

ELVIS VILLA, PETITIONER, VS. PATERNO TIGUMAN AND NATIONAL LABOR RELATIONS COMMISSION 4TH DIVISION, CEBU CITY, RESPONDENTS.

Ponente: INGLES, G. T., J.

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INGLES, G. T., J.:

This is a Petition for Certiorari under Rule 65 of the Rules of Court assailing the Decision[1] dated October 30, 2009 and the Resolution[2] dated March 12, 2010, all issued by the respondent National Labor Relations Commission in NLRC Case No. VAC-03-000400-2009.

Factual and Procedural Antecedents

This case stemmed from a complaint for illegal dismissal with money claims filed by private respondent Paterno Tiguman (hereafter Tiguman for brevity) against the petitioner Elvis Villa (Villa for brevity).

The case for the petitioner Villa

The respondent Tiguman was employed as driver at the petitioner's business on June 15, 1998. Weeks prior to July 21, 2008, Tiguman was assigned with the petitioner's San Miguel Products Distribution Division of Rogelio Villa & Sons, Inc. and was responsible for driving the delivery truck bearing the plate number PEN-732.

However, on July 19, 2008, the said truck driven by Tiguman broke down rendering it unserviceable while the same had to be repaired for an indefinite period of time. The respondent Tiguman was given another assignment at the petitioner's Coca Cola Products Distribution Division on July 21, 2008, but Tiguman did not report to work as instructed. Instead, Tiguman started working for another employer, Ronnie Samson Villa Poultry Farm (RSVP Farm), incidentally owned by petitioner Villa's brother. Despite this, petitioner sent word for Tiguman to work with RVSI, only to find out that he had already filed a case for illegal dismissal. Nonetheless, petitioner still sent a letter to Tiguman on September 12, 2008 urging him to return to work, but the respondent ignored the letter.

The case for the respondent Tiguman

In his position paper, Tiguman alleged that he was hired by Rogelio Villa & Sons, Inc. on March 15, 1996 as delivery truck driver initially assigned to the section promoting and selling International Pharmaceutical Inc (IPI) products until 1999. In 2000 he was transferred to the section selling and distributing San Miguel Corporation (SMC) beer products. As such, complainant worked from Monday to Saturday, reporting for work at 7AM driving and delivering these IPI and later SMC products to more than 50 stores in the towns of Larena, Siquijor, San Juan and Lazi, returning to office usually at 5PM and sometimes beyond the daily nine hours. He was paid One Hundred Ninety Five (P195.00) only per day.

When complainant reported for work on July 19, 2008 the delivery truck assigned to him with Plate No. PEN-732 had engine trouble which needed replacement of parts he had long ago requested. The petitioner Villa, after hurling invectives, told complainant to file his resignation or else be terminated, and warned not to see his face

again in the premises.

Complainant was shocked by such sudden and arbitrary dismissal because resignation was farthest from his mind. Thus, on July 30, 2008, Tiguman filed a case for illegal dismissal with money claims against Rogelio Villa & Sons, Inc. and Elvis Villa, the manager of the aforementioned enterprise.

Ruling of the Labor Arbiter

On December 23, 2008, the Labor Arbiter rendered a Decision finding that respondent Tiguman was not illegally dismissed. The Labor Arbiter ruled that apart from claiming that he was illegally dismissed, Tiguman has not demonstrated his actual dismissal. However, on Tiguman's claim for salary differential, the Labor Arbiter ruled that at P195.00 per day, Tiguman was paid below the minimum wage required by law. The Labor Arbiter likewise granted Tiguman's prayer for payment of 13[th] month pay, but denied for lack of merit Tiguman's prayer for payment of service incentive leave pay, night shift differential and holiday pay.

The decretal portion of the Labor Arbiter's decision is hereunder quoted as follows:

“WHEREFORE, foregoing considered, the complaint for illegal dismissal is hereby dismissed for lack of merit. Respondents are ordered to pay complainant jointly and severally salary differentials and 13[th] month pay computed as follows:

I--

SALARY DIFFERENTIAL:

MW

=P215.00/day

Salary Received

=P195.00/day

Salary Differential

=P 20.00/day

July 2005 – July 2008

= 3 yrs. Or 936 days

P20.00/day x 936 days

=

P18,720.00

II--

13[th] MONTH PAY:

July 2005 – July 2008

= 3 yrs. Or 936 days

P215.00/day x 936 days

= P201,240.00 =

P16,770.00

12

TOTAL

P35,490.00

SO ORDERED”

Ruling of the NLRC

Aggrieved by the Labor Arbiter's decision, respondent Tiguman appealed to the National Labor Relations Commission, which reversed the finding of the Labor Arbiter and ruled that Tiguman was illegally dismissed.

