

IRENEO L. CAMUA, JR., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, SECOND DIVISION, RBL FISHING CORPORATION AND ENGR. BEN Y. LIM, JR., RESPONDENTS.

G.R. NO. 158731. January 25, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review is the Decision[1] dated December 3, 2002, of the Court of Appeals in CA-G.R. SP No. 69567. The Court of Appeals affirmed with modification the Decision[2] dated September 24, 2001, of the National Labor Relations Commission in NLRC NCR CA No. 023749-00. Also assailed is the Resolution[3] dated May 22, 2003, of the Court of Appeals denying the motion for reconsideration.

As culled from the records, the facts in this case are as follows:

Petitioner Ireneo L. Camua, Jr. was a caulker from January 31, 1975 to December 21, 1997 in RBL Fishing Corporation (RBL), herein private respondent. On August 16, 1997, while petitioner was on his way to work, he learned that a policeman armed with a warrant for his arrest was looking for him in connection with the fatal shooting of a man who held up a jeepney. He was then acting as Barangay Tanod (Team Leader) when the incident occurred. Fearing the arrest, petitioner went into hiding in Batangas.

During the last week of August 1997, petitioner received a letter[4] dated August 30, 1997, from RBL requiring him to submit a written explanation and to report for summary investigation on the charge of Absence Without Leave (AWOL). On November 24, 1997, he received a Memorandum[5] dated November 22, 1997, informing him of his termination effective December 21, 1997. On February 16, 1998, the petitioner filed a complaint[6] for illegal dismissal, money claims, damages and attorney's fees against the private respondents. During the mandatory conference on March 16, 1998,[7] the parties agreed to limit the complaint to the issue of illegal dismissal only.

Petitioner contended that he did not abandon his work since he notified the private respondents why he was absent. He added that on August 23, 1997 he called RBL to say that he intended to report for work but could not do so due to the abovesited incident. Petitioner averred that in response to RBL's letter dated August 30, 1997, he sent a letter[8] dated September 5, 1997 explaining why he was absent. Finally, after receiving the Memorandum dated November 22, 1997, he claimed he went to the office of Engr. Ben Y. Lim, Jr. and left with his secretary another letter[9] dated December 1, 1997, explaining the reason for his absence and indicating his intention to return to work.

For its part, RBL averred that the petitioner had abandoned his job; and that despite their letters, the petitioner did not reply to inform them why he was absent.

In a decision[10] dated July 9, 1999, the Labor Arbiter put to naught petitioner's explanation that he informed RBL of the reason for his absence. But because of his long service with RBL without any previous violation of

company rules, the Labor Arbiter found the penalty of dismissal too harsh. He ordered that petitioner be reinstated to his former, or an equivalent, position without backwages.

Both parties appealed to the National Labor Relations Commission (NLRC), with the petitioner questioning also the failure by the Labor Arbiter to award backwages and money claims.

In the meantime, the Labor Arbiter issued a Writ of Execution^[11] to implement the petitioner's reinstatement. On June 2001, the petitioner was reinstated as a caulker.

On September 24, 2001, the NLRC rendered a Decision^[12] reversing and setting aside the Labor Arbiter's decision and dismissing the complaint for lack of merit. The NLRC opined that the petitioner failed to inform the private respondents of the reason for his absence and of his intention to return for work. It ruled that the petitioner's job as a caulker could not wait for him or something perilous might happen to the vessel while on deep-sea fishing activity. Thus, the private respondents could not be blamed for finding a replacement after the petitioner's unexplained absence of three months.

On October 3, 2001, the private respondents dismissed the petitioner.^[13] Forthwith, the petitioner appealed to the Court of Appeals which affirmed with modification the NLRC decision on December 3, 2002.^[14] The appellate court found that the petitioner intended to return to work because he notified the private respondents of the reason for his absence and lost no time in filing the complaint for illegal dismissal. However, it considered unacceptable the reason for his absence, i.e., fear of arrest. It said it could not countenance petitioner's evasion of his arrest under lawful orders.

Hence, this petition based on the following assignments of errors:

- WAS PETITIONER'S DISMISSAL ON 21 DECEMBER 1997, DESPITE THE FINDING THAT THERE WAS NO ABANDONMENT, ILLEGAL?
- WAS PETITIONER'S SECOND DISMISSAL ON 03 OCTOBER 2001 ILLEGAL FOR BEING PREMATURE?
- IS PETITIONER ENTITLED TO HIS MONEY CLAIMS, DAMAGES AND ATTORNEY'S FEES?^[15]

The issues for our resolution now are (1) whether the petitioner abandoned his employment, and (2) whether he was illegally dismissed.

