

BARON EXPRESS, BENJAMIN TOMAS, JR. AND PETER ANTHONY AYCO, PETITIONERS, VS. ROBERTO F. UMANITO, SABINO M. CASIALDO, RUEL C. CASIALDO AND RENANTE MEJORADA, RESPONDENTS.

G.R. No. 156969. November 11, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Benjamin Tomas, Jr. is engaged in the business of transporting passengers and/or cargoes from New Bataan to Davao City, and vice versa, under the business name "Baron Express." Peter Anthony Ayco was employed as manager. The following were paid a percentage of the daily income of the buses respectively assigned to them: Ruel C. Casialdo, employed in April 1990 as driver; Roberto F. Umanito, employed on December 5, 1990 as driver; Sabino M. Casialdo (father of Ruel), employed in January 1994 as driver; and Renante T. Mejorada, employed in August 1994 as conductor.

Ayco terminated Ruel and Sabino's employment in March 1999. Mejorada was, likewise, relieved in December 1999, and Umanito on April 21, 2000. Ayco accused Mejorada of selling bus tickets to other companies at the bus terminal, which the latter vehemently denied. Umanito, for his part, claimed that he was dismissed for reporting the activities of Ayco's brother, a bus conductor, who had not been remitting the correct amount of collections from passengers. Ayco also replaced Casialdo with his brother-in-law.

On April 24, 2000, the four employees filed a Complaint^[1] for illegal dismissal and payment of separation pay against Tomas, Jr. and Ayco in the Regional Arbitration Branch of the National Labor Relations Commission (NLRC).

In their position paper,^[2] Tomas, Jr. and Ayco averred that Umanito was suspended for one month for soliciting passengers in the parking area of the UBOADA bus association at the Ecoland Terminal, a violation of the DIBOA bus association rules of which Baron Express is a member. Umanito later refused to drive Bus No. 25 and did not report for work starting April 22, 2000. Ayco was then impelled to hire Ruben Alvarez as his replacement. Mejorada, on the other hand, was not an employee, but was "hired by a conductor of a particular bus to help said conductor in the loading and unloading of the [passengers'] baggage."^[3] They insisted that Mejorada's wages were paid by the conductor who hired him. Contrary to Ruel Casialdo's allegations that he was illegally dismissed, he failed to report for work since April 24, 2000 as driver of Bus No. 14. Sabino Casialdo also stopped reporting for work in May 1998 because he ran for election as Barangay Captain, and after he lost, he went to Davao City to drive a public utility jeepney.

In reply, Mejorada insisted that he was a bus conductor employed by Tomas, Jr. and was even given an office uniform. Sabino Casialdo admitted that he campaigned during the election, but averred that he was on leave for one week and reported for work after the election; he started driving the jeep in Davao City only after his employment was terminated by Tomas, Jr.

On August 25, 2000, the Labor Arbiter rendered judgment in favor of the dismissed employees. The fallo of the decision reads:

WHEREFORE, JUDGMENT is hereby rendered finding the dismissal of complainants as illegal.

Respondents BARON EXPRESS AND/OR BENJAMIN TOMAS, JR., Owner/PETER ANTHONY AYCO, Manager, are hereby ordered to, jointly and [solidarily], pay complainants the total amount of PESOS: TWO HUNDRED EIGHTY-SIX THOUSAND TWENTY-ONE PESOS AND 32/100 (P286,021.32) representing separation pay and backwages.

All other claims are dismissed for lack of basis.

SO ORDERED.[4]

Tomas, Jr. and Ayco appealed the decision to the NLRC. On December 19, 2000, the NLRC reversed the decision of the Labor Arbiter, holding that Mejorada was hired by the bus conductor, not by Tomas, Jr., hence, was not an employee of the latter. The NLRC ruled that the complainants failed to prove that they were dismissed from employment; Tomas, Jr. and Ayco, likewise, failed to prove that the complainants abandoned their jobs. The fallo of the decision reads:

WHEREFORE, the judgment appealed from is VACATED and SET ASIDE. A new one is entered declaring that complainants Roberto Umanito, Ruel and Sabino Casialdo were not illegally dismissed nor deemed to have abandoned their jobs. The remedy in such a case is to maintain the employment status quo. They are thus ordered to report back to work immediately and for respondents to readmit them to their former jobs without backwages.