The respondent NLRC rejected RVSI's and the petitioner Villa's theory that there can be no illegal dismissal since Tiguman failed to establish the fact of termination in this case. The NLRC ruled that there is reasonable basis for Tiguman's allegation that upon learning of the breakdown of the truck, RVSI manager Elvis Villa went into an emotional outburst and dismissed Tiguman. Being illegally dismissed, the respondent NLRC ruled that Tiguman is entitled to reinstatement with full backwages from the date of termination up to the time he is actually reinstated. Nevertheless, since reinstatement is no longer feasible given the obvious strained relations between Tiguman and his former employer, the NLRC awarded separation pay in lieu of reinstatement computed at one month pay for every year of service.

The dispositive portion of assailed October 30, 2009 Decision of the respondent NLRC is hereunder quoted as follows:

“WHEREFORE PREMISES CONSIDERED, the appeal is given due course. The decision of the Labor Arbiter is hereby SET ASIDE and VACATED and a new one entered declaring complainant to have been illegally dismissed. As such, respondent Rogelio Villa & Sons, Inc. is hereby ordered to pay complainant Paterno Tiguman the following:

BACKWAGES.....

P84,934.24

SEPARATION PAY.....

P75,036.00

SALARY DIFFERENTIALS.....

P14,237.00

13TH MONTH PAY.....

P15945.25

Total Award.....

P190,152.49

SO ORDERED.”

ISSUES

The petitioner, Elvis Villa, raises the following issues:

- Whether or not the respondent NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction in reversing the Labor Arbiter's ruling and declaring the respondent Tiguman illegally dismissed by the petitioner; and
- Whether or not the respondent NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction in awarding separation pay in favor of respondent Tiguman.

RULING OF THIS COURT

First, it must be pointed out that the assailed NLRC Decision only declared Rogelio Villa & Sons, Inc. liable for the illegal dismissal of private respondent Tiguman and thus ordered RVSI to pay P190,152.49 in backwages, separation pay, salary differentials and 13th month pay. Although included as respondent being the manager of RVSI, the assailed NLRC Decision is silent on the liability of petitioner Elvis Villa, to wit:

“WHEREFORE PREMISES CONSIDERED, the appeal is given due course. The decision of the Labor Arbiter is hereby SET ASIDE and VACATED and a new one entered declaring complainant to have been illegally dismissed. As such, respondent Rogelio Villa & Sons, Inc. is hereby ordered to pay complainant Paterno Tiguman[3] the following:

BACKWAGES.....

P84,934.24

SEPARATION PAY.....

P75,036.00

SALARY DIFFERENTIALS.....

P14,237.00

13TH MONTH PAY.....

P15945.25

Total Award.....

P190,152.49

SO ORDERED.”

Needless to say, the petitioner Elvis Villa has no personality to assail the abovequoted Decision of the NLRC, not even in a representative capacity for RVSI since there is no showing that Villa has been duly authorized to file this petition for and on behalf of the employer corporation[4].

Well settled is the rule in this jurisdiction that a corporation is invested by law with a legal personality separate and distinct from those acting for and in behalf and, in general, from the people comprising it[5]. Thus, RVSI, being a corporation, has a personality separate and distinct from its manager, the petitioner Elvis Villa.

Hence, in so far as Rogelio Villa & Sons, Inc. is concerned, the NLRC Decision dated October 30, 2009 in NLRC Case No. VAC-03-000400-2009 has already become final and executory.

Nevertheless, even if RVSI itself filed this petition, this Court would rule to dismiss this petition for utter lack of merit.

The petitioner's main contention is that there can be no illegal dismissal since the private respondent Tiguman was never dismissed in the first place.

However, after going over the petitioner's version of what transpired on July 19, 2008 when the delivery truck assigned to the respondent Tiguman broke down and was rendered unserviceable vis-a-vis the respondent Tiguman's narration stating that petitioner Villa, "after hurling invectives and verbal abuse, told the complainant to file his resignation letter or else be terminated, and warned not to see his face again in the premises", this Court is convinced that the private respondent was summarily and illegally terminated from work, or to be more precise, constructively dismissed by petitioner and RVSI.

