

SAN MIGUEL CORPORATION, PETITIONER, VS. EDUARDO L. TEODOSIO, RESPONDENT.

G.R. No. 163033. October 02, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

This is a petition for review on certiorari, under Rule 45 of the Rules of Court, seeking to annul and set aside the Decision[1] dated October 30, 2003, rendered by the Court of Appeals (CA) in CA-G.R. SP No. 60334 and its Resolution[2] dated February 24, 2004 denying petitioner's motion for reconsideration.

The factual and procedural antecedents are as follows:

On September 5, 1991, respondent Eduardo Teodosio was hired by San Miguel Corporation (SMC) as a casual forklift operator in its Bacolod City Brewery.[3] As a forklift operator, respondent was tasked with loading and unloading pallet[4] of beer cases within the brewery premises. Respondent continuously worked from September 5, 1991 until March 1992, after which he was "asked to rest" for a while. A month after, or sometime in April 1992, respondent was rehired for the same position, and after serving for about five to six months, he was again "asked to rest." After three weeks, he was again rehired as a forklift operator. He continued to work as such until August 1993.[5]

Sometime in August 1993, respondent was made to sign an "Employment with a Fixed Period"[6] contract by SMC, wherein it was stipulated, among other things, that respondent's employment would be "from August 7, 1993 to August 30, 1995, or upon cessation of the instability/fluctuation of the market demand, whichever comes first." Thereafter, respondent worked at the plant without interruption as a forklift operator.

On March 20, 1995, respondent was transferred to the plant's bottling section as a case piler. In a letter[7] dated April 10, 1995, respondent formally informed SMC of his opposition to his transfer to the bottling section. He asserted that he would be more effective as a forklift operator because he had been employed as such for more than three years already. Respondent also requested that he be transferred to his former position as a forklift operator. However, SMC did not answer his letter.

In an undated letter,[8] respondent informed SMC that he was applying for the vacant position of bottling crew as he was interested in becoming a regular employee of SMC.

On June 1, 1995, SMC notified the respondent that his employment shall be terminated on July 1, 1995 in compliance with the Employment with a Fixed Period contract.[9] SMC explained that this was due to the reorganization and streamlining of its operations.

In a letter[10] dated July 3, 1995, respondent expressed his dismay for his dismissal. He informed SMC that despite the fact that he would be compelled to receive his separation pay and would be forced to sign a waiver to that effect, this does not mean that he would be waiving his right to question his dismissal and to claim employment benefits as provided in the Collective Bargaining Agreement (CBA) and company policies.

Thereafter, respondent signed a Receipt and Release[11] document in favor of SMC and accepted his separation pay, thereby releasing all his claims against SMC.

On July 4, 1995, respondent filed a Complaint[12] against SMC before the National Labor Relations Commission (NLRC), Regional Arbitration Branch No. VI, Bacolod City, for illegal dismissal and underpayment of wages and other benefits.

After the filing of the parties' respective pleadings, the Labor Arbiter rendered a Decision[13] dismissing the complaint for lack of merit. The Labor Arbiter concluded that the contract of employment with a fix period signed by respondent was a legitimate exercise of management prerogative. There was thus nothing illegal about respondent's transfer to the bottling section and the assignment of a regular employee to his former position. Considering that respondent failed to qualify in the bottling section and there was no longer any available position for him, his termination in accordance with the employment contract was valid. Moreover, the Labor Arbiter opined that since the respondent was not a union member and not a regular employee of SMC, he was not entitled to the benefits granted by the existing CBA.[14]

Aggrieved, respondent sought recourse before the NLRC, Fourth Division, Cebu City. On November 26, 1999, the NLRC rendered a Decision[15] dismissing the appeal and affirming the decision of the Labor Arbiter. The NLRC anchored its decision on the fact that respondent signed a "Receipt and Release" upon receiving his separation pay from SMC. It upheld the validity of the said Receipt and Release document, finding the same to have been voluntarily executed by the respondent and the consideration therefor appears to be reasonable under the circumstances.[16] The respondent filed a motion for reconsideration, but it was denied in a Resolution[17] dated May 26, 2000.

