STAR PAPER CORPORATION, JOSEPHINE ONGSITCO & SEBASTIAN CHUA, PETITIONERS, VS. RONALDO D. SIMBOL, WILFREDA N. COMIA & LORNA E. ESTRELLA, RESPONDENTS.

G.R. NO. 164774. April 12, 2006

Ponente: PUNO, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-164774/

PUNO, J.:

We are called to decide an issue of first impression: whether the policy of the employer banning spouses from working in the same company violates the rights of the employee under the Constitution and the Labor Code or is a valid exercise of management prerogative.

At bar is a Petition for Review on Certiorari of the Decision of the Court of Appeals dated August 3, 2004 in CA-G.R. SP No. 73477 reversing the decision of the National Labor Relations Commission (NLRC) which affirmed the ruling of the Labor Arbiter.

Petitioner Star Paper Corporation (the company) is a corporation engaged in trading - principally of paper products. Josephine Ongsitco is its Manager of the Personnel and Administration Department while Sebastian Chua is its Managing Director.

The evidence for the petitioners show that respondents Ronaldo D. Simbol (Simbol), Wilfreda N. Comia (Comia) and Lorna E. Estrella (Estrella) were all regular employees of the company.[1]

Simbol was employed by the company on October 27, 1993. He met Alma Dayrit, also an employee of the company, whom he married on June 27, 1998. Prior to the marriage, Ongsitco advised the couple that should they decide to get married, one of them should resign pursuant to a company policy promulgated in 1995,[2] viz.:

> - New applicants will not be allowed to be hired if in case he/she has [a] relative, up to [the] 3[rd] degree of relationship, already employed by the company.
>
> - In case of two of our employees (both singles [sic], one male and another female) developed a friendly relationship during the course of their employment and then decided to get married, one of them should resign to preserve the policy stated above.[3]

Simbol resigned on June 20, 1998 pursuant to the company policy.[4]

Comia was hired by the company on February 5, 1997. She met Howard Comia, a co-employee, whom she married on June 1, 2000. Ongsitco likewise reminded them that pursuant to company policy, one must resign should they decide to get married. Comia resigned on June 30, 2000.[5]

Estrella was hired on July 29, 1994. She met Luisito Zuñiga (Zuñiga), also a co-worker. Petitioners stated that Zuñiga, a married man, got Estrella pregnant. The company allegedly could have terminated her services due to immorality but she opted to resign on December 21, 1999.[6]

The respondents each signed a Release and Confirmation Agreement. They stated therein that they have no money and property accountabilities in the company and that they release the latter of any claim or demand of whatever nature.[7]

Respondents offer a different version of their dismissal. Simbol and Comia allege that they did not resign voluntarily; they were compelled to resign in view of an illegal company policy. As to respondent Estrella, she alleges that she had a relationship with co-worker Zuñiga who misrepresented himself as a married but separated man. After he got her pregnant, she discovered that he was not separated. Thus, she severed her relationship with him to avoid dismissal due to the company policy. On November 30, 1999, she met an accident and was advised by the doctor at the Orthopedic Hospital to recuperate for twenty-one (21) days. She returned to work on December 21, 1999 but she found out that her name was on-hold at the gate. She was denied entry. She was directed to proceed to the personnel office where one of the staff handed her a memorandum. The memorandum stated that she was being dismissed for immoral conduct. She refused to sign the memorandum because she was on leave for twenty-one (21) days and has not been given a chance to explain. The management asked her to write an explanation. However, after submission of the explanation, she was nonetheless dismissed by the company. Due to her urgent need for money, she later submitted a letter of resignation in exchange for her thirteenth month pay.[8]

Respondents later filed a complaint for unfair labor practice, constructive dismissal, separation pay and attorney's fees. They averred that the aforementioned company policy is illegal and contravenes Article 136 of the Labor Code. They also contended that they were dismissed due to their union membership.

On May 31, 2001, Labor Arbiter Melquiades Sol del Rosario dismissed the complaint for lack of merit, viz.:

> [T]his company policy was decreed pursuant to what the respondent corporation perceived as management prerogative. This management prerogative is quite broad and encompassing for it covers hiring, work assignment, working method, time, place and manner of work, tools to be used, processes to be followed, supervision of workers, working regulations, transfer of employees, work supervision, lay-off of workers and the discipline, dismissal and recall of workers. Except as provided for or limited by special law, an employer is free to regulate, according to his own discretion and judgment all the aspects of employment.[9] (Citations omitted.)

On appeal to the NLRC, the Commission affirmed the decision of the Labor Arbiter on January 11, 2002. [10]

Respondents filed a Motion for Reconsideration but was denied by the NLRC in a Resolution[11] dated August 8, 2002. They appealed to respondent court via Petition for Certiorari.

