INTERCONTINENTAL BROADCASTING CORPORATION, PETITIONER, VS. REYNALDO BENEDICTO, DECEASED, SUBSTITUTED BY HIS SURVIVING SPOUSE LOURDES V. BENEDICTO, AND CHILDREN, NAMELY: REYNALDO...

G.R. NO. 152843. July 20, 2006

Ponente: CORONA, J.

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CORONA, J.:

This is a petition for review on certiorari[1] of the October 18, 2001 decision[2] and March 18, 2002 resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 53413 which in turn affirmed the March 5, 1999 decision[4] and June 10, 1999 resolution[5] of the National Labor Relations Commission (NLRC) in NLRC NCR CA Case No. 017886-99.

Petitioner alleged that Intercontinental Broadcasting Corporation is a government-owned and controlled corporation.[6] It is engaged in the business of mass media communications including, among others, the operation of television Channel 13 (IBC 13).[7]

In 1993, Reynaldo Benedicto was appointed by Ceferino Basilio, the general manager[8] then of petitioner, as marketing manager with a monthly compensation of P20,000 plus 1% commission from collections of all advertising contracts consummated.[9]

In a letter dated October 11, 1994 signed by Tomas Gomez III, at that time the president of petitioner, Benedicto was terminated from his position.[10]

On December 3, 1996, Benedicto filed a complaint with the NLRC for illegal dismissal and damages. He alleged that after his appointment, he was able to increase the televiewing, listening and audience ratings of petitioner which resulted in its improved competitive financial strength.[11] Specifically, in 1994, he claimed that he successfully initiated, pursued and consummated an advertising contract with VTV Corporation for a period of five years involving the amount of P600 million.[12] However, on October 11, 1994, he was terminated from his position without just or authorized cause.

Labor arbiter Jovencio LL. Mayor, Jr.,[13] in a decision dated August 17, 1998, ruled in favor of Benedicto finding that he was indeed illegally dismissed. Consequently, Mayor: (1) ordered his reinstatement with full backwages from the time of his dismissal up to his actual reinstatement (amounting to P920,000 at the time of the promulgation of the decision); (2) directed petitioner to pay his 1% commission on the contract with VTV Corporation (P645,000), attorney's fees in the amount of 10% of the total award (P156,500) and (3) dismissed the claim for moral and exemplary damages.[14]

Finding the award excessive, petitioner, on October 15, 1998, filed with the NLRC its memorandum on appeal with motion to re-compute the award on which the appeal bond was to be based.[15] This motion was not acted upon,[16] hence, on December 10, 1998, petitioner proceeded to file the appeal bond based on the amounts[17]

awarded in the judgment appealed from.[18]

In a decision promulgated on March 5, 1999, the NLRC dismissed the appeal and ruled that petitioner failed to perfect its appeal since it did not file the appeal bond within the reglementary period. The CA affirmed the NLRC's decision.

Thus this petition with application for preliminary injunction and/or temporary restraining order alleging the following assignment of errors:

> - WITH DUE RESPECT, THE [CA] ERRED IN AFFIRMING THE ASSAILED DECISION/RESOLUTION OF THE [NLRC] ON MERE TECHNICALITY, FAILING TO RECOGNIZE THAT PETITIONER HAS IN FACT PERFECTED ITS APPEAL UNDER EXISTING LAW AND JURISPRUDENCE[;]
>
> - WITH DUE RESPECT, THE [CA] ERRED IN AFFIRMING IN TOTO THE ASSAILED RESOLUTION/DECISION DEPRIVING PETITIONER OF ITS RIGHT TO APPEAL, BY IGNORING THE MERITS OF THE MOTION TO RECOMPUTE AWARD TO REDUCE BOND AND ITS SIGNIFICANCE IN RELATION TO THE PERFECTION OF THE APPEAL[;]
>
> - WITH DUE RESPECT, THE [CA] ERRED IN NOT PASSING UPON THE SUBSTANTIVE MERITS OF THE CASE, SPECIALLY ON THE VALIDITY OF THE REINSTATEMENT OF [BENEDICTO] AT AGE SEVENTY TWO (72), CONTRARY TO LAW AND JURISPRUDENCE, AND THE GRANT OF BACKWAGES BEYOND [THE] AGE FOR COMPULSORY RETIREMENT AT 65[;]
>
> - WITH DUE RESPECT, THE [CA] ERRED IN AFFIRMING IN TOTO THE ASSAILED RESOLUTION/DECISION THAT GRANTS 5-YEAR AUTOMATIC INCREASE OF AWARD [SUCH] AS FROM P1.565M TO 2.711M WITHOUT SETTING [BENEDICTO]'S MOTION TO RECOMPUTE AWARD FOR HEARING AND WITHOUT DUE NOTICE THEREOF DEPRIVING THE PETITIONER OF ITS PROPERTY WITHOUT DUE PROCESS[;]
>
> - THE [CA] ERRED IN IGNORING THE ISSUE OF JURISDICTION RAISED BY PETITIONER.[19]

