

LOADSTAR SHIPPING CO., INC., PETITIONER, VS. GERARDO H. GALLO, ARNALDO GRIJALDO, RUBEN L. ANGELES, ARNOLD F. BARAQUIN, PASTOR CALCITA, ROGELIO PADOL AND THE NATIONAL LABOR RELAT...

G.R. No. 102845. February 04, 1994

Ponente: PADILLA, J.

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PADILLA, J.:

Before the Court is a petition for certiorari with application for preliminary injunction and/or temporary restraining order to declare the nullity of the Order dated 24 September 1991 of the National Labor Relations Commission (NLRC) which set aside its earlier resolution dated 17 November 1989 affirming the decision of the Labor Arbiter in “Gerardo Gallo, et. al. versus Loadstar Shipping Co.,” NLRC-NCR 7-2327-87.

Private respondents Gerardo H. Gallo, Arnaldo Grijaldo, Ruben L. Angeles, Arnold F. Baraquin, Pastor Calcita and Rogelio Padol were employees of petitioner company formerly assigned to one of its vessels which was permanently moored at Isla Puting Bato, North Harbor, Manila due to its unsea-worthy condition.

Assessing that its vessels were no longer serviceable and had been docked for more than two (2) years, petitioner decided to settle whatever monetary obligations were due to private respondents.

Sometime in May 1987, private respondents were called to the principal office of petitioner by the Assistant Administrative Officer for Personnel, Mr. Ricardo Aquino to facilitate the payment of all monetary benefits due them under the law. Upon receiving their respective payments, private respondents executed individual Release and Quitclaim papers together with disembarkation orders and inventories.[1]

In July 1987, private respondents filed a complaint for illegal dismissal, underpayment of wages, non-payment of overtime pay, thirteenth month pay and allowance against petitioner with the Arbitration Branch of the National Labor Relations Commission. They claimed that the reason why they were called in May 1987 by Mr. Ricardo Aquino to the principal office was for the purpose of paying their unpaid sick leave and vacation leave pay of several months when their ship was on standby status. They alleged that after receiving their unpaid sick leave and vacation leave pay, they were required by Mr. Aquino to sign folded documents under threat that if they would not sign said documents, the money given to them for unpaid sick and vacation leave would be taken back. They averred that they signed the folded documents because they were in dire need of money.

When private respondents attempted to report for work, they were allegedly informed that they were already dismissed in view of the Quitclaim and Release papers they had signed.

Petitioner (then respondent) countered that its act cannot be construed as constituting an illegal dismissal of private respondents. Since the vessel where private respondents (as complainants) were assigned was regarded as unseaworthy and permanently moored at the North Harbor, Manila for more than two (2) years coupled with the fact that the vessel was no longer serviceable, private respondents could thus be lawfully separated from work

provided they are paid all monetary benefits due them under the law. In this case, the fact of payment of their respective separation pay is evidenced, according to petitioner, by their verified Release and Quitclaim. With respect to the other issues raised by private respondents, petitioner maintains that they were all paid and settled.

After hearing the case, the Labor Arbiter rendered a decision on 22 September 1988, the dispositive part of which reads:

“WHEREFORE, premises considered, Decision is hereby rendered ordering the respondents to pay complainants their separation pay equivalent to half month pay for every year of service and their service incentive leave pay equivalent to their fifteen (15) days salary, minus the amount already received by the complainants appearing in the Quit-claim and Release submitted by the respondents. Other claims are hereby DISMISSED for lack of merit.

SO ORDERED.”[2]

Private respondents appealed to the public respondent National Labor Relations Commission. On 17 November 1989, public respondent promulgated a resolution affirming the disputed decision, to wit:

“Accordingly, the decision appealed from is hereby AFFIRMED and the instant appeal dismissed for lack of merit and for being pro forma.

SO ORDERED.”[3]

From the said resolution, private respondents filed a motion for reconsideration. Petitioner was, however, not furnished a copy of private respondents’ motion for reconsi-deration, as attested by a certification[4] issued by public respondent dated 1 December 1991 that no registry receipt was attached to the motion for reconsideration.

