AKLAN COLLEGE, INC., PETITIONER, VS. PERPETUO ENERO, ARLYN CASTIGADOR, NUENA SERMON AND JOCELYN ZOLINA, RESPONDENTS.

G.R. No. 178309. January 27, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

Before the Court is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the Decision[1] dated October 27, 2006 and the Resolution[2] dated June 6, 2007 of the Court of Appeals (CA) in CA-G.R. SP No. 85997.

The Facts

The facts of the case are as follows:

Petitioner[3] is an educational institution in Kalibo, Aklan, while respondents were high school teachers of petitioner. On November 15, 16 and 17, 1994 and on January 6, 10 and 11, 1995, high school students of the College held mass actions against the principal of the high school department at the public plaza opposite the school. The demonstrations were held with validly issued permits from the Office of the Mayor.

Petitioner averred that the protest rallies were in the nature of illegal strikes instigated by the respondents and not purely student demonstrations. An administrative investigation was conducted at which respondents were given an opportunity to explain their side. Thereafter, respondents were dismissed from employment for causes provided in Articles 264 and 282 of the Labor Code,[4] Section 16[5] of the Education Act of 1982, and paragraphs (d) and (e) of Section 94[6] of the Manual of Regulations for Private Schools.

Respondents filed a case for illegal dismissal against petitioner before the Labor Arbiter (LA). They alleged that what took place was a peaceful assembly wherein the students demonstrated their sympathy on what they perceived to be wrongs committed by the high school principal against some teachers. They maintained that they did not instigate the students to rally.

On January 29, 1999, the LA rendered a Decision[7] absolving respondents and holding petitioner guilty of illegal dismissal. The LA ratiocinated that there was no evidence that the respondents abandoned their classes. Since it was respondents' students who were the ones rallying, naturally they had to go out of the classrooms and observe their students. The participation of respondents in the activities was passive. The LA opined that even if it was admitted that respondents actively participated, the same should not be taken against them, for they joined a peaceful assembly and only exercised their constitutionally guaranteed freedom of expression.[8] The dispositive portion of the decision reads:

> WHEREFORE, in view of the foregoing, respondents are hereby directed to immediately reinstate the complainants and to pay them the following:

1. Perpetuo Enero:

a) Backwages

...

P257,840.00

b) 13[th] month pay

...

21,486.67

c) Service incentive leave pay

...

7,936.00

d) Moral damages

...

50,000.00

e) Exemplary damages

...

30,000.00 P367,262.67

2. Arlyn Castigador:

a) Backwages

...

P235,994.00

b) 13[th] month pay

...

19,666.42

c) Service incentive leave pay

...

6,992.40

d) Moral damages

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...

50,000.00

e) Exemplary damages

...

30,000.00 342,652.82

3. Nuena Sermon:

a) Backwages

...

P340,875.00

b) 13[th] month pay

...

28,406.25

c) Service incentive leave pay

...

10,100.00

d) Moral damages

...

50,000.00

e) Exemplary damages

...

30,000.00 459,381.25

4. Jocelyn Zolina:

a) Backwages

...

P347,459.52

b) 13[th] month pay

...

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28,954.96

c) Service incentive leave pay

...

9,651.60

d) Moral damages

...

50,000.00

e) Exemplary damages

...

30,000.00 466,066.08

TOTAL

.....

P1,635,362.82

Plus 10% Attorney's Fees of

.....

163,536.28

Grand Total

.....

P1,798,899.10

This is without prejudice to further computation of the amounts if there are increases in the interregnum.

