

COCA COLA BOTTLERS, PHILS., INC., VICTORIANO HENSON AND VICTOR AQUINO, PETITIONERS, VS. JOSE S. ROQUE, RESPONDENT.

G.R. No. 118985. June 14, 1999

Ponente: PARDO, J.

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PARDO, J.:

What is before the Court is a petition for review on certiorari of the decision of the Court of Appeals[1] reducing substantially the amount of damages awarded to petitioner by the Regional Trial Court, Sto. Domingo, Nueva Ecija,[2] as follows:

"Accordingly, the defendants are hereby ordered jointly and severally, to pay plaintiff the following:

- P12,500.00 representing his unpaid salaries for services rendered from June 20, 1982 up to September 15, 1982;
- P50,000.00 representing actual and compensatory damages;
- P300,000.00 as moral damages;
- P50,000.00 as exemplary damages;
- P50,000.00 for attorney's fees and other miscellaneous expenses; and
- to pay the costs.

"SO ORDERED."[3]

The facts of the case are not disputed.

In 1971, Coca-Cola Bottlers Phils., Inc. (Coke Bottlers, for brevity) hired respondent Jose Roque as a route helper. In 1980, he was promoted to acting salesman. In June 1982, Coke Bottlers Supervisor Victoriano Henson reassigned Roque to his former position as route helper due to the accumulation of unremitted collections, a fact that Roque denied. Supervisor Henson initiated an administrative investigation of Roque without giving him an opportunity to be heard or to be represented by counsel. As a result of such unilateral investigation, in October 1982, Coke Bottlers ordered the summary dismissal of Roque.

On March 23, 1983, Victoriano Henson filed with the City Fiscal, Cabanatuan City, Nueva Ecija, a criminal case for estafa against Roque. During the preliminary investigation, Roque was unable to present evidence because the fiscal sent notices to the wrong address.

On August 26, 1983, the City Fiscal filed with the Regional Trial Court, Cabanatuan City, Branch 29, Nueva Ecija, an information against Roque for estafa. After due trial, the court rendered a decision[4] dated September 15, 1988, acquitting Roque of the crime charged for failure to prove his guilt beyond reasonable doubt.

On June 1, 1989, Jose S. Roque filed with the Regional Trial Court, Sto. Domingo, Nueva Ecija, a complaint for

damages against Coke Bottlers. He contended that for seven (7) years while the estafa case was being tried, he and his entire family suffered tremendously and miserably, forcing them to the brink of poverty, and causing them embarrassment and humiliation.[5]

In its decision dated January 20, 1992, the trial court ruled in favor of Roque, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered condemning the defendants to pay jointly and severally the following amounts to the plaintiff, to wit:

- P 506,500.00 as actual or compensatory damages representing salaries for four (4) years of which plaintiff was deprived due to his illegal dismissal, unrealized optional retirement benefits, unpaid salaries, attorney's fees and other litigation expenses;
- P 1,000,000 as moral damages;
- P 50,000 as exemplary damages; and
- costs of suit."

On February 3, 1992, Coke Bottlers filed a motion for reconsideration. However, on February 11, 1992, the trial court denied the motion.[7]

In due time, Coke Bottlers appealed to the Court of Appeals.

Upon motion of plaintiff Roque, the trial court issued a writ of execution pending appeal dated March 18, 1992,[8] which was partly enforced. Roque received the sum of P506,500.00 as actual and compensatory damages, subject to the final resolution of the appeal.[9]

On August 24, 1994, the Court of Appeals promulgated its decision, the dispositive portion of which is quoted in the opening paragraph of this opinion.

Both parties filed motions for reconsideration of the decision. Roque questioned the reduction of the damages awarded to him by the trial court. Coke Bottlers claimed that the case was properly cognizable by the labor arbiter and not the regular courts.

On January 11, 1995, the Court of Appeals denied both motions for reconsideration stating that no new and substantial reasons were raised to warrant a reversal or modification of the decision.[10]

Hence, this petition for review.

Petitioners raise the following issues:

- Whether or not the Regional Trial Court, Nueva Ecija, has jurisdiction over the case considering that the complaint is in the nature of a claim for damages arising from and by virtue of an employer-employee relationship;
- Whether or not the petitioners were denied their right to due process of law;
- Whether or not the lower court erred in awarding damages for malicious prosecution;
- Whether or not the lower court erred in awarding actual damages considering the same has no legal or evidentiary basis;
- Whether or not the lower court erred in granting respondent's motion of execution pending appeal.