Notwithstanding this omission, respondent Commission gave due course to the said motion and issued an order on 24 September 1991, the dispositive part of which reads:

“Accordingly, the resolution promulgated on November 17, 1989 is hereby set aside, and the appealed decision is modified to the extent as concerns that portion deducting whatever amounts the complainants earlier received from the awarded separation pay and service incentive leave pay.

SO ORDERED.”[5]

On 7 October 1991, petitioner was surprised to receive another copy of the NLRC Resolution of 17 November 1989. When it sought clarification from the NLRC, petitioner discovered the existence of the motion for reconsideration filed by private respondents and the Order of 24 September 1991 modifying that of 17 November 1989. The records of public respondent also showed that the order of 24 September 1991 was duly served petitioner on 7 October 1991 but, according to petitioner, what it actually received on that date was the resolution of 17 November 1989.

Since the resolution or order of 24 September 1991 had with time become final and executory, petitioner deemed that it was already barred from filing a motion for reconside-ration. Instead, it filed the present petition for certiorari with application for preliminary injunction and/or temporary restraining order. On 16 December 1991, the Court issued a temporary restraining order directing public respondent to refrain from enforcing the questioned order dated 24 September 1991.

On 17 August 1992, the Court resolved to give due course to the petition and required the submission of memoranda, the last of which was filed on 23 August 1993.

This petition for certiorari cites as grounds therefor -

(a)

GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT (NLRC) MODIFIED THE DECISION OF THE LABOR ARBITER DATED 22 SEPTEMBER 1988 TO THE EXTENT THAT IT DIS-ALLOWED DEDUCTIONS OF THE AMOUNTS ALREADY RECEIVED BY PRIVATE RESPONDENTS CONTAINED IN THEIR INDIVIDUAL AND SEPARATE RELEASE AND QUITCLAIMS;

(b)

THE RESOLUTION OF RESPONDENT COMMISSION DATED 24 SEPTEMBER 1991 WAS RENDERED IN FRAUD OF PETITIONER, ASIDE FROM BEING ILLEGAL PER SE, HENCE NULL AND VOID AB INITIO.

The disposition of the real issue raised by petitioner hinges on a determination of whether or not the document executed by private respondents absolutely and forever released and discharged petitioner from any and all claims and liabilities whatsoever insofar as concern past salaries, and other privileges accorded private respondents, if any, by law, including their separation pay.

As a rule, the original and exclusive jurisdiction to review a decision or resolution of respondent NLRC, in a petition for certiorari under Rule 65 of the Rules of Court, does not include a correction of its evaluation of the evidence but is confined to issues of jurisdiction or grave abuse of discretion.[6]

The NLRC's factual findings, if supported by substantial evidence, are entitled to great respect and even finality, unless petitioner is able to show that it simply and arbitrarily disregarded evidence before it or had misapprehended evidence to such an extent as to compel a contrary conclusion if such evidence had been properly appreciated.

In the case at bench, in ruling out a case of illegal dismissal, the Labor Arbiter who heard the case observed that:

“To our mind, these (the) contentions of the complainants are hard to believe, considering that the amount given to them is too big to consider as payment for sick and vacation leave. Complainants Arnaldo Grijaldo received the amount of P9,035.55; Gerardo H. Gallo received P9,389.60; Pastor Calcita received P8,100.00; Rogelio Padol received P4,410.00; Ruben Angeles P6,058.88; Arnold Baraquin received P4,080.00. Complainants themselves admitted in their affidavit and on cross-examination that the ships where they were boarding was on “stand-by-nature” for so many months or up to the present.

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On the issue of service incentive leave pay, we examined the records of the case and from the evidence submitted by the respondents no payment appear to have (sic) made. x x x

In view of our (the) findings that the complainants were not dismissed but separated from their job because the ships were (sic) they were boarding were in-stand-by nature since 1987 up to the present, complainants should be given their separation pay. However, considering that as admitted by the complainants they already received certain amounts from the respondents it is just proper to deduct the said amount from their separation pay.”[7]

In its decision promulgated on 17 November 1989 affirming that of the Labor Arbiter and dismissing the appeal for lack of merit, public respondent NLRC noted that -