In its assailed Decision dated August 3, 2004, the Court of Appeals reversed the NLRC decision, viz.:

> WHEREFORE, premises considered, the May 31, 2002 (sic)[12] Decision of the National Labor Relations Commission is hereby REVERSED and SET ASIDE and a new one is entered as follows:
> (1) Declaring illegal, the petitioners' dismissal from employment and ordering private respondents to reinstate petitioners to their former positions without loss of seniority rights with full backwages from the time of their dismissal until actual reinstatement; and
>
> (2) Ordering private respondents to pay petitioners attorney's fees amounting to 10% of the award and the cost of this suit.[13]

On appeal to this Court, petitioners contend that the Court of Appeals erred in holding that:

> 1. X X X THE SUBJECT 1995 POLICY/REGULATION IS VIOLATIVE OF THE CONSTITUTIONAL RIGHTS TOWARDS MARRIAGE AND THE FAMILY OF EMPLOYEES AND OF ARTICLE 136 OF

> THE LABOR CODE; AND
>
> 2. X X X RESPONDENTS' RESIGNATIONS WERE FAR FROM VOLUNTARY.[14]

We affirm.

The 1987 Constitution[15] states our policy towards the protection of labor under the following provisions, viz.:

> Article II, Section 18. The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.
>
> x x x
>
> Article XIII, Sec. 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.
>
> It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.
>
> The State shall promote the principle of shared responsibility between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth.

The Civil Code likewise protects labor with the following provisions:

> Art. 1700. The relation between capital and labor are not merely contractual. They are so impressed with public interest that labor contracts must yield to the common good. Therefore, such contracts are subject to the special laws on labor unions, collective bargaining, strikes and lockouts, closed shop, wages, working conditions, hours of labor and similar subjects.
>
> Art. 1702. 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.

The Labor Code is the most comprehensive piece of legislation protecting labor. The case at bar involves Article 136 of the Labor Code which provides:

> Art. 136. It shall be unlawful for an employer to require as a condition of employment or continuation of employment that a woman employee shall not get married, or to stipulate expressly or tacitly that upon getting married a woman employee shall be deemed resigned or separated, or to actually dismiss, discharge, discriminate or otherwise prejudice a woman employee merely by reason of her marriage.

Respondents submit that their dismissal violates the above provision. Petitioners allege that its policy "may appear to be contrary to Article 136 of the Labor Code" but it assumes a new meaning if read together with the first paragraph of the rule. The rule does not require the woman employee to resign. The employee spouses have the right to choose who between them should resign. Further, they are free to marry persons other than co-employees. Hence, it is not the marital status of the employee, per se, that is being discriminated. It is only intended to carry out its no-employment-for-relatives-within-the-third-degree-policy which is within the ambit of the prerogatives of management.[16]

It is true that the policy of petitioners prohibiting close relatives from working in the same company takes the nature of an anti-nepotism employment policy. Companies adopt these policies to prevent the hiring of unqualified persons based on their status as a relative, rather than upon their ability.[17] These policies focus upon the potential employment problems arising from the perception of favoritism exhibited towards relatives.

With more women entering the workforce, employers are also enacting employment policies specifically prohibiting spouses from working for the same company. We note that two types of employment policies involve spouses: policies banning only spouses from working in the same company (no-spouse employment policies), and those banning all immediate family members, including spouses, from working in the same company (anti-nepotism employment policies).[18]

Unlike in our jurisdiction where there is no express prohibition on marital discrimination,[19] there are twenty state statutes[20] in the United States prohibiting marital discrimination. Some state courts[21] have been confronted with the issue of whether no-spouse policies violate their laws prohibiting both marital status and sex discrimination.

In challenging the anti-nepotism employment policies in the United States, complainants utilize two theories of employment discrimination: the disparate treatment and the disparate impact. Under the disparate treatment analysis, the plaintiff must prove that an employment policy is discriminatory on its face. No-spouse employment policies requiring an employee of a particular sex to either quit, transfer, or be fired are facially discriminatory. For example, an employment policy prohibiting the employer from hiring wives of male employees, but not husbands of female employees, is discriminatory on its face.[22]

On the other hand, to establish disparate impact, the complainants must prove that a facially neutral policy has a disproportionate effect on a particular class. For example, although most employment policies do not expressly indicate which spouse will be required to transfer or leave the company, the policy often disproportionately affects one sex.[23]

The state courts' rulings on the issue depend on their interpretation of the scope of marital status discrimination within the meaning of their respective civil rights acts. Though they agree that the term "marital status" encompasses discrimination based on a person's status as either married, single, divorced, or widowed, they are divided on whether the term has a broader meaning. Thus, their decisions vary.[24]

The courts narrowly[25] interpreting marital status to refer only to a person's status as married, single, divorced, or widowed reason that if the legislature intended a broader definition it would have either chosen different language or specified its intent. They hold that the relevant inquiry is if one is married rather than to whom one is married. They construe marital status discrimination to include only whether a person is single, married, divorced, or widowed and not the "identity, occupation, and place of employment of one's spouse." These courts have upheld the questioned policies and ruled that they did not violate the marital status discrimination provision of their respective state statutes.

