C & A CONSTRUCTION CO., INC. AND ATTY. MELECIO ARRANZ, JR., PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND LORNA E. PIMENTEL, RESPONDENTS.

G.R. No. 122279. November 22, 1999

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

Danilo S. Pimentel was the head of the maintenance division of C & A Construction Co. ("Company" for short). It was his duty, among others, to supervise the personnel belonging to the maintenance division.

On July 3, 1993, second hand spare parts of the Company's motor vehicle were discovered stolen from the maintenance area of the Company. Investigation disclosed that the said spare parts were pilfered by three employees of the maintenance division who admitted their guilt in separate statements. Informed by his co-employees that he was implicated in the theft that occurred on July 3, 1993 Pimentel addressed a letter to the General Manager dated July 21, 1993, stating that he had nothing to do with the theft committed by the employees in his division because he was allegedly sick at the time. Petitioner decided to dismiss Pimentel together with the three employees effective July 22, 1993.

On October 8, 1993 Pimentel filed a complaint with the NLRC (NCR Case No. 10-06304-93) for illegal dismissal, non-payment of legal holiday pay, indemnity pay, premium pay for holiday, for attorney's fees and violation of P. D. 851.

Pimentel died on October 22, 1993. His widow Lorna Pimentel was substituted as complainant.

It appears that on October 18, 1993, the Company gave Lorna Pimentel the amount of P15,000.00 as financial assistance, on account of which the latter executed a statement that she has no other claim against the company.

The Labor Arbiter ruled that Pimentel's dismissal was illegal, his liability for the theft of the Company's property was not sufficiently established. Additionally, it was held that the dismissal was effected without observance of due process, and in bad faith. However, the amount of P15,000.00 was deducted from the total monetary judgment. The Arbiter disposed as follows in its Decision of December 14, 1994.

> "WHEREFORE, the respondents are hereby ordered to pay, jointly and severally substitute complainant Lorna Pimentel the total amount of fifty one thousand five hundred pesos (P51,500.00) representing backwages and exemplary damages as computed above."

The Company appealed to the NLRC arguing that:

> I
>
> IT IS ERROR ON THE PART OF THE LABOR ARBITER TO STILL TAKE COGNIZANCE OF SUBSTITUTE COMPLAINANT'S CLAIM FOR BACKWAGES OF COMPLAINANT AFTER THE FORMER HAS ALREADY WAIVED THE CLAIM THEREFOR.

> II
>
> IT IS ERROR FOR THE LABOR ARBITER TO HOLD THAT THE DISMISSAL OF THE COMPLAINANT WAS ILLEGAL AND WITHOUT DUE PROCESS.
>
> III
>
> IT IS NOT ONLY ERROR BUT GRAVE ABUSE OF DISCRETION ON THE PART OF THE LABOR ARBITER TO AWARD P50,000 AS EXEMPLARY DAMAGES.[1]

The NLRC dismissed the appeal for being without merit. It held in its Resolution dated June 21, 1995-

> "The appeal has to be dismissed.
>
> Firstly, it is not correct, for respondents to claim that the complainant was validly dismissed because no less than their documentary evidence attached as Annexes "1" to "3" of their Position Paper (Record, pp. 117-118) show that the respondents were not able to establish the guilt of the complainant.
>
> On respondents' argument that the complainant, through his surviving spouse, waived his backwages as a consequence of the latter's (surviving spouse) receiving P15,000.00 on October 18, 1993 (when the complainant died) we note that the complaint below was filed by complainant Danilo Salonga Pimentel on October 8, 1993. If his claims are to be extinguished by any waiver such as that brought about the wife's receiving [ten (10) after complainant filed the complaint) P15,000.00, such a waiver, to be valid, just the same necessitated the approval of the Arbiter below [St. Gothard Disco Pub & Restaurant vs. NLRC, 218 SCRA 327 (1993)]. With no such approval from Labor Arbiter Leda obtained and/ or appearing on record, the respondents cannot therefore validly invoke the defense of waiver."[2]

Motion for Reconsideration of the above resolution having been denied, the Company filed this petition for certiorari, claiming that the NLRC committed grave abuse of discretion in absolving Pimentel for liability for the theft of the Company's property, and in ruling that the waiver executed by Lorna Pimentel was invalid because it was not approved by the Labor Arbiter. The petitioner also assails the award of exemplary damages, as the dismissal of Pimentel was not done in a wanton, fraudulent, reckless or oppressive manner; at any rate the award of P50,000.00 is excessive and exorbitant, as the actual loss suffered by Pimentel was only P16,500.00.

In its comment, public respondent reiterates that Pimentel was dismissed without due process as there was no investigation conducted on Pimentel's involvement in the alleged theft of scrap materials, Pimentel learned of his dismissal only on July 28, 1993 when his co-workers visited him in his residence. Moreover, the evidence against Danilo consisted merely of the affidavits of his co-workers, none of which establish his participation in the theft. Besides, Pimentel was never given notice of the charges against him and it was only after his death that a final notice of termination was given to his widow. As regards the defense of waiver invoked by the petitioners, the quitclaim executed by Lorna Pimentel is not valid without the Labor Arbiter's approval.

