

EUGENIO NADURA, PLAINTIFF AND APPELLANT, VS. BENGUET CONSOLIDATED, INC., DEFENDANT AND APPELLANT.

G.R. No. L-17780. August 24, 1962

Ponente: DIZON, J.

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DIZON, J.:

Eugenio Nadura was employed as "miner" by the Benguet Consolidated, Inc.—hereinafter referred to as Benguet—from September 20, 1951 to December 18, 1959, inclusive, or for a period of 8 years, 2 months and 28 days. Due to occasional attacks of asthma, he was laid off, without separation pay, on December 18, 1959. At that time his salary was P4.24 per day.

On March 30, 1960, he filed an action in the Court of First Instance of the City of Baguio to recover from his former employer, separation pay equivalent to one-half month for every year of service, in accordance with the provisions of Republic Act No. 1787, or the total sum of P440.96 based on an average of 26 working days a month, at P4.24 per day, attorney's fees in the sum of P300.00, moral damages in the sum of P3,000.00, exemplary damages in the sum of P3,000.00, and the costs of suit. The action was premised on the claim that under Republic Act No. 1787, illness is not one of the causes justifying dismissal without separation pay.

The answer filed by Benguet averred that asthma is an illness analogous to the causes for which an employee, without a definite period of employment, may be dismissed without severance pay under Sec. 1 of Republic Act No. 1787, and that, should plaintiff be adjudged entitled to the same, the computation should commence from the date of the effectivity of said Act on June 21, 1957.

When the case was called for trial the parties waived their right to present evidence and submitted it for judgment on the pleadings. Thereafter the lower court rendered judgment (a) sentencing Benguet to pay Nadura the sum of P440.96 (four months separation pay at P4.24 per day for 26 days a month) with legal interest thereon from March 30, 1960 until fully paid and costs, but (b) denying Nadura's claim for damages and attorney's fees.

Both parties appealed, Nadura from the denial of his claim for attorney's fees and exemplary damages, and Benguet from the portion of the decision on holding it liable for severance pay.

Benguet claims that the lower court erred in holding that Nadura was entitled to severance pay because his illness was not just cause for terminating his employment. Pursuant to Section 1, Republic Act No. 1787, an employee, without a definite period of employment, in a commercial, industrial or agricultural enterprise, may be dismissed by the employer at any time for just cause, and the same section enumerates the just causes for which an employer may terminate such employment, as follows:

"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;

"b. Serious misconduct or wilful disobedience by the employee of the orders of his employer or representative in connection with his work;

"c. Gross and habitual neglect by the employee of his duties;

"d. Fraud or wilful breach by the employee of the trust reposed in him by his employer or representative;

"e. Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family, or representative; and

"f. Other causes analogous to any of the foregoing."

Conscious of the fact that Nadura's case cannot be made to fall squarely within the specific causes enumerated in subparagraphs 1 (a) to (e), Benguet invokes the provisions of subparagraph 1 (f) and says that Nadura's illness—occasional attacks of asthma—is a cause analogous to them.

Even a cursory reading of the legal provisions under consideration is sufficient to convince anyone that, as the trial court said, "illness cannot be included as an analogous cause by any stretch of the imagination".

It is clear that, except the just cause mentioned in subparagraph 1 (a), all the others expressly enumerated in the law are due to the voluntary and/or wilful act of the employee. How Nadura's illness could be considered as "analogous" to any one of them is beyond our understanding, there being no claim or pretense that the same was contracted through his own voluntary act.

Besides, even elementary rules of fairness and good conscience militate against Benguet's contention. Here is the case of a man who had served the corporation for more than eight years, with apparent efficiency and loyalty. Because during the last of these years of service he became asthmatic, his employer seizes avidly upon this circumstance to dismiss him without even giving him one month previous notice or paying him a measly one month salary to help him carry on—without starving—after his dismissal. We do not think the law on the matter ever intended to authorize and sanction such lack of charity, such oppressive behaviour. We, therefore, find Benguet's contention on this matter, to be entirely devoid of merit. Nadura's appeal must also be sustained.

The lower court declined to make an award of damages and attorney's fees in favor of Nadura on the ground that Benguet contested the latter's claim in good faith.

In connection with attorney's fees, Article 2208 of the new Civil Code provides that "while the rule is that, in the absence of stipulation, attorney's fees cannot be recovered, they may be awarded, in the discretion of the court, in actions for the recovery of wages of household helpers, laborers and skilled workers". Undoubtedly the present action falls within the meaning of "actions for the recovery of wages of * * * laborers etc."

Moreover, the same legal provision provides that attorney's fees may be awarded in any other case where the court deems it just and equitable. Therefore, whether it is under one or the other case, Nadura is entitled to recover attorney's fees because Benguet's refusal to pay him the severance pay he was entitled to receive forced him to go to court to enforce his right.

Finally, in *Philippine Milling Co. vs. Court of Appeals*, 100 Phil., 566; we already held that attorney's fees may be recovered where the defendant based its defense and appeal entirely on a pure technicality, this resulting not only in taking up the time of the courts but in delaying the grant of appropriate relief to the plaintiff for more than three years. In the present case Benguet dismissed Nadura since December 18, 1959 and until now his claim remains unsatisfied.

We also believe that Nadura is entitled to exemplary or corrective damages which, as is well known, are imposed by way of example or correction for the public good. These damages are required by public policy, because wanton acts must be suppressed and discouraged. From what we have said heretofore, the conclusion is inevitable that Benguet had no plausible reason to resist Nadura's claim for severance pay. While it had the right to

discharge him because his employment was without a definite period, it was in duty bound to give him either one month's notice in advance or pay the corresponding severance pay. Instead of complying with its obligation in this respect, it resisted Nadura's claim and forced him to litigate these many years. We are, therefore, of the opinion, and so hold, that Benguet must pay exemplary damages.

Wherefore, the decision appealed from is affirmed insofar as it awards Nadura the sum of P440.96 as separation pay, with interest thereon at the legal rate from March 30, 1960 until fully paid, and the costs of suit; but it is reversed insofar as it fails to grant attorney's fees and exemplary damages. In this connection judgment is hereby rendered sentencing Benguet to pay Nadura the sum of P300.00 as attorney's fees and the further sum of P1,000.00 as exemplary damages.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, Regala, and Makalintal, JJ., concur.

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