the effectivity of their retrenchment on January 12, 2009[18]. Likewise, Lear paid the

retrenched employees separation pay equivalent to one month or at least 1/2 month's pay for every year of service whichever is higher, except for the other five [5] remaining complainants who refused to claim their separation pay: Rony Cabahug, Ramil Tampus, Fiel Catagcatag, Jona Cortes and Juliet Singson[19]. As an act of goodwill, Lear paid the petitioners their full month's salary for December 2008 without requiring them to render services in order to give them ample opportunity to look for employment.[20]

Thus, before the Labor Arbiter were nine [9] consolidated cases filed by petitioners for illegal dismissal/retrenchment and for various monetary claims.

The Labor Arbiter, on November 20, 2009, dismissed petitioners' complaints for illegal dismissal/retrenchment but ordered Lear to pay 10% attorney's fees and nominal damages. The dispositive portion of the Labor Arbiter's decision, reads:

“WHEREFORE, judgment is hereby rendered dismissing the complaints for illegal dismissal/retrenchment, but ordering the respondent Lear Automotive Services (Netherlands), B.V. Phil. Branch to pay the remaining complainants P10,000.00 each as indemnity in the form of nominal damages plus ten per cent (10%) of the total amount as attorney's fees or in the total amount of ONE MILLION TWENTY THREE THOUSAND PESOS (P1,023,000.00) either in cash or in check payable to NLRC-RAB VII, Cebu City, through the Cashier of this Arbitration Branch, within ten (10) days from receipt of this Decision.

The respondent Lear Automotive Services (Netherlands), B.V., Phil. Branch is likewise directed to tender to complainants Rony Cabahug, Ramil Tampus, Fiel Catagcatag, Jona Cortes and Juliet Singson their respective checks representing their final pay and for the said complainants to accept the same within like period.

All other claims are hereby DISMISSED for being DROPPED or ABANDONED and/or for lack of merit.

The individual complaints of RONALD ESPINA, DOLORES SARMIENTO, MAY PANGATUNGAN, GENESIS ANTHONY M. MADAGAN, JAY DOMINIC SUMALINOG, DARWIN LIGAN, VEZMIN PAGOBO, AIDA SALAN, SHEILA ECOY, LIRA AMORES, CLAUDIO Q. AMIT, JR., ARIEL E. INOC, BERNADETTE OPONE, TERESITO TAPDASAN, ARNULFO DICO, LUIS ANCAYAN III, EMELIA O. GALES, MICHELL I. ARNADO, ELMER HIYAS, JONATHAN LUSTADO, JANE YODICO, GIRLY APA, AND GLENN ELTAGONDE are ordered DISMISSED for reason as explained earlier.

The case and the claims against the individual respondents JOCELYN HERBITO, AMABEL ABELLA, GEMMA CABANSAY and JOSEPH LIWAG are hereby DISMISSED for lack of merit.[21]”

Petitioners therein appealed from the adverse decision before the NLRC[22] asserting that they were illegally dismissed while Lear partially appealed the Labor Arbiter's decision[23] praying that the payment of P10,000.00 to the individual petitioners as well as 10% attorney's fees be deleted and be set aside.

On March 30, 2010, the NLRC[24] modified the decision of the Labor Arbiter deleting the award for nominal damages for lack of basis finding that Lear fully complied with the 30-day notice rule. The fallo of the said decision, reads thus:

“WHEREFORE, premises considered, the Decision of the Labor Arbiter is hereby MODIFIED as to delete the award of nominal damages of P10,000.00 and attorney's fees granted to each complainant. The rest of the Labor Arbiter's Decision, stays.

SO ORDERED.[25]”

Hence, petitioners in CA-G.R. CEB SP No. 05289 and CA-G.R. CEB SP No. 05296 via a petition for certiorari[26] assailed the decision of the NLRC. However, on August 31, 2010, We dismissed CA-G.R. CEB SP No. 05289 for being filed one [1] day beyond the reglementary period as well as for several flaws found

thereon.[27] However, upon petitioners' Motion for Reconsideration,[28] on July 08, 2011, We vacated Our earlier decision in order to serve the greater interest of justice and the petition was given due course[29].

On September 24, 2012, this Court received an Motion to Consolidate Case[30] filed by respondent Lear, praying that CA-G.R. CEB SP No. 05296 be consolidated with CA-G.R. CEB SP No. 05289. Petitioners in CA-G.R. CEB SP No. 05296 were directed to file comment thereto.[31] On August 30, 2013, petitioners filed their Comment/Manifestation[32] stating that they are not tendering any opposition to the consolidation.