Prefatorily, we reiterate it is not the function of this Court to assess and evaluate the factual evidence presented before the lower courts. Its jurisdiction is generally limited to reviewing errors of law that might have been committed by the appellate court, unless, the factual findings of the Court of Appeals are at variance with those of the NLRC and the Labor Arbiter. Since in this case they differ, we are compelled to review factual questions thus presented.^[16]

The petitioner contends that the private respondents failed to prove that he abandoned his work. Yet, the records show that the petitioner stopped reporting for work on August 18, 1997. As a standard office procedure, the private respondents sent him a letter dated August 30, 1997, requiring him to report for work. The petitioner alleged that he answered it in a letter dated September 5, 1997. Later, the private respondents sent him a Memorandum dated November 22, 1997, informing him of his termination. The petitioner alleged that he left a letter dated December 1, 1997, with respondent Lim's secretary. Although undeniably the petitioner received the two letters sent by the private respondents, there is no record showing that his replies were actually sent and then received by private respondents. The private respondents denied receiving them. The replies, copies of which were attached to the records, do not contain any indication that they were received by the private respondents. We

are thus convinced, as the Labor Arbiter[17] and the NLRC[18] were, that the petitioner failed to inform the private respondents of the reason for his extended absence. His allegations that he notified the private respondents of his intention to return for work were unsubstantiated and self-serving.

We likewise agree with the Court of Appeals that the petitioner's failure to report for work was not justified.[19] He said he had gone hiding in Batangas to evade arrest and ward off the long arm of the law. We have held that through flight, one derogates the course of justice by avoiding arrest, detention, or the institution or continuance of criminal proceedings.[20] We cannot countenance the petitioner's excuse and make him benefit from a grossly unlawful act which he himself created. To do so would be to place an imprimatur on his attempt to derail the normal course of the administration of justice.

For unexplained absence to constitute abandonment, there must be a clear, deliberate and unjustified refusal on the part of the employee to continue his employment, without any intention of returning.[21] For a valid finding of abandonment, these two factors should be present: (1) the failure to report for work or absence without valid or justifiable reason; and (2) a clear intention to sever employer-employee relationship, which is the more determinative factor and is manifested by overt acts from which it may be deduced that the employee has no more intention to work. Such intent must be shown by clear proof that it was deliberate and unjustified.[22]

Under the facts and circumstances obtaining in this case, we consider the petitioner's failure to answer properly the private respondents' letters sufficient indicium that he was no longer interested in returning for work. Without doubt, the intention is manifest. Lastly, his reason for not reporting for work cannot be considered valid nor justifiable.

WHEREFORE, the petition is DENIED for lack of merit. The Decision of the Court of Appeals dated December 3, 2002, in CA-G.R. SP No. 69567, affirming with modification the Decision dated September 24, 2001, of the National Labor Relations Commission in NLRC NCR CA No. 023749-00, is AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Carpio, Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 33-38. Penned by Associate Justice Bernardo P. Abesamis, with Associate Justices Juan Q. Enriquez, Jr., and Edgardo F. Sundiam concurring.

[2] Records, Vol. 1, pp. 248-264.

[3] Rollo, p. 40.

[4] Records, Vol. 1, p. 32.

[5] Id. at 20 and 33.

[6] Id. at 2.

[7] Id. at 5. See also p. 46.

[8] Id. at 19.

[9] Id. at 21.

[10] Id. at 46-54.

[11] Id. at 178-180.

[12] Supra note 2.

[13] Id. at 272.

[14] Supra note 1.

[15] Id. at 215.

[16] Samarca v. Arc-Men Industries, Inc., G.R. No. 146118, October 8, 2003, 413 SCRA 162, 168.

[17] Supra note 2 at 53.

[18] Id. at 258-259.

[19] Supra note 1 at 36.

[20] People v. Ayupan, G.R. No. 140550, February 13, 2002, 376 SCRA 704, 719.

[21] Cruz v. National Labor Relations Commission, G.R. No. 116384, February 7, 2000, 324 SCRA 770, 778.

[22] Agabon v. National Labor Relations Commission, G.R. No. 158693, November 17, 2004, 442 SCRA 573, 605-606.

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