NUEVA ECIJA I ELECTRIC COOPERATIVE, INC., (NEECO I) EMPLOYEES ASSOCIATION, PRESIDENT RODOLFO JIMENEZ, AND MEMBERS, REYNALDO FAJARDO, ERNESTO MARIN, EVER GUEVARRA, PETRONILO BAGU...

G.R. No. 116066 (Formerly UDK-11456). January 24, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Petitioners assail the decision[1] of the National Labor Relations Commission in NLRC RAB-III-03-2673-92, which modified the ruling of the Labor Arbiter, by deleting the award of moral and exemplary damages, as well as attorneys' fees and costs of litigation.

The facts, as found a quo, are as follows:

Petitioners Reynaldo Fajardo, Ernesto Marin, Ever Guevarra, Petronilo Baguisa, Victorino Carillo, and Erdie Javate were permanent employees of respondent Nueva Ecija I Electric Cooperative (NEECO I). They were members of petitioner NEECO I Employees Association, a labor organization established for the mutual aid and protection of its members. Petitioner Rodolfo Jimenez was the president of the association.

Respondent NEECO I is an electric cooperative under the general supervision and control of the National Electrification Administration (NEA). The management of NEECO I is vested on the Board of Directors. Respondent Patricio dela Peña was NEECO's general manager on detail from NEA.

On February 7, 1987, the Board of Directors adopted Policy No. 3-33, which set the guidelines for NEECO I's retirement benefits. On October 28, 1987, all regular employees were ordered by NEECO I to accomplish Form 87, which were applications for either retirement, resignation, or separation from service.

On October 5, 1991 and February 28, 1992, the applications of Petronilo Baguisa and Ever Guevarra, respectively, were approved. They were paid the appropriate separation pay.

These successive events, followed by the promotion of certain union officers to supervisory rank, caused apprehension in the labor association. They were considered as harassment threatening the union members, and circumventing the employees' security of tenure. On February 29, 1992, to strengthen and neutralize management's arbitrary moves, the union held a "snap election" of officers.[2] Reynaldo Fajardo was elected Treasurer, while Evaristo Guevarra, Victorino Carillo and Ernesto Marin were elected Public Relations Officers for Jaen, Gapan A and Gapan B, respectively.

On March 3, 1992, petitioner labor association passed a resolution withdrawing the applications for retirement of all its members, thus:

> "Upon popular request of all members and officers of the association their manifestation of willingness to retire on optional basis is hereby WITHDRAWN by the ASSOCIATION for and in behalf of all its members,

> EXCEPT those who are willing to avail their retirement benefits with all their hearts and mind. To avoid what had happened to EVARISTO GUEVARRA. The union officers and its members, claimed their right to be protected under the security of tenure clause under the Labor Code of the Philippines. No employee shall be retired without his/her consent or approval of the union.
>
> On motion and duly seconded. Approved unanimously. Let copies of the resolution be furnished NEECO I PS/AGM Patricio S. dela Peña, for his information and appropriate action."[3]

On March 4, March 17, and April 7, 1992, petitioners Ernesto Marin, Reynaldo Fajardo and Victorino Carillo were compulsorily retired by management. They received their separation pay under protest on March 16, March 18, and April 15, 1992, respectively.

On August 21, 1991, Erdie Javate was terminated from employment allegedly due to misappropriation of funds and dishonesty. He was not paid separation or retirement benefits.

On March 29, 1992, petitioners and Erdie Javate instituted a complaint for illegal dismissal and damages with the NLRC Regional Arbitration Branch in San Fernando. They alleged they were purposely singled out for retirement from a listing of employees who were made to submit retirement forms, even if they were not on top of the list because they were union officers, past officers or active members of the association. Further, petitioners claimed that their acceptance of the money offered by NEECO I did not constitute estoppel nor waiver, since their acceptances were with vehement objections and without prejudice to all their rights resulting from an illegal dismissal.

Additionally, Javate averred he was framed up and dismissed without due process.