On June 26, 2002, this Court issued a temporary restraining order enjoining Benedicto and the NLRC from implementing the decision of labor arbiter Mayor.[20]

During the pendency of the case, on November 6, 2002, Benedicto passed away.[21] He was substituted by his surviving spouse Lourdes V. Benedicto and their four children.[22]

After this petition was given due course, Atty. Rodolfo B. Barriga, who claimed to have been hired by Benedicto as collaborating counsel, filed a motion dated December 17, 2002 praying to be reinstated as counsel of record of respondents.[23] The Court, in a resolution dated March 26, 2003, denied the motion since any attorney-client relationship between him and Benedicto, if it indeed existed, was terminated by the latter's death. Thereafter, Atty. Barriga filed a motion to determine attorney's fees and notice and statement of charging lien for attorney's fees dated May 5, 2003 praying, among others, that we determine and approve his attorney's fees and approve the notice of his charging lien.[24]

Now the resolution of the issues.

Petitioner raises the issue of jurisdiction without, however, explaining properly the basis of its objections.[25] Such half-hearted and belated attempt to argue the NLRC's alleged lack of jurisdiction cannot possibly be taken seriously at this late stage of the proceedings.

The NLRC and the CA dismissed petitioner's appeal. Both held that petitioner failed to perfect its appeal. Petitioner had ten calendar days from its receipt of the labor arbiter's decision on October 5, 1998 to appeal. While

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it filed its memorandum on appeal with motion to re-compute award on October 15, 1998, the appeal bond was posted after the appeal period.

Under the second paragraph of Article 223 of the Labor Code, when a judgment involving monetary award is appealed by the employer, the appeal is perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the NLRC in an amount equivalent to the monetary award in the judgment. This assures the workers that if they finally prevail in the case, the monetary award will be given to them on dismissal of the employer's appeal.[26] It is also meant to discourage employers from using the appeal to delay or evade payment of their obligations to the employees.[27]

Nevertheless, such amount of the bond may be reduced by the NLRC in meritorious cases, on motion of the appellant.[28] Indeed, an unreasonable and excessive amount of bond is oppressive and unjust, and has the effect of depriving a party of his right to appeal.[29]

The provision of Article 223 of the Labor Code requiring the posting of a bond for the perfection of an appeal of a monetary award must be given liberal interpretation in line with the desired objective of resolving controversies on the merits.[30] If only to achieve substantial justice, strict observance of the reglementary periods may be relaxed if warranted.[31] However, this liberal interpretation must be justified by substantial compliance with the rule. As we declared in Buenaobra v. Lim King Guan:[32]

> It is true that the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but jurisdictional, and failure to perfect an appeal has the effect of making the judgment final and executory. However, technicality should not be allowed to stand in the way of equitably and completely resolving the rights and obligations of the parties. We have allowed appeals from the decisions of the labor arbiter to the NLRC, even if filed beyond the reglementary period, in the interest of justice.[33]

In this case, petitioner posted the bond when the NLRC did not act on its motion for re-computation of the award. There was thus substantial compliance that justified a liberal application of the requirement on the timely filing of the appeal bond. Moreover, petitioner presented a meritorious ground in questioning the computation of the backwages, as we shall discuss below.

