

**SILVESTRE P. ILAGAN DOING BUSINESS UNDER THE NAME AND
STYLE “INFANTRY SURVEILLANCE INVESTIGATION
SECURITY AGENCY,” PETITIONER, VS. HON. COURT OF
APPEALS (12TH DIVISION), NATIONA...**

G.R. No. 162089. July 09, 2008

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review on certiorari are the January 27, 2003 Decision[1] and the February 4, 2004 Resolution[2] of the Court of Appeals in CA-G.R. SP No. 69878, which had affirmed the Decision[3] dated November 29, 2001, of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 025192-2000. The NLRC decision upheld the Labor Arbiter's finding of illegal dismissal against herein petitioner.

The facts are uncomplicated.

Petitioner Silvestre P. Ilagan is the president and proprietor of Infantry Surveillance Investigation Security Agency. The agency hired as security guards private respondents Peter B. Orias and Romelito Pueblo, Sr. on November 6, 1992 and October 4, 1995, respectively; and as head guard, private respondent Dolores Peregrino in December 1996. On separate occasions in 1998, they were orally informed by petitioner not to report for work anymore.

Private respondents filed with the Labor Arbiter separate complaints against petitioner for illegal dismissal. They claimed that they reported for work at their assigned workplaces for twelve-hour shifts; however, their salaries were below the minimum wage, they were not given 13[th] month pay, overtime pay, holiday pay, night shift differential, and the monthly P50 cash bond petitioner promised at the start of their employment.

In the course of the mandatory conciliation and mediation conference, the parties agreed that the only issue left was the payment of money claims. However, the parties later moved for the submission of their respective position papers, thereby terminating the conciliation and mediation conference.

Acting on the complaint for illegal dismissal and money claims, on April 28, 2000, the Labor Arbiter ruled against petitioner, thus:

WHEREFORE, ... judgment is hereby rendered in favor of complainants Peter B. Orias, Dolores Peregrino and Romelito Pueblo, Sr., and against respondent Infantry Surveillance Investigation Security Agency and/or Silvestre P. Ilagan, thus:

- Ordering respondent to immediately reinstate complainants to their former position without loss of seniority rights and other privileges, or at the option of respondent, payroll reinstatement;
- Ordering respondent to pay complainants their respective full backwages, inclusive of allowances and ... other benefits or their monetary equivalent computed from the time complainants were separated from service

up to the date of this decision;

- Ordering respondent to pay complainants their respective 13[th] month pays subject to the three (3) years prescriptive period.

x x x x

SO ORDERED.[4]

The NLRC affirmed the ruling of the Labor Arbiter, to wit:

WHEREFORE, the appeal filed by respondents is hereby DENIED for lack of merit. The [D]ecision dated 28 April 2000 is AFFIRMED.

SO ORDERED.[5]

Petitioner's motion for reconsideration was denied for lack of merit. Undaunted, petitioner filed in the Court of Appeals a petition for certiorari, which was likewise dismissed, thus:

WHEREFORE, in view of all the foregoing, the instant petition is DENIED. The November 29, 2001 Decision of the NLRC, Third Division, as well as its January 31, 2002 Resolution denying the Motion for Reconsideration of the petitioner are hereby AFFIRMED.

SO ORDERED.[6]

Petitioner's motion for reconsideration was denied. Hence, the instant petition raising the following issues:

I.

WHETHER OR NOT THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AND THEREFORE A REVERSIBLE ERROR IN AFFIRMING THE INCLUSION OF THE ISSUE OF ILLEGAL DISMISSAL IN THIS CASE;

II.

WHETHER OR NOT PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION, AND THEREFORE A REVERSIBLE ERROR IN AFFIRMING THAT PRIVATE RESPONDENTS WERE ILLEGALLY DISMISSED; [AND]

III.

WHETHER OR NOT THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION IN AWARDING SERVICE INCENTIVE LEAVE PAY AND 13[TH] MONTH PAY TO PRIVATE RESPONDENTS.[7]

Petitioner contends the issue of illegal dismissal was already mooted by the parties' agreement, limiting the issue to money claims, allegedly arrived at during the conciliation and mediation conference. Petitioner insists absent proof of a positive act of dismissal, a complaint for illegal dismissal could not prosper. Petitioner claims private respondents simply resigned from their jobs, but he no longer presented the resignation letters to the Labor Arbiter simply because he thought the issue of illegal dismissal was already moot. Petitioner further avers that the awards of service incentive leave pay and 13[th] month pay are without basis.

