

**MAC ADAMS METAL ENGINEERING WORKERS UNION-INDEPENDENT
AND MARIO GARCIA, RUPERTO JUADIONG JR., MARCELINO
JIMENEZ, MANUEL PRANADA, HARRY SARINGAN, NECER BAYLON,
HERMINIGILDO MALON...**

G.R. No. 141615. October 24, 2003

Ponente: CORONA, J.

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CORONA, J.:

Assailed in this petition for review on certiorari filed by Mac Adams Metal Engineering Workers Union-Independent (MAMEWU) and 38 employees of private respondents Mac Adams Metal and Engineering (MAME) and GBS Engineering Services (GBS), is the decision[1] dated July 9, 1999 of the Court of Appeals affirming the decision[2] of the National Labor Relations Commission (NLRC) which, in turn, upheld the findings of the labor arbiter.[3]

The present controversy stemmed from two separate complaints: the first complaint, filed on November 9, 1993 by petitioner MAMEWU and its president, petitioner Mario A. Garcia, for and in behalf of 29 other petitioners, charged private respondents MAME and GBS with unfair labor practices (ULP) committed through union busting and illegal closure, and illegal dismissal. The second complaint, filed on November 9, 1993 by the last eight petitioners led by Halim Roldan, alleged that aside from ULP and illegal dismissal, private respondents were likewise liable for non-payment of premium pay for holidays and rest days, night differential pay and 13[th] month pay.

Insisting that the closure of MAME and GBS was illegal as it was calculated to bust their union, petitioners claimed that MAME and GBS continued doing business under new business names, i.e., MBS Machine and Industrial Supply (MBS) and MVS Heavy Equipment Rental and Builders (MVS). Thus, MBS and MVS were impleaded as respondents in the complaint for allegedly being run-away shops of MAME and GBS.

In both complaints, petitioners prayed for alternative reliefs for reinstatement with backwages and/or separation pay.

In their answer, private respondent spouses Geronimo and Lydia V. Sison, proprietors of GBS and MAME respectively, denied petitioners' allegations. Explaining the closure of MAME and GBS, private respondents narrated that respondent Lydia V. Sison decided to retire from business when she became sickly in 1988. Her health did not improve despite proper medical attention. In the general meeting of the workers held sometime in July 1992, she announced her plan to close shop effective early 1993. The announcement in advance was intended to give the workers ample time to look for alternative employment. Accordingly, she declined to accept new projects and proceeded with the winding up of her business.

After the July 1992 workers' general meeting, some employees formed a union ostensibly for the purpose of making representations with the management to reconsider its decision to cease business operations or, at least,

see to it that all benefits due the affected employees would be paid. In the course of negotiations with the management, the union leadership demanded separation pay computed at 45 days for every year of service, a proposal private respondents rejected. As it turned out, even before respondent Lydia V. Sison could formally notify the employees and the concerned government agencies of the intended closure and cessation of her business, MAMEWU and its members started resorting to concerted activities such as work slowdown, picketing, refusal to report for work and ultimately, strikes. Meanwhile, the workers of GBS joined in the concerted activities in sympathy with the striking employees of MAME. As a consequence, GBS was also forced to close and cease its business operations.

For their part, MBS and MVS denied being run-away shops of MAME and GBS.

Private respondent Geronimo B. Sison admitted being a part-owner of MBS which, he maintained, was an entirely separate and distinct business enterprise from MAME and GBS. MBS was engaged in manufacturing carton boxes and other allied products. On the other hand, MAME and GBS were both engaged in the businesses of machine shop operations, fabrication and construction.

Private respondent Dominic Sison, son of private respondent spouses Geronimo and Lydia V. Sison, claimed that he was the sole proprietor of MVS. He denied that MVS was a run-away shop of his parents. On the contrary, MVS was a legitimate business outfit engaged in leasing out heavy equipment. With an initial capital of P 1M, MVS used to rent from respondent MAME some of its heavy equipment which MVS, in turn, offered for lease to others. Sometime in May 1994, respondent Dominic Sison obtained an P 8M loan from the PNB and, with the fresh capital, he branched out into the construction business. Hence, MVS was an entirely separate and distinct business entity with a capital of its own, completely different personnel complement, equipment, machineries and implements, and whose clients were different from those of MAME and GBS.

On June 20, 1997, the labor arbiter rendered a decision declaring that the closure of business of MAME and GBS was legitimate, having been done in good faith and in accordance with law. Hence, no unfair labor practice or illegal dismissal was committed:

x x x

All told, finding the charge of unfair labor practice to be bereft of any factual basis, but on the contrary, the evidence amply shows that the closure of respondent MAME and GBS was legitimately and validly carried out in compliance with the legal mandates and in good faith, it necessarily follows that the charge of illegal dismissal may not be upheld.

The labor arbiter further ruled that only 16 out the 38 petitioners were regular employees. The rest were hired on a contractual basis and therefore not entitled to separation pay.

On appeal to the NLRC, the assailed decision of the labor arbiter was affirmed.

Aggrieved, petitioners filed a petition for review before the Court of Appeals questioning the decision of the NLRC. On July 9, 1999, the Court of Appeals rendered a decision affirming the findings of both the labor arbiter and the NLRC that there was a legitimate and bona fide closure and cessation of business by MAME and GBS. The appellate court, however, modified the assailed decision and declared the second group of petitioners, led by Halim Roldan, as regular employees also entitled to separation pay.

