

**PLASTIMER INDUSTRIAL CORPORATION AND TEO KEE BIN,
PETITIONERS, VS. NATALIA C. GOPO, KLEENIA R. VELEZ, FILEDELFA
T. AMPARADO, MIGNON H. JOSEPH, AMELIA L. CANDA, MARISSA D.
LABUNO...**

G.R. No. 183390. February 16, 2011

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before the Court is a petition for review[1] assailing the 13 August 2007 Decision[2] and 5 June 2008 Resolution[3] of the Court of Appeals in CA-G.R. SP No. 97271.

The Antecedent Facts

On 7 May 2004, the Personnel and Administration Manager of Plastimer Industrial Corporation (Plastimer) issued a Memorandum informing all its employees of the decision of the Board of Directors to downsize and reorganize its business operations due to withdrawal of investments and shares of stocks which resulted in the change of its corporate structure. On 14 May 2004, the employees of Plastimer, including Natalia C. Gopo, Kleenia R. Velez, Filedelfa T. Amparado, Mignon H. Joseph, Amelia L. Canda, Marissa D. Labunos, Melanie T. Cayabyab, Ma. Corazon dela Cruz and Luzviminda Cabasa (respondents) were served written notices of their termination effective 13 June 2004. On 24 May 2004, Plastimer and Plastimer Industrial Corporation Christian Brotherhood (PICCB), the incumbent sole and exclusive collective bargaining representative of all rank and file employees, entered into a Memorandum of Agreement (MOA) relative to the terms and conditions that would govern the retrenchment of the affected employees. On 26 May 2004, Plastimer submitted to the Department of Labor and Employment (DOLE) an Establishment Termination Report containing the list of the employees affected by the reorganization and downsizing. On 28 May 2004, the affected employees, including respondents, signed individual "Release Waiver and Quitclaim."

Thereafter, respondents filed a complaint against Plastimer and its President Teo Kee Bin (petitioners) before the Labor Arbiter for illegal dismissal with prayer for reinstatement and full backwages, underpayment of separation pay, moral and exemplary damages and attorney's fees. Respondents alleged that they did not voluntarily relinquish their jobs and that they were required to sign the waivers and quitclaims without giving them an opportunity to read them and without explaining their contents. Respondents further alleged that Plastimer failed to establish the causes/valid reasons for the retrenchment and to comply with the one-month notice to the DOLE as well as the standard prescribed under the Collective Bargaining Agreement between Plastimer and the employees. Petitioners countered that the retrenchment was a management prerogative and that respondents got their retrenchment or separation pay even before the effective date of their separation from service.

The Decisions of the Labor Arbiter and the NLRC

In its 22 August 2005 Decision,[4] the Labor Arbiter ruled that petitioners were able to prove that there was a substantial withdrawal of stocks that led to the downsizing of the workforce. The Labor Arbiter ruled that notice to the affected employees were given on 14 May 2004, 30 days before its effective date on 14 June 2004. It was only the notice to the DOLE that was filed short of the 30-day period. The Labor Arbiter further ruled that respondents claimed their separation pay in accordance with the MOA. The Labor Arbiter further ruled that respondents could not claim ignorance of the contents of the waivers and quitclaims because they were assisted by the union President and their counsel in signing them.

Respondents appealed the Labor Arbiter's decision before the National Labor Relations Commission (NLRC).

In its 29 December 2005 Resolution,[5] the NLRC affirmed the Labor Arbiter's decision. The NLRC noted that respondents did not signify any protest to the MOA entered into between Plastimer and PICCB. The NLRC held that there was no proof that respondents were intimidated or coerced into signing the waivers and quitclaims because they were assisted by the union President and their counsel. The NLRC ruled that the filing of the complaint was just an afterthought on the part of respondents.

Respondents filed a motion for reconsideration.

In its 25 October 2006 Resolution,[6] the NLRC denied the motion.

Respondents filed a petition for certiorari before the Court of Appeals.

The Decision of the Court of Appeals

In its 13 August 2007 Decision, the Court of Appeals reversed the NLRC decision. The Court of Appeals ruled that there was no valid cause for retrenchment. The Court of Appeals noted that the change of management and majority stock ownership was brought about by execution of deeds of assignment by several stockholders in favor of other stockholders. Further, the Court of Appeals noted that while Plastimer claimed financial losses from 2001 to 2004, records showed an improvement of its finances in 2003.

The Court of Appeals further ruled that Plastimer failed to use a reasonable and fair standard or criteria in ascertaining who would be dismissed and who would be retained among its employees. The Court of Appeals ruled that the MOA between Plastimer and PICCB only recognized the need for partial retrenchment and the computation of retrenchment pay without disclosing the criteria in the selection of the employees to be retrenched.

Finally, the Court of Appeals ruled that the union President and the PICCB's counsel were not present when the retrenched employees were made to sign the waivers and quitclaims.

The dispositive portion of the Court of Appeals' decision reads:

WHEREFORE, the instant petition is GRANTED. The assailed Resolutions of the NLRC in NLRC-NCR CA No. 046013-05 are hereby REVERSED AND SET ASIDE and a new judgment is entered finding petitioners to have been illegally dismissed. Plastimer Industrial Corporation is hereby ordered to reinstate petitioners to their former positions, without loss of seniority rights and other privileges, and to pay them their backwages from June 14, 2004 up to the time of actual reinstatement less the amounts they respectively received as separation pay.

SO ORDERED.[7]

Petitioners filed a motion for reconsideration.

In its 5 June 2008 Resolution, the Court of Appeals denied the motion.

Hence, the petition before this Court.

The Issue

The only issue in this case is whether respondents were illegally retrenched by petitioners.

The Ruling of this Court

The petition has merit.

Petitioners assail the Court of Appeals in substituting its own findings of facts to the findings of the Labor Arbiter and the NLRC. Petitioners argue that the findings of fact of the Labor Arbiter and the NLRC are accorded with respect if not finality. Petitioners allege that the Court of Appeals did not find any arbitrariness or grave abuse of discretion on the part of the NLRC and thus, it had no basis in reversing the NLRC resolutions which affirmed the Labor Arbiter's decision.

In a special civil action for certiorari, the Court of Appeals has ample authority to make its own factual determination.[8] Thus, the Court of Appeals can grant a petition for certiorari when it finds that the NLRC committed grave abuse of discretion by disregarding evidence material to the controversy.[9] To make this finding, the Court of Appeals necessarily has to look at the evidence and make its own factual determination.[10] In the same manner, this Court is not precluded from reviewing the factual issues when there are conflicting findings by the Labor Arbiter, the NLRC and the Court of Appeals.[11] In this case, we find that the findings of the Labor Arbiter and the NLRC are more in accord with the evidence on record.

One-Month Notice of Termination of Employment

Article 283 of the Labor Code provides:

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 establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or to 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.

In this case, Plastimer submitted the notice of termination of employment to the DOLE on 26 May 2004. However, notice to the affected employees were given to them on 14 May 2004 or 30 days before the effectivity of their termination from employment on 13 June 2004. While notice to the DOLE was short of the one-month notice requirement, the affected employees were sufficiently informed of their retrenchment 30 days before its effectivity. Petitioners' failure to comply with the one-month notice to the DOLE is only a procedural infirmity and does not render the retrenchment illegal. In *Agabon v. NLRC*,^[12] we ruled that when the dismissal is for a just cause, the absence of proper