Absent any employer-employee relationship between complainant Renante Mejorada and respondents, there cannot be a case of unjust dismissal and, therefore, complainant is not entitled to neither backwages nor separation pay.

SO ORDERED.[5]

The dismissed employees filed a petition for certiorari with the Court of Appeals (CA). On July 19, 2002, the appellate court rendered judgment granting the petition: it nullified the resolution of the NLRC and reinstated the decision of the Labor Arbiter. The CA ruled that Mejorada was an employee of Tomas, Jr., and that the employees were dismissed without any lawful or valid cause, without having been accorded due process.[6]

Tomas, Jr. and Ayco filed a motion for reconsideration, which the CA denied.

Tomas, Jr. and Ayco, now the petitioners, filed the instant petition for review on certiorari, alleging that –

THE COURT OF APPEALS COMMITTED AN ERROR OF LAW WHEN IT GRANTED THE RESPONDENTS' PETITION FOR CERTIORARI, NULLIFIED THE RESOLUTIONS OF THE NATIONAL LABOR RELATIONS COMMISSION AND REINSTATED THE DECISION OF THE LABOR ARBITER.

THE COURT OF APPEALS COMMITTED AN ERROR OF LAW WHEN IT DEEMED ADOPTED THE CONCLUSION OF THE LABOR ARBITER THAT RESPONDENTS WERE ILLEGALLY DISMISSED BY THE PETITIONERS.[7]

The petition is denied due course.

The petitioners fault the CA for giving credence to Mejorada's claim that he was employed by Tomas, Jr. as a conductor. They insist that he was hired by another conductor who also paid his wages. The petitioners deny having given respondent Mejorada any uniform, and surmise that he must have borrowed it from another. The

petitioners insist that respondent Sabino Casialdo filed his complaint only in April 2000, more than a year from his alleged dismissal from employment, an indication that his complaint was filed merely as an afterthought. They posit that the allegations of respondents Ruel and Sabino Casialdo are contrary to human experience and are barren of probative weight. Even assuming that the respondents were illegally dismissed by Ayco, Tomas, Jr. cannot be made liable since the former was a mere supervisor who was not authorized to dismiss employees.

The issues raised in the present petition are factual: (a) whether Mejorada was an employee of Tomas, Jr.; (b) whether the respondents abandoned their jobs; and (c) whether the petitioners terminated the employment of the respondents without due process and just or lawful cause.

Since the issues are interrelated, the Court shall resolve them simultaneously.

Under Rule 45 of the Rules of Civil Procedure, questions of fact cannot be raised in a petition for review on certiorari. The reason for this is that the Court is not a trier of facts; it is not to reexamine the evidence on record. Moreover, the findings of facts of the CA are deemed conclusive unless it is established that facts and circumstances of substance were misconstrued or misinterpreted which, if considered, would alter the outcome of the case. The Court has carefully reviewed the records and found that no reversible error was committed by the CA.

On the issue of whether Mejorada was an employee of Tomas, Jr., the CA ruled as follows:

But private respondents vehemently insist that petitioners failed to adduce evidence to prove that petitioner Renante Mejorada was, indeed, employed with Baron Express; or that respondent corporation did not pay wages to Mejorada; or that Mejorada's non-inclusion in the company payroll is necessarily fatal to his alleged cause of action against private respondents.

We are not persuaded. No particular form of evidence is required to prove the existence of an employer-employee relationship. Any competent and relevant evidence to prove the relationship may be admitted. For, if only documentary evidence would be required to show that relationship, no scheming employer would ever be brought before the bar of justice, as no employer would wish to come out with any trace of the illegality he has authored considering that it should take much weightier proof to invalidate a written instrument. We reiterate here the well-settled doctrine that the existence of employer-employee relationship is ultimately a question of fact. The case under consideration is an exception to the general rule that findings of fact of the NLRC are to be accorded respect and finality on appeal. For, even the Supreme Court itself will not uphold erroneous conclusions of the NLRC reversing factually and juridically correct decisions of the labor arbiters; or where the NLRC's findings of facts, upon which its conclusions are based, are not supported by substantial evidence. In the present case, we see no reason to reject, or set aside, the factual determinations of Labor Arbiter Miriam Libron-Barroso. In contrast to the conclusions of the respondent NLRC and the arguments advanced by private respondents, the findings of Labor Arbiter Libron-Barroso on the question of the existence of employer-employee relationship were predicated on credible, competent, and substantial evidence, or that amount of relevant evidence which a reasonable man might accept as adequate to justify a conclusion.