We now proceed to the merits of the case.

The labor arbiter found that Benedicto was an employee (the marketing manager) of petitioner.[34] He also determined that there was no just or authorized cause for Benedicto's termination. Neither did petitioner comply with the two-notice requirement for valid termination under the law. He therefore concluded that Benedicto was illegally dismissed.[35]

These factual findings of the NLRC, confirmed by the CA, are binding on us since they are supported by substantial evidence. Petitioner, aside from merely stating that Benedicto's appointment was unauthorized,[36] did not extensively deal with the issue of whether Benedicto was in fact its employee. Besides, it is estopped from denying such fact considering its admission that its former President, Tomas Gomez III, wrote him a letter of termination on October 11, 1994.[37] Petitioner, furthermore, never contested the finding of illegal dismissal. Accordingly, there are no strong reasons for us to again delve into the facts.

Instead, the bulk of petitioner's arguments focused on the labor arbiter's order of reinstatement and award of backwages. The issue of reinstatement was mooted by Benedicto's death in 2002.

As for the award of backwages, petitioner insists that the award should be limited to what Benedicto was entitled to as of the compulsory retirement age of 65 years. When the labor arbiter promulgated his decision (wherein he awarded the amount of P920,000 as backwages), Benedicto was already 68 years old. In an order dated August

10, 1999, he further increased the backwages by P180,000.[38]

We agree with petitioner that Benedicto was entitled to backwages only up to the time he reached 65 years old, the compulsory retirement age under the law.[39] When Benedicto was illegally dismissed on October 11, 1994, he was already 64 years old. He turned 65 years old on December 1, 1994[40] at which age he was deemed to have retired. Since backwages are granted on grounds of equity for earnings lost by an employee due to his illegal dismissal,[41] Benedicto was entitled to backwages only for the period he could have worked had he not been illegally dismissed, i.e. from October 11, 1994 to December 1, 1994.[42]

Petitioner also questions the award by the labor arbiter of Benedicto's 1% commission on the blocktime sale agreement with VTV Corporation in the amount of P645,000.[43] The arbiter found that the agreement was initiated by and consummated through Benedicto's efforts and that he was entitled to the commission.[44] This is another factual matter that is binding on us. However, it is unclear how the labor arbiter arrived at the amount adjudged. We therefore rule that in computing the amount of the commission Benedicto was entitled to, the following should be considered:

First, because Benedicto was entitled to backwages only from October 11 to December 1, 1994 when he turned 65 years old, petitioner should pay his commission only for this period.

Second, by nature, commissions are given to employees only if the employer receives income.[45] Employees, as a reward, receive a percentage of the earnings of the employer, which they, through their efforts, helped produce.[46] Commissions are also given in the form of incentives or encouragement so that employees will be inspired to put a little more industry into their tasks. Commissions can also be considered as direct remunerations for services rendered.[47] All these different concepts of commissions are incongruent with the claim that an employee can continue to receive them indefinitely after reaching his mandatory retirement age.

Benedicto's right to the commissions was coterminous with his employment with petitioner[48] and this ended when he reached the compulsory retirement age.

Lastly, the stipulation[49] providing for commissions (which did not specify the period of entitlement) would be too burdensome if interpreted to mean that Benedicto had a right to it even after his employment with petitioner. Doubts in contracts should be settled in favor of the greatest reciprocity of interests.[50] A lopsided and open-minded construction could not have been the parties' contemplation. Had that been their intent, then they should have spelled it out in no uncertain terms.

The labor arbiter should therefore re-compute the commission Benedicto was entitled to in accordance with these guidelines.