Hence, petitioners in CA-G.R. CEB SP No. 05289 raise the following assignment of errors, to wit:

“I. THE NATIONAL LABOR RELATIONS COMMISSION, 7TH DIVISION COMMITTED GRAVE ABUSE OF DISCRETION OR AN ACT WITHOUT OR IN EXCESS OF JURISDICTION IN FAILING TO APPRECIATE THE MODICUM OF SUBSTANTIVE EVIDENCE IN FAVOR OF THE PETITIONERS THAT RETRENCHMENT/ DISMISSAL WAS ILLEGAL;

II. THE NATIONAL LABOR RELATIONS COMMISSION, 7TH DIVISION COMMITTED GRAVE ABUSE OF DISCRETION OR AN ACT WITHOUT OR IN EXCESS OF JURISDICTION IN HOLDING IN FAVOR OF THE RESPONDENT ON ITS FINANCIAL STATEMENT PREPARED BY ITS IN-HOUSE AUDITOR AND NOT THE JURISPRUDENTIAL TEACHING OF THE HONORABLE SUPREME COURT REQUIRING INDEPENDENT FINANCIAL STATEMENT OF AUDITORS TO AVOID BIAS AND MALICE;

III. THE NATIONAL LABOR RELATIONS COMMISSION, 7TH DIVISION COMMITTED GRAVE ABUSE OF DISCRETION OR AN ACT WITHOUT OR IN EXCESS OF JURISDICTION IN HOLDING THAT THE WAIVER AND QUITCLAIMS WERE SIGNED WITH FREEDOM AND VOLUNTARINESS; AND

IV. THE NATIONAL LABOR RELATIONS COMMISSION, 7TH DIVISION COMMITTED GRAVE ABUSE OF DISCRETION OR AN ACT WITHOUT OR IN EXCESS OF JURISDICTION IN HOLDING IN FAVOR OF THE MEMORANDUM OF APPEAL OF THE RESPONDENT FAVORABLY DEPRIVING THE PETITIONERS THE MONETARY BENEFITS ALBEIT ERRONEOUSLY GRANTED BY THE ARBITRATION BRANCH[33].

On the other hand, petitioners in CA-G.R. CEB SP No. 05296 raise the following assignment of errors, viz:

“I. THE PUBLIC RESPONDENT NLRC, 7TH DIVISION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT AFFIRMED THE DECISION OF THE HONORABLE LABOR ARBITER FINDING THE RETRENCHMENT OF COMPLAINANTS-PETITIONERS LEGAL;

II. THE PUBLIC RESPONDENT NLRC, 7TH DIVISION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT AFFIRMED THE DECISION OF THE HONORABLE LABOR ARBITER FINDING COMPLAINANTS-PETITIONERS NOT ENTITLED TO THEIR MONETARY CLAIMS AND BENEFITS; AND

III. THE PUBLIC RESPONDENT NLRC, 7TH DIVISION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DELETED THE AWARD GIVEN BY THE HONORABLE LABOR ARBITER TO THE COMPLAINANTS-PETITIONERS IN THE AMOUNT OF P10,000.00 REPRESENTING NOMINAL DAMAGES.”[34]

Our Ruling

Before We proceed on discussing the merits of this case, We shall first go to the procedural issue raised by Lear. In its memorandum for CA-G.R. CEB SP No. 05289, Lear vehemently argues that the petition therein should be

dismissed outright for being filed one [1] day late more so because the said petition suffered numerous infirmities.

In recapitulation, petitioners' petition for certiorari in CA-G.R. CEB SP No.05289 was already dismissed by this Court, however, upon reconsideration, We gave due course to the petition bearing in mind, the constitutional mandate to give utmost priority and full protection to labor and to safeguard the employee's means of livelihood.[35]

This Court is fully aware that procedural rules are not to be belittled or simply disregarded for these prescribed procedures insure an orderly and speedy administration of justice. However, it is equally true that litigation is not merely a game of technicalities. Law and jurisprudence grant to courts the prerogative to relax compliance with procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to put an end to litigation speedily and the parties' right to an opportunity to be heard.[36]

The Supreme Court in *Barranco v. Commission on the Settlement of Land Problems*[37] restated the reasons which may provide justification for a court to suspend a strict adherence to procedural rules, such as: (a) matters of life, liberty, honor or property; (b) the existence of special or compelling circumstances, (c) the merits of the case, (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (e) a lack of any showing that the review sought is merely frivolous and dilatory, and (f) the other party will not be unjustly prejudiced thereby.

