

GF EQUITY, INC., PETITIONER, VS. ARTURO VALENZONA, RESPONDENT.

G.R. NO. 156841. June 30, 2005

Ponente: CARPIO-MORALES, J.

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CARPIO-MORALES, J.:

On challenge via Petition for Review on Certiorari is the Court of Appeals October 14, 2002 Decision[1] reversing that of the Regional Trial Court (RTC) of Manila dated June 28, 1997[2] which dismissed the complaint of herein respondent Arturo Valenzona (Valenzona) for breach of contract with damages against herein petitioner GF Equity, Inc. (GF Equity).

The factual antecedents of the case are as follows:

GF Equity, represented by its Chief Financial Officer W. Steven Uytengsu (Uytengsu), hired Valenzona as Head Coach of the Alaska basketball team in the Philippine Basketball Association (PBA) under a Contract of Employment.[3]

As head coach, the duties of Valenzona were described in the contract to include the following:

x x x

1. . . . coaching at all practices and games scheduled for the CORPORATION's TEAM during the scheduled season of the ASSOCIATION . . . , coaching all exhibition games scheduled by the corporation as approved by the PBA during and prior to the scheduled season, coaching (if invited to participate) in the ASSOCIATION's All Star Game and attending every event conducted in association with the All Star Game, and coaching the play-off games subsequent to the scheduled season based on the athletic program of the PBA.

x x x

3. The COACH agrees to observe and comply with all requirements of the CORPORATION respecting conduct of its TEAM and its players, at all times whether on or off the playing floor. The CORPORATION may, from time to time during the continuance of this contract, establish reasonable rules for the government of its players "at home" and "on the road"; and such rules shall be part of this contract as fully is (sic) if herein written and shall be the responsibility of the COACH to implement; x x x

4. The COACH agrees (a) to report at the time and place fixed by the CORPORATION in good physical condition; (b) to keep himself throughout the entire season in good physical condition; (c) to give his best services, as well as his loyalty to the CORPORATION, and to serve as basketball coach for the CORPORATION and its assignees; (d) to be neatly and fully attired in public and always to conduct himself on and off the court according to the highest standards of honesty, morality, fair play and sportsmanship; (e) not to do anything which is detrimental to the best interests of the CORPORATION.

x x x

7. The COACH agrees that if so requested by the CORPORATION, he will endorse the CORPORATION's

products in commercial advertising, promotions and the like. The COACH further agrees to allow the CORPORATION or the ASSOCIATION to take pictures of the COACH alone or together with others, for still photographs, motion pictures or television, at such times as the CORPORATION or the ASSOCIATION may designate, and no matter by whom taken may be used in any manner desired by either of them for publicity or promotional purposes. (Underscoring supplied).

x x x

Even before the conclusion of the contract, Valenzona had already served GF Equity under a verbal contract by coaching its team, Hills Brothers, in the 3rd PBA Conference of 1987 where the team was runner-up.

Under the contract, GF Equity would pay Valenzona the sum of Thirty Five Thousand Pesos (P35,000.00) monthly, net of taxes, and provide him with a service vehicle and gasoline allowance.

While the employment period agreed upon was for two years commencing on January 1, 1988 and ending on December 31, 1989, the last sentence of paragraph 3 of the contract carried the following condition:

3. x x x If at any time during the contract, the COACH, in the sole opinion of the CORPORATION, fails to exhibit sufficient skill or competitive ability to coach the team, the CORPORATION may terminate this contract. (Emphasis supplied)

Before affixing his signature on the contract, Valenzona consulted his lawyer who pointed out the one-sidedness of the above-quoted last sentence of paragraph 3 thereof. The caveat notwithstanding, Valenzona still acceded to the terms of the contract because he had trust and confidence in Uytengsu who had recommended him to the management of GF Equity.

During his stint as Alaska's head coach, the team placed third both in the Open and All-Filipino PBA Conferences in 1988.

Valenzona was later advised by the management of GF Equity by letter of September 26, 1988 of the termination of his services in this wise:

We regret to inform you that under the contract of employment dated January 1, 1988 we are invoking our rights specified in paragraph 3.

You will continue to be paid until your outstanding balance which, as of September 25, 1988, is P75,868.38 has been fully paid.

Please return the service vehicle to my office no later than September 30, 1988.[4] (Emphasis supplied)

Close to six years after the termination of his services, Valenzona's counsel, by letter of July 30, 1994,[5] demanded from GF Equity payment of compensation arising from the arbitrary and unilateral termination of his employment. GF Equity, however, refused the claim.