The courts that have broadly[26] construed the term "marital status" rule that it encompassed the identity, occupation and employment of one's spouse. They strike down the no-spouse employment policies based on the broad legislative intent of the state statute. They reason that the no-spouse employment policy violate the marital status provision because it arbitrarily discriminates against all spouses of present employees without regard to the actual effect on the individual's qualifications or work performance.[27] These courts also find the no-spouse employment policy invalid for failure of the employer to present any evidence of business necessity other than the general perception that spouses in the same workplace might adversely affect the business.[28] They hold that the absence of such a bona fide occupational qualification[29] invalidates a rule denying employment to one spouse due to the current employment of the other spouse in the same office.[30] Thus, they rule that unless the employer can prove that the reasonable demands of the business require a distinction based on marital status and there is no better available or acceptable policy which would better accomplish the business purpose, an employer may not discriminate against an employee based on the identity of the employee's spouse.[31] This is known as the bona

fide occupational qualification exception.

We note that since the finding of a bona fide occupational qualification justifies an employer's no-spouse rule, the exception is interpreted strictly and narrowly by these state courts. There must be a compelling business necessity for which no alternative exists other than the discriminatory practice.[32] To justify a bona fide occupational qualification, the employer must prove two factors: (1) that the employment qualification is reasonably related to the essential operation of the job involved; and, (2) that there is a factual basis for believing that all or substantially all persons meeting the qualification would be unable to properly perform the duties of the job.[33]

The concept of a bona fide occupational qualification is not foreign in our jurisdiction. We employ the standard of reasonableness of the company policy which is parallel to the bona fide occupational qualification requirement. In the recent case of Duncan Association of Detailman-PTGWO and Pedro Tecson v. Glaxo Wellcome Philippines, Inc.,[34] we passed on the validity of the policy of a pharmaceutical company prohibiting its employees from marrying employees of any competitor company. We held that Glaxo has a right to guard its trade secrets, manufacturing formulas, marketing strategies and other confidential programs and information from competitors. We considered the prohibition against personal or marital relationships with employees of competitor companies upon Glaxo's employees reasonable under the circumstances because relationships of that nature might compromise the interests of Glaxo. In laying down the assailed company policy, we recognized that Glaxo only aims to protect its interests against the possibility that a competitor company will gain access to its secrets and procedures.[35]

The requirement that a company policy must be reasonable under the circumstances to qualify as a valid exercise of management prerogative was also at issue in the 1997 case of Philippine Telegraph and Telephone Company v. NLRC.[36] In said case, the employee was dismissed in violation of petitioner's policy of disqualifying from work any woman worker who contracts marriage. We held that the company policy violates the right against discrimination afforded all women workers under Article 136 of the Labor Code, but established a permissible exception, viz.:

> [A] requirement that a woman employee must remain unmarried could be justified as a "bona fide occupational qualification," or BFOQ, where the particular requirements of the job would justify the same, but not on the ground of a general principle, such as the desirability of spreading work in the workplace. A requirement of that nature would be valid provided it reflects an inherent quality reasonably necessary for satisfactory job performance.[37] (Emphases supplied.)

The cases of Duncan and PT&T instruct us that the requirement of reasonableness must be clearly established to uphold the questioned employment policy. The employer has the burden to prove the existence of a reasonable business necessity. The burden was successfully discharged in Duncan but not in PT&T.

We do not find a reasonable business necessity in the case at bar.

Petitioners' sole contention that "the company did not just want to have two (2) or more of its employees related between the third degree by affinity and/or consanguinity"[38] is lame. That the second paragraph was meant to give teeth to the first paragraph of the questioned rule[39] is evidently not the valid reasonable business necessity required by the law.