SO ORDERED.[9]

On appeal, the National Labor Relations Commission (NLRC) reversed the decision of the LA. Based on the findings of facts of the NLRC, the respondents comprised barely two percent (2%) of the total work force of the high school department. The mass action was not a result of a labor dispute but of personal acrimony against the high school principal. The principal was accused of giving respondents a quota in selling tickets for a dance sponsored by petitioner and of withholding and deducting from teachers' salaries the cost of the tickets. Respondents employed high-handed machinations in using the students to redress their grievances against the principal. Their conduct was unbecoming of teachers who should be models of integrity and correct values. Their act of instigating and exploiting their students to take to the streets their personal grudge against the principal should not be tolerated.[10] The fallo of the Decision[11] dated March 25, 2002 reads:

> WHEREFORE, the impugned decision of the Labor Arbiter is SET ASIDE and VACATED and a new decision is rendered declaring the dismissal of the [respondents] valid. However, [Aklan College, Inc. and Msgr. Adolfo P. Depra, in his capacity as the College Rector] are ordered to pay the [respondents] their 13[th] month pay and service incentive leave pay as follows:
>
> 1. Perpetuo Enero -
>
> a) 13[th] month pay - P21,486.67
>
> b) SIL pay - 7,936.00
>
> 2. Arlyn Castigador -
>
> a) 13[th] month pay - P19,666.42
>
> b) SIL pay - 6,992.40
>
> 3. Nuena Sermon -
>
> a) 13[th] month pay - P28,406.25
>
> b) SIL pay - 10,100.00
>
> 4. Jocelyn Zolina -
>
> a) 13[th] month pay - P28,954.96
>
> b) SIL pay - 9,651.60
>
> SO ORDERED.[12]

Presiding Commissioner Irenea E. Ceniza submitted a Separate Dissenting Opinion[13] on the NLRC decision. According to her, the majority view that respondents used high-handed machinations to instigate the students to rally was not supported by substantial evidence. Furthermore, she agreed with the finding of the LA that there was no strike, but only a rally or demonstration facilitated by the students with validly issued permits from the Office of the Mayor.

Both parties filed a motion for reconsideration. On February 27, 2004, the NLRC issued a Resolution[14] denying the said motions for lack of merit.

Petitioner filed a petition for certiorari[15] before the CA, seeking to partially annul the Decision of the NLRC insofar as it held petitioner liable to pay respondents' 13[th] month pay and service incentive leave (SIL) pay despite the finding that respondents were validly dismissed from service. Respondents did not file an appeal from the decision of the NLRC.[16]

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On October 27, 2006, the CA rendered the assailed Decision. It held that, for failure of the dismissed teachers to question the NLRC's denial of the motion for reconsideration, the Decision dated March 25, 2002 and the Resolution dated February 27, 2007 became final and executory as to them, thus, limiting the issue to be resolved to that presented by petitioner, i.e., the propriety of the award of 13[th] month pay and SIL pay to the dismissed teachers.

The CA held that the NLRC did not commit grave abuse of discretion in awarding respondents 13[th] month pay and SIL pay. However, it modified the award to conform to the dismissed teachers' employment history. The pertinent portions of the CA decision read:

1. Perpetuo Enero (June 1, 1990 to May 5, 1995)

Thirteenth Month Pay

June 1, 1990 to December 1990 P 3,472.01

(7/12 x P5,952.02)

January 1991 to December 1994 23,808.08

(4 x P5,952.02)

January 1, 1995 to May 5, 1995 2,480.01

(5/12 x P5,952.02)

Service Incentive Leave Pay

Proportionate SIL for June to December 1990

7/12 x 10 days = 5.83 days

SIL earned from 1991 to 1994 = 40.00 days

Proportionate SIL for January to May 1995

5/12 x 10 days = 4.17 days

50.00 days

P 5,952.02 ÷ 30 days = P198.40 / day 9,920.00

P 39,680.10

2. Arlyn Castigador (June 1990 to May 5, 1995)

Thirteenth Month Pay

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June 1, 1990 to December 1990 P 3,059.19

(7/12 x P5,244.32)

January 1991 to December 1994 20,977.28

(4 x P5,244.32)

January 1, 1995 to May 5, 1995 2,185.13

(5/12 x P5,244.32)