Respondent then filed before the CA a petition for certiorari, docketed as CA-G.R. SP No. 60334, seeking to annul and set aside the said Decision and Resolution of the NLRC.[18]

On October 30, 2003, the CA rendered a Decision[19] granting the petition, the decretal portion of which reads:

WHEREFORE, the instant petition is GRANTED. The Decision dated November 29, 1999 and Resolution dated May 26, 2000 of the National Labor Relations Commission, Fourth Division, Cebu City and Decision dated April 24, 1998 of the Labor Arbiter are REVERSED and SET ASIDE. Judgment is rendered ordering:

- The reinstatement of petitioner Eduardo Teodosio to his position as forklift operator without loss of seniority rights.
- The private respondent San Miguel Corporation to pay the full backwages of the petitioner from the day of his illegal dismissal until actual reinstatement. Said backwages shall be computed on the basis of the basic salary, allowances and other benefits granted to regular employees under the Collective Bargaining Agreement existing at the time. Public respondent NLRC is hereby directed to make the computation of said full backwages and inform soonest all parties as well as this Court, accordingly, within thirty days after receipt of this decision.
- The private respondent San Miguel Corporation to pay the deficiency amount of salary, allowances and benefits that petitioner should have received as a regular employee from the time he attained the status of regular employee by operation of law on September, 1996 to the time he was illegally dismissed. Public respondent NLRC is likewise directed to make the necessary computation and inform all parties and this Court within thirty (30) days after receipt of this decision.
- The private respondent San Miguel Corporation to pay petitioner the amount of FIFTY THOUSAND PESOS (P50,000.00) as moral damages, TEN THOUSAND PESOS (P10,000.00) as exemplary damages and ten percent (10%) of the total amount awarded to petitioner by this Court as attorney's fees. Costs against private

respondent San Miguel Corporation.

SO ORDERED.[20]

In granting the petition, the CA ratiocinated that the Employment with a Fixed Period contract was just a scheme of SMC to circumvent respondent's security of tenure. The CA concluded that even before the respondent signed the employment contract, he already attained the status of a regular employee. Consequently, respondent's transfer to the bottling section and his subsequent dismissal were evidently tainted with bad faith. Moreover, the appellate court declared invalid the Receipt and Release document signed by the respondent, since the law proscribes any agreement whereby a worker agrees to receive less compensation than what he is entitled to recover. It added that a deed of release or quitclaim cannot bar an employee from demanding benefits to which he is legally entitled.

SMC filed a motion for reconsideration, but it was denied in the Resolution[21] dated February 24, 2004.

Hence, this petition assigning the following errors:

First ground

The hon. Court of appeals committed serious errors when it did not uphold the validity of the contract of employment with a fixed period (hereinafter referred to as "EWFP", for brevity) between smc and respondent teodosio.

Second ground

The hon. Court of Appeals seriously erred in declaring that respondent had already attained status of a regular employee even before [THE] parties entered into the ewfp contract.

Third ground

The hon. Court of Appeals seriously erred in its conclusion that respondent's transfer to the bottling section and subsequent dismissal was tainted with bad faith since having acquired the status of a regular employee as early as 1992, respondent had a vested right to his position as forklift (sic) operator which could not be arbitrarily taken from him and given to accommodate another regular employee, mr. vaflor.

Fourth ground

The hon. Court of Appeals seriously erred when it declared that from September 1992 or one (1) year after respondent was hired and attained regular status by operation of law, he was entitled to receive the same basic salary and benefits granted by the collective bargaining agre[E]ment to respondent's co-workers/forklift operators who were regular employees.

Fifth ground

The hon. Court of Appeals seriously erred when it did not uphold the validity of the "receipt and release" signed by respondent.