It is significant to note that in the case at bar, respondents were hired after they were found fit for the job, but were asked to resign when they married a co-employee. Petitioners failed to show how the marriage of Simbol, then a Sheeting Machine Operator, to Alma Dayrit, then an employee of the Repacking Section, could be detrimental to its business operations. Neither did petitioners explain how this detriment will happen in the case of Wilfreda Comia, then a Production Helper in the Selecting Department, who married Howard Comia, then a

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

helper in the cutter-machine. The policy is premised on the mere fear that employees married to each other will be less efficient. If we uphold the questioned rule without valid justification, the employer can create policies based on an unproven presumption of a perceived danger at the expense of an employee's right to security of tenure.

Petitioners contend that their policy will apply only when one employee marries a co-employee, but they are free to marry persons other than co-employees. The questioned policy may not facially violate Article 136 of the Labor Code but it creates a disproportionate effect and under the disparate impact theory, the only way it could pass judicial scrutiny is a showing that it is reasonable despite the discriminatory, albeit disproportionate, effect. The failure of petitioners to prove a legitimate business concern in imposing the questioned policy cannot prejudice the employee's right to be free from arbitrary discrimination based upon stereotypes of married persons working together in one company.[40]

Lastly, the absence of a statute expressly prohibiting marital discrimination in our jurisdiction cannot benefit the petitioners. The protection given to labor in our jurisdiction is vast and extensive that we cannot prudently draw inferences from the legislature's silence[41] that married persons are not protected under our Constitution and declare valid a policy based on a prejudice or stereotype. Thus, for failure of petitioners to present undisputed proof of a reasonable business necessity, we rule that the questioned policy is an invalid exercise of management prerogative. Corollarily, the issue as to whether respondents Simbol and Comia resigned voluntarily has become moot and academic.

As to respondent Estrella, the Labor Arbiter and the NLRC based their ruling on the singular fact that her resignation letter was written in her own handwriting. Both ruled that her resignation was voluntary and thus valid. The respondent court failed to categorically rule whether Estrella voluntarily resigned but ordered that she be reinstated along with Simbol and Comia.

Estrella claims that she was pressured to submit a resignation letter because she was in dire need of money. We examined the records of the case and find Estrella's contention to be more in accord with the evidence. While findings of fact by administrative tribunals like the NLRC are generally given not only respect but, at times, finality, this rule admits of exceptions,[42] as in the case at bar.

Estrella avers that she went back to work on December 21, 1999 but was dismissed due to her alleged immoral conduct. At first, she did not want to sign the termination papers but she was forced to tender her resignation letter in exchange for her thirteenth month pay.

The contention of petitioners that Estrella was pressured to resign because she got impregnated by a married man and she could not stand being looked upon or talked about as immoral[43] is incredulous. If she really wanted to avoid embarrassment and humiliation, she would not have gone back to work at all. Nor would she have filed a suit for illegal dismissal and pleaded for reinstatement. We have held that in voluntary resignation, the employee is compelled by personal reason(s) to dissociate himself from employment. It is done with the intention of relinquishing an office, accompanied by the act of abandonment. [44] Thus, it is illogical for Estrella to resign and then file a complaint for illegal dismissal. Given the lack of sufficient evidence on the part of petitioners that the resignation was voluntary, Estrella's dismissal is declared illegal.

IN VIEW WHEREOF, the Decision of the Court of Appeals in CA-G.R. SP No. 73477 dated August 3, 2004 is AFFIRMED.

SO ORDERED.
Sandoval-Gutierrez, Corona, Azcuna, and Garcia., JJ., concur.

[1] Petition for Review on Certiorari, 2; rollo, p. 9.

[2] The records do not state the exact date when the policy in question was promulgated. The date of reference is "sometime in 1995."

[3] Petition for Review on Certiorari, p. 3; rollo, p. 10.

[4] Id. at 4; Id. at 11.

[5] Ibid.

[6] Ibid.

[7] Petition for Review on Certiorari, pp. 4-5; rollo, pp. 11-12. See CA rollo, pp. 40-49.

[8] CA Decision, p. 4; rollo, p. 29.

[9] Decision of Labor Arbiter Melquiades Sol del Rosario; CA rollo, pp. 40-49.

[10] Resolution, p. 7; CA rollo, p. 36.

[11] Resolution; Id. at 37.

[12] Should be January 11, 2002.

[13] CA Decision, p. 11; rollo, p. 36.

[14] Petition, p. 7; rollo, p. 14. Lower case in the original.

[15] The questioned Decision also invokes Article II, Section 12. The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution. It shall equally protect the life of the mother and the life of the unborn from conception. The natural and primary right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the support of the Government.

[16] Memorandum [for Petitioners], p. 11; rollo, p. 73.

[17] A. Giattina, Challenging No-Spouse Employment Policies As Marital Status Discrimination: A Balancing Approach, 33 Wayne L. Rev. 1111 (Spring, 1987).