To be sure, it has not escaped our notice that private respondents never refuted petitioners' assertion that petitioner Renante Mejorada was issued respondent corporation's company uniform. Also, as pointed out by Labor Arbiter Libron-Barroso in her August 25, 2000 decision, private respondents did not care to identify or name the bus conductor who allegedly hired petitioner Renante Mejorada. In other words, private respondents have failed to convince us that, indeed, Mejorada was not an employee of Baron Express.

All told, we are satisfied that the decision of Labor Arbiter Libron-Barroso is a sound, fair and just judgment of the controversy at hand.[8]

The ruling of the CA is correct. Indeed, the petitioners failed to submit any evidence to prove their claim that Mejorada was not an employee, and even failed to identify the conductor who allegedly employed him. The least they could have done was to present an affidavit executed by such conductor to prove that such person was the one who engaged Mejorada's services. No such affidavit was adduced in evidence.

On the second issue, the CA declared:

To start with, private respondents cannot deny the fact that petitioners filed a complaint for illegal dismissal against them on April 24, 2000. This alone negates any intention on the part of petitioners-employees to abandon their jobs. The Supreme Court has ruled that the filing of a complaint for illegal dismissal is inconsistent with the charge of abandonment, for an employee who takes steps to protest his dismissal cannot, by any stretch of logic, be said to have abandoned his work.

What is more, respondent employer did not afford petitioners due process. An employee may only be dismissed for just or authorized causes, and the legality of the dismissal of an employee hinges on: (a) the legality of the act of dismissal, that is, the dismissal must be erected on the grounds set forth by Art. 282 of the Labor Code; and (b) the legality in the very manner of dismissal itself. Here, private respondent employer utterly failed to justify petitioners' discharge on the basis of abandonment of work. To be stressed, too, is the postulate that abandonment of work does not per se sever the employer-employee relationship. It is merely a specie of neglect or failure of duty, which may eventually graduate into a just cause for termination of employment. But the operative act that will ultimately put an end to this relationship is the dismissal of the employee after complying with the procedure prescribed by law. If the employer does not observe this procedure, there is illegal dismissal.

It is horn-book law that the termination of an employee must be effected in accordance with law. Amongst others, the law requires the employer to furnish the worker or employee sought to be dismissed with two written notices, i.e., (a) a notice which apprises the employee of the particular acts or omissions for which his dismissal is sought; and (b) a subsequent notice which advises the employee of the employer's decision to dismiss him. Upon this score, Rule XIV, Sec. 2, of the Omnibus Rules Implementing the Labor Code stipulates:

"Any employer who seeks to dismiss a worker shall furnish him a written notice stating the particular acts or omission constituting the grounds for his dismissal. In case of abandonment of work, the notice shall be served at the worker's last known address."

Beyond dispute or cavil here is the fact that no written notice was sent by the respondent employer Benjamin Tomas, Jr. informing petitioners that they had been terminated due to abandonment of work. This failure on the part of private respondent Tomas to comply with the twin-notice requirement, indeed, placed the legality of the dismissal in question under heavy clouds, rendering the dismissal illegal. By the same token, we regard as unavailing the said private respondent's plea before the NLRC that "as proof that petitioners were not dismissed, they could report back to work anytime." And by extension, we deem equally untenable this private respondent's posture that he could not have dismissed petitioners-drivers through his co-private respondent Ayco, because the latter was only a supervisor of Baron Express, and was not thus authorized to hire and dismiss employees. Petitioners gave short shrift to these arguments in their January 29, 2001 motion for reconsideration, to wit:

"It is well-settled in our jurisprudence that the burden in proving that the dismissal of a worker is legal lies with the employer. A manifestation 'that complainant could return to his work' made on appeal only is not a proof that complainant was not dismissed at all! If it were true that respondents are in good faith and have never dismissed complainant, they could have done so before this complaint was filed.