Petitioners are now before us imputing the following errors to the Court of Appeals:

I

THE PUBLIC RESPONDENT COMMITTED A SERIOUS ERROR OF LAW IN NOT AWARDING

BACKWAGES TO PETITIONERS DESPITE THE FACT THAT THEIR DISMISSAL FROM WORK WAS TAINTED WITH VIOLATION OF THEIR RIGHT TO DUE PROCESS.

II

THE PUBLIC RESPONDENT COMMITTED A SERIOUS ERROR OF LAW IN NOT HOLDING THAT RESPONDENTS MAME AND GBS WERE GUILTY OF UNION BUSTING IN CLOSING THEIR OPERATIONS IN BAD FAITH.

III

PUBLIC RESPONDENT COMMITTED A SERIOUS LEGAL ERROR IN NOT HOLDING THAT RESPONDENTS WERE GUILTY OF ENGAGING IN A RUN-AWAY SHOP.

IV

PUBLIC RESPONDENT LEGALLY ERRED IN NOT HOLDING THAT PRIVATE RESPONDENTS GERONIMO AND LYDIA SISON'S ACTS OF INTERROGATING EMPLOYEES WHO HAD JOINED THE UNION CONSTITUTED UNFAIR LABOR PRACTICE.[4]

The foregoing assignments of error boil down to the lone issue of whether the closure of private respondents' business was done in good faith and for legitimate business reasons.

The applicable law is Article 283 of the Labor Code which provides:

ART. 283. CLOSURE OF ESTABLISHMENT AND REDUCTION OF PERSONNEL. - The employer may also terminate the employment of any employee due to the installation of labor-saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the worker and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered as one (1) whole year.

Explicit from the above provision is that closure or cessation of business operations is allowed even if the business is not undergoing economic losses. The owner, for any bona fide reason, can lawfully close shop at anytime. Just as no law forces anyone to go into business, no law can compel anybody to continue in it. It would indeed be stretching the intent and spirit of the law if we were to unjustly interfere with the management's prerogative to close or cease its business operations just because said business operation or undertaking is not suffering from any loss[5] or simply to provide the workers continued employment.

The employer need only comply with the following requirements for a valid cessation of business operations. (a) service of a written notice to the employees and to the DOLE at least one month before the intended date thereof; (b) the cessation of or withdrawal from business operations must be bona fide in character and (c) payment of termination pay equivalent to at least one-half month pay for each year of service, or one month pay, whichever is higher.[6]

The records reveal that private respondents complied with the aforecited requirements. MAME's employees were adequately informed of the intended business closure and a written notice to the Regional Director of the

Department of Labor and Employment (DOLE) was filed by private respondents, informing the DOLE that except for winding-up operations, MAME will be closed effective March 8, 1993. Similar notices were served by Lydia V. Sison to the Social Security System (SSS), Bureau of Internal Revenue (BIR), Department of Trade and Industry (DTI) and the Municipal Licensing Division of Antipolo, Rizal. Thus, the licenses and registration of respondent MAME with the SSS, the Municipality of Antipolo, Rizal and the DTI were subsequently canceled and/or withdrawn.

In the case of respondent GBS, the employees were likewise sufficiently informed and formal notices were served on the appropriate government offices, namely, DOLE, DTI, BIR, SSS, and the Municipality of Antipolo Rizal at least one month prior to March 8, 1993.

The labor arbiter, the NLRC and the Court of Appeals were unanimous in their findings that private respondents' closure of business was bona fide and that private respondents did not engage in the operation of run-away shops. We have always held that we are bound, in principle, by the factual findings of administrative officials, if supported by substantial evidence. Their factual findings are entitled not only to great weight and respect but even finality, unless petitioners are able to show that the labor arbiter and the NLRC arbitrarily disregarded the evidence before them or misapprehended evidence of such nature as to compel a contrary conclusion if properly appreciated. We find no cogent reason to depart from the rule.

Finally, since private respondents' cessation and closure of business was lawful, there was no illegal dismissal to speak of. This fact negated the obligation to pay backwages. Instead private respondents were required to give separation pay, which they already did, to all their regular employees except petitioners Rolando Cortes, Herminigildo Justo, Guillermo Macaraeg, Felixberto Mirana, Arsenio Ortiz, Manuel Pranada, Ruben Saringan and Ramon Seraspi who refused to accept their separation pay.

We conclude that petitioners have failed to show any reversible error on the part of the Court of Appeals in rendering the assailed decision.

WHEREFORE, the petition is hereby DENIED.

SO ORDERED.

Puno, (Chairman), Panganiban, Sandoval-Gutierrez, and Carpio-Morales, JJ., concur.

[1] Penned by Associate Justice Romeo A. Brawner and concurred in by Associate Justices Candido V. Rivera and Martin S. Villarama of the Special Eighth Division.

[2] Penned by Presiding Commissioner Raul T. Aquino and concurred in by Commissioner Victoriano R. Calalay.

[3] Pedro C. Ramos.

[4] Rollo, p. 19.

[5] *Catatista vs. NLRC*, 247 SCRA 46 [1995].

[6] *Mobil Employees Association [MEA] and Inter-Island Labor Organization [ILO] vs. NLRC, et al.*, 183 SCRA 737 [1990].

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