On December 21, 1992, the labor arbiter decided the case as follows:

> "WHEREFORE, in view of all the foregoing considerations, judgment is hereby rendered, as follows:
>
> - Declaring respondents NEECO I and PS/AGM Engr. Patricio dela Peña guilty of illegal dismissal and unfair labor practice act, as charged;
>
> - Ordering respondents to reinstate individual complainants Reynaldo Fajardo, Ernesto Marin, Ever Guevarra, Petronilo Baguisa, Victorino Carillo, and Erdie Javate of their former positions under the same terms and conditions of work obtaining at the time of dismissal, without loss of seniority rights and other privileges, either physically or in the payroll, at the option of the respondents, with payment of full backwages, including all benefits and privileges that they should have received if they were not illegally dismissed, computed as follows:

- Reynaldo Fajardo-

> a.) Backwages as of Dec. 31, 1992
>
> P 36,306.55
>
> b.) Bonus
>
> 1,000.00
>
> c.) Medical Allowance
>
> 1,000.00
>
> d.) Clothing Allowance
>
> 750.00

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e.) Hospitalization allowance since 1988

2,000.00

Total

P 41,056.55

- Ernesto Marin -

a.) Backwages as of Dec. 31, 1992

P 37,783.60

b.) Bonus

1,000.00

c.) Medical Allowance

1,000.00

d.) Clothing Allowance

750.00

e.) Hospitalization allowance since 1988

2,000.00

Total

P 42,533.60

- Ever Guevarra -

a.) Backwages as of Dec. 31, 1992

P 37,783.60

b.) Bonus

1,000.00

c.) Medical Allowance

1,000.00

d.) Clothing Allowance

750.00

e.) Hospitalization allowance since 1988

2,000.00

Total

P 42,533.60

- Petronilo Baguisa -

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a.) Backwages as of Dec. 31, 1992

P 56,675.40

b.) Bonus

1,000.00

c.) Medical Allowance

1,000.00

d.) Clothing Allowance

750.00

e.) Hospitalization allowance since 1988

2,000.00

Total

P 61,425.40

- Victorino Carillo -

a.) Backwages as of Dec. 31, 1992

P 32,162.78

b.) Bonus

1,000.00

c.) Medical Allowance

1,000.00

d.) Clothing Allowance

750.00

e.) Hospitalization allowance since 1988

2,000.00

Total

P 36, 912.78

- Erdie Javate -

a.) Backwages as of Dec. 31, 1992

P 15,680.00

b.) Bonus

1,000.00

c.) Medical Allowance

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1,000.00

d.) Clothing Allowance

750.00

e.) Hospitalization allowance since 1988

2,000.00

Total

P 20,430.00

GRAND TOTAL

P244,891.93

- Ordering respondents to pay complainants moral damages in the amount of P30,000.00 each or in the total amount of P180,000.00 and exemplary damages in the amount of P120,000.00;

- Ordering respondents to pay complainants their attorney's fees equivalent to ten (10%) percent of their monetary claims in the sum of P54,489.20;

- Ordering respondents to pay complainants their cost of litigation in the amount of P30,000.00

SO ORDERED."[4]

Thereafter, herein private respondents elevated the case to respondent NLRC. They filed their appeal on December 28, 1992, and posted a surety bond on January 5, 1993, in the amount of two hundred forty-four thousand, eight hundred ninety one pesos and ninety three centavos (P244,891.93). But herein petitioners filed an omnibus motion to dismiss on the ground of late appeal, claiming that insufficient bond was filed by NEECO I only on January 5, 1993. The bond excluded the award of moral and exemplary damages, attorneys' fees and costs of litigation.

Respondent NLRC denied the motion and instead gave due course to the appeal. On July 16, 1993, the NLRC modified the decision, as follows:

"WHEREFORE, premises considered, the appealed Decision is modified by deleting the awards of moral and exemplary damages, attorney's fees and cost of litigation. The amounts of retirement benefits received by the individual complainants are to be applied to the backwages that may be due to the herein complainants. All other dispositions stand.

SO ORDERED."[5]

Meanwhile, on March 16, 1993, petitioners were reinstated by NEECO I pending appeal.

On April 22, 1993, Erdie Javate withdrew his complaint and opted to receive his retirement benefits amounting to forty-two thousand, one hundred fourteen pesos and nine centavos (P42,114.09).

Herein petitioners filed a motion for reconsideration, which the NLRC denied on August 31, 1993. Likewise, herein private respondents filed a motion for reconsideration but the same was also denied on September 28, 1993.

Petitioners are now before us, via this special civil action under Rule 65 of the Revised Rules of Court, raising three issues:

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"I.

WHETHER OR NOT THE APPEAL TAKEN BY THE RESPONDENT NEECO I FROM THE DECISION OF NLRC-RAB-III DOLE TO NLRC THIRD DIVISION, MANILA, WAS NOT PERFECTED WITHIN THE TEN (10) CALENDAR DAYS REGLEMENTARY PERIOD; HENCE THE APPEAL SHOULD NOT BE GIVEN DUE COURSE;

II.

