

ADELAIDA P. IZON, PLAINTIFF AND APPELLANT, VS. CREDIT UNION KAPISANAN NG MGA MANGGAGAWA SA MRR, DEFENDANT AND APPELLEE.*G.R. No. 11316. May 23, 1959*

Ponente: PADILLA, J.

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On June 1956 the plaintiff filed a complaint against the defendant in the Court of First Instance of Manila alleging that since 1 June 1951 she was engaged by the defendant as clerk at a monthly salary of P160; that on 15 November 1954 without valid and legal cause her services were terminated by the defendant; and that notwithstanding repeated demands for reinstatement the defendant has refused to reinstate her. She prayed that after hearing judgment be rendered ordering her reinstatement by the defendant to her position as clerk with back salaries from 15 November 1954 to the date of her reinstatement and payment to her by the defendant of the sums of P5,000 as actual and consequential damages and P10,000 as moral damages. She further prayed for other just and equitable relief (civil No. 29993).

The defendant moved for the dismissal of the complaint, on the ground that it states no cause of action and that the court has no jurisdiction over the subject matter. In support thereof, it invokes the provisions of Republic Act No. 1052, approved on 12 June 1954, which allows an employer of a commercial, industrial or agricultural establishment or enterprise to terminate the services of an employee without a definite period of employment by either serving upon him one month notice in advance of the termination of his services, or by giving him one month compensation from the date of termination of his employment in lieu of notice. The plaintiff filed an opposition to the motion to dismiss. On 14 July 1956 the Court dismissed the plaintiff's complaint upon the provisions and authority of Republic Act No. 1052. The plaintiff filed a motion for reconsideration; the defendant an opposition thereto. On 11 August 1956 the Court denied the plaintiff's motion for reconsideration. She has appealed to this "Court on a question of law.

In *Monteverde vs. Casino Español de Manila*, 103 Phil., 377, this Court held that under the provisions of Republic Act No. 1052, even in the absence of cause for separation, an employer of a commercial, industrial or agricultural establishment or enterprise may terminate the services of an employee whose services are not for a definite period, provided he is served with notice of such termination one month in advance or paid one month compensation in lieu of the notice.[1] There is no need of an allegation in the complaint of lack of notice of termination of the services or of payment of compensation for one month in lieu of the notice, because the plaintiff seeks reinstatement to her position as clerk in the defendant's employ and payment of her salaries from the date her services were terminated to the date of her reinstatement and not the payment of compensation for one month only.

The order appealed from is affirmed, with costs against the appellant.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, and Endencia, JJ.,

concur.

[1]See also Gutierrez vs. Bachrach Motor Co., Inc., supra, p. 9.

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