EDGAR AGUSTILO, PETITIONER, VS. COURT OF APPEALS, SAN MIGUEL CORPORATION, FRANCISCO MANZON, JR., VICE PRESIDENT AND DIRECTOR, LEONOR CANEJA, PERSONNEL OFFICER, AND RODRIGO GURRE...

G.R. No. 142875. September 07, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review on certiorari of the decision,[1] dated October 22, 1999, and resolution, dated April 6, 2000, of the Court of Appeals, which reversed and set aside the decision,[2] dated May 25, 1998, and resolution, dated January 11, 1999, of the National Labor Relations Commission (NLRC) and reinstated the decision,[3] dated March 20, 1996, of the executive labor arbiter, dismissing petitioner's complaint for unfair labor practice, illegal dismissal, and payment of separation pay and attorney's fees due to lack of merit.

Petitioner Edgar Agustilo was hired on July 1, 1979 by respondent San Miguel Corporation (SMC) as a temporary employee at its Mandaue Brewery in Mandaue, Cebu. On October 1, 1979, he was made permanent and designated as a safety clerk. On May 1, 1982, he was transferred to the Engineering Department of the SMC Mandaue Brewery as an administrative secretary. Sometime in 1991, SMC Mandaue Brewery adopted a policy that managers would no longer be assigned secretaries and that only director level positions may be given secretaries. As a result, on August 5, 1991, petitioner's position as administrative secretary was abolished and he was transferred to the company's Plant Director's Office-Quality Improvement Team (PDO-QIT).

On February 7, 1992, petitioner was informed that 584 employees, including him, would be retrenched due to the modernization program of the company. Petitioner was told that his services would be terminated effective March 15, 1992 and that he would be paid his benefits 30 days after he was cleared of all accountabilities. In a letter, dated February 13, 1992, SMC notified the DOLE of its modernization program.

On April 8, 1992, petitioner was given separation pay in the amount of P302,450.38, representing 175% of his entitlements under the Labor Code. He signed a quitclaim designated as "Receipt and Release" in favor of SMC before Senior Labor Employment Officer Mateo P. Baldago of the Labor Standards Enforcement Division of the DOLE, Region VII.

Petitioner then filed a complaint against respondents for unfair labor practice, illegal dismissal, and payment of separation pay, attorney's fees, and damages. He alleged that he was a regular employee of SMC from 1979 to 1992; that on May 1, 1982, he was promoted to the position of administrative secretary of the Engineering Department until his employment was terminated on March 15, 1992 by reason of union activities; that in May 1986, he tried to convince some employees to form a union so that they could participate in the certification elections; that respondent Francisco Manzon, Jr. learned of his union activities and advised him to proceed with it as union and non-union employees would receive the same benefits; that he and other non-union members were eventually given a salary increase of P2,500.00 a month retroactive from January 1986; that in 1987, a group of

Ilonggo workers formed an organization called Mga Kasimanwa sa Sugbu, with him as president and respondent Manzon, Jr. as its adviser; that he resigned from the union after realizing that the organization was a pro-management group designed to bust union activities; that in 1990, he received a salary increment of P3,315.00 to "[dissuade] him from joining a labor union"; that on June 16, 1990, he was given the "Model Employee Award";[4] that in July 1991, he approached Felix Lapingcao, the National President of Buklod ng Manggagawang Pilipino (BMP), expressing his desire to join the latter's organization and was advised to gather signatories for direct membership; that when respondent Manzon, Jr. learned about his activities, he threatened petitioner with dismissal; and that his reassignment on August 5, 1991 from the Engineering Department to the PDO-QIT was illegal as was his subsequent dismissal. Petitioner further claimed that when he reported to his new work post, he was not given any work to do so that he simply sat on the visitor's bench from 8:00 a.m. to 12:00 noon and from 1:00 to 5:00 p.m. everyday. Later, because he continued with his union activities, his schedule was changed from 4:00 p.m. to 12:00 midnight. Petitioner prayed that he be reinstated to his former position without loss of seniority rights and paid moral damages in the amount of P500,000.00, exemplary damages of P200,000.00, and attorney's fees equivalent to 25% of the total award in his favor.