Sixth ground

The hon. Court of Appeals seriously erred when it concluded that smc intentionally evaded its legal obligation of granting the benefits and privileges to which its loyal employee of five years is clearly entitled to and such act being oppressive to labor and contrary to the avowed public policy of protecting labor rights entitled the grant to respondent of moral damages in the amount of fifty thousand pesos (P50,000.00) and exemplary damages of ten thousand pesos (P10,000.00) as well as attorney's fees in the amount of ten percent (10%) of the total award for expenses incurred by respondent to protect his rights and interests.

Seventh ground

The hon. Court of Appeals seriously erred when it granted the petition on certiorari filed by respondent and reversed and set aside the decision dated November 26, 1999 (not November 29, 1999 as erroneously stated) and resolution dated May 26, 2000 of the nlrc, fourth division, cebu city, and decision dated April 24, 1998 of the labor arbiter, and consequently ordered the following:

- 1) the reinstatement of petitioner Eduardo teodosio to his position as forklift operator without losses [sic] of seniority rights;
- 2) the private respondent san Miguel corporation to pay the full backwages of the petitioners from the day of his illegal dismissal until actual reinstatement. Said backwages shall be computed on the basis of the basic salary, allowances and other benefits granted to regular employees under the collective bargaining agreement existing at the time;
- 3) The private respondent san Miguel corporation to pay the deficiency amount of salary, allowances and benefits that petitioner should have received as a regular employee from the time he attained the status of regular employee by operation of law on September, 1996 to the time he was illegally dismissed. x x x.;
- 4) the private respondent san Miguel corporation to pay petitioner the amount of fifty thousand PESOS (P50,000.00) as moral damages, ten thousand pesos (P10,000.00) as exemplary damages and ten percent (10%) of the total amount awarded to petitioner by this court as attorney's fees. Costs against private respondent san Miguel corporation.[22]

Simply stated, the issues before us are the following: 1) whether the respondent was a regular employee of SMC; 2) whether the respondent was illegally dismissed; and 3) whether the respondent is entitled to his monetary claims and damages.

SMC argues that it did not have the slightest intention to circumvent respondent's right to security of tenure. When SMC employed respondent, it was in response to the business environment and operating needs prevailing at that time. It was made in good faith and in the exercise of business judgment. The option of SMC to fully mechanize its operations and to regularize the second shift of employees in the bottling section if favorable conditions prevail were known to the respondent when he voluntarily entered into the employment with a fixed period contract.

SMC adds that before the employment contract expired, respondent was given the opportunity to continue working and was transferred to the second shift operations of the bottling section. When it decided to regularize the second shift operations and accept 23 workers for regular positions, respondent was given the equal opportunity to apply. However, despite being already in the bottling section, respondent failed to perform. After an objective evaluation of the total performance of all the workers with employment contract, respondent failed to qualify for a regular position. Respondent should not, therefore, blame SMC for his failure to qualify for a regular position.

SMC also contends that respondent's employment contract was in accordance with Article 280 of the Labor Code. Respondent's employment has been pre-determined, in that the duration of the work was contingent upon the cessation of fluctuating or unstable market demand for beer products, coupled with the automation of brewery operations.

As regards respondent's claim for underpayment of salary and other benefits in accordance with the provisions of the existing CBA, SMC submits that respondent was not entitled to them. SMC maintains that being a contractual employee, by express provision of the CBA, he was excluded therefrom as he was not included in the appropriate bargaining unit defined in the CBA. Respondent was neither a union member nor one who paid any membership or agency fee to the union. Thus, he was not entitled to any benefits provided in the CBA to its union members.

Moreover, SMC insists that respondent was bound by the Receipt and Release contract that he executed. The terms and conditions of the document were clear and respondent understood and knew fully well the consequences thereof when he signed it. SMC adds that respondent wanted to squeeze more money from it despite the fact that it had already doubled respondent's separation pay.

SMC avers that although a waiver or quitclaim executed by a terminated employee upon receipt of his separation pay is not necessarily a bar to question the legality of his termination, still such conclusion does not apply to the instant case. SMC posits that respondent was not taken advantage of, since he did not receive a ludicrously low and unconscionable amount as separation pay. In fact, respondent was given separation pay in excess of what was stipulated in the employment contract.