Private respondents, for their part, counter that the issue of illegal dismissal was not amicably resolved. They stress that no compromise agreement or any actual settlement of the case ever materialized before the Labor Arbiter. They aver that they have substantially proven the fact of their illegal dismissal. Private respondents point out that it is now too late for petitioner to allege their supposed resignation.

The petition lacks merit.

Section 2, Rule V of the then New Rules of Procedure of the NLRC provides:

Section 2. Mandatory Conciliation/Mediation Conference. -

Should the parties arrive at any agreement as to the whole or any part of the dispute, the same shall be reduced to writing and signed by the parties and their respective counsels, if any[,] before the Labor Arbiter.

In order to be valid, any agreement arrived at in the course of the mandatory conciliation and mediation conference should be in writing and signed by the parties, or their counsel, before the Labor Arbiter.

In this case, no such written and duly signed evidence of any amicable settlement of the dispute, whether in whole or in part, was ever adduced. Thus, petitioner has no basis for claiming that the issue of illegal dismissal has been amicably settled.

It may be true that in the course of the mandatory conciliation and mediation conference, the parties agreed that the only issue left was the payment of money claims. However, the parties later moved for the submission of their respective position papers on the issues of both illegal dismissal and money claims, thereby terminating the conciliation and mediation conference. Clearly then, no amicable settlement at all was reached by the parties.

Anent the second issue, petitioner's belated submission that private respondents voluntarily resigned deserves no consideration. It should have been raised in the hearing before the Labor Arbiter. We are not prepared to indulge petitioner's defense that he thought illegal dismissal was no longer an issue. He could not have been unaware that during the conciliation and mediation conference, no agreement on either of the two issues was ever forged.

Concededly, employers have the right to terminate the services of an employee for a just or authorized cause. However, the dismissal of employees must be made in accordance with law. The burden of proof is always on the employer to prove that the dismissal was for a just or authorized cause.[8]

In this case, petitioner failed to prove (1) that the dismissal of private respondents was for a valid cause and (2) that he complied with the two- notice requirement of procedural due process. Hence, we are constrained to agree that this case is a matter of illegal dismissal.

As for the third issue, Article 279 of the Labor Code, as amended by Section 34 of Republic Act No. 6715,[9] states that:

ART. 279. Security of Tenure. - In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. (Emphasis supplied.)

Thus, having been illegally dismissed, private respondents should be reinstated to their former positions without loss of seniority rights and other privileges. They should also be paid their full backwages, inclusive of allowances, and the monetary equivalent of other benefits, computed from the time their compensation was withheld from them up to the time of their actual reinstatement.

WHEREFORE, the petition is DENIED. The assailed January 27, 2003 Decision and the February 4, 2004 Resolution of the Court of Appeals in CA-G.R. SP No. 69878, are AFFIRMED. The Decision dated April 28, 2000 of the Labor Arbiter is REINSTATED with MODIFICATION. Petitioner SILVESTRE P. ILAGAN, doing business under the name and style "Infantry Surveillance Investigation Security Agency" is ORDERED to:

- REINSTATE private respondents PETER B. ORIAS, ROMELITO PUEBLO, SR., and DOLORES PEREGRINO to their former positions without loss of seniority rights and other privileges; and

- PAY private respondents their respective full backwages, inclusive of allowances, and the monetary equivalent of other benefits, computed from the time compensation was withheld up to the time of their actual reinstatement.

No pronouncement as to costs.

SO ORDERED.

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

[1] Rollo, pp. 29-34. Penned by Associate Justice Elvi John S. Asuncion, with Associate Justices Conrado M. Vasquez, Jr. and Sergio L. Pestaño concurring.

[2] Id. at 36.

[3] CA rollo, pp. 17-22.

[4] Id. at 30.

[5] Id. at 22.

[6] Rollo, pp. 33-34.

[7] Id. at 103-104.

[8] *Mayon Hotel and Restaurant v. Adana*, G.R. No. 157634, May 16, 2005, 458 SCRA 609, 639.

[9] AN ACT TO EXTEND PROTECTION TO LABOR, STRENGTHEN THE CONSTITUTIONAL RIGHTS OF WORKERS TO SELF-ORGANIZATION, COLLECTIVE BARGAINING AND PEACEFUL CONCERTED ACTIVITIES, FOSTER INDUSTRIAL PEACE AND HARMONY, PROMOTE THE PREFERENTIAL USE OF VOLUNTARY MODES OF SETTLING LABOR DISPUTES, AND REORGANIZE THE NATIONAL LABOR RELATIONS COMMISSION, AMENDING FOR THESE PURPOSES CERTAIN PROVISIONS OF PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES, approved on March 6, 1989.

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