Petitioner's reply to comment reiterates its earlier contention that the evidence against Pimentel is more than sufficient to establish his liability for pilferage of its property. It is claimed that Pimentel was able to submit his explanation even if there was no formal hearing. Moreover, the quitclaim was voluntarily executed by Lorna Pimentel because she was in dire need of money. The award of P50,000.00 exemplary damages, which was assailed for having been issued in grave abuse of discretion, was not controverted in public respondent's comment.

The parties filed their respective memorandum, essentially reiterating their previous arguments, while private respondent submitted its "memorandum by adaption" reproducing the comment it filed earlier.

The petition is partly meritorious.

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Well-settled is the rule that findings of fact of the National Labor Relations Commission, affirming those of the Labor Arbiter, are entitled to great weight and will not be disturbed if they are supported by substantial evidence.[3]

Petitioner Company attempted to prove the complicity of Pimentel in the theft of company materials by way of the following statements of Ricardo Mangahas, Eduardo Laureano, and the report of Ismael U. Gulani (annexes "1" to "3" of Position Paper of petitioner), to wit:

> "Annex "1"
>
> (As of July 3, 1993)
>
> Sir.
>
> Ako po si Ricardo Mangahas na nagsasabi ng pawang katotohanan tungkol po sa pyesang nawawala, ay isa po ako sa nagbenta non, sa kadahilanang, na ang pinagbilhan ay ipinambili ng pananghalian. Kaya po sa kasalanang aking nagawa, sana po mapatawad nyo `ko at ipinapangako kong hindi na po ito uulitin. Kung bibigyan pa po ninyo ako ng isa pang pagkakataon.
>
> Lubos na gumagalang
>
> (SGD) RICARDO MANGAHAS
>
> Annex "2"
>
> 13 July 93
>
> C & A Office
>
> Ako si Eduardo Laureano noong araw ng Sabado ika 3 ng Hulyo, 1993 ay mag-iigib ng tubig at nataong nakita ako ni Mang Danny pinasakay nila si Ricky at Gulante ang sakong may lamang lumang peyesa, at pumayag naman akong isakay, ang sako dahil sa akala ko ay may pahintulot na mula sa kina-tataas at umalis akong karga ang nasabing sako kasama si Ricky at ibinaba sa "Tieres Junk Shop." At ang pinagbintahan na piyesa ay binili ng pagka-in ng mga tao.
>
> Labis ko pong pinag-sisihan ang aking pagkakasangkot sa ganitong problema at ipinapangako ko po na hindi na ako uulit sa ganitong gawiin na hindi ko naman po sinasadya.
>
> (SGD) EDUARDO LAUREANO
>
> Annex "3"
>
> July 16, 1993
>
> To the Office of the C & A
>
> To Vitas Reclamation project
>
> To Engr. Rentao C. Vellarama
>
> Sa pangyayari nito noong araw Sabado pitsa 3 1993 nakita namin na sa sako ang laman ay mga piza sa mga oras nayon hindi namin nasita dahil isa naman siyang katiwala sa trabaho at hindi namin alam kong magagamit pa o hindi dahil siya ang may alam noon at mickanica.
>
> Ang alam ko bawal talaga ang bagbinta o pag-nakaw sa mga magagamit na bagay o piza.
>
> Sa pangyayari nito hindi na maoolit kahit sira, sira, ipagbawal namin ang lahat.

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Sa pangyayari nito naghintay kami sa kaunting pasia sa aming pagkakamali.

Rikie Mangahas
Dany Pomentel
Edie Laureano

(SGD) Ismael U. Gulani."[4]

We agree with the Labor Arbiter that there is nothing in the above statements that clearly point to any participation of Danilo Pimentel; the statements are ambiguous and therefore insufficient as a basis to establish the guilt or liability of Danilo Pimentel. The statements of Mangahas and Gulani failed to mention Danilo Pimental at all; while the statement of Laureano does not categorically state that Pimentel permitted the taking of spare parts from the company premises. Laureano's statement was to the effect that Pimentel saw him load the sack containing the spare parts and he was of the impression that the loading had the imprimatur of the superiors ("kina-tataas").

We find no grave abuse of discretion on the part of public respondent in concluding that Pimentel's complicity was not substantially proved.