WHETHER OR NOT PUBLIC RESPONDENT NLRC ACTED WITHOUT OR IN EXCESS OF JURISDICTION WHEN IT RESOLVED TO DELETE EN TOTO MORAL DAMAGES, EXEMPLARY DAMAGES, ATTORNEY'S FEES AND COSTS OF LITIGATION. FACTUAL BASIS OF WHICH WERE ASCERTAINED BY THE HONORABLE LABOR ARBITER BELOW;

III.

WHETHER OR NOT THE ORDER TO APPLY AND DEDUCT RECEIVABLE BACKWAGES FROM RECEIVED BENEFITS MAY BE REASONABLE BUT UNREALISTIC AND ARBITRARY."

Petitioners contend that although respondent NEECO I filed its appeal on December 28, 1992, such appeal was not completed for failure to file the necessary supersedeas bond, during the period prescribed by law, or until January 4, 1993. Hence, no appeal was perfected.

Indisputable is the legal doctrine that the appeal of a decision involving a monetary award in labor cases may be perfected "only upon the posting of a cash or surety bond."[6]

The Labor Code, as amended by Republic Act No. 6715, clearly provides:

"Art. 223. Appeal - Decisions, awards or orders of the Labor Arbiter are final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards, or orders. . .

x x x

In case of a judgment involving a monetary award, an appeal by the employer may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Commission in the amount equivalent to the monetary award in the judgment appealed from.

x x x

Also, the perfection of an appeal within the reglementary period and in the manner prescribed by law is jurisdictional, and noncompliance with such legal requirement is fatal and effectively renders the judgment final and executory.[7]

However, in a number of cases,[8] this Court relaxed the rule to resolve controversies on the merits,[9] specifically, when there are special meritorious circumstances and issues.[10] We relaxed the requirement of posting a supersedeas bond for the perfection of an appeal, when there was substantial compliance with the rule, so that on balance, we made technical considerations to give way to equity and justice.[11]

In the case before us, the decision of the labor arbiter was issued on December 21, 1992. Private respondents filed their appeal on December 28, 1992, barely seven days from receipt thereof. The bonding company issued the bond dated January 4, 1993, the last day for filing an appeal. However, it was forwarded to respondent NLRC only on the following day, January 5, 1993. Considering these circumstances and the holiday season, we find it equitable to ease the rules and consider that there was substantial compliance with the requirements of the law.

As to the amount of bond, we note that there had been changes in the Rules promulgated by the NLRC. Previously the computation of the cash or surety bond to be posted by an employer who wishes to appeal contained in the original rules was "exclusive of moral and exemplary damages and attorney's fees."[12] It was later deleted sometime in 1991 and 1992, then restored on November 20, 1993.[13]

It may be noted that while respondent NLRC in its Resolution No. 11-01-91 dated November 7, 1991 deleted the phrase "exclusive of moral and exemplary damages as well as attorney's fees" in the determination of the amount of the bond, it provided a safeguard against the imposition of excessive bonds providing "(T)he Commission may, in meritorious cases and upon Motion of the Appellant, reduce the amount of the bond."[14]

In the case of Cosico, Jr. vs. NLRC, 272 SCRA 583, we ruled:

> "In the case at bar, the backwages and thirteenth month pay awarded to petitioner amounted only to P270,000.00, but the moral and exemplary damages, plus 10% attorney's fees, totalled P2,497,000.00. In other words, the moral and exemplary damages and attorney's fees are almost ten (10) times greater than the basic monetary judgment. Private respondents posted a supersedeas bond of P270,000.00, obviously, on the honest belief that the amount was sufficient. At the very least, therefore, there was substantial compliance with the requirement of appeal bond. For to rule otherwise would negate the interest of justice and deviate from the mandate of the Labor Code that the rules of procedure should be liberally construed, . . .
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> x x x
>
> Since private respondents filed a bond which they honestly believed sufficient for purposes of their appeal, respondent NLRC should have called their attention that the bond was inadequate, which it did not."[15]

The unreasonable and excessive amount of bond would be oppressive and unjust and would have the effect of depriving a party of his right to appeal. Besides, private respondents stress that the petitioners were paid their retirement benefits[16] and that the cooperative has sufficient assets from which the other claims for damages and attorney's fees may be obtained.