Significantly, in *Aujero v. Philippine Communications Satellite Corporation*[38], the Supreme Court pronounced "The emerging trend in our jurisprudence is to afford every party-litigant the amplest opportunity for the proper and just determination of his cause free from the constraints of technicalities. Procedural rules may be waived or dispensed with in absolutely meritorious cases."

Going now to the merits.

Petitioners asseverate that since Lear failed to show the modicum of proof which is the audited financial statements which would prove that it was indeed incurring losses, their termination due to retrenchment then becomes invalid.

We do not agree.

Retrenchment is defined as the termination of employment initiated by the employer through no fault of the employee and without prejudice to the latter, resorted by management during periods of business recession, industrial depression or seasonal fluctuations or during lulls over shortage of materials. It is a reduction in manpower, a measure utilized by an employer to minimize business losses incurred in the operation of its business.[39]

Under Article 297 of the Labor Code,[40] retrenchment is one of the authorized causes to validly terminate an employment. It reads:

"ART. 297. Closure of Establishment and Reduction of Personnel. – The employer may also terminate the employment of any employee due to the installation of labor saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closure or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses,

the separation pay shall be equivalent to one (1) month pay or to at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year.”

It should be observed that Article 297 of the Labor Code uses the phrase “retrenchment to prevent losses”. It is carried out to either stave off the financial ruin or promote the business interest of the employer.[41] In its ordinary connotation, this phrase means that retrenchment must be undertaken by the employer before losses are actually sustained. The Supreme Court has, however, interpreted the law to mean that the employer need not keep all his employees until after his losses shall have materialized. Otherwise, the law could be vulnerable to attack as undue taking of property for the benefit of another.[42]

The law recognizes the right of every business entity to reduce its work force if the same is made necessary by compelling economic factors which would endanger its existence or stability. Where appropriate and where conditions are in accord with law and jurisprudence, the Supreme Court has authorized valid reductions in the work force to forestall business losses, the hemorrhaging of capital, or even to recognize an obvious reduction in the volume of business which has rendered certain employees redundant.[43]

However, the prerogative of an employer to retrench its employees must be exercised only as a last resort, considering that it will lead to the loss of the employees' livelihood. It is justified only when all other less drastic means have been tried and found insufficient or inadequate. Corollary thereto, the employer must prove the requirements for a valid retrenchment by clear and convincing evidence; otherwise, said ground for termination would be susceptible to abuse by scheming employers who might be merely feigning losses or reverses in their business ventures in order to ease out employees.[44]

For a valid retrenchment, the following elements must be present:

- “(1) That retrenchment is reasonably necessary and likely to prevent business losses which, if already incurred, are not merely de minimis, but substantial, serious, actual and real, or if only expected, are reasonably imminent as perceived objectively and in good faith by the employer;
- (2) That the employer served written notice both to the employees and to the Department of Labor and Employment at least one month prior to the intended date of retrenchment;
- (3) That the employer pays the retrenched employees separation pay equivalent to one (1) month pay or at least 1/2 month pay for every year of service, whichever is higher;
- (4) That the employer exercises its prerogative to retrench employees in good faith for the advancement of its interest and not to defeat or circumvent the employees' right to security of tenure; and
- (5) That the employer used fair and reasonable criteria in ascertaining who would be dismissed and who would be retained among the employees, such as status, efficiency, seniority, physical fitness, age, and financial hardship for certain workers.”[45]

As can be gleaned from the foregoing requisites, there are two [2] kinds of losses which would justify a valid retrenchment: one, losses that are already incurred and two, imminent losses. To Our mind, the losses which are already incurred should be proved and substantiated by an audited financial statement on the other hand, impending losses are those which have yet to be incurred. They are otherwise termed as future or expected losses. Since they have not yet been incurred it follows that they are not reflected in the financial statements. Necessarily, in order to prove future or expected losses, the audited financial statement for the previous years are not the best proof thereto.[46]

In the case at bench, Lear conducted retrenchment in order to prevent future or expected losses as can be gleaned

from the notice it filed at DOLE[47] which reads in part:

“Dear Sir:

This is to give formal notice that Lear Automotive Services (Netherlands) B.V. Philippine Branch is compelled to undertake a Retrenchment Program in order to survive the very tight automobile business conditions. The weakening of the global automotive industry coupled with other economic events has severely affected viability to compete with the other players in the automotive industry.

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With the reasons cited above and still a reduced sales outlook for 2009 and 2010, the company has to undertake aggressive measures to its survival, prevent further losses in the company an enable for it to stay competitive in terms of manpower and efficiency.”