Constructive dismissal or a constructive discharge has been defined as quitting because continued employment is rendered impossible, unreasonable or unlikely, as an offer involving a demotion in rank and a diminution in pay.[6] Constructive dismissal, however, does not always take the form of a diminution. In several cases, we have ruled that an act of clear discrimination, insensibility, or disdain by an employer may become so unbearable on the part of the employee so as to foreclose any choice on his part except to resign from such employment. In this case, Tiguman, following the break down of the delivery truck assigned to him, was subjected to verbal tirade by the petitioner and was told to resign or be terminated from work and was warned never to show his face again in the work premises. This constitutes constructive dismissal.[7]

This Court finds absurd the petitioner's submission that there can be no dismissal absent any evidence that Tiguman was actually dismissed by the petitioner. If an employee who has been constructively dismissed were to be required to show proof of his actual dismissal, then no case for constructive dismissal would ever prosper. There would be no evidence of actual dismissal because in constructive dismissal, the employer retains an employee under his employ but makes the working environment so unbearable forcing the employee to quit.

It bears stressing that there is constructive dismissal if an act of clear discrimination, insensibility, or disdain by an employer becomes so unbearable on the part of the employee that it would foreclose any choice by him except to forego his continued employment.[8] It does not always involve forthright dismissal or diminution in rank, compensation, benefit and privileges,[9] but exists where there is cessation of work because "continued employment is rendered impossible, unreasonable or unlikely, as an offer involving a demotion in rank and a diminution in pay." [10]

Where there is constructive dismissal, an "employee is entitled to: (1) either reinstatement, if viable, or separation pay if reinstatement is no longer viable; and (2) backwages. These two reliefs are separate and distinct from each other and are awarded conjunctively." [11] The employee is entitled 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,[12] "which represent compensation that should have been earned but were not collected because of the unjust dismissal." [13] In this case, Tiguman is entitled to backwages starting from July 19, 2008 when the respondent was constructively dismissed, until the finality of this decision.[14]

Tiguman is also entitled to separation pay where reinstatement is no longer advisable because of strained relations between the employee and the employer. Under the doctrine of strained relations, the payment of separation pay is considered an acceptable alternative to reinstatement when the latter option is no longer desirable or viable. On one hand, such payment liberates the employee from what could be a highly oppressive work environment. On the other hand, it releases the employer from the grossly unpalatable obligation of maintaining in its employ a worker

it could no longer trust.[15]

WHEREFORE the petition is DENIED for lack of merit. The Decision[16] dated October 30, 2009 and the Resolution[17] dated March 12, 2010, all issued by the respondent National Labor Relations Commission in NLRC Case No. VAC-03-000400-2009 is hereby AFFIRMED.

SO ORDERED.

Maxino, P.A.A. and Francisco, R.C., JJ., concur.

[1] Pages 47-54, rollo.

[2] Pages 56-58, rollo.

[3] Emphasis ours.

[4] See Verification and Certification, page 20, rollo.

[5] Bernadeth Londonio & Joan Corcoro vs. Bio Research, Inc. & Wilson Y. Ang, GR No. 191459, January 17, 2011.

[6] Philippine Industrial Security Agency Corporation v. Virgilio Dapiton, G.R. No. 127421, 8 December 1999, 320 SCRA 124; see also Delfin Garcia v. National Labor Relations Commission, G.R. No. 116568, 3 September 1999, 313 SCRA 597; Mark Roche International v. National Labor Relations Commission, G.R. No. 123825, 31 August 1999, 313 SCRA 356.

[7] Soliman Security Services, Inc. v. Court of Appeals, G.R. No. 143215, 11 July 2002, 384 SCRA 514; see also Ala Mode Garments, Inc. v. National Labor Relations Commission, G.R. No. 122165, 17 February 1997, 268 SCRA 497; Philippine Advertising Counselors, Inc. v. National Labor Relations Commission, G.R. No. 120008, 18 October 1996, 263 SCRA 395; Philippine Japan Active Carbon Corporation v. National Labor Relations Commission, G.R. No. 83239, 8 March 1989, 171 SCRA 164 .

[8] Duldulao v. CA, G.R. No. 164893, 1 March 2007

[9] Hyatt Taxi Services Inc. v. Catinoy, G.R. No. 143204, 26 June 2001.

[10] Supra Note 78.

[11] Siemens Phil., Inc. v. Domingo, G.R. No. 150488, 28 July 2008.

[12] Article 279 of the Labor Code.

[13] Malig-on v. Equitable General Services Inc., G.R. No. 185269, 29 June 2010.

[14] Phil. Veterans Bank v. NLRC, G.R. No. 188882, 30 March 2010.

[15] Golden Ace Builders vs. Talde, G.R. No. 187200, May 05, 2010, 620 SCRA 283, 288-290.

[16] Pages 47-54, rollo.

[17] Pages 56-58, rollo.

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