Service Incentive Leave Pay

Proportionate SIL for June to December 1990

7/12 x 10 days = 5.83 days

SIL earned from 1991 to 1994 = 40.00 days

Proportionate SIL for January to May 1995

5/12 x 10 days = 4.17 days

50.00 days

P 5,244.32 ÷ 30 days = P174.81 / day 8,740.50

P 34,962.10

3. Nuena Sermon (June 1970 to May 5, 1995)

Thirteenth Month Pay

January 1987 to December 1994 P 60,600.00

(8 x P7,575.00)

January 1, 1995 to May 5, 1995 3,156.25

(5/12 x P7,575.00)

Service Incentive Leave Pay

SIL earned from 1975 to 1994 = 190.00 days

Proportionate SIL for January to May 1995

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5/12 x 10 days = 4.17 days

194.17 days

P 7,575.00 ÷ 30 days = P252.50 / day 49,027.92

P112,784.17

4. Jocelyn Zolina (June 1990 to January 19, 1995)[17]

Thirteenth Month Pay

June 1, 1990 to December 1990 P 4,222.60

(7/12 x P7,238.74)

January 1991 to December 1994 28,954.96

(4 x P7,238.74)

Service Incentive Leave Pay

Proportionate SIL for June to December 1990

7/12 x 10 days = 5.83 days

SIL earned from 1991 to 1994 = 40.00 days

Proportionate SIL for January 1995

1/12 x 10 days = 83 days

46.66 days

P 7,238.74 ÷ 30 days = P241.29 / day 11,258.59

P 44,436.15

WHEREFORE, the instant petition for certiorari is DENIED for lack of merit. The assailed Decision dated March 25, 2002 and Resolution dated February 27, 2004 of the National Labor Relations Commission (NLRC), Fourth Division, Cebu City, are, however, modified as to the monetary awards. Aklan College, Inc. is hereby ordered to pay private respondents their unpaid Thirteenth Month Pay and Service Incentive Leave Pay, with the computation as shown above. Each of them is entitled to receive the following amount opposite their names:

1. Perpetuo Enero P 39,680.10

2. Arlyn Castigador 34,962.10

3. Nuena Sermon 112,784.17

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4. Jocelyn Zolina 44,436.15

SO ORDERED.[18]

Petitioner filed a motion for reconsideration. The CA denied the same in the assailed Resolution dated June 6, 2007.

Hence, this petition.

The Issues

Petitioner presented the following issues for resolution:

- THE COURT OF APPEALS COMMITTED GRIEVOUS ERROR IN AFFIRMING THE DECISION OF THE NLRC WHICH ORDERED THE PETITIONER TO PAY THE RESPONDENTS 13[TH] MONTH PAY AND SERVICE INCENTIVE LEAVE (SIL) PAY.[19]

- THE COURT OF APPEALS COMMITTED GRIEVOUS ERROR WHEN IT INCREASED THE MONETARY AWARDS OF 13[TH] MONTH PAY AND SERVICE INCENTIVE LEAVE PAY IN FAVOR OF THE NON-APPEALING PRIVATE RESPONDENTS.[20]

The Ruling of the Court

The instant petition is denied on the following grounds:

First. Whether respondents received 13[th] month pay and SIL pay is a factual issue. Well-settled is the rule that the Supreme Court is not a trier of facts. When supported by substantial evidence, the findings of fact of the CA are conclusive and binding, and are not reviewable by this Court, unless the case falls under any of the following recognized exceptions:

(1) When the conclusion is a finding grounded entirely on speculation, surmises and conjectures;

(2) When the inference made is manifestly mistaken, absurd or impossible;

(3) Where there is a grave abuse of discretion;

(4) When the judgment is based on a misapprehension of facts;

(5) When the findings of fact are conflicting;

(6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee;

(7) When the findings are contrary to those of the trial court;

(8) When the findings of fact are conclusions without citation of specific evidence on which they are based;

(9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and

(10) When the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record.[21]

Petitioner failed to show that its case falls under any of the exceptions. Thus, there is no compelling reason for us to reverse the award of these benefits. The CA did not commit a reversible error when it affirmed the decision of the NLRC and awarded respondents 13[th] month pay[22] and SIL pay.[23]

Based on the findings of fact of the lower tribunals, petitioner did not pay respondents these benefits which are

mandatorily prescribed by law. Although the LA and the NLRC have contrary findings on the issue of illegal dismissal, both quasi-judicial bodies granted respondents' 13[th] month pay and SIL pay. The CA, after verifying that indeed respondents were not paid the said benefits, sustained the finding of respondents' entitlement thereto.