Valenzona thus filed on September 26, 1994 before the Regional Trial Court of Manila a complaint[6] against GF Equity for breach of contract with damages, ascribing bad faith, malice and "disregard to fairness and to the rights of the plaintiff" by unilaterally and arbitrarily pre-terminating the contract without just cause and legal and factual basis. He prayed for the award of actual damages in the amount of P560,000.00 representing his unpaid compensation from September 26, 1988 up to December 31, 1989, at the rate of P35,000.00 a month; moral damages in the amount of P100,000.00; exemplary damages in the amount of P50,000.00; attorney's fees in the amount of P100,000.00; and costs of suit.

Before the trial court, Valenzona challenged the condition in paragraph 3 of the contract as lacking the element of

mutuality of contract, a clear transgression of Article 1308 of the New Civil Code, and reliance thereon, he contended, did not warrant his unjustified and arbitrary dismissal.

GF Equity maintained, on the other hand, that it merely exercised its right under the contract to pre-terminate Valenzona's employment due to incompetence. And it posited that he was guilty of laches and, in any event, his complaint should have been instituted before a labor arbiter.

The trial court, upholding the validity of the assailed provision of the contract, dismissed, by decision of June 28, 1997,[7] the complaint of Valenzona who, it held, was fully aware of entering into a bad bargain.

The Court of Appeals, before which Valenzona appealed, reversed the trial court's decision, by decision of October 14, 2002,[8] and accordingly ordered GF Equity to pay him damages.

In its decision, the appellate court held that the questioned provision in the contract "merely confers upon GF Equity the right to fire its coach upon a finding of inefficiency, a valid reason within the ambit of its management prerogatives, subject to limitations imposed by law, although not expressly stated in the clause"; and "the right granted in the contract can neither be said to be immoral, unlawful, or contrary to public policy." It concluded, however, that while "the mutuality of the clause" is evident, GF Equity "abused its right by arbitrarily terminating . . . Valenzona's employment and opened itself to a charge of bad faith." Hence, finding that Valenzona's claim for damages is "obviously . . . based on Art. 19 of the Civil Code" which provides:

Art. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.,

the appellate court awarded Valenzona the following damages, furnishing the justification therefor:

. . . a) Compensatory damages representing his unearned income for 15 months. Actual and compensatory damages are those recoverable because of a pecuniary loss in business, trade, property, profession, job or occupation. As testified, his employment contract provided a monthly income of PhP35,000, which he lost from September 26, 1988 up to December 31, 1989 as a consequence of his arbitrary dismissal; b) Moral damages of PhP20,000. The act caused wounded feelings on the part of the plaintiff. Moral damages is recoverable under Article 2220 and the chapter on Human Relations of the Civil Code (Articles 1936) when a contract is breached in bad faith; c) Exemplary damages of PhP20,000, by way of example or correction for the public good; and d) When exemplary damages are awarded, attorney's fees can also be given. We deem it just to grant 10% of the actual damages as attorney's fees. (Underscoring supplied)

Hence, this petition at bar, GF Equity faulting the appellate court in

. . . CONCLUD[ING] WRONGLY FROM ESTABLISHED FACTS IN A MANNER VIOLATIVE OF APPLICABLE LAWS AND ESTABLISHED JURISPRUDENCE.[9]

GF Equity argues that the appellate court committed a non-sequitur when it agreed with the findings of fact of the lower court but reached an opposite conclusion. It avers that the appellate court made itself a guardian of an otherwise intelligent individual well-versed in tactical maneuvers; that the freedom to enter into contracts is protected by law, and the courts will not interfere therewith unless the contract is contrary to law, morals, good customs, public policy or public order; that there was absolutely no reason for the appellate court to have found bad faith on its part; and that, at all events, Valenzona is guilty of laches for his unexplained inaction for six years.

Central to the resolution of the instant controversy is the determination of whether the questioned last sentence of paragraph 3 is violative of the principle of mutuality of contracts.

Mutuality is one of the characteristics of a contract, its validity or performance or compliance of which cannot be

left to the will of only one of the parties.[10] This is enshrined in Article 1308 of the New Civil Code, whose underlying principle is explained in *Garcia v. Rita Legarda, Inc.*,[11] viz:

Article 1308 of the New Civil Code reads as follows:

“The contract must bind both contracting parties; its validity or compliance cannot be left to the will of one of them.”