"And it is very ridiculous to consider and argue that an ordinary worker like Mr. Peter Anthony Ayco could very well usurp the function and authority of Mr. Tomas, Jr., the owner of the company, without being noticed,

therefore, by the latter, who 'personally and directly' managed his transportation business."

By Article 1702 of the Civil Code of the Philippines, in case of doubt, all labor legislation and all labor contracts shall be construed in favor of the safety and decent living for the laborer. It is a cardinal teaching of jurisprudence that if doubts exist between the evidence presented by the employer and that adduced by the employee, or in the interpretation of agreements between these two, the scales of justice must be tilted in favor of the latter. The policy of the law is to spread out maximum benefits under the labor laws to the greatest number of laborers, workers and employees who represent some of the most disadvantaged and marginalized segments of society. This rule finds peculiar application to the case at bench, in light of the fact that the evidence presented by private respondent corporation relative to petitioners' dismissal is far from convincing. Accordingly, we uphold the labor arbiter's finding that petitioners-drivers had been illegally dismissed.[9]

The foregoing findings of the CA affirmed the Labor Arbiter's findings:

Nowhere in the records can you find any letter or memorandum sent to complainants in compliance with the above-provision even when they have ample time to do so especially in the case of the Casialdo's. We cannot fault the latter that it took them a year to file said case. Complainants Ruel and Sabino Casialdo have only to suffer in silence since respondent B. Tomas, Jr.'s father-in-law Congressman Prospero Amaton, is a longtime politician in their area or in local parlance, "malakas." Although their fear is unfounded as far as this Office is concerned but for these lowly workers it meant a general deal. Nonetheless, they filed their complaint within the prescriptive period. Moreover, respondents should not fault Sabino Casialdo with driving a PUJ jeep after his "alleged" abandonment since he has for himself his family to [feed].

As regard the case of Roberto F. Umanito, he was aggrieved of what respondent Peter Ayco did to him. His summary dismissal was without just cause and the benefit of due process. We gave more credence to complainant's contention that his immediate dismissal was in retaliation of his report regarding the anomalies committed by Ayco's brother who was the conductor of the bus he was driving. The affidavits executed by respondents' employees cannot be given weight as they are merely self-serving. The best evidence is respondents' letter to complainant notifying him in writing stating the reason therefor to his last known address as required by law in such cases. The record is wanting of this proof. Thus, the overall picture clearly shows that complainants R. Umanito, Ruel and Sabino Casialdo were illegally dismissed without just or authorized cause and due process.[10]

The findings and the rulings of the Labor Arbiter and the CA are correct.

It must be stressed that no evidence was adduced to show that Tomas, Jr. countermanded Ayco's act of dismissing the respondents from employment; neither was it shown that Tomas, Jr. ordered the respondents to return to work, nor rejected the employment of Ayco's brother-in-law. Tomas, Jr. even rejected Mejjorada's explanation, and ignored his report on the incorrect remittance of daily collections. Instead of commending Mejjorada and ordering an investigation thereon, Tomas, Jr. abetted the latter's dismissal from employment.

The Court notes that Tomas, Jr. is the son-in-law of Congressman Prospero Amaton; the respondents were mere employees. The respondents would not have had the temerity to file the complaint against the petitioners unless their complaints were true, having had nothing to lean on to for support except the validity of their claims and the righteousness of their cause.

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED DUE COURSE. The assailed Decision of the Court of Appeals dated July 19, 2002 in CA-G.R. SP No. 65363 and the Resolution dated January 16, 2003 are AFFIRMED. Costs against the petitioners.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, and Tinga, JJ., concur.
Chico-Nazario, J., on leave.

[1] Records, p. 1.

[2] Id. at 23-29.

[3] Id. at 24.

[4] Records, p. 58.

[5] Rollo, pp. 139-140.

[6] Id. at 51-66.

[7] Rollo, p. 41.

[8] Rollo, pp. 22-23.

[9] Rollo, pp. 19-21.

[10] Id. at 114-115.

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