Petitioner avers that because the NLRC reversed the finding of illegal dismissal by the LA, ergo, the payment of the award of the 13[th] month pay and SIL pay must also be deleted.[24] But it does not follow that since they are not guilty of illegal dismissal, they are also not liable for non-payment of the said benefits. Illegal dismissal and non-payment of benefits are entirely different grounds on which an employer can be held liable.

Second. Petitioner avers that it was improper for the CA to increase the monetary award on the subject benefits in favor of respondents who did not file an appeal from the decision of the NLRC.[25]

As a rule, a party who does not appeal from the decision may not obtain any affirmative relief from the appellate court other than what he has obtained from the lower tribunal, if any, whose decision is brought up on appeal.[26] Due process prevents the grant of additional awards to parties who did not appeal.[27] As an exception, he may assign an error where the purpose is to maintain the judgment on other grounds, but he cannot seek modification or reversal of the judgment or affirmative relief unless he has also appealed or filed a separate petition.[28]

In this case, the CA is not precluded from affirming, reversing or modifying the decision of the NLRC on the propriety of payment of 13[th] month pay and SIL pay to the respondents. It is the propriety of the award of these benefits which were precisely the issues raised by petitioner in its appeal before the said appellate court.[29]

Section 8, Rule 51 of the Rules of Court provides that only those issues assigned as errors will be considered in the appealed decision, viz.:

> SEC. 8. Questions that may be decided. - No error which does not affect the jurisdiction over the subject matter or the validity of the judgment appealed from or the proceedings therein will be considered unless stated in the assignment of errors, or closely related to or dependent on an assigned error and properly argued in the brief, save as the court may pass upon plain errors and clerical errors.

The appealing party is legally required to indicate in his brief an assignment of errors, and only those assigned shall be considered by the appellate court in deciding the case. However, this is not without qualification, for the appellate court is accorded a broad discretionary power to waive the lack of proper assignment of errors and to consider errors not assigned. The CA may reverse the decision of the lower tribunal on the basis of grounds other than those raised as errors on appeal in the following instances:

> (1) Grounds not assigned as errors but affecting jurisdiction over the subject matter;
>
> (2) Matters not assigned as errors on appeal but are evidently plain or clerical errors within contemplation of law;
>
> (3) Matters not assigned as errors on appeal but consideration of which is necessary in arriving at a just decision and complete resolution of the case or to serve the interest of justice or to avoid dispensing piecemeal justice;
>
> (4) Matters not specifically assigned as errors on appeal but raised in the trial court and are matters of record having some bearing on the issue submitted which the parties failed to raise or which the lower court ignored;
>
> (5) Matters not assigned as errors on appeal but closely related to an error assigned; and
>
> (6) Matters not assigned as errors on appeal but upon which the determination of a question properly assigned, is dependent.[30]

The CA committed no reversible error in increasing the amounts of the 13[th] month pay and the SIL pay in order to correct the error committed by the NLRC in the computation. The instant controversy falls squarely under the third exception enumerated above. A just, fair and complete resolution of the case necessarily entails the correct computation of these benefits. To avoid dispensing piecemeal justice, the full period of employment of respondents was rightfully considered by the CA in the computation of the 13[th] month pay and the SIL pay.

