

**CENTRAL AZUCARERA DE LA CARLOTA, PETITIONER, VS.
NATIONAL LABOR RELATIONS COMMISSION, FOURTH DIVISION,
CEBU CITY AND REYNALDO DECREPITO, RESPONDENTS.**

G.R. No. 100092. December 29, 1995

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

This petition for certiorari under Rule 65 of the Revised Rules of Court seeks to set aside the decision of the National Labor Relations Commission promulgated on 24 January 1991 in NLRC-RAB-VI-06-09-10344-89 reversing the decision of Labor Arbiter Cesar P. Sideno dated 27 March 1989 and the resolution dated 14 March 1991 denying petitioner's motion for reconsideration thereof.

Derived from the record are the antecedent facts:

Private respondent Reynaldo Decrepito began his employment with petitioner in April 1981 and worked his way up to his present position as Accounting Clerk II, earning a monthly salary of P1,801.00.[1]

On 31 March 1987 petitioner's Board of Directors passed a resolution authorizing its Vice President-Resident Manager to undertake and implement a comprehensive cost reduction program to address petitioner's financial difficulties "on account of huge financial losses suffered due to a big production shortfall (in the) last crop year (which) was further aggravated by the reduction of areas planted to cane in the district and the recent dry spell." [2]

Subsequently, petitioner apprised Reynaldo Decrepito of his dismissal due to retrenchment through a memorandum dated 18 June 1987 terminating his services effective 23 June 1987.[3]

Decrepito received P2,622.00 as retrenchment pay and on 27 July 1987 he executed a Release and Quitclaim absolving petitioner from any and all claims or liabilities.[4]

Alleging that the retrenchment program resorted to by petitioner was not based on valid grounds, on 16 September 1988, private respondent Decrepito filed a complaint against petitioner for reinstatement with backwages, moral damages and attorney's fees.

On 27 March 1989, Labor Arbiter Cesar D. Sideno dismissed the case for lack of merit. He opined that private respondent freely accepted the retrenchment and its concomitant effects as evidenced by his receipt of separation pay and the release and quitclaim he voluntarily signed. He was, therefore, estopped from questioning the same. The Labor Arbiter, likewise, ruled that petitioner was not precluded from hiring qualified persons to technical and sensitive positions, observing that private respondent failed to prove that he was qualified to fill up said positions.[5]

On appeal, the NLRC, in its assailed decision dated 24 January 1991, reversed the decision of the Labor Arbiter on grounds that petitioner failed to comply with both the substantive and procedural requirements of a valid

retrenchment. The dispositive portion reads thus:

WHEREFORE, in view of all the foregoing, the decision appealed from is REVERSED and SET ASIDE and a new one entered finding the dismissal of complainant illegal. Respondent is hereby ordered to reinstate the complainant to his former position or substantially equivalent position without loss of seniority and to pay his backwages for three (3) years without qualification or deduction.

The attorney's fees is hereby fixed at P2,500.00.

The amount of P2,622.00 received by the complainant as separation pay and his acknowledged debt of P11,737.00 less payment he may have made on said account, if any, shall be deducted from the award of backwages herein.

All other claims are dismissed.

SO ORDERED.[6]

Aggrieved, petitioner challenged the aforementioned decision on the following grounds:

A

The Respondent Commission whimsically and capriciously disregarded petitioner's clear and un rebutted evidence that there was justifiable and legal basis for retrenchment.

B

The Respondent Commission whimsically and capriciously concluded that the petitioner has the propensity to abuse the privilege granted the employees under Article 283 of the Labor Code.

C

The Respondent Commission whimsically and capriciously concluded that the petitioner has no criterion in the implementation of retrenchment process.

D

The Respondent Commission whimsically and capriciously required the petitioner to prove losses in order to validly adopt and implement retrenchment of employees.

E

The Respondent Commission totally disregarded and whimsically ignored the findings of the Honorable Labor Arbiter that respondent Decrepito fully and voluntarily accepted his retrenchment, with full knowledge of its effects and consequences.

F

The Respondent Commission ordered reinstatement with backwages, notwithstanding the fact that the retrenchment of respondent Decrepito was for just causes and voluntarily accepted by the private respondent.[7]

The petition has no merit and we deny the same.