Finally, SMC argues that respondent's dismissal from the company was based on legal and valid grounds, i.e., the termination of his employment contract.

For his part, respondent posits that he is already a regular employee of SMC considering that he has been working as a forklift operator for several years before he signed the employment contract. Respondent insists that his position as a forklift operator has never been redundant. In fact, he was replaced by another employee of SMC, who transferred from another plant. Also, the automation of some of SMC's operation does not affect his work as a forklift operator, because forklifts would still be utilized in lifting the pile of cases whether they were arranged manually or by palletizer machine. Respondent contends that his transfer to the bottling section was merely a ploy of SMC to legitimize the designation of another SMC employee to his former position as forklift operator.

Respondent maintains that the execution of the Receipt and Release agreement did not bar him from questioning the legality of his dismissal. He submits that the said agreement was unilaterally prepared by SMC and that prior to its execution, he was already dismissed by SMC. He adds that after receiving his separation pay, he immediately filed the complaint against SMC, thus, affirming his desire to assail the legality of his dismissal.

Respondent maintains that his dismissal was illegal. Hence, he is entitled to reinstatement to his former position as forklift operator, moral and exemplary damages, and payment of attorney's fees.

The petition is bereft of merit.

This Court finds the respondent to be a regular employee. Article 280 of the Labor Code, as amended, provides:

ART. 280. REGULAR AND CASUAL EMPLOYMENT. - The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a specific project or undertaking, the completion or termination of which has been determined at the time of the engagement of the employee or where the work or services to be performed is seasonal in nature and the employment is for the duration of the season.

An employment shall be deemed to be casual if it is not covered by the preceding paragraph: Provided, That, any employee who has rendered at least one year of service, whether such service is continuous or broken, shall be considered a regular employee with respect to the activity in which he is employed and his employment shall continue while such activity exists.

Thus, there are two kinds of regular employees, namely: (1) those who are engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer; and (2) those who have rendered at least one year of service, whether continuous or broken, with respect to the activity in which they are employed.[23] Simply stated, regular employees are classified into (1) regular employees - by nature of work and

(2) regular employees - by years of service. The former refers to those employees who perform a particular activity which is necessary or desirable in the usual business or trade of the employer, regardless of their length of service; while the latter refers to those employees who have been performing the job, regardless of the nature thereof, for at least a year.[24] If the employee has been performing the job for at least one year, even if the performance is not continuous or merely intermittent, the law deems the repeated and continuing need for its performance as sufficient evidence of the necessity, if not indispensability, of that activity to the business.[25]

Based on the circumstances surrounding respondent's employment by SMC, this Court is convinced that he has attained the status of a regular employee long before he executed the employment contract with a fixed period. Although respondent was initially hired by SMC as a casual employee, respondent has attained the status of a regular employee. Respondent was initially hired by SMC on September 5, 1991 until March 1992. He was rehired for the same position in April 1992 which lasted for five to six months. After three weeks, he was again rehired as a forklift operator and he continued to work as such until August 1993. Thus, at the time he signed the Employment with a Fixed Period contract, respondent had already been in the employ of SMC for at least twenty-three (23) months.

The Labor Code provides that a casual employee can be considered as a regular employee if said casual employee has rendered at least one year of service regardless of the fact that such service may be continuous or broken. Section 3, Rule V, Book II of the Implementing Rules and Regulations of the Labor Code clearly defines the term "at least one year of service" to mean service within 12 months, whether continuous or broken, reckoned from the date the employee started working, including authorized absences and paid regular holidays, unless the working days in the establishment, as a matter of practice or policy, or as provided in the employment contract, is less than 12 months, in which case said period shall be considered one year. If the employee has been performing the job for at least one year, even if the performance is not continuous or merely intermittent, the law deems the repeated and continuing need for its performance as sufficient evidence of the necessity, if not indispensability, of that activity to the business of the employer.[26]

Moreover, the nature of respondent's work is necessary in the business in which SMC is engaged. SMC is primarily engaged in the manufacture and marketing of beer products, for which purpose, it specifically maintains a brewery in Bacolod City.[27] Respondent, on the other hand, was engaged as a forklift operator tasked to lift and transfer pallets and pile them from the bottling section to the piling area. SMC admitted that it hired respondent as a forklift operator since the third quarter of 1991 when, in the absence of fully automated palletizers, manual transfers of beer cases and empties would be extensive within the brewery and its premises.