Furthermore, the CA sufficiently explained the need to increase the award of 13[th] month pay and SIL pay. It modified the award after finding that the computation of the amount given by the NLRC in its Decision dated March 25, 2002 does not conform to the dismissed employees' employment history. The CA aptly explained, viz.:

> A cursory reading of the assailed Decision of the NLRC dated March 25, 2002 readily reveals that the labor tribunal awarded private respondents their unpaid 13[th] Month Pay and Service Incentive Leave (SIL) Pay without regard to their employment history with the petitioner. There was even no explanation or adequate showing on the face of the questioned judgment why the award of the unpaid 13[th] Month and SIL Pay differs from one private respondent to another. This Court, therefore, after determining that indeed the petitioner had not paid the private respondents these special benefits for the whole period of their employment therewith, modified the award by painstakingly basing it to each of the dismissed employee's employment history with petitioner.
>
> x x x x
>
> The procedural lapse on the part of the NLRC in this case in failing to take into account the number of years when the private respondents did not receive their 13[th] Month and SIL Pay cannot defeat their right to receive these benefits as granted under substantive law. This Court simply could not uphold an erroneous computation of the said unpaid benefits. Hence, it had to re-compute, and as a consequence, increased it.[31]

WHEREFORE, the instant petition is DENIED for lack of merit. The Decision dated October 27, 2006 and the Resolution dated June 6, 2007 of the Court of Appeals in CA-G.R. SP No. 85997 are hereby AFFIRMED.

Costs against the petitioners.

SO ORDERED.

Austria-Martinez, (Acting Chairperson), Tinga,[*] Chico-Nazario, and Leonardo-De Castro,[**] JJ., concur.

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* Additional member in lieu of Associate Justice Consuelo Ynares-Santiago per Special Order No. 556 dated January 15, 2009.

** Additional member in lieu of Associate Justice Diosdado M. Peralta per Special Order No. 560 dated January 16, 2009.

[1] Penned by Associate Justice Agustin S. Dizon, with Associate Justices Pampio A. Abarintos and Priscilla Baltazar-Padilla, concurring; rollo, pp. 49-59.

[2] Id. at 77- 79.

[3]Presently known as Aklan Catholic College.

[4] ART. 264. PROHIBITED ACTIVITIES

(a) No labor organization or employer shall declare a strike or lockout without first having bargained collectively in accordance with Title VII of this Book or without first having filed the notice required in the preceding article

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or without the necessary strike or lockout vote first having been obtained and reported to the Ministry.

No strike or lockout shall be declared after assumption of jurisdiction by the President or the Minister or after certification or submission of the dispute to compulsory or voluntary arbitration or during the pendency of cases involving the same grounds for the strike or lockout.

Any worker whose employment has been terminated as a consequence of an unlawful lockout shall be entitled to reinstatement with full backwages. Any union officer who knowingly participates in an illegal strike and any worker or union officer who knowingly participates in the commission of illegal acts during a strike may be declared to have lost his employment status: Provided, That mere participation of a worker in a lawful strike shall not constitute sufficient ground for termination of his employment, even if a replacement had been hired by the employer during such lawful strike.

(b) No person shall obstruct, impede, or interfere with by force, violence, coercion, threats or intimidation any peaceful picketing by employees during any labor controversy or in the exercise of the right of self-organization or collective bargaining, or shall aid or abet such obstruction or interference.

(c) No employer shall use or employ any strike-breaker, nor shall any person be employed as a strike-breaker.

(d) No public official or employee, including officers and personnel of the New Armed Forces of the Philippines or the Integrated National Police, or armed person, shall bring in, introduce or escort in any manner any individual who seeks to replace strikers in entering or leaving the premises of a strike area, or work in place of the strikers. The police force shall keep put of the picket lines unless actual violence or other criminal acts occur therein: Provided, That nothing herein shall be interpreted to prevent any public officer from taking any measure necessary to maintain peace and order, protect life and property, and/or enforce the law and legal order.

(e) No person engaged in picketing shall commit any act of violence, coercion or intimidation or obstruct the free ingress to or engress from the employer's premises for lawful purposes, or obstruct public thoroughfares.