[18] Ibid.

[19] See Note 23, Duncan Association of Detailman-PTGWO and Pedro Tecson v. Glaxo Wellcome Philippines, Inc., G.R. No. 162994, September 17, 2004.

[20] ALASKA STAT. § 18.80.200 (1986); CAL. GOV'T CODE § 12940 (West 1980 & Supp. 1987); CONN. GEN. STAT. § 46a-60 (1986); DEL. CODE ANN. tit. 19, § 711 (1985); D.C. CODE ANN. § 1-2512 (1981); FLA. STAT. § 760.01 (1986); HAWAII REV. STAT. § 378-2 (1985); ILL. REV. STAT. ch. 68, §§ 1- 103, 2-102 (Supp. 1986); MD. ANN. CODE art. 49B, § 16 (1986); MICH. COMP. LAWS ANN. § 37.2202 (West 1985); MINN. STAT. ANN. § 363.03 (West Supp. 1987); MONT. CODE ANN. § 49-2-303 (1986); NEB. REV. STAT. § 48-1104 (1984); N.H. REV. STAT. ANN. § 354-A:2 (1984); N.J. REV. STAT. § 10:5-12 (1981 & Supp. 1986); N.Y. EXEC. LAW § 296 (McKinney 1982 & Supp. 1987); N.D. CENT. CODE § 14-02.4-03 (1981 & Supp. 1985); OR. REV. STAT. § 659.030 (1985); WASH. REV. CODE § 49.60.180 (Supp. 1987); WIS. STAT. § 111.321 (Supp. 1986). Cited in Note 34, A. Giattina, supra note 18.

[21] State courts in Michigan, Minnesota, Montana, New York, and Washington have interpreted the marital status provision of their respective state statutes. See Note 10, A. Giattina, supra note 18.

[22] Supra note 18.

[23] Ibid.

[24] Ibid.

[25] Whirlpool Corp. v. Michigan Civil Rights Comm'n, 425 Mich. 527, 390 N.W.2d 625 (1986); Maryland Comm'n on Human Relations v. Greenbelt Homes, Inc., 300 Md. 75, 475 A.2d 1192 (1984); Manhattan Pizza Hut, Inc. v. New York State Human Rights Appeal Bd., 51 N.Y.2d 506, 434 N.Y.S.2d 961, 415 N.E.2d 950 (1980); Thompson v. Sanborn's Motor Express Inc., 154 N.J. Super. 555, 382 A.2d 53 (1977).

[26] Ross v. Stouffer Hotel Co., 72 Haw. 350, 816 P.2d 302 (1991); Thompson v. Board of Trustees, 192 Mont. 266, 627 P.2d 1229 (1981); Kraft, Inc. v. State, 284 N.W.2d 386 (Minn.1979); Washington Water Power Co. v. Washington State Human Rights Comm'n, 91 Wash.2d 62, 586 P.2d 1149 (1978).

[27] See note 55, A. Giattina, supra note 18.

[28] See note 56, ibid.

[29] Also referred to as BFOQ.

[30] See note 67, A. Giattina, supra note 18.

[31] See Muller v. BP Exploration (Alaska) Inc., 923 P.2d 783, 73 Fair Empl.Prac.Cas. (BNA) 579, 69.

[32] See note 117, A. Giattina, supra note 18.

[33] Richard G. Flood and Kelly A. Cahill, The River Bend Decision and How It Affects Municipalities' Personnel Rule and Regulations, Illinois Municipal Review, June 1993, p. 7.

[34] G.R. No. 162994, September 17, 2004.

[35] Ibid.

[36] G.R. No. 118978, May 23, 1997.

[37] Ibid.

[38] Petition, p. 9; rollo, p. 16.

[39] Ibid.

[40] See A. Giattina, supra note 18.

[41] See dissenting opinion of Chief Justice Compton in Muller v. BP Exploration (Alaska) Inc., 923 P.2d 783 (1996).

[42] In Employees Association of the Philippine American Life Insurance Co. v. NLRC (G.R. No. 82976, July 26, 1991), the established exceptions are as follows:

a) the conclusion is a finding of fact grounded on speculations, surmises and conjectures;
b) the inferences made are manifestly mistaken, absurd or impossible;
c) there is a grave abuse of discretion;
d) there is misappreciation of facts; and
e) the court, in arriving in its findings, went beyond the issues of the case and the same are contrary to the admission of the parties or the evidence presented.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[43] Petition, p. 11; rollo, p. 18.

[44] Great Southern Maritime Services Corporation v. Acuña, et al., G.R. No. 140189, February 28, 2005.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.