We come next to the issue of the propriety of the award of moral and exemplary damages.

To warrant an award of moral damages, it must be shown that the dismissal of the employee was attended to by bad faith, or constituted an act oppressive to labor, or was done in a manner contrary to morals, good customs or public policy.[17] The Labor Arbiter ruled that there was unfair labor practice:

> "As a backdrop, complainants alleged, and this is supported by documentary evidence, that on 7 February 1987, the then NEECO I Board of Directors adopted their own Policy No. 3-33 under Resolution No. 47, series of 1987 requiring all employees to avail of the retirement benefits. All regular employees, including the complainants were ordered to file their application for retirement/resignation and/or separation from the service under NEECO I Form 87. All NEECO I employees have no choice but to manifest their willingness to retire.
>
> However, the complainants pointed out that the approval of the employees' application for retirement was not done in succession according to the list, but according to the choice of the respondents, and for which, complainants were singled out from the list because they were union officers, past officers and active members of the complainant Association."[18]
>
> x x x
>
> "Clearly, therefore, complainants have established the fact that they were illegally dismissed by the respondents and their illegal dismissal was even tainted with unfair labor practice act. ..."[19]

Unfair labor practices violate the constitutional rights of workers and employees to self-organization, are inimical

to the legitimate interests of both labor and management, including their right to bargain collectively and otherwise deal with each other in an atmosphere of freedom and mutual respect; and disrupt industrial peace and hinder the promotion of healthy and stable labor-management relations.[20] As the conscience of the government, it is the Court's sworn duty to ensure that none trifles with labor rights.[21]

For this reason, we find it proper in this case to impose moral and exemplary damages on private respondent. However, the damages awarded by the labor arbiter, to our mind, are excessive. In determining the amount of damages recoverable, the business, social and financial position of the offended parties and the business and financial position of the offender are taken into account.[22] It is our view that herein private respondents had not fully acted in good faith. However, we are cognizant that a cooperative promotes the welfare of its own members. The economic benefits filter to the cooperative members. Either equally or proportionally, they are distributed among members in correlation with the resources of the association utilized. Cooperatives help promote economic democracy and support community development. Under these circumstances, we deem it proper to reduce moral damages to only P10,000.00 payable by private respondent NEECO I to each individual petitioner. We also deem it sufficient for private respondent NEECO I to pay each individual petitioner P5,000.00 to answer for exemplary damages, based on the provisions of Articles 2229 and 2232 of the Civil Code.[23]

Having been illegally dismissed, individual petitioners are entitled to reinstatement from the time they were illegally dismissed, until they were reinstated on March 16, 1993. For that period they are likewise entitled to backwages minus the amount petitioners were forced to receive as "retirement" pay.[24] It must be noted that the backwages computed by the labor arbiter covered only until December 22, 1992 but did not include backwages from January 1, 1993 to March 15, 1993,[25] which should now be computed and included for payment. In the event that the amount of "retirement" pay received by an individual petitioner exceeds the amount of his backwages, then the excess should be deemed as advances of salary which should be refundable until fully repaid by him.

WHEREFORE, the petition is PARTIALLY GRANTED. The assailed decision of the NLRC is AFFIRMED with MODIFICATION. Private respondent Nueva Ecija 1 Electric Cooperative is hereby ORDERED through its executive officers:

- to pay individual petitioners their full backwages from the time they were illegally dismissed until the date of their reinstatement on March 13, 1992, minus the amount they received as "retirement" pay. In the event that the computed backwages of a concerned petitioner is less than the amount of so-called "retirement" pay already received, the difference should be treated as advances refundable from his salary until fully repaid;

- to pay moral and exemplary damages in the amount of ten thousand (P10,000.00) pesos and five thousand (P5,000.00) pesos, respectively, to each of the petitioners who were illegally terminated and/or compulsorily retired;

- to pay ten (10%) of the total amount due to petitioners as attorney's fees; and

- to pay the cost of suits.

Respondent NLRC is ORDERED to RECOMPUTE the total monetary benefits awarded and due to the employees concerned in accordance with the decision and to submit its compliance thereon within thirty (30) days from notice of this decision, with copies furnished to the parties.

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SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

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[1] Rollo, pp. 67-76.

[2] Records, p. 29.

[3] Id. at 79.

[4] Rollo, pp. 62-64.

[5] Id. at 75.