In fact, Lear unceasingly declares that the retrenchment was done in order to prevent further business losses in their pleadings. It is therefore unreasonable and unfair to require employers conducting retrenchment to prevent impending, expected or future losses to submit as proof of such losses financial statements.[48] Actual losses or profuse bleeding of the business does not have to happen before the employer may do the saving act. Preventive retrenchment is lawful. But certain standards or pre-conditions must be met, otherwise the extreme recourse to retrenchment may be invalidated.[49]

The determination whether or not an employer would imminently suffer serious or substantial losses for economic reasons is essentially a question of fact for the Labor Arbiter and the NLRC to determine.[50] Indeed, equally settled is the rule that factual findings of labor officials, who are deemed to have acquired expertise in matters within their jurisdiction, are generally accorded not only respect but even finality by the courts when supported by substantial evidence, which is, the amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion. But these findings are not infallible. When there is a showing that they were arrived at arbitrarily or in disregard of the evidence on record, they may be examined by the courts. The CA can grant the petition for certiorari if it finds that the NLRC, in its assailed decision or resolution, made a factual finding not supported by substantial evidence. It is within the jurisdiction of the CA, whose jurisdiction over labor cases has been expanded to review the findings of the NLRC.[51]

We find that the decision of the Labor Arbiter with respect to the validity of the retrenchment as affirmed by the NLRC are in accord with the facts and law. Thus, it is now settled that the retrenchment that was undertaken by Lear is valid. As pronounced by the Labor Arbiter which We are quoting with approval, thus:

“The employers prerogative to bring down labor costs by retrenching must be exercised essentially as a measure of last resort, after less drastic means - e.g., reduction of both management and rank-and-file bonuses and salaries, going on reduced time, improving manufacturing efficiencies, trimming of marketing and advertising costs, etc. have been tried and found wanting. The necessity of resorting to retrenchment to prevent or minimize actual or imminent business losses should only be resorted to when other less drastic means have been tried and found to be inadequate.

The respondents asserted that cost-reduction measures were resorted to before the retrenchment program was effected on 12 January 2009 by making reorganizational changes. For Top level management, it includes the repatriation of the Operations Director, Daniel Timofei, effective 05 December 2008, consolidations of plants Rizal and Aquino, decentralization of the Central Maintenance, expansion of Supply Chain Management functions to cover Transportation/ Traffic & Customs functions, restructuring the operations through travel freeze, freeze hiring, reduce CAPEX spending, reduce cost on expatriates and STA's, proactivity in managing liquidity positions, forced vacation leave, sacrifice one week of no pay for the week of December 29 for Band 6 and 7 and its equivalent and other related changes; and cost-reduction measures, as follows: long shutdown/

vacation, rotation of workers, mandatory forced leaves, compressed work week/ reduction of work days, end of contract of all OJT's from CITE under the dual training system program and in-sourcing of all business given to outsourcing partners. The respondent further claims that cost-reduction measures were likewise implemented after the effectivity of the retrenchment program to save the jobs of the remaining employees. The respondent made emphasis that not a single sub-contractor/ supplier was retained prior to effectivity of the retrenchment. We find the record pregnant with evidences (sic) to show that retrenchment was effected only as a measure of last resort.”[52]

However, the Labor Arbiter and the NLRC differ on the matter on the award of nominal damages in that the Labor Arbiter pronounced that Lear failed to comply with the 30 day thus, awarding P10,000.00 by way of nominal damages to all the petitioners, however, the NLRC disagreed and deleted the award.

Where the findings of the NLRC contradict those of the Labor Arbiter, this Court, in the exercise of equity jurisdiction, may look into the records of the case and reexamine the questioned findings. In the case at bar, we are constrained to reexamine the factual findings of the Labor Arbiter on one side, and of the NLRC, on the other, since both have divergent appreciations of the facts of this case.[53]

We are in accord with the NLRC's findings.

It is undisputed that petitioners were served a notice of termination due to retrenchment on December 12, 2008 which was to take effect on January 12, 2009. The notice given by Lear is technically 31 days prior to the effectivity of the retrenchment which more than meets the requirement set forth by law. In a similar case of *Emcor Incorporated v. Sienes*,[54] the Supreme Court ruled that even if the employee was not required to report for work after the receipt of the notice of termination, what matters is that the termination will take effect 30 days after its receipt. Thus, a portion of the said decision, reads:

“Records show that petitioner had served a written notice dated July 30, 1997 to respondent which was to be effective 30 days from receipt of the notice. Respondent received the notice on August 1, 1997 and she was no longer allowed to report for work the following day. Although respondent was asked not to report for work, still her termination was to be effective one month from receipt of notice and she would be paid whatever entitlements due her under the law. Thus, the notice requirement was indeed complied with by petitioner.”