“The contention of complainants that what they received pertains only to their sick leave and vacation leave with pay strains the imagination considering the substantial amounts paid by respondents to complainants and the fact that no specific year or number of days of sick leave and vacation leave with pay were established by the complainants. Bare and unconvincing statements could not prevail over the evidence of payments. Lastly,

we, too, are in agreement that what transpired was separation from service brought about by the absence of serviceable ships. However, they were not paid full amount of separation pay due them under the law. We thus hereby affirm the Labor Arbiter's Order for respondents to pay complainants separation pay equivalent to one-half (1/2) month pay for every year of service less the amount already received by each of them.[8]" (emphasis supplied)

Acting on the private respondents' motion for recon-sideration, public respondent abandoned its earlier position and ruled that the separation pay and service incentive leave pay awarded by the Labor Arbiter could not have been covered by the release and quitclaim documents accomplished by private respondents, absent a definitive finding that the said complainants were earlier paid separation pay and service incentive leave pay. In other words, the necessary implication is that while negating fraud, force and intimidation in the execution of the said release documents, the same should cover only private respondents' claims for accumulated vacation and sick leave pay and not their separation pay, because the labor arbiter's decision does not expressly say so. Curiously, however, the assailed resolution does not state how and why it arrived at such conclusions.

The Solicitor General, in behalf of public respondent, similarly argues in his comment that:

" x x x Definitely, this is a general statement which could cover practically any and all claims arising out of employment. Resultantly, private respondents would not be sufficiently informed that what they received was specifically for separation pay and service incentive leave pay."[9]

In *Periquet vs. NLRC*,[10] this Court ruled that:

"Not all waivers and quitclaims are invalid as against public policy. If the agreement was voluntarily entered into and represents a reasonable settlement, it is binding on the parties and may not later be disowned simply because of a change of mind. It is only where there is clear proof that the waiver was wangled from an unsuspecting or gullible person or the terms of settlement are unconscionable on its face, that the law will step in to annul the questionable transaction. x x x "

Under prevailing jurisprudence, a deed of release or quitclaim cannot bar an employee from demanding benefits to which he is legally entitled.[11] Similarly, employees who received their separation pay are not barred from contesting the legality of their dismissal and that the acceptance of such benefits would not amount to estoppel.[12]

In the case at hand, the issue of the validity of the releases executed by private respondents under oath was squarely raised and resolved in the Labor Arbiter's finding that their termination from the service was authorized under the law, brought about by the continued unserviceability of their ships. The award to private respondents of separation pay was a lawful consequence of their separation from the service.

It is not at all incongruous to grant or sustain an award of separation pay and at the same time uphold the validity of the Quitclaim and Release executed by the recipients thereof, provided there is substantial evidence on record to show that the latter covered, among other things, the proper amount of separation pay.

In *Olacao vs. NLRC*,[13] the petitioners signed sworn individual documents entitled "Receipt and Release" covering their past salaries/wages, overtime pay, termination pay, and other privileges accorded them by law. This was after they filed a complaint for unpaid wages before the then Ministry of Labor. Later, they filed a case for illegal dismissal, contending that their acceptance of separation pay did not operate as a waiver of their claims in the illegal dismissal case. In dismissing the petition, the Court affirmed the ruling of the NLRC which observed that:

"x x x More than the above, the record shows that the complainants received, by virtue of the release documents, amounts which exceed by leaps and bounds their original claims for unpaid wages and

allowances.”

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In this proceeding, the issue of separation pay had been judicially settled, with finality, also by the NLRC. The NLRC, therefore, had no alternative except to forestall the grant of separation pay twice. The principle against unjust enrichment must be held applicable to labor cases as well.

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Parenthetically, the issue of separation pay has likewise been settled in the case at bench both in the decision of the Labor Arbiter of 21 September 1991 and in that of public respondent dated 17 November 1987 affirming said decision. The NLRC resolution categorically stated that:

“Perusal of the records shows that respondents adduced documents in support of their position. Payrolls and vouchers were submitted to show payment to complainants of 13th month pay, 5 days service incentive leave and other benefits being claimed by complainants (See Annexes 1 to 26 Supplemental Position Paper of Respondents). x x x We find no legal and factual basis to reverse the findings of the Labor Arbiter...