[6] Rosewood Processing, Inc. vs. NLRC, 290 SCRA 408, 420 (1998); Unicane Workers Union-CLUP vs. NLRC, 261 SCRA 573, 583 (1996); Banawa vs. NLRC, 251 SCRA 515, 521 (1995); Garais vs. NLRC, 256 SCRA 560, 566 (1996).

[7] Rosewood Processing, Inc. vs. NLRC, 290 SCRA 408, 420 (1998); Philippine Airlines, Inc. vs. NLRC, 263 SCRA 638, 658 (1996); Garcia vs. NLRC, 264 SCRA 261, 268 (1996); Cabalan Pastulan Negrito Labor Association vs. NLRC, 241 SCRA 643, 656 (1995).

[8] Firestone Tire and Rubber Co. vs. Lariosa, 148 SCRA 187, 190-191 (1987); Insular Life Assurance Co. vs. NLRC, 156 SCRA 740, 746 (1987) and the resolution therein of July 26, 1988; Ruga vs. NLRC, 181 SCRA 266, 272 (1990); Benguet Electric Coop. vs. NLRC, 209 SCRA 55, 61 (1992); Blancaflor vs. NLRC, 218 SCRA 366, 370-371 (1993); Olacao vs. NLRC, 177 SCRA 38, 49 (1989); Pacific Asia Overseas Shipping Corp. vs. NLRC, 161 SCRA 122, 130 (1988); City Fair Corp. vs. NLRC, 243 SCRA 572, 576 (1995).

[9] Cabalan Pastulan Negrito Labor Association vs. NLRC, supra; Oriental Mindoro Electric Cooperative Inc. vs. NLRC, 246 SCRA 794 (1995)

[10] Philippine Airlines, Inc. vs. NLRC, 263 SCRA 638, 659 (1996)

[11] Quiambao vs. NLRC, 254 SCRA 211, 216 (1996).

[12] Pursuant to Article 218 of the Labor Code (Power of the Commission), the NLRC adopted and promulgated its New Rules of Procedure on August 31, 1990. The Rules were published in the Manila Bulletin and the Philippine Daily Inquirer on September 24, 1990 and became effective fifteen (15) days thereafter. Section 6, Rule VI of the said Rules reads:

Section 6. Bond. -- In case the decision of a Labor Arbiter involves a monetary award, an appeal by the employer shall be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Commission or the Supreme Court in an amount equivalent to the monetary award.

The Commission, may, in meritorious cases and upon Motion of the Appellant, reduce the amount of the bond. However, an appeal is deemed perfected upon posting of the bond equivalent to the monetary award exclusive of moral and exemplary damages as well as attorney's fees. (Cosico, Jr. vs. NLRC, 272 SCRA 583, 589-590 [1997]).

Nothing herein however, shall be construed as extending the period of appeal. (Italics supplied)

[13] Cosico, Jr. vs. NLRC, supra. at 591.

[14] Ibid.

[15] Id. at 592-593.

[16] Total retirement benefits given by NEECO I amounts to P332,079.50. The breakdown is as follows: Rey Fajardo-P64,185.00 (Records, p. 88); Ernesto Marin - P 77,592.46 (Records, p. 90); Ever Guevarra - P103,736.90 (Records, p. 152); Victorino Carillo - P11,277.04 (Records, p. 112); Petronilo Baguisa - P75,288.10 (Records, Vol.2, p. 51).

[17] Quijano vs. Mercury Drug Corporation, 292 SCRA 109, 120-121 (1998); citing; Belaunzaran vs. NLRC, 265 SCRA 800, 809 (1996); Garcia vs. NLRC, 234 SCRA 632, 638 (1994); Lopez vs. Javier, 252 SCRA 68, 79 (1996).

[18] Rollo, p. 55.

[19] Id. at 60.

[20] The Labor Code of the Philippines, Book V, Title VI, Chapter I, Article 247.

[21] CLLC E.G. Gochangco Workers Union vs. NLRC, 161 SCRA 655, 671 (1988).

[22] Lopez vs. Pan American World Airways, 16 SCRA 431, 444 (1966).

[23] Article 2229. Exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.

Article 2232. In contracts and quasi-contracts, the court may award exemplary damages if the defendant acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner.

[24] San Miguel vs. NLRC, 293 SCRA 13, 19 (1998).

[25] Rollo, p. 38. Petitioners’ assertion in their petition, which private respondents failed to controvert.

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