The controversy may be narrowed down to two main issues:

- a) Whether or not the dismissal of private respondent due to retrenchment was valid and justified, and;
- b) Whether or not private respondent was estopped from questioning his dismissal on the basis of the release and quitclaim he allegedly freely signed.

We shall resolve the issues sequentially.

Art. 283 of the Labor Code[8] allows employers to dismiss employees on economic grounds and retrenchment, to avoid or minimize business losses, is one such ground.

Retrenchment is a management prerogative, a means to protect and preserve the employer's viability and ensure his survival. When confronted by trying times, this Court should respect and uphold such prerogative, subject, however, to faithful compliance by management with the substantive and procedural requirements laid down by law and jurisprudence.

On the substantive aspect, the employer should comply with the so-called "four standards of retrenchment" as enumerated and elucidated in the case of *Lopez Sugar Corporation v. Federation of Free Workers*: [9]

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We consider it may be useful to sketch the general standards in terms of which the acts of petitioner employer must be appraised. Firstly, the losses expected should be substantial and not merely de minimis in extent. If the loss purportedly sought to be forestalled by retrenchment is clearly shown to be insubstantial and inconsequential in character, the bonafide nature of the retrenchment would appear to be seriously in question. Secondly, the substantial loss apprehended must be reasonably imminent, as such imminence can be perceived objectively and in good faith by the employer. There should, in other words, be a certain degree of urgency for the retrenchment, which is after all a drastic recourse with serious consequences for the livelihood of the employees retired or otherwise laid-off. Because of the consequential nature of retrenchment, it must, thirdly, be reasonably necessary and likely to effectively prevent the expected losses. The employer should have taken other measures prior or parallel to retrenchment to forestall losses, i.e., cut other costs than labor costs. An employer who, for instance, lays off substantial numbers of workers while continuing to dispense fat executive bonuses and perquisites or so-called "golden parachutes", can scarcely claim to be retrenching in good faith to avoid losses. To impart operational meaning to the constitutional policy of providing "full protection" to labor, the employer's 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.

Lastly, but certainly not the least important, alleged losses if already realized, and the expected imminent losses sought to be forestalled, must be proved by sufficient and convincing evidence. The reason for requiring this quantum of proof is readily apparent: any less exacting standard of proof would render too easy the abuse of this ground for termination of services of employees. (*Italics ours.*)

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In the case at bench, petitioner dismally failed to present adequate, credible and persuasive evidence that it was in dire financial straits and indeed suffering, or will imminently suffer, from drastic business losses.

A litany of woes, from a labor strike way back in 1982 to the various crises endured by the sugar industry, droughts, the 1983 assassination of former Senator Benigno Aquino, Jr., high crop loan interests, spiralling prices of fertilizers and spare parts, the depression of sugar prices in the world market, cutback in the U.S. sugar quota,

abandonment of productive areas because of the insurgency problem and the absence of fair and consistent government policies may have contributed to the unprecedented decline in sugar production in the country,[10] but there is no solid evidence that they translated into specific and substantial losses that would necessitate retrenchment. Just exactly what negative effects were borne by petitioner as a result, petitioner failed to underscore.

In the case of *Indino v. NLRC*, we held thus:

It is almost an inflexible rule that employers who contemplate terminating the services of their workers cannot be so arbitrary and ruthless as to find flimsy excuses for their decisions. This must be so considering that the dismissal of an employee from work involves not only the loss of his position but more important, his means of livelihood. Applying this caveat to the case at bar, it was therefore incumbent for respondent DISC, before putting into effect any retrenchment process on its work force, to show by convincing evidence that it was being wrecked by serious financial problems. Simply stating its state of insolvency or its impending doom will not be sufficient. To do so would render the security of tenure of workers and employees illusory. In a grander scale, to hold as valid and legal the respondent DISC's act would be disastrous to labor. Any employer desirous of ridding itself of its employees could then easily do so without need to adduce proof in support of its action. We can not countenance this. Security of tenure is a right guaranteed to employees and workers by the Constitution and should not be denied on the basis of mere speculation.[11] (*Italics ours.*)

We give little consideration to the certification issued by the Sugar Regulatory Administration illustrating the decline in petitioner's sugar production. A similar allegation was made by Lopez Sugar Corporation against the Federation of Free Workers and we answered in this wise:

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The submissions made by petitioner in this respect are basically that from the crop year 1975-1976 to the crop year 1980-1981, the amount of cane deliveries made to petitioner Central was declining and that the degree of utilization of the mill's capacity and the sugar recovery from the cane actually processed, were similarly declining. xxx.