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.

[5] Batas Pambansa Blg. 232.

SEC. 16. Teachers' Obligations - Every teacher shall:

- Perform his duties to the school by discharging his responsibilities in accordance with the philosophy, goals and objectives of the school.

- Be accountable for the efficient and effective attainment of specified learning objectives in pursuance of national

development goals within the limits of available school resources.

- Render regular reports on performance of each student and to the later and the latter's parents or guardians with specific suggestions for improvement.

- Assume the responsibility to maintain and sustain his professional growth and advancement and maintain professionalism in his behavior at all times.

- Refrain from making deductions in student's scholastic ratings for acts that are clearly not manifestations of poor scholarship.

- Participate as an agent of constructive social, economic, moral, intellectual, cultural and political changes in his school and the community within the context of national policies.

[6] Section 94. Causes of Terminating Employment. - In addition to the just causes enumerated in the Labor Code, the employment of school personnel, including faculty, may be terminated for any of the following causes:

x x x x

d. Notoriously undesirable;

e. Disgraceful or immoral conduct.

[7]Penned by Labor Arbiter Danilo C. Acosta, NLRC, Sub-Regional Arbitration Branch No. VI, Iloilo City; rollo, pp. 130-135.

[8] Rollo, p. 133.

[9] Id. at 134-135.

[10] Id. at 103-104.

[11] Penned by Commissioner Edgardo M. Enerlan, with Presiding Commissioner Irenea E. Ceniza and Commissioner Oscar S. Uy, concurring; id. at 100-106.

[12] Rollo, p. 105.

[13] Id. at 107-109.

[14] Supra note 11, at 124-127.

[15] RULES OF COURT, Rule 65.

[16] Rollo, p. 53.

[17] Having rendered service of less than one (1) month for the year 1995, Zolina is not entitled to a 13[th] month pay in the said year.

[18] Rollo, pp. 56-59.

[19] Id. at 299.

[20] Id.

[21] Hanjin Heavy Industries and Construction Co., Ltd. v. Dynamic Planners and Construction Corporation, G.R. Nos. 169408 & 170144, April 30, 2008; Ontimare, Jr. v. Elep, G.R. No. 159224, January 20, 2006, 479 SCRA 265; De Guzman v. Court of Appeals, G.R. No. 120004, December 27, 2002, 394 SCRA 302.

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[22]Presidential Decree No. 851.

[23]LABOR CODE, Art. 95.

[24] Rollo, p. 317.

[25] Id. at 323.

[26]Rural Bank of Sta. Maria, Pangasinan v. Court of Appeals, G.R. No. 110672, September 14, 1999, 314 SCRA 255; Quintanilla v. Court of Appeals, G.R. No. 101747, September 24, 1997, 279 SCRA 397; Pison-Arceo Agricultural and Development Corporation v. National Labor Relations Commission, G.R. No. 117890, September 18, 1997, 279 SCRA 312.

[27]Philippine Tobacco Flue-Curing & Redrying Corporation v. National Labor Relations Commission, G.R. No. 127395, December 10, 1998, 300 SCRA 37.

[28]Philippine Realty Holdings Corporation v. Firematic Philippines, Inc., G.R. No. 156251, April 27, 2007, 522 SCRA 493.

[29] See Petition for Certiorari before the CA, rollo, pp. 81-85.

[30] Catholic Bishop of Balanga v. Court of Appeals, G.R. No. 112519. November 14, 1996, 264 SCRA 181; Korean Airlines Co., Ltd. v. Court of Appeals, G.R. Nos. 114061 and 113842, August 3, 1994, 234 SCRA 717; Vda. de Javellana v. Court of Appeals, G.R. No. L-60129, July 29, 1983, 123 SCRA 799; Ortigas, Jr. v. Lufthansa German Airlines, G.R. No. L-28773, June 30, 1975, 64 SCRA 610.

[31] Rollo, p. 78.

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