Before an employee can be validly dismissed, the Labor Code requires the employer to furnish the employee with two written notices: (a) a written notice containing a statement of the cause for termination to afford the employee ample opportunity to be heard and defend himself with the assistance of a representative if he so desires, and (b) if the employer decides to terminate the services of the employee, the employer must notify him in writing of the decision to dismiss him, stating clearly the reason therefor.[5] What is not disputed is that no notice was given by the petitioner to private respondent that he was being charged for complicity in the theft confessed to by the three employees. Pimentel was not apprised of the cause of his dismissal nor was he given an opportunity to explain his side. He was merely informed by his co-employees that he was implicated in the said theft, and although he voluntarily sent a letter disclaiming liability, he was not given an opportunity to substantiate his claim. After his death, his widow received a formal notice of his dismissal when she was given a copy of a memorandum of dismissal addressed not to him but to Engr. Bonifacio Beltran. He was not able to prove his defense that he was sick and confined at the Tondo General Hospital when the incident happened and he had entrusted the key to the bodega to his assistant Ismael Gulani. In his sworn statement dated October 9, 1993, he affirmed that his wife was informed that the secretary to the manager recommended his dismissal and was told that in case of theft, no investigation is necessary "bastat nakaw ang investigasyon hindi na kailangan ang suspension, deretso na ang dismissal, sa ganoon hindi pamarisan ng iba." Clearly, Pimentel's dismissal was summarily done. At any rate, as earlier stated, his complicity in the theft was not supported by substantial evidence. With no showing that the Labor Arbiter or the NLRC gravely abused their discretion, or otherwise acted without jurisdiction or in excess of the same[6], we are bound by their findings as factual issues are beyond the ambit of our review.

We likewise find no grave abuse of discretion in the Labor Arbiter's ruling rejecting the claim of the Company that the amount of P15,000.00 was given to Lorna Pimentel after the death of her husband. The Labor Arbiter upheld that version of Lorna Pimentel that the said amount was offered to the deceased Pimentel before his death, and was angrily refused by him, and that she was constrained to accept the said amount on October 22, 1993 when her husband was already dead and lying in the state as she needed money for his burial. Moreover, the respondent NLRC correctly ruled that the waiver executed by the wife not having been approved by the Labor Arbiter would not amount to estoppel and would not divest an employee of his right to pursue his claim against the employer. In labor jurisprudence, it is well-established that quitclaims are against public policy.[7] And in St. Gothard Disco Pub and Restaurant vs. NLRC[8], this Court held:

> "While the Labor Code encourages `all efforts toward the amicable settlement of a labor dispute' (Art. 221, Labor Code, as amended by R. A. 6715), and a quitclaim partakes the nature of a compromise, the implementing rules require that such a settlement `shall be approved by the Labor Arbiter (before whom the case is pending) after being satisfied that it was voluntarily entered into by the parties and after having explained to them the terms and consequences thereof' (Sec. 2, Rule V, The New Rules of the NLRC).
>
> The reason for this rule is not hard to find. It is for the employee's protection for the Labor Arbiter before whom the case is pending would be in a better position than just any labor arbiter to personally determine the voluntariness of the agreement and certify its validity.
>
> The quitclaims presented by the petitioners were executed in the NLRC, Regional Arbitration Branch No. II, in Cebu City and signed by Labor Arbiters Dominador A. Almirante, Nicasio C. Aniñon and Executive Labor Arbiter Gelacio L. Rivera, Jr. who had no participation in any aspect of this case. Hence, those quitclaims are not valid compromises. Nevertheless, since no party may unjustly enrich himself at the expense of another, the amounts received by the private respondents under those quitclaims should be deducted from the amounts respectively due them under the decision of the NLRC."

The award of P50,000.00 by way of exemplary damages is also assailed by petitioner for being "scandalously excessive" if not unwarranted. Notably, the Labor Arbiter did not mention the justification for the said award, and the public respondent NLRC, in dismissing the appeal, did not rule on this issue despite the fact that it was raised in the third assigned error.

We find the petitioners' contention meritorious.

Recovery of moral and other forms of damages in proceedings before labor arbiters in all cases are matters arising from employer-employee relations, including without doubt, instances where an employee has been unlawfully dismissed has been allowed.[9] Such an award is based on the Civil Code, and cannot be justified solely upon the premise (otherwise sufficient for redress under the Labor Code) that the employer fired his employee without just cause.[10] Exemplary damages may be awarded only if the dismissal was affected in a wanton, oppressive or malevolent manner[11]. None of those grounds has been proven in this case, and the Court accordingly finds the award to be lacking in legal and factual basis. We are constrained to delete the award of P50,000 for exemplary damages.

WHEREFORE, the petition is partially granted. The assailed Resolution of the NLRC dated June 21, 1995 dismissing the appeal of C & A Construction Co., Inc. in NLRC NCR Case No. 10-06304-93 is affirmed, with the modification that the award of P50,000.00 as exemplary damages is set aside.

No pronouncement as to costs.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Purisima, JJ., concur.

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[1] Rollo, p. 91.

[2] Rollo, p. 92.

[3] Western Shipping Agency, Inc. vs. NLRC 253 SCRA 405.

[4] Rollo, pp. 59-60.

[5] See note at pp. 535-536.

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[6] Wyeth-Suaco Laboratories Inc. vs. NLRC, 219 SCRA 356.

[7] AFP Mutual Benefit Assn., Inc. vs. AFP-MBAI-EU, 97 SCRA 715; Lopez Sugar Corp. vs. Federation of Free Workers, 189 SCRA 179.

[8] 218 SCRA 327 at pp. 335-336.

[9] Suario vs. Bank of P. I., 176 SCRA 695.

[10] Primero vs. IAC, 156 SCRA 435; Suario vs. Bank of P. I., 176 SCRA 695.

[11] Garcia vs. NLRC, 234 SCRA 632.

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