The above legal provision is a virtual reproduction of Article 1256 of the old Civil Code but it was so phrased as to emphasize the principle that the contract must bind both parties. This, of course is based firstly, on the principle that obligations arising from contracts have the force of law between the contracting parties and secondly, that there must be mutuality between the parties based on their essential equality to which is repugnant to have one party bound by the contract leaving the other free therefrom (8 Manresa 556). Its ultimate purpose is to render void a contract containing a condition which makes its fulfillment dependent exclusively upon the uncontrolled will of one of the contracting parties.

x x x (Emphasis, italics and underscoring supplied)

The ultimate purpose of the mutuality principle is thus to nullify a contract containing a condition which makes its fulfillment or pre-termination dependent exclusively upon the uncontrolled will of one of the contracting parties.

Not all contracts though which vest to one party their determination of validity or compliance or the right to terminate the same are void for being violative of the mutuality principle. Jurisprudence is replete with instances of cases[12] where this Court upheld the legality of contracts which left their fulfillment or implementation to the will of either of the parties. In these cases, however, there was a finding of the presence of essential equality of the parties to the contracts, thus preventing the perpetration of injustice on the weaker party.

In the case at bar, the contract incorporates in paragraph 3 the right of GF Equity to pre-terminate the contract — that “if the coach, in the sole opinion of the corporation, fails to exhibit sufficient skill or competitive ability to coach the team, the corporation may terminate the contract.” The assailed condition clearly transgresses the principle of mutuality of contracts. It leaves the determination of whether Valenzona failed to exhibit sufficient skill or competitive ability to coach Alaska team solely to the opinion of GF Equity. Whether Valenzona indeed failed to exhibit the required skill or competitive ability depended exclusively on the judgment of GF Equity. In other words, GF Equity was given an unbridled prerogative to pre-terminate the contract irrespective of the soundness, fairness or reasonableness, or even lack of basis of its opinion.

To sustain the validity of the assailed paragraph would open the gate for arbitrary and illegal dismissals, for void contractual stipulations would be used as justification therefor.

The assailed stipulation being violative of the mutuality principle underlying Article 1308 of the Civil Code, it is null and void.

The nullity of the stipulation notwithstanding, GF Equity was not precluded from the right to pre-terminate the contract. The pre-termination must have legal basis, however, if it is to be declared justified.

GF Equity failed, however, to advance any ground to justify the pre-termination. It simply invoked the assailed provision which is null and void.

While GF Equity’s act of pre-terminating Valenzona’s services cannot be considered willful as it was based on a stipulation, albeit declared void, it, in doing so, failed to consider the abuse of rights principle enshrined in Art. 19 of the Civil Code which provides:

Art. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

This provision of law sets standards which must be observed in the exercise of one's rights as well as in the performance of its duties, to wit: to act with justice; give every one his due; and observe honesty and good faith. Since the pre-termination of the contract was anchored on an illegal ground, hence, contrary to law, and GF Equity negligently failed to provide legal basis for such pre-termination, e.g. that Valenzona breached the contract by failing to discharge his duties thereunder, GF Equity failed to exercise in a legitimate manner its right to pre-terminate the contract, thereby abusing the right of Valenzona to thus entitle him to damages under Art. 19 in relation to Article 20 of the Civil Code the latter of which provides:

Art. 20. Every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same.

In *De Guzman v. NLRC*,^[13] this Court quoted the following explanation of Tolentino why it is impermissible to abuse our rights to prejudice others.

The exercise of a right ends when the right disappears, and it disappears when it is abused, especially to the prejudice of others. The mask of a right without the spirit of justice which gives it life is repugnant to the modern concept of social law. It cannot be said that a person exercises a right when he unnecessarily prejudices another or offends morals or good customs. Over and above the specific precepts of positive law are the supreme norms of justice which the law develops and which are expressed in three principles: *honeste vivere*,^[14] *alterum non laedere*^[15] and *jus suum quique tribuere*;^[16] and he who violates them violates the law. For this reason, it is not permissible to abuse our rights to prejudice others.

The disquisition in *Globe Mackay Cable and Radio Corporation v. Court of Appeals*^[17] is just as relevant as it is illuminating on the present case. In that case, this Court declared that even granting that the therein petitioners might have had the right to dismiss the therein respondent from work, the abusive manner in which that right was exercised amounted to a legal wrong for which the petitioners must be held liable.