SMC would have wanted this Court to believe that circumstances have transpired to force it to implement full automation of its brewery and new marketing and distribution systems in its sales offices resulting in the reduction of personnel and termination of employees with a fixed period contract. However, even after the installation of the automated palletizers, SMC did not leave the position of forklift operator vacant. SMC even transferred one of its regular employees to the Bacolod City Brewery to replace respondent who was in turn transferred to the bottling section of the plant. This demonstrates the continuing necessity and indispensability of hiring a forklift operator to the business of SMC.

Undoubtedly, respondent is a regular employee of SMC. Consequently, the employment contract with a fixed period which SMC had respondent execute was meant only to circumvent respondent's right to security of tenure and is, therefore, invalid.

While this Court recognizes the validity of fixed-term employment contracts, it has consistently held that this is the exception rather than the general rule. Verily, a fixed-term contract is valid only under certain

circumstances.[28] In the oft-cited case of *Brent School, Inc. v. Zamora*,[29] this Court made it clear that a contract of employment stipulating a fixed term, even if clear as regards the existence of a period, is invalid if it can be shown that the same was executed with the intention of circumventing an employee's right to security of tenure, and should thus be ignored. Moreover, in that same case, this Court issued a stern admonition that where from the circumstances, it is apparent that the period was imposed to preclude the acquisition of tenurial security by the employee, then it should be struck down as being contrary to law, morals, good customs, public order and public policy.[30]

Since respondent was already a regular employee months before the execution of the Employment with a Fixed Period contract, its execution was merely a ploy on SMC's part to deprive respondent of his tenurial security. Hence, no valid fixed-term contract was executed. The employment status of a person is defined and prescribed by law and not by what the parties say it should be. Equally important to consider is that a contract of employment is impressed with public interest such that labor contracts must yield to the common good. Provisions of applicable statutes are deemed written into the contract, and the parties are not at liberty to insulate themselves and their relationships from the impact of labor laws and regulations by simply contracting with each other.[31]

Having gained the status of a regular employee, respondent is entitled to security of tenure and could only be dismissed on just or authorized causes and after he has been accorded due process.[32]

SMC insists that the termination of respondent's employment was in accordance with the Employment with a Fixed Period contract; and that respondent was given opportunities to become a regular employee when he was transferred to the bottling section of the plant. However, considering that respondent was already a regular employee of SMC at that time, the reason advanced by SMC for his termination would not constitute a just or authorized cause.[33]

Also, SMC cannot take refuge in the Receipt and Release document signed by the respondent. Generally, deeds of release, waivers, or quitclaims cannot bar employees from demanding benefits to which they are legally entitled or from contesting the legality of their dismissal, since quitclaims are looked upon with disfavor and are frowned upon as contrary to public policy. Where, however, the person making the waiver has done so voluntarily, with a full understanding thereof, and the consideration for the quitclaim is credible and reasonable, the transaction must be recognized as a valid and binding undertaking.[34] The burden of proving that the quitclaim or waiver was voluntarily entered into rests on the employer.[35]

SMC failed to discharge this burden. This is buttressed by the fact that before the respondent signed the document, he already informed SMC in the letter dated July 3, 1995, that even if he would be compelled to receive his separation pay and be forced to sign a waiver to that effect, he was not waiving his right to question his dismissal and to claim employment benefits. This clearly proves that respondent did not freely and voluntarily consent to the execution of the document.