Consequently, since the retrenchment was done in compliance with the law, there is therefore no basis for the award of nominal damages. Moreover, there is no basis in law and in fact for the award of moral damages and exemplary damages, which is in accordance with the pronouncement of the Labor Arbiter[55] as affirmed by the NLRC.

Moreover, there is no basis for petitioners' prayer for backwages. Jurisprudence provides that backwages is only available if the employee is illegally dismissed and since petitioners are not illegally dismissed then there is absolutely no basis for backwages. As elucidated by the Supreme Court in its decision in *St. Joseph Academy of Valenzuela Faculty Association (SJA VFA)-FUR Chapter-TUCP v. St. Joseph Academy of Valenzuela, et al.*[56], which reads:

“Generally, the finding of illegal dismissal entitles an employee to the twin remedies of reinstatement and payment of backwages. Article 279 of the Labor Code states, in part, that an employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. These twin remedies – reinstatement and payment of backwages – make the dismissed employee whole who can then look forward to continued employment.”

Petitioners now question the validity of the execution of their quitclaims and waivers. They assert that they were coerced in signing the waiver and the quitclaim, done under extreme pressure with the threat of not being allowed to go out of the training room unless they sign the same.[57]

We concur with the findings of the the Labor Arbiter in its decision stating that: “the salaries/wages and other benefits were already included in the computation of the final pay, thus, the complainants who accepted their final pay can no longer rightfully claim payment thereto.”[58]

The Supreme Court has held that not all quitclaims are per se invalid or against public policy, except (1) where there is clear proof that the waiver was wangled from an unsuspecting or gullible person, or (2) where the terms of settlement are unconscionable on their face. These two instances are not present in this case.[59] A legitimate waiver representing a voluntary settlement of a laborer's claims should be respected by the courts as the law between the parties. In our view, petitioners' release and quitclaim fall into the category of legitimate waivers as defined by jurisprudence laid down by the Supreme Court.[60]

In fine, for failure of the petitioners to show grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the NLRC, the instant petition for certiorari must be denied. For a Rule 65 petition for certiorari to prosper, the tribunal exercising judicial or quasi-judicial functions must act without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. The phrase “grave abuse of discretion” is well-defined in our jurisprudence. It exists where an act of a court or tribunal is performed with a capricious or whimsical exercise of judgment equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or to 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 personal hostility. None of the said facts are obtaining in the instant case.

WHEREFORE, in view of all the foregoing, the Decision dated March 30, 2010 of the National Labor Relations Commission [NLRC], Seventh Division, Cebu City, docketed as NLRC Case No. VAC-01-000005-2010 [RAB Case No. VII-12-2962-08; 12-2975-08; 12-2985-08; 12-2991-08; 12-2997-08; 12-3020-08; 01-0022-09; 01-0284-09; 02-0353-09] is hereby affirmed in toto.

SO ORDERED.

Ingles,[*] and Azcarraga-Jacob, JJ., concur.

[**] Kindly note that only the following are impleaded as petitioners in the Amended Petition for Certiorari, to wit: Edna U. Baltimore, Meziel C. Inot, Alan L. Mendoza, Nancy Trasmil, Ma. Rosalyn Satera, Pamela M. Aying, Emma G. Flores, Ma. Iris T. Oyao, Luz B. Geraldez, Eva Potat, Violeta P. Generoso, Ronald Amoro, Alma S. Patalinghug, Delia Bontilao, Jeany T. Escala, Jocelyn B. Bonganciso, Ester T. Andales, Janna Grace V. Tumulak, Marissa A. Inoc, Riza M. Baring, Maribel C. Cabiso, Junnie L. Montag, Christopher Capungan, Lilibeth R. Abejero, Rodrigo Lapiña, Richel B. Comindador, Maricel Figuracion, Laura T. Vergara, Marcia L. Baguio, Eve Marie B. Mahusay, Daisy R. Baguio, Eva G. Manayon and Sergvyl Arong

[*] Acting Chairperson in lieu of J. Ramon Paul L. Hernando, per Office Order No. 19-14-GTI dated July 7, 2014

[1] Rollo, pp. 297-309, penned by the Honorable Presiding Commissioner Violeta Ortiz-Bantug

[2] Rollo, pp. 195-229, penned by the Honorable Labor Arbiter Jermelina Passignajen-Ay-Ad

[3] Rollo, p. 65

- [4] Rollo, p. 70
- [5] Rollo, pp. 70-71
- [6] Rollo, CA-GR.SP No.05289, p. 66
- [7] Rollo, CA-G.R. CEB SP No. 05289, p. 73
- [8] Rollo, CA-G.R. CEB SP No. 05289, p. 76
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