On March 20, 1996, the executive labor arbiter rendered a decision dismissing petitioner's complaint for lack of merit. The pertinent portions of his decision state:

> In the [latter] part of 1990 and the early part of 1991, the respondent company [herein respondent SMC] conducted a study on the possible modernization program which will automate the processes of brewing, bottling and auxiliary services. This study was approved for implementation by management, in fact, actually implemented [in] April 1991. As a result of this modernization program, the manning levels of the Mandaue Brewery Plant was reduced by 584 personnel. The reduction was implemented in two (2) phases, the first on March 15, 1992, the second on November 5, 1992. Complainant [herein petitioner] was included in the first batch.
>
> The foremost issue here is whether or not petitioner was illegally dismissed.
>
> We find for the respondents. Evidence in the records prove that complainant's termination was justified and that respondents adhered to the procedural requirements governing the same. We have noted very clearly that petitioner's separation from employment was brought about by the installation of labor saving devices and machineries pursuant to the employer's reorganizational and expansion program. The law in this regard allows such a state of change. Art. 283 of the Labor Code allows the reduction of personnel with the installation of labor saving devices.
>
> Complainant claims that his separation was not valid because in reality respondent firm had not carried on its program of modernization. As a matter of fact, after three (3) years from the time he was separated, the equipment and machineries installed have not yet been operational as certified to by the respective government agencies concerned (Rebuttal Affidavit Exh. "A-6"). This implies that complainant was merely deceived into believing that an impending change was about to take place, but which, in reality, did not materialize. We went over the records on this claim and we find that while respondent firm had not fully accomplished the projected physical changes, nevertheless, we noted that there were indeed changes undertaken and these were substantial enough to justify the respondents' act. To our mind, with the huge funding involved (P2.6 Billion), we could not see any reason why respondent company will not pursue its modernization program to a successful end. Its non-operational status is merely temporary. And it is our view that these machineries and equipment installed will not be kept idle for long or merely laid to total waste.
>
> While we sympathize with the complainant recognizing the considerable period of his employment of more than 11 years, yet equally too, we recognize the respondents' judgment in the conduct of its business for which the laws do not authorize interference. As a matter of fact, the Labor Code and its Implementing Rules do not vest in the Labor Arbiters nor in the different divisions of the NLRC managerial authority. The employer is

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> free to determine, using his own discretion and business judgment, all elements of employment "from hiring to firing" (National Federation of Labor Union v. NLRC, 202 SCRA 346 (1991)). Moreover, the freedom of management to conduct its business operations to achieve its purpose cannot be denied (Yuco Chemical Industries v. Min. of Labor, 185 SCRA 727 (1990)). For as we see in the case at bench, complainant was not discriminated against. In the respondents' program of modernization, more than 500 others, to be precise, 583 workers, were likewise affected. And we cannot view this as a manifestation of bad faith and insincerity of respondents taking into account the installation of machineries and equipment pursuant to the program as a means of streamlining the personnel structure. In a program like this, the eventuality of personnel being removed cannot be avoided. To contend otherwise would be to intrude into the conduct of an enterprise whose main reason for being is the profitability of its operations.[5]

The labor arbiter found the "Receipt and Release"[6] signed by petitioner to be valid. In addition, he held that the complaint was barred as it was filed only on January 4, 1994, or almost two years after his employment was terminated. He based his ruling on Art. 290, par. 2 of the Labor Code which provides that complaints for unfair labor practices shall be filed with the appropriate agency within one (1) year from accrual of such unfair labor practice.

On appeal by petitioner, the NLRC reversed. The dispositive portion of its decision reads:

> WHEREFORE, the decision appealed from is hereby ANNULLED and SET ASIDE and judgment is hereby rendered:
>
> 1. Declaring the dismissal of complainant to be without any just or authorized cause and, therefore, illegal;
>
> 2. Ordering respondent San Miguel Corporation to reinstate the complainant to his former or equivalent position without loss of seniority rights and other privileges, and with full backwages from March 16, 1992 up to the time of his actual reinstatement. However, should reinstatement be no longer possible due to some valid reasons, respondent San Miguel Corporation is ordered to pay the complainant separation pay of one (1) month pay for every year of service, in addition to complainant's full backwages;
>
> 3. Ordering respondent San Miguel Corporation to pay complainant moral damages of P300,000.00 and exemplary damages of P150,000.00, plus ten (10%) percent of the total monetary awards, as attorney's fees.
>
> SO ORDERED.[7]

Respondents filed a motion for reconsideration. On January 11, 1999, the NLRC rendered a resolution[8] affirming its decision, although deleting the award of damages in favor of petitioner.

On April 13, 1999, respondents filed a petition for certiorari with prayer for the issuance of a temporary restraining order and/or injunction in the Court of Appeals.