As aptly concluded by the CA, herein respondent, having been unjustly dismissed from work, is entitled to reinstatement without loss of seniority rights and other privileges and to full back wages, inclusive of allowances, and to other benefits or their monetary equivalents computed from the time compensation was withheld up to the time of actual reinstatement.[36]

Anent the awards for damages awarded by the CA, this Court finds that respondent is not entitled to moral and exemplary damages. Moral damages are recoverable where the dismissal of the employee was attended by bad faith or fraud or constituted an act oppressive to labor, or was done in a manner contrary to morals, good customs or public policy.[37] On the other hand, exemplary damages are proper when the dismissal was effected in a wanton, oppressive or malevolent manner, and public policy requires that these acts must be suppressed and

discouraged.[38] In the present case, respondent failed to sufficiently establish that his dismissal was done in bad faith; was contrary to morals, good customs or public policy; and was arbitrary and oppressive to labor, thus entitling him to the award of moral and exemplary damages.

As to the award of attorney's fees, by reason of his illegal dismissal, respondent was forced to litigate and incur expenses to protect his rights and interest.[39] Moreover, in labor cases, although an express finding of fact and law is still necessary to prove the merit of the award of attorney's fees, there need not be any showing that the employer acted maliciously or in bad faith when it withheld the wages. There need only be a showing that the lawful wages were not paid accordingly.[40] Thus, it is but just and proper that the same should be awarded to respondent.

At this juncture, this Court notes that there is an apparent discrepancy between the ratio decidendi and the fallo of the CA's decision. In its ratio the CA concluded that respondent became a regular employee of SMC in September 1992.[41] However, in the dispositive portion thereof the CA may have overlooked the date as it stated therein that respondent "attained the status of a regular employee by operation of law on September, 1996." [42] This part of the fallo should be rectified to reflect the true intent and meaning of the decision.

Findings of the court are to be considered in the interpretation of the dispositive portion of the judgment.[43] Verily, to grasp and delve into the true intent and meaning of a decision, no specific portion thereof should be resorted to - the decision must be considered in its entirety. The Court may resort to the pleadings of the parties, its findings of fact and conclusions of law as expressed in the body of the decision to clarify any ambiguities caused by any inadvertent omission or mistake in the dispositive portion thereof.[44] This assures swift delivery of justice and avoids any protracted litigation anchored only on trivial matters as a result of any inadvertent omissions or mistakes in the fallo. Thus, to conform to the ratio, the date in the fallo when respondent became a regular employee should be modified from September 1996 to September 1992.

Furthermore, although the instant case calls for the reinstatement of the respondent to his former position as forklift operator or any equivalent position, the fact that his former position was already given to another regular employee; the length of time that this case has been pending; and the likely possibility that the protracted litigation may have seriously marred the relationship of the parties beyond reconciliation, may well have rendered reinstatement impossible. Accordingly, petitioner shall be awarded separation pay in lieu of reinstatement, if the latter is no longer possible.[45]

WHEREFORE, premises considered, the petition is DENIED. The Decision and Resolution of the Court of Appeals, dated October 30, 2003 and February 24, 2004, respectively, in CA-G.R. SP No. 60334 are AFFIRMED with the following MODIFICATIONS:

- Respondent Eduardo L. Teodosio became a regular employee in September 1992.
- Respondent is awarded separation pay in lieu of reinstatement.
- The awards of moral and exemplary damages are DELETED.

In all other aspects, the Decision stands.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Velasco, Jr., and Nachura, JJ., concur.

[1] Penned by Associate Justice Regalado E. Maambong, with Associate Justices Buenaventura J. Guerrero and

Andres B. Reyes, Jr. concurring, rollo, pp. 68-80.

[2] Id. at 82-84.

[3] Id. at 21.

[4] A portable platform of wood, metal, or other material designed for handling by a forklift truck or crane and used for storage or movement of materials and packages in warehouses, factories, or transport vehicles; Webster's Third New International Dictionary, 1993.

[5] Rollo, p. 226.

[6] Id. at 172-175.

[7] Id. at 192.

[8] Id. at 193.

[9] Id. at 194.