We shall now go over the issues in seriatim.

In the first assigned error, petitioners aver that the trial court has no jurisdiction over the subject matter of the case. They maintain that claims for actual, moral and other forms of damages arising from employer-employee relationship are within the exclusive jurisdiction of the labor arbiter, under Art. 217 of the Labor Code, as amended by R. A. No. 6715. They contend that the amendment to the Labor Code cured the earlier confusion as to the jurisdiction of the labor arbiter and the regular courts regarding claims for damages. According to petitioners, all claims for damages by an employee against an employer fall squarely within the jurisdiction of the labor arbiter. They argue that the cases^[11] relied upon by the Court of Appeals in deciding the jurisdictional issue have been overturned by R.A. No. 6715, which took effect on March 21, 1989. They assert that the claim for damages arose from acts attributable to the employer, while respondent was still an employee of the company. Hence, the action for damages arose from an employer-employee relationship.

The petitioners' contentions are without merit. Even under the amendatory law (R. A. No. 6715), not every claim of an employee against an employer is cognizable by the labor arbiter. Contrary to petitioners' contention, R. A. No. 6715, which amended the jurisdiction of the labor arbiter, did not overturn earlier decisions of this Court drawing a line on which cases are within the jurisdiction of the labor arbiter and those cognizable by the regular courts. In *Georg Grotjahn GMBH & Co. v. Isnani*,^[12] decided on August 10, 1994, after the effectivity of R.A. No. 6715, we said:

"Not every dispute between an employer and employee involves matters that only labor arbiters and the NLRC can resolve in the exercise of their adjudicatory or quasi-judicial powers. The jurisdiction of labor arbiters and the NLRC under Article 217 of the Labor Code is limited to disputes arising from an employer-employee relationship which can be resolved by reference to the Labor Code, or other labor statutes, or their collective bargaining agreements."

In the instant case, respondent Roque claimed for unpaid salaries and other benefits due to an employee. In addition, he claimed damages basically on the sufferings, humiliations and embarrassments that he and his family experienced during the pendency of the criminal case that Coke Bottlers initiated against him for estafa. Since resolving the issue calls for the application of civil laws, the case is properly cognizable by the regular courts.

In his second assignment of error, petitioners claim a denial of due process. This is also devoid of merit. The trial court observed that petitioners repeatedly failed to appear both in the pre-trial hearings and the trial itself, without justifiable reasons. "The essence of due process is the opportunity to be heard."^[13] Petitioners were given several opportunities to present their side, but they chose to ignore them. They can not very well claim that they were denied of a right they had chosen to waive. Assuming *arguendo* that such right was denied, petitioners subsequently filed a motion for reconsideration of the trial court's decision. "Any defect was cured by the filing of a motion for reconsideration."^[14]

In the third assignment of error, petitioners aver that the appellate court erred in awarding damages to respondent due to malicious prosecution. The argument is not tenable. Both the trial and appellate courts ruled that petitioners were liable not due for malicious prosecution but for non-observance of conduct required of every individual in human relations.^[15] The trial court found petitioners to have acted in wanton and gross bad faith and injustice in manipulating the dismissal of respondent Roque, and in later on instigating a baseless criminal action against him, thereby subjecting him and his family to penury.^[16]

In awarding damages to respondent, both the trial and appellate courts invoked Articles 19, 21 and 2180 of the Civil Code of the Philippines. The finding of petitioners' bad faith in dealing with respondent Roque necessarily entitles the latter to moral and exemplary damages.^[17]

However, regarding the amount of P12,500.00 that the Court of Appeals awarded as actual damages, there is no question that respondent Roque rendered services from June 20, 1982 to September 15, 1982 and that his compensation therefor was not paid. Thus, it is a matter of justice for petitioners to pay for respondent's services duly rendered. The award of amounts representing retirement and other benefits, including bonuses and pensions, is, indeed, speculative and can not be granted. To be recoverable, actual damages must be pleaded and proven in court. The award must be based on evidence presented, not on flimsy, remote, speculative and insubstantial proof.[18]

The additional P50,000.00 awarded as actual and compensatory damages must be deleted. There is no basis for this award. True, indemnification for damages comprehends not only the loss suffered, or actual damages ("damnum emergens") but also the profits which the obligee failed to obtain, or compensatory damages ("lucrum cessans").[19] "To justify a grant of actual or compensatory damages, it is necessary to prove with a reasonable degree of certainty, premised upon competent proof and on the best evidence obtainable by the injured party, the actual amount of loss." [20] "One is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has adequately proved. Damages, to be recoverable, must not only be capable of proof, but must be actually proved with a reasonable degree of certainty. Speculative damages are too remote to be included in an accurate estimate of damages." [21]

As regards the award of moral damages, we modify the decision of the Court of Appeals by reducing the amount to P50,000.00. There is enough showing that respondent Roque and his family experienced physical sufferings, mental anguish and fright as a result of the oppressive conduct of the petitioners. However, moral damages, though incapable of pecuniary estimation are awarded to compensate the claimant for actual injury, and are not meant to enrich complainant at the expense of the defendant.[22] Under the circumstances, we reduce the amount to a fair, just and reasonable award.