In the meantime, on April 14, 1999, petitioner filed before the NLRC Regional Arbitration Branch No. VII a Motion for the Issuance of a Writ of Execution.[9] On May 31, 1999, the labor arbiter ordered the SMC to reinstate petitioner.[10] However, on motion of respondents, the Court of Appeals issued a temporary restraining order enjoining the execution of the decision of the NLRC.[11] The TRO lapsed after 60 days, but the labor arbiter refused to enforce the writ of execution he had previously issued in view of the June 11, 1999 resolution of the Court of Appeals issuing the TRO.[12]

On October 22, 1999, the Court of Appeals rendered its decision reversing the decision of the NLRC and reinstating that of the labor arbiter. On April 6, 2000, it denied petitioner's motion for reconsideration. Hence, this petition for review on certiorari.

First. Petitioner contends that the Court of Appeals cannot revise the factual findings of the NLRC and substitute

the same with its own. He insists that the Court of Appeals acted with grave abuse of discretion when it refused to dismiss the original special civil action of certiorari filed by private respondents before it. He claims that by substituting the factual findings of the NLRC, the Court of Appeals disregarded the ruling laid down in the case of Jamer v. NLRC[13] in which it was held that mere variance in the assessment of the evidence by the NLRC resulting in its dismissal of the complaints for illegal dismissal and by the labor arbiter finding the complainants to have been validly dismissed did not necessarily warrant another full review of the facts by the appellate court provided that the findings of the NLRC are supported by the records. Applying the ruling in that case, petitioner argues that whatever error of judgment the NLRC may have committed in this case is not correctible through an original special civil action for certiorari before the Court of Appeals.

The contention has no merit. In St. Martin Funeral Homes v. NLRC,[14] it was held that the special civil action of certiorari is the mode of judicial review of the decisions of the NLRC either by this Court and the Court of Appeals, although the latter court is the appropriate forum for seeking the relief desired "in strict observance of the doctrine on the hierarchy of courts" and that, in the exercise of its power, the Court of Appeals can review the factual findings or the legal conclusions of the NLRC. The contrary rule in Jamer was thus overruled.

Second. Petitioner contends that the Court of Appeals committed grave abuse of discretion in issuing a temporary restraining order against the decision of the NLRC and in later "giving the TRO a lifetime similar to that of a preliminary injunction without the benefit of an injunction bond in blatant disregard of par. 4, Rule 58, section 5, of the 1997 Rules of Civil Procedure."

There is merit in this argument. However, the point is now moot and academic as the Court of Appeals has already rendered its decision.

Rule 58, §5 of the Rules of Civil Procedure provides in pertinent part:

> In the event that the application for preliminary injunction is denied or not resolved within the said period, the temporary restraining order is deemed automatically vacated. The effectivity of a temporary restraining order is not extendible without need of any judicial declaration to that effect and no court shall have authority to extend or renew the same on the same ground for which it was issued.
>
> However, if issued by the Court of Appeals or a member thereof, the temporary restraining order shall be effective for sixty (60) days from service on the party or person sought to be enjoined. A restraining order issued by the Supreme Court or a member thereof shall be effective until further orders. (Emphasis added)

In its order of June 11, 1999 granting a TRO, the Court of Appeals said:

> 2.0. GRANT the petitioners' prayer for a TEMPORARY RESTRAINING ORDER, pending Our resolution of the case on its merits, so as not to frustrate the ends of justice, prohibiting respondents from executing the Decision, dated 25 May 1998, and the Resolution, dated 11 January 1999, in NLRC Case No. V-0138-96.[15]

Pursuant to Rule 58, §5, as above quoted, a TRO issued by the Court of Appeals is effective only for sixty (60) days from service on the party or person sought to be enjoined. The 60-day period is intended to give the appeals court time to determine the propriety of granting a preliminary injunction which goes no further than to preserve the status quo until that determination is made. Hence, when the period lapsed without a writ of preliminary injunction being issued, the TRO automatically expired and a judicial declaration to this effect was not necessary.[16] It was thus error for the labor arbiter to deny petitioner's motion for execution unless the Court of Appeals "clearly mandate[d] otherwise." However, petitioner should have filed an action for mandamus to compel the labor arbiter to enforce the writ of execution he had issued. As he did not do so and the Court of Appeals has already decided the case, this matter is now moot and academic.

Third. Coming now to the merits of this case, petitioner contends that he was illegally dismissed and that his transfer on August 5, 1991 from the Engineering Department to the PDO-QIT, in which he worked until February 12, 1992, amounted to a constructive dismissal. Petitioner claims that the date of his dismissal should, therefore, be reckoned from February 12, 1992, not March 15, 1992.

The contention has no merit. Petitioner's employment was terminated on the ground of the installation of labor saving devices by SMC. Art. 283 of the Labor Code 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 workers 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 one (1) whole year.