Petitioner is also liable for 10% of the total amount for attorney's fees since Benedicto and the present respondents were compelled to litigate and incur expenses to enforce and protect his rights.[51]

With respect to Atty. Barriga's motion, we note that this entails a factual determination and examination of the evidence. Since Atty. Barriga still has to prove his entitlement to the attorney's fees he is claiming and the amount thereof (if he is so entitled), this may be taken up in the NLRC which will execute the judgment.[52]

In summary, this case shall be remanded to the labor arbiter for re-computation of backwages and commissions to be paid by petitioner to respondent(s) for the period October 11, 1994 to December 1, 1994 and 10% of the total amount as attorney's fees. The labor arbiter shall also set for further hearing Atty. Barriga's motion to determine his attorney's fees and thereafter to fix the amount thereof if he is so entitled.

WHEREFORE, the assailed decision dated October 18, 2001 and resolution dated March 18, 2002 of the Court of

Appeals in CA-G.R. SP No. 53413 are hereby REVERSED and SET ASIDE.

Petitioner is ORDERED to pay the deceased respondent's backwages and commissions to his heirs from the time he was illegally dismissed on October 11, 1994 up to the time he reached compulsory retirement age on December 1, 1994. Likewise, petitioner is ORDERED to pay attorney's fees equivalent to 10% of the total monetary award (backwages plus commissions). For this purpose, the case is hereby ordered REMANDED to the labor arbiter for the re-computation of the amounts due.

The labor arbiter is also DIRECTED to set for further hearing Atty. Rodolfo B. Barriga's motion to determine his attorney's fees and thereafter to fix the amount thereof if due to him.

Our temporary restraining order issued on June 26, 2002 is hereby LIFTED.

Costs against petitioner.
SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

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[*] The present petition impleaded the National Labor Relations Commission as respondent. However, under Rule 45, Section 4 of the 1997 Rules of Civil Procedure, the petition may be filed without impleading the lower courts and judges thereof as petitioners or respondents. Hence, the Court deleted it from the title.

[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Perlita J. Tria Tirona and concurred in by Associate Justices Eloy R. Bello, Jr. and Amelita G. Tolentino of the Special Eighth Division of the Court of Appeals; rollo, pp. 50-61.

[3] Id., pp. 64-66.

[4] Id., pp. 151-155.

[5] Id., pp. 156-162.

[6] Id., p. 13.

[7] Id.

[8] Id., p. 594.

[9] Labor arbiter's Decision, id., pp. 118 and 490.

[10] Id., p. 513. According to petitioner, respondent was terminated on grounds of incompetence and conflict of interest that resulted to opportunity losses in the amount of P9 million more or less; id., p. 42.

[11] Respondent's Position Paper filed before the labor arbiter; id., pp. 225-226.

[12] Id.

[13] Id., p. 122.

[14] Id., pp. 121-122.

[15] Id., p. 18.

[16] See rollo, pp. 58 and 290.

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[17] Totaling P1,565,000; id., p. 145.

[18] Id.

[19] Id., pp. 19-20.

[20] Id., p. 241.

[21] Id., p. 359.

[22]Id., p. 366. Their children executed a Special Power of Attorney naming their mother as their attorney-in-fact.

[23] Id., p. 376. In this motion, Atty. Barriga represented Benedicto's alleged heir, Michael Ira V. Benedicto, who prayed that he be allowed to substitute for his deceased father. In a resolution dated February 3, 2003, we denied this motion for substitution on the ground that there is no conclusive proof that movant is indeed an heir of Benedicto; id., p. 409.

[24]Id., p. 633.

[25] He merely stated that as a consultant, the NLRC has no jurisdiction and instead the civil court has jurisdiction over the case; id., pp. 40-42. Moreover, petitioner contradicted itself when it also stated that "[respondent] was not [its]" consultant"[a]ny relationship he claims is not with [petitioner] but with Basilio personally"; id., p. 17.

[26] Casimiro v. Stern Real Estate Inc. Rembrandt Hotel, G.R. No. 162233, 10 March 2006, citing Coral Point Development Corporation v. NLRC, 383 Phil. 456, 463-464 (2000).

[27] Id.

[28] Section 6, Rule VI of the New Rules of Procedure of the NLRC.

[29] Supra at note 26, citing Nueva Ecija I Electric Cooperative, Inc. v. NLRC, 380 Phil. 44, 56 (2000).