One of the more notable innovations of the New Civil Code is the codification of "some basic principles that are to be observed for the rightful relationship between human beings and for the stability of the social order." [REPORT ON THE CODE COMMISSION ON THE PROPOSED CIVIL CODE OF THE PHILIPPINES, p. 39]. The framers of the Code, seeking to remedy the defect of the old Code which merely stated the effects of the law, but failed to draw out its spirit, incorporated certain fundamental precepts which were "designed to indicate certain norms that spring from the fountain of good conscience" and which were also meant to serve as "guides for human conduct [that] should run as golden threads through society, to the end that law may approach its supreme ideal, which is the sway and dominance of justice" (Id.) Foremost among these principles is that pronounced in Article 19 which provides:

Art. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

This article, known to contain what is commonly referred to as the principle of abuse of rights, sets certain standards which must be observed not only in the exercise of one's rights but also in the performance of one's duties. These standards are the following: to act with justice; to give everyone his due; and to observe honesty and good faith. The law, therefore, recognizes a primordial limitation on all rights; that in their exercise, the norms of human conduct set forth in Article 19 must be observed. A right, though by itself legal because recognized or granted by law as such, may nevertheless become the source of some illegality. When a right is exercised in a manner which does not conform with the norms enshrined in Article 19 and results in damage to another, a legal wrong is thereby committed for which the wrongdoer must be held responsible. But while Article 19 lays down a rule of conduct for the government of human relations and for the maintenance of social

order, it does not provide a remedy for its violation. Generally, an action for damages under either Article 20 or Article 21 would be proper.[18] Emphasis and underscoring supplied).

As for GF Equity's defense of laches on account of Valenzona's invocation of his right under the contract only after the lapse of six years, the same fails.

Laches has been defined as the failure or neglect for an unreasonable and unexplained length of time to do that which by exercising due diligence, could or should have been done earlier, thus giving rise to a presumption that the party entitled to assert it either has abandoned or declined to assert it. It is not concerned with mere lapse of time; the fact of delay, standing alone, is insufficient to constitute laches.[19]

Laches applies in equity, whereas prescription applies at law. Our courts are basically courts of law, not courts of equity. Laches cannot thus be invoked to evade the enforcement of an existing legal right. Equity, which has been aptly described as a "justice outside legality," is applied only in the absence of, and never against, statutory law. *Aequetas nunquam contravenit legis*. Thus, where the claim was filed within the statutory period of prescription, recovery therefor cannot be barred by laches. The doctrine of laches should never be applied earlier than the expiration of time limited for the commencement of actions at law,[20] unless, as a general rule, inexcusable delay in asserting a right and acquiescence in existing conditions are proven.[21] GF Equity has not proven, nay alleged, these.

Under Article 1144[22] of the New Civil Code, an action upon a written contract must be brought within 10 years from the time the right of action accrues. Since the action filed by Valenzona is an action for breach upon a written contract, his filing of the case 6 years from the date his cause of action arose was well within the prescriptive period, hence, the defense of laches would not, under the circumstances, lie.

Consequently, Valenzona is entitled to recover actual damages — his salary which he should have received from the time his services were terminated up to the time the employment contract expired.[23]

As for moral damages which the appellate court awarded, Article 2220 of the New Civil Code allows such award to breaches of contract where the defendant acted fraudulently or in bad faith. Malice or bad faith implies a conscious and intentional design to do a wrongful act for a dishonest purpose or moral obliquity. It contemplates a state of mind affirmatively operating with furtive design or ill-will.[24] Bad faith means a breach of a known duty through some motive of interest or ill will. It must, however, be substantiated by evidence. Bad faith under the law cannot be presumed, it must be established by clear and convincing evidence.

As earlier stated, however, the pre-termination of the contract was not willful as GF Equity based it on a provision therein which is void. Malice or bad faith cannot thus be ascribed to GF Equity.

The unbroken jurisprudence is that in breach of contract cases where a party is not shown to have acted fraudulently or in bad faith, liability for damages is limited to the natural and probable consequences of the breach of the obligation which the parties had foreseen or could reasonably have foreseen. The damages, however, do not include moral damages.[25]

The award by the appellate court of moral damages must thus be set aside. And so must the award of exemplary damages, absent a showing that GF Equity acted in a wanton, fraudulent, reckless, oppressive or malevolent manner.[26]

The award to Valenzona of attorney's fees must remain, however, GF Equity having refused to pay the balance of Valenzona's salaries to which he was, under the facts and circumstances of the case, entitled under the contract, thus compelling him to litigate to protect his interest.[27]

WHEREFORE, the decision of the Court of Appeals dated October 14, 2002 is hereby SET ASIDE and another rendered declaring the assailed provision of the contract NULL AND VOID and ORDERING petitioner, GF Equity, to pay private respondent, Arturo Valenzona, actual damages in the amount of P525,000.00 and attorney's fees in the amount of P60,000.00.

Costs against petitioner.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Corona, and Garcia, JJ., concur.

[1] CA Rollo 84-92.

[2] Records at 211-213.

[3] Id. at 7-10.

[4] Id. at 86.

[5] Id. at 11-12.

[6] Id. at 1-6.

[7] Vide note 2.

[8] Vide note 1.