As regards exemplary damages, "there can be no question that the entitlement to moral damages having been established, exemplary damages may be awarded . . . even though not so expressly pleaded in the complaint nor proved." [23] Pursuant to Art 2208, Civil Code of the Philippines, attorney's fees may be recovered when exemplary damages are awarded.[24] An award of P 50,000.00 as exemplary damages and attorney's fees is just and reasonable.

Anent the fifth assignment of error, the Court of Appeals has noted that the grant of execution pending appeal was properly raised in the Court of Appeals in CA-G.R. SP. No. 27750, decided on August 25, 1992.[25] The Court of Appeals held that there was no grave abuse of discretion in the issuance of a writ of execution pending appeal. That decision is final and constitutes "the law of the case." In fact, that decision was the basis of partial payment made by Coke Bottlers, which was properly evidenced by a receipt.[26]

WHEREFORE, the Court hereby AFFIRMS the decision of the Court of Appeals in CA-G. R. CV No. 37438, with modification, as follows:

"Accordingly, the defendants are hereby ordered jointly and severally, to pay plaintiff the following:

- P 12,500.00 representing the unpaid salaries of Jose S. Roque for services rendered from June 20, 1982 up to September 15, 1982;
- P 50,000.00, as moral damages;
- P 50,000.00, as exemplary damages;
- P 50,000.00 for attorney's fees and other litigation expenses; and

- to pay the costs."

SO ORDERED.

Kapunan, and Ynares-Santiago, JJ., concur.

Davide, Jr., C.J., (Chairman), Pls. see dissenting opinion.

Melo, J., I join Chief Justice Davide in his dissent.

[1] CA-G.R. CV No. 37438, promulgated on August 24, 1994, Justice Artemon D. Luna, ponente, and concurred in by Justices Asaali S. Isnani and Ruben T. Reyes.

[2] Civil Case No. SD-1345, decision dated January 20, 1992.

[3] Rollo, p. 83.

[4] Rollo, pp. 201-212.

[5] Rollo, pp. 97-99.

[6] Rollo, pp. 137-138.

[7] Rollo, pp. 139-140.

[8] Rollo, p. 143.

[9] Rollo, p. 144.

[10] Rollo, pp. 85-86.

[11] Singapore Airlines, Ltd. v. Paño, 122 SCRA 271 (1988), Quisaba v. Sta.Ines-Melale Veneer & Plywood, Inc, 58 SCRA 771(1974) and De Leon v. NLRC, 100 SCRA 691 (1980).

[12]235 SCRA 216.

[13] Medenilla v. Civil Service Commission, 194 SCRA 278, 285.

[14] Medenilla v. CSC, supra, citing De Leon v. Comelec, 129 SCRA 117.

[15] Articles 19 and 21, Civil Code of the Philippines.

[16] Rollo, p. 139.

[17] Philippine Commercial International Bank v. Court of Appeals, 255 SCRA 299.

[18] Spouses Renato S. Ong and Francia N. Ong v. Court of Appeals, Inland Trailways, Inc. and Pantranco Service Enterprises, Inc., G. R. No. 117103, January 23, 1999.

[19] Radio Communications of the Philippines, Inc. v. Court of Appeals, 103 SCRA 359.

[20] Sumalpong v. Court of Appeals, 268 SCRA 764, citing People v. Rosario, 246 SCRA 658, 671 (1995); Del Mundo v. Court of Appeals, 240 SCRA 348, 356 (1995); Sulpicio Lines, Inc. v. Court of Appeals, 246 SCRA 376 (1995).

[21] Development Bank of the Philippines v. Court of Appeals, 231 SCRA 377, citing Refractories Corporation v. Intermediate Appellate Court, 176 SCRA 539 (1989); Choa Tek Hee v. Philippine Publishing Co., 34 Phil. 447

(1916); *Sun Life Assurance v. Rueda Hermanos*, 37 Phil. 844 (1918).