[30] Buenaobra v. Lim King Guan, G.R. No. 150147, 20 January 2004, 420 SCRA 359, 364, citing Star Angel Handicraft v. National Labor Relations Commission, G.R. No. 108914, 20 September 1994, 236 SCRA 580, 585. See also Postigo v. Philippine Tuberculosis Society, Inc., G.R. No. 155146, 24 January 2006.

[31] Id.

[32]Id.

[33] Id., citing Philippine-Singapore Ports Corporation v. National Labor Relations Commission, G.R. No. 67035, 29 January 1993, 218 SCRA 77.

[34] Rollo, p. 118.

[35]Id., pp. 118-119.

[36] Id., pp. 16-17.

[37] Id., pp. 42 and 513. The letter read:
"October 11, 1994
Mr. Reynaldo Benedicto

-Present-

Dear Rey :

This does not come easy for me. My task as President of a corporation in crisis has been rendered most difficult.

I would have wanted for you to resign, instead, but you leave me no other room.
Management no longer has confidence in your capacity and competence to perform as Marketing, Sales & Programming Manager.

Effective immediately, you are hereby relieved and separated from the employ of this Company. Please see the General Manager for the arrangements of your departure.

God be with you and good luck.

Sincerely yours,
(signed)
Tomas Gomez III
President."

[38] Id., p. 195.

[39]Art. 287 of the Labor Code, as amended by Republic Act No. 7641 (which took effect on January 7, 1993) provides:

Art. 287. Retirement. - Any employee may be retired upon reaching the retirement age established in the collective bargaining agreement or other applicable employment contract.

xxx xxx xxx

In the absence of a retirement plan or agreement providing for retirement benefits of employees in the establishment, an employee upon reaching the age of sixty (60) years or more, but not beyond sixty five (65) years which is hereby declared the compulsory retirement age, who has served at least five (5) years in the said establishment, may retire and shall be entitled to retirement pay equivalent to at least one half (½) month salary for every year of service, a fraction of at least six (6) months being considered as one whole year.

xxx xxx xxx. (Emphasis ours)

[40]Rollo, p. 100.

[41] Espejo v. National Labor Relations Commission, 325 Phil. 753 (1996), citing Torillo v. Leogardo, Jr., G.R. No. 77205, 27 May 1991, 197 SCRA 471, 477.

[42] Respondent did not claim retirement benefits.

[43]As of November 1996; rollo, p. 120. In the Order of the Labor Arbiter dated August 10, 1999, an additional commission in the amount of P720,000 was awarded; id., p. 195.

[44] Id., p. 120.

[45]Manila Central Line Corp. v. Manila Central Line Free Workers, 353 Phil. 133, 144 (1998), quoting the Solicitor General with approval.

[46] Id.

[47]Iran v. National Labor Relations Commission, 352 Phil. 261, 270 (1998).

[48]See analogous case Sobrepeña., Jr. v. Court of Appeals, G.R. No. 111148, 10 October 1997, 280 SCRA 476.

[49]In a memorandum dated September 12, 1993, the compensation package of respondent included "sales

commission of 0.1% on NET of the monthly gross sales not below P8M"; rollo, p. 451. In another memorandum dated November 3, 1993, it was stated this way: ""one percent (01%) sales commission on net payable upon collection of accounts"; id., p. 450.

[50]Article 1378, New Civil Code. This provision states:

When it is absolutely impossible to settle doubts by the rules established in the preceding articles, and the doubts refer to incidental circumstances of a gratuitous contract, the least transmission of rights and interests shall prevail. If the contract is onerous, the doubt shall be settled in favor of the greatest reciprocity of interest. xxx (emphasis ours)

[51]Urbanes, Jr. v. Court of Appeals, G.R. No. 138379, 25 November 2004, 444 SCRA 84, 97, citing Paguio v. Philippine Long Distance Telephone Co., Inc., 441 Phil. 679 (2002).

[52] Cadalin v. POEA's Administrator, G.R. No. 104776, 5 December 1994, 238 SCRA 721, 770-771.

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