[9] Rollo at 6.

[10] Tolentino, Civil Code Of The Philippines, Vol. IV, 1990 ed., p. 410.

[11] 21 SCRA 555, 558-560 (1967).

[12] E.g., *Jespajo Realty v. Court of Appeals* 390 SCRA 27, 39 (2002). This Court in this case enunciated the rule that the express provision in the lease agreement of the parties that violation of any of the terms and conditions of the contract shall be sufficient ground for termination thereof by the lessor, removes the contract from the application of Article 1308.

In *Taylor v. Uy Tieng Piao*, 43 Phil. 873 (1922), this Court ruled that Article 1256 (now Art. 1308) creates no impediment to the insertion in a contract for personal service of a resolutory condition permitting the cancellation of the contract by one of the parties. Such a stipulation, as can be readily seen, does not make either the validity of the fulfillment of the contract dependent upon the will of the party to whom is conceded the privilege of cancellation; for where the contracting parties have agreed that such option shall exist, the exercise of the option is as much in the fulfillment of the contract as any other act which may have been the subject of agreement. x x x.

In *Allied Banking Corporation v. Court of Appeals*, 284 SCRA 357, 363-365 (1998), this Court held: "The fact that such option is binding only on the lessor and can be exercised only by the lessee does not render it void for lack of mutuality. After all, the lessor is free to give or not to give the option to the lessee. And while the lessee has a right to elect whether to continue with the lease or not, once he exercises his option to continue and the lessor accepts, both parties are thereafter bound by the new lease agreement. Their rights and obligations become mutually fixed, and the lessee is entitled to retain possession of the property for the duration of the new lease, and the lessor may hold him liable for the rent therefore. The lessee cannot thereafter escape liability even if he should

subsequently decide to abandon the premises. Mutuality obtains in such a contract and equality exists between the lessor and the lessee since they remain with the same faculties in respect to fulfillment.” (Underscoring supplied)

[13] 211 SCRA 723, 730 (1992).

[14] To live honorably, creditably, or virtuously.

[15] Not to injure another.

[16] To render to everyone his own.

[17] 176 SCRA 778, 790-791 (1989).

[18] Id. at 783-784.

[19] Chavez v. Bonto-Perez, 242 SCRA 73, 80 (1995).

[20] Imperial Victory Shipping Agency v. NLRC 200 SCRA 178, 184 (1991).

[21] Z. E. Lotho, Inc. v. Ice & Cold Storage Industries of the Phils., Inc. 3 SCRA 744, 750 (1961); Buenaventura v. David, 37 Phil. 435 (1918).

[22] Art. 1144. The following actions must be brought within 10 years from the time the right of action accrues.

- (1) Upon a written contract;
- (2) Upon an obligation created by law;
- 3) Upon a judgment.

[23] In Teknika Skills and Trade Services, Inc. v. NLRC, 212 SCRA 132, 139-140 (1992), this Court held:

“The principal cause of action in private respondent’s complaint is breach of contract of employment for a definite period. Having established her case, which public respondents correctly sustained, she is entitled to the salary corresponding to the unexpired portion of her contract. This is not a simple case of illegal dismissal of an employee whose employment is without a definite period.”

[24] Far East Bank and Trust Company v. Court of Appeals, 241 SCRA 671, 675 (1995).

[25] Philippine Air Lines v. Miano, 242 SCRA 235, 240 (1995) and Lufthansa German Airlines v. Court of Appeals, 243 SCRA 600, 614-615 (1995). See also China Airlines, Ltd. v. Court of Appeals, 211 SCRA 897, 905-906 (1992); Saludo, Jr. v. Court of Appeals 207 SCRA 498, 535-536 (1992); China Airlines, Ltd. v. Intermediate Appellate Court, G.R. No. 73835, January 17, 1989; and Philippine Airlines v. Court of Appeals, G.R. No. L-46558, July 31, 1981.

[26] Article 2232 of the New Civil Code; Salvador v. Court of Appeals, G.R. No. 124899, March 30, 2004.

[27] Article 2208 of the New Civil Code provides:

Art. 2208. In the absence of stipulation, attorney’s fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

- (1) When exemplary damages are awarded;
- (2) When the defendant’s act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
- (3) In criminal cases of malicious prosecution against the plaintiff;

- (4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
- (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;
- (6) In actions for legal support;
- (7) In actions for the recovery of wages of household helpers, laborers and skilled workers;
- (8) In actions for indemnity under workmen's compensation and employer's liability laws;
- (9) In a separate civil action to recover civil liability arising from a crime;
- (10) When at least double judicial costs are awarded;
- (11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable. (Emphasis supplied)

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