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Lastly, we, too are in agreement that what transpired was separation from service brought about by the absence of serviceable ships. However, they were not paid the full amount of separation pay due them under the law. x x x” (emphasis supplied)[14]

It appears clear that although there was no express statement in the decision of the Labor Arbiter that the disputed Quitclaim and Releases covered in fact private respondents’ separation pay and other benefits - unlike in the Olacao case - private respondents in this case have not sufficiently established by competent and relevant evidence that the amounts they each received from petitioner were for accumulated unpaid sick and vacation leave pay only.

Under these circumstances, the labor arbiter committed no reversible error when he upheld the validity of the quitclaims while at the same time awarding separation pay. It is difficult to comprehend when public respondent maintains that there was no “definitive finding” that complainants were earlier paid separation pay although not in full, inspite of the evidence adduced in the position papers of the parties and at the hearing of the case before the Labor Arbiter.

We agree with petitioner’s observation that “the resolution of 17 November 1989 affirming the decision of the Labor Arbiter was based on an important piece of evidence - the Supplemental Position Paper of herein petitioner with its 26 Annexes which showed that herein private respondents were regularly receiving their monetary benefits, including their sick and vacation leave pay and service incentive leave pay.[15] This evidence was never controverted by private respondents both in the arbitral level and on their appeal - “where the primary and antecedent burden of proving said claims rested on them.”[16] To rule otherwise would be a palpable and prejudicial error as can be implied from the assailed resolution of 24 September 1991. For “the principle against unjust enrichment must be held applicable to labor cases as well.”[17]

The Court also notes the fact that public respondent NLRC gave due course to private respondents’ motion for reconsideration despite absence of proof of service thereof on petitioner. Under Rule VII, Section 14 of the Rules of Procedure of the NLRC -

“Motion for reconsideration of any order, resolution or decision of the Commission shall not be entertained except when based on palpable or patent errors, provided that the motion is under oath and filed within ten (10) calendar days from receipt of the order, resolution or decision, with proof of service that a copy of the same

has been furnished, within the reglementary period, the adverse party and provided further, that only one such motion from the same party shall be entertained.” (emphasis supplied)

Ordinarily, a procedural lapse may be justified (or disregarded) so as to render substantial justice to the parties concerned and all in the interest of due process.

However, in this particular instance, respondent NLRC not only set at naught its own rules but disregarded as well relevant evidence material to the resolution of the case. Its findings of fact unsupported by substantial evidence, in the order dated 24 September 1991, cannot bind the Court. Hence, its conclusions in said order must be struck down for being whimsical and capricious, arrived at with grave abuse of discretion.

WHEREFORE, the petition for certiorari is GRANTED. The order of respondent National Labor Relations Commission, dated 24 September 1991, is SET ASIDE and the decision of the Executive Labor Arbiter dated 27 September 1988 as affirmed by respondent National Labor Relations Commission in its resolution dated 17 November 1989 is hereby REINSTATED. The Temporary Restraining Order heretofore issued by the Court is hereby made PERMANENT.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, and Puno, JJ., concur.
Nocon, J., on leave.

[1] Rollo, pp. 46-51, Annex “G-1” to “G-5”

[2] Rollo, pp 17-18

[3] Rollo, p. 28

[4] Annex “E”, Petition; Rollo, p. 35

[5] Rollo, pp. 44-45

[6] Pat-naan vs. NLRC, G.R. No. 92878, 6 March 1992, 207 SCRA 106

[7] Rollo, pp. 16-17

[8] NLRC Resolution dated 11 November 1989, Rollo p. 28

[9] Comment of the Solicitor General. Rollo, p. 101

[10] G.R. No. 91298, 186 SCRA 724, 22 June 1990

[11] Fuentes vs. NLRC, G.R. No. 76835, 24 November 1988, 167 SCRA 767

[12] Mercury Drug Co., Inc. vs. Court of Industrial Relations, G.R. No. 23357, 30 April 1974, 56 SCRA 694; De Leon vs. NLRC, G.R. No. 52056, 30 October 1980, 100 SCRA 691

[13] G.R. No. 81390, 29 August 1989, 177 SCRA 41

[14] Rollo, p. 28

[15] Memorandum of Petitioner, Rollo, p. 135

[16] Rural Bank of San Miguel (Bohol), Inc. vs. NLRC, 8 March 1989, 171 SCRA 158

[17] Olacao vs. NLRC, G.R. No. 81390, 29 August 1989, 177 SCRA 38, 45

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