[22] *Kierulf v. Court of Appeals*, 269 SCRA 433.

[23] *Philippine Airlines, Inc. v. Court of Appeals*, 188 SCRA 461, 474.

[24] *Metro Manila Transit Corporation, et.al. v. Court of Appeals*, G. R. No. 116617, November 16, 1998.

[25] *Rollo*, p. 82.

[26] *Rollo*, p. 144.

DISSENTING OPINION

DAVIDE, JR., C.J.:

On the basis of the antecedent facts summarized in the majority opinion, I regret I have to express a dissenting view.

Two factors compel me to do so.

First, private respondent was dismissed from his employment by petitioner through its Supervisor Victoriano Henson. It is claimed that the dismissal was "summary," meaning illegal, I suppose.

Second, Roque's acquittal in the estafa case was not that he did not commit the crime charged, but because the prosecution failed to prove his guilt beyond reasonable doubt.

As to the first, there is at all no indication that Roque filed a complaint for illegal dismissal, including, of course, damages, with the office of the Labor Arbiter. He should have because only the Labor Arbiter has jurisdiction on the matter pursuant to Article 217 of the Labor Code.

In *Primero vs. Intermediate Appellate Court* (156 SCRA 435, 443-446 [1987], cited in *Suario vs. Bank of the Philippine Islands*, 176 SCRA 688 [1989]), this Court said:

Going by the literal terms of the law, it would seem clear that at the time that *Primero* filed his complaints for illegal dismissal and recovery of backwages, etc. With the Labor Arbiter, the latter possessed original and exclusive jurisdiction also over claims for moral and other forms of damages; this, in virtue of Article 265 [now Article 217] of PD 442, otherwise known as the Labor Code, effective from May 1, 1974. In other words, in the proceedings before the Labor Arbiter, *Primero* plainly had the right to plead and prosecute a claim not only for the reliefs specified by the Labor Code itself for unlawful termination of employment, but also for moral or other damages under the Civil Code arising from or connected with that termination of employment. And this was the state of the law when he moved for the dismissal of his claims before the Labor Arbiter, for reinstatement and recovery of back wages, so that he might later file a damage suit "in a civil court which has exclusive jurisdiction over his complaint x x founded on tortious acts, breach of employment contract x x and consequent effects (thereof).

The legislative intent appears clear to allow recovery in proceedings before Labor Arbiters of moral and other forms of damages, in all cases or matters arising from employer-employee relations. This would no doubt include, particularly, instances where an employee has been unlawfully dismissed. In such a case the Labor Arbiter has jurisdiction to award to the dismissed employee not only the reliefs specifically provided by labor laws, but also moral and other forms of damages governed by the Civil Code. Moral damages would be recoverable, for example, where the dismissal of the employee was not only effected without authorized cause and/or due process - for which relief is granted by the Labor Code - but was attended by bad faith or fraud, or

constituted an act oppressive to labor, or was done in a manner contrary to morals, good customs or public policy[1]- for which the obtainable relief is determined by the Civil Code[2] (not the Labor Code). Stated otherwise, if the evidence adduced by the employee before the Labor Arbiter should establish that the employer did indeed terminate the employee's services without just cause or without according him due process, the Labor Arbiter's judgment shall be for the employer to reinstate the employee and pay him back wages or, exceptionally, for the employee simply to receive separation pay. These are reliefs explicitly prescribed by the Labor Code[3]. But any award of moral damages by the Labor Arbiter obviously cannot be based on the Labor Code but should be grounded on the Civil Code. Such an award cannot be justified solely upon the premise (otherwise sufficient for redress under the Labor Code) that the employer fired his employee without just cause or due process. Additional facts must be pleaded and proven to warrant the grant of moral damages under the Civil Code, these being, to repeat, that the act of dismissal was attended by bad faith or fraud, or was oppressive to labor, or done in a manner contrary to morals, good customs, or public policy; and, of course, that social humiliation, wounded feelings, grave anxiety, etc., resulted therefrom.[4]

It is clear that the question of the legality of the act of dismissal is intimately related to the issue of the legality of the manner by which that act of dismissal was performed. But while the Labor Code treats of the nature of, and the remedy available as regards the first - the employee's separation from employment - it does not at all deal with the second - the manner of that separation - which is governed exclusively by the Civil Code. In addressing the first issue, the Labor Arbiter applies the Labor Code; in addressing the second, the Civil Code. And this appears to be the plain and patent intendment of the law. For apart from the reliefs expressly set out in the Labor Code flowing from illegal dismissal from employment, no other damages may be awarded to an illegally dismissed employee other than those specified by the Civil Code. Hence, the fact that the issue - whether or not moral or other damages were suffered by an employee and in the affirmative, the amount that should properly be awarded to him in the circumstances - is determined under the provisions of the Civil Code and not the Labor Code, obviously was not meant to create a cause of action independent of that for illegal dismissal and thus place the matter beyond the Labor Arbiter's jurisdiction.