The notice of termination[17] served upon petitioner states:

> February 7, 1992
>
> MR. EDGAR G. AGUSTILO
> Mandaue Brewery
> Mandaue City
>
> Dear Mr. Agustilo:
>
> As previously discussed with you, the PDO-QIT GROUP has been abolished after a thorough study. Consequently, your position therein has also been abolished.
>
> The company is, therefore, constrained to separate you from service effective at [the] close of business hours, March 15, 1992. This very difficult decision has been taken as a last recourse and only after exhausting all possible alternatives.
>
> During the period from February 16, 1992 to March 15, 1992, you will be paid your regular compensation, however, you will not be required to report for work, unless requested by the company, to enable you to make the necessary preparations for your separation. In this connection, you are urged to attend the Total Assistance Plan Seminars, sponsored by the company for your benefit, from February 17, 1992 to April 30, 1992.
>
> All benefits due you in this regard will be released within thirty (30) days from the date of your separation upon your accomplishment of the required clearances. Please call the Head of HR Operations Services, Mr. Leo L. Ypil, at telephone numbers 87100 or 87439, for the final arrangements.
>
> We would like to thank you for your past services to the company and wish you success in your future undertakings.
>
> Very truly yours,
>
> SAN MIGUEL CORPORATION
>
> By:

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(Sgd.)

FRANCISCO B. MANZON, JR.
Vice President & Director
Mandaue Plant Operations

Received copy:

_____ _____

Name & Signature Date

In its letter,[18] dated February 13, 1992, to the Department of Labor and Employment, SMC stated:

February 13, 1992

HON. BARTOLOME AMOGUIS
Director
Department of Labor and Employment
Region VII

Dear Hon. Director Amoguis:

San Miguel Corporation constantly reviews its various businesses in terms of viability and strategic fit. Along this direction, the company's Mandaue Brewery plant has embarked into a "Modernization Program" -- bringing in new technology in beer processing with high-tech, state-of-the-art machines, a much improved layout/process and multi-skilled employees.

In anticipation of this modernization effort, the plant has been reorganized and restructured to determine the appropriate manning requirement necessary to efficiently run a modern plant. This consequently resulted into a reduction in manning.

The excess employees will be separated from service in two batches: the first batch of 205 employees will be separated at [the] close of business hours on March 15, 1992 and the second batch will be separated in September when the new machines and equipment will be operational.

The Company, before coming with this inevitable decision, has exerted all efforts to find suitable placements for the affected employees within the company. However, no positions are available, considering all other units are also undergoing streamlining of their organizations. Hence, the Company had to resort to declaring them redundant.

However, to minimize the negative impact of losing employment, the Company has prepared the Total Assistance Plan which covers the following:

a. Financial package of 100% basic for every year of service plus an additional premium of up to 75% of basic rate;

b. 3-year free hospitalization coverage.

In the implementation of this decision, our Company will comply with all pertinent provisions of the Labor Code and undertakes to respect accrued employees' rights, benefits and privileges under our established policies, practices and existing Collective Bargaining Agreements.

Attached is the list of affected employees.

Very truly yours,

SAN MIGUEL CORPORATION

By:

BALDOMERO C. ESTENZO
Assistant Vice President & Head
Mandaue Legal Unit

We hold that the Court of Appeals correctly found petitioner's separation from work to be due to a valid reason, i.e., the installation of labor saving devices. As the appeals court stated:

> In the case at bar, We are of the opinion, and so hold that petitioners have demonstrated before the Labor Arbiter by clear and convincing evidence that the Mandaue plant where private respondent used to work had instituted a modernization program which consisted of, among others, "a 45 million cases per year capacity brewhouse; a 1,400 HI per hour filtration system; a complete cellaring system with six cylindro-conical tanks at 10,000 HI each to include other tankages and accessories; a 1,000 bottles per minute liter bottling line; and support systems such as three 1,000 HP NH3 compressors with two liquid overfeed NH3 separators; an 80,000 lbs. per hour water tube steam generator and a 700 HO air compressor" the operations of which are "all automated using microprocessor and electronic process controllers and instrumentation systems through intelligent interfacing with Siemens Industrial computers." All of these high-technology innovations, at the cost of 2.6 billion pesos, truly render the functions of the Plant Director's Office Quality Control Unit, where private respondent was transferred after his post as Administrative Secretary to the plant manager was validly abolished, upon management prerogative that the same "did not add value to the organization."[19]

Fourth. Petitioner asserts that he was merely forced by necessity to accept the separation benefits given by SMC and that the quitclaim he executed in favor of SMC was not voluntary.