[10] Id. at 195.

[11] Id. at 181.

[12] Id. at 139.

[13] Id. at 225-246.

[14] Id. at 70-71.

[15] Id. at 262-267.

[16] Id. at 71.

[17] Id. at 273-274.

[18] Id. at 85-99.

[19] Id. at 68-80.

[20] Id. at 78-79.

[21] Id. at 82-84.

[22] Id. at 437-439.

[23] *Goma v. Pamplona Plantation, Incorporated*, G.R. No. 160905, July 4, 2008, 557 SCRA 124, 133.

[24] *Rowell Industrial Corporation v. Court of Appeals*, G.R. No. 167714, March 7, 2007, 517 SCRA 691, 700.

[25] *Goma v. Pamplona Plantation, Incorporated*, *supra* note 23, at 134.

[26] *Pier 8 Arrastre and Stevedoring Services, Inc. v. Boclot*, G.R. No. 173849, September 28, 2007, 534 SCRA 431, 446-447.

[27] Rollo, p. 19.

[28] *Brent School, Inc. v. Zamora*, G.R. No. 48494, February 5, 1990, 181 SCRA 702.

[29] Id. at 714-715.

[30] Cherry J. Price, Stephanie G. Domingo and Lolita Arbilera v. Innodata Phils. Inc./Innodata Corporation, Leo Rabang and Jane Navarrete, G.R. No. 178505, September 30, 2008, citing Brent School, Inc. v. Zamora, supra note 28, at 714-715.

[31] Id.

[32] DOLE Philippines v. Esteva, G.R. No. 161115, November 30, 2006, 509 SCRA 332, 381.

[33] Art. 282. Termination by employer. - An employer may terminate an employment for any of the following causes:

- (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
- (b) Gross and habitual neglect by the employee of his duties;
- (c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
- (d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and
- (e) Other causes analogous to the foregoing.

Art. 283. Closure of establishment and reduction of personnel. - The employer may also terminate the employment of any employee due to the installation of labor-saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this title, by serving a written notice on the workers and the Department of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor-saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of the establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year.

Art. 284. Disease as ground for termination. - An employer may terminate the services of an employee who has been found to be suffering from any disease and whose continued employment is prohibited by law or is prejudicial to his health as well as to the health of his co-employees: Provided, That he is paid separation pay equivalent to at least one (1) month salary or to one-half (1/2) month salary for every year of service, whichever is greater, a fraction of at least six (6) months being considered as one (1) whole year.

[34] Universal Staffing Services, Inc. v. NLRC, G.R. No. 177576, July 21, 2008, 559 SCRA 221, 232.

[35] EMCO Plywood Corporation v. Abelgas, G.R. No. 148532, April 14, 2004, 427 SCRA 496, 514.

[36] Labor Code, Art. 279.

[37] De Guzman v. National Labor Relations Commission, G.R. No. 167701, December 12, 2007, 540 SCRA 21, 37; Aguilar v. Burger Machine Holdings Corporation, G.R. No. 172062, October 30, 2006, 506 SCRA 266, 278.

[38] NFD International Manning Agents, etc. v. NLRC, G.R. No. 165389, October 17, 2008.

[39] PCL Shipping Philippines, Inc. v. National Labor Relations Commission, G.R. No. 153031, December 14, 2006, 511 SCRA 44, 65.

[40] Reyes v. Court of Appeals, G.R. No. 154448, August 15, 2003, 409 SCRA 267, 283.

[41] Rollo, p. 76.

[42] Id. at 79.

[43] Ong Ching Kian Chung v. China National Cereals Oil and Foodstuffs Import and Export Corp., 388 Phil. 1064, 1077 (2000).

[44] Insular Life Assurance Company, Ltd. v. Toyota Bel-Air, Inc., G.R. No. 137884, March 28, 2008, 550 SCRA 70, 86.

[45] Mendoza v. NLRC, 369 Phil. 1113, 1131 (1999); Caliguia v. NLRC, 332 Phil. 128, 142 (1996).

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