Thus, an employee who has been illegally dismissed (i.e., discharged without just cause or being accorded due process), in such a manner as to cause him to suffer moral damages (as determined by the Civil Code), has a cause of action for reinstatement and recovery of back wages and damages. When he institutes proceedings before the Labor Arbiter, he should make a claim for all said reliefs. He cannot, to be sure, be permitted to prosecute his claims piecemeal. He cannot institute proceedings separately and contemporaneously in a court of justice upon the same cause of action or a part thereof. He cannot and should not be allowed to sue in two forums: one, before the Labor Arbiter for reinstatement and recovery of back wages, or for separation pay, upon the theory that his dismissal was illegal; an two, before a court of justice for recovery of moral and other damages, upon the theory that the manner of his dismissal was unduly injurious, or tortious. This is what in procedural law is known as splitting causes of action, engendering multiplicity of actions. It is against such mischiefs that the Labor Code amendments just discussed are evidently directed, and it is such duplicity which the Rules of Court regard as ground for abatement or dismissal of actions, constituting either *litis pendentia* (*auter action pendant*) or *res adjudicata*, as the case may be.[5] But this was precisely what Primero's counsel did. He split Primero's cause of action; and he made one of the split parts the subject of a cause of action before a court of justice. Consequently, the judgment of the Labor Arbiter granting Primero separation pay operated as a bar to his subsequent action for the recovery of damages before the Court of First Instance under the doctrine of *res judicata*. The rule is that the prior "judgment or order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceedings, litigating for the same thing and under the same title and in the same capacity.[6]

Pursuant to Article 291 of Labor Code, as amended, the complaint should have been filed within three (3) years from the accrual of Roque's cause of action (his dismissal in 1982), otherwise, his claim "shall be forever barred."

Besides, even assuming for the sake of argument that the regular courts have jurisdiction over his claims for damages because of his illegal dismissal, such claims necessarily arose upon an injury to his (as plaintiff) rights. Under Article 1146 of the Civil Code an action arising from injury to plaintiff's rights prescribes in four (4) years from the accrual of the cause of action. It was only in 1 June 1989, or after the lapse of seven (7) years after his illegal dismissal, when Roque filed his complaint for damages with the Regional Trial Court.

Moreover, since Roque's acquittal was based on the failure of the prosecution to prove his guilt beyond reasonable doubt, there could then be no case for malicious prosecution, much less under the Chapter on Human Relations of the Civil, there being no showing of a violation of Article 19 of the Civil Code. Bad faith is the only element relied upon the courts below, which is not the whole of Article 19. Neither can petitioner be held liable for damages under Articles 20 and 21 of the Civil Code. In the former, the defendant must wilfully or negligently cause damage to another in a manner contrary to law. Article 21 involves causing loss or injury to another in a manner that is contrary to morals, good customs or public policy. There is no finding that petitioner had so acted in the ways mentioned in both Articles.

I vote then to GRANT the petition and to REVERSE the challenged decision of the Court of Appeals.

[1] Citing Art. 1701, Civil Code, and Arts. 2219 (10) in relation to Art. 21 of the same Code.

[2] Citing Arts. 2195-2235, Civil Code.

[3] Citing Art. 280, to be precise.

[4] Citing *Barreto v. Arevalo*, 99 Phil. 771; *Francisco v. GSIS*, L-18155, 30 March 1963; *Parang v. Ty Belizar*, L-19487, 31 January 1967; *People v. Reyes*, 103 SCRA 103.

[5] Citing Sec. 1 (e), Rule 16, and Sec. 49(b), Rule 39, Rules of Court; See *Bayang v. CA*, 148 SCRA 91, citing *Urtula v. Republic*, and *Gamboa v. CA*, 108 SCRA 1; See also cases collated in *Moran*, Comments on the Rules, 1979 ed., vol. 1, page 485, footnote 2, and vol. 2, page 351, footnote 1 and 2.

[6] Citing Sec. 49 (b), Rule 39; Emphasis supplied; See *Mapa v. Guanzon*, 77 SCRA 398.

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