The notarized quitclaim, entitled "Receipt and Release,"[20] reads in pertinent parts:

> RECEIPT AND RELEASE
>
> KNOW ALL MEN BY THESE PRESENTS:
>
> WHEREAS, I, EDGAR G. AGUSTILO, Filipino, of legal age, with residence at 38 A. S. FORTUNA ST., MANDAUE CITY, has been employed by San Miguel Corporation as ADMINISTRATIVE SECRETARY at its Mandaue Brewery;
>
> WHEREAS, I am fully aware of the streamlining of San Miguel Corporation's Mandaue Brewery operations due to merger of some functions, closure of some operating lines, equipment upgrading and reorganization which resulted to reduction of its workforce;
>
> WHEREAS, I have accepted to be separated from the service of San Miguel Corporation effective at the close of business hours of March 15, 1992;
>
> NOW THEREFORE, for and in consideration of the premises and of the sum of THREE HUNDRED TWO THOUSAND FOUR HUNDRED FIFTY & 38/00 ONLY (P302,450.38), Philippine Currency, receipt of which is hereby acknowledged, in full payment and settlement of all the compensation, benefits, and privileges due me in connection with my employment in and separation from San Miguel Corporation, I, the said EDGAR G. AGUSTILO, have remised, released, and forever discharged the said San Miguel Corporation, its successors and assigns, and/or any of its directors, officers, and employees, of and from any manner of action or actions, cause or causes of action, sum or sums of money; accounts, damages, claims and demands whatsoever, in law or equity which [may be filed] against said San Miguel Corporation, its successors and assigns, and/or directors, officers, and employees, I ever had, now have, or which my heirs, executors, and administrators shall or may have upon and by reason upon any matter, cause or thing whatsoever in connection

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with my employment in and separation from the said San Miguel Corporation;

I do hereby acknowledge and declare that I have been paid by San Miguel Corporation all amounts due me by way of salaries or wages, overtime compensation, Sunday and holiday and/or night differential pay or other compensation arising out and in the course of my employment; and that I signed these presents after having read and fully understood its content.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of April, 1992, at Cebu City, Philippines.

(Sgd.)

EDGAR G. AGUSTILO

SIGNED IN THE PRESENCE OF:

(Sgd.) _____ (Sgd.) _____

While quitclaims and releases are generally held contrary to public policy, there are nevertheless voluntary agreements which represent reasonable settlements and are considered binding on the parties. Such is the "Receipt and Release" involved in this case.

Petitioner is not an illiterate person who needs special protection. As the labor arbiter found, petitioner holds a master's degree in library science and is an instructor in political science at the University of San Carlos. He was also at that time a law student in the said university. While it is the duty of the courts to be vigilant in preventing the exploitation of employees, it also behooves them to protect the integrity of contracts so long as they are not contrary to law.[21] In this case, when petitioner acknowledged receipt of the letter of termination, he wrote: "Accepted under protest and without prejudice." But when he later signed the "Receipt and Release,"[22] he did not qualify his act. Considering the foregoing, it is hard to conclude that he was merely forced by necessity to execute the quitclaim.

WHEREFORE, the petition is DENIED for lack of showing that the Court of Appeals committed any reversible error.

SO ORDERED.

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

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[1] Per Justice Romeo A. Brawner and concurred in by Justice Angelina Sandoval-Gutierrez (now Associate Justice of the Supreme Court) and Justice Martin S. Villarama, Jr.

[2] Per Commissioner Amorito V. Cañete and concurred in by Presiding Commissioner Irenea E. Ceniza. Commissioner Bernabe S. Batuhan dissented (Fourth Division, Cebu City).

[3] Per Executive Labor Arbiter Reynoso A. Belarmino.

[4] CA Rollo, p. 176.

[5] Rollo, pp. 189, 191-194.

[6] CA Rollo, pp. 164-165.

[7] Id., pp. 52-53.

[8] See footnote 2. Commissioner Bernabe S. Batuhan dissented. He voted to grant the motion for reconsideration

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as he was for the affirmance of the decision of the Labor Arbiter.

[9] CA Rollo, pp. 183-186.

[10] Rollo, pp. 84-85.

[11] Id., pp. 86-87.

[12] Id., pp. 88-89.

[13] 278 SCRA 632 (1997).

[14] 295 SCRA 494 (1998).

[15] Rollo, p. 86.

[16] Associated Labor Unions (ALU-TUCP) v. Borromeo, 166 SCRA 99 (1988).

[17] CA Rollo, p. 177.

[18] Id., p. 157.

[19] Rollo, p. 75.

[20] CA Rollo, p. 164.

[21] Asian Alcohol Corporation v. NLRC, 305 SCRA 416 (1999).

[22] CA Rollo, p. 164.

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