The principal difficulty with petitioner's case as above presented was that no proof of actual declining gross and net revenues were submitted. No audited financial statements showing the financial condition of petitioner corporation during the above mentioned crop years were submitted. Since financial statements audited by independent external auditors constitute the normal method of proof of the profit and loss performance of a company, it is not easy to understand why petitioner should have failed to submit such financial statements.

Moreover, while petitioner made passing reference to cost reduction measures it had allegedly undertaken, it was, once more, a fairly conspicuous failure to specify the cost-reduction measures actually undertaken in good faith before resorting to retrenchment. xxx.[12] (*Italics ours.*)

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As fairly observed by the Office of the Solicitor General:

Petitioner has not shown that alleged decrease in its production has correspondingly reduced its income resulting in serious business losses. It has likewise failed to show how the dismissal of an office clerk, like private respondent, would effectively avert further losses and improve its financial condition.[13]

Petitioner, in the case at bench, even admitted that it did not present evidence to prove its business losses. Its rationale that "because of the timely retrenchments to prevent losses, these losses were avoided and therefore

cannot be proven to have been incurred"[14] is simply absurd. We have always emphasized that:

...(I)t is essentially required that the alleged losses in business operations must be prove(n). (National Federation of Labor Unions [NAFLU] vs. Ople, 143 SCRA 124 [1986]). Otherwise, said ground for termination would be susceptible to abuse by scheming employers who might be merely feigning business losses or reverses in their business ventures in order to ease out employees.[15]

Petitioner, likewise, failed to comply with the procedural requisites of Art. 283 of the Labor Code. The law mandatorily requires that written notice be given to both the employee concerned and the DOLE at least one (1) month prior to the intended date of retrenchment to enable the former to find other employment and the latter to determine the validity of said retrenchment.[16]

True, petitioner sent private respondent a memorandum[17] regarding the retrenchment. However, this was given only five (5) days before the effectivity of said retrenchment. Worse, the notice of retrenchment was received by the Department of Labor and Employment (DOLE) only on 1 July 1987 or after private respondent was dismissed.[18] Such perfunctory "compliance" cannot be countenanced for it defeats the purpose of requiring notice in the first place.

On the issue of estoppel, it will suffice to reiterate our ruling in *Lourdes Marcos, et al. v. NLRC*: [19]

We have heretofore explained that the reason why quitclaims are commonly frowned upon as contrary to public policy, and why they are held to be ineffective to bar claims for the full measure of the workers' legal rights, is the fact that the employer and the employee obviously do not stand on the same footing. The employer drove the employee to the wall. The latter must have to get hold of money. Because, out of job, he had to face the harsh necessities of life. He thus found himself in no position to resist money proffered. His, then, is a case of adherence, not of choice. One thing sure, however, is that petitioners did not relent on their claim. They pressed it. They are deemed not have waived any of their rights.

WHEREFORE, the petition for certiorari is hereby DISMISSED and the decision of the NLRC is hereby AFFIRMED.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Hermosisima, Jr., JJ., concur.

[1] Rollo, p. 46, 63.

[2] Rollo, p. 77.

[3] Ibid.

[4] Rollo, p. 42.

[5] Id., at 50-51.

[6] Id., at 69-70.

[7] Id., at 6; 9-11, 13, 15, 18.

[8] Art. 283. 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 closures 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 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.

[9] 189 SCRA 179 (1990).

[10] Rollo, p. 7.

[11] 178 SCRA 168 (1989).

[12] Supra, see note 9.

[13] Rollo, p. 115.

[14] Id., p. 72.

[15] *Lopez Sugar Corporation v. Federation of Free Workers*, 189 SCRA 179 (1990), citing *Garcia v. NLRC*, 153 SCRA 639 (1987); *Villena v. NLRC*, 193 SCRA 686 (1991); *Balasbas v. NLRC*, 212 SCRA 803 (1992); *PSBA v. NLRC*, 223 SCRA 305 (1993).

[16] *Fe S. Sebuguero, et al. v. NLRC*, G.R. No. 115394, 27 Sept. 1995, citing *International Hardware*,

[17] Rollo, p. 77.

[18] Id., p. 76.

[19] G.R. No. 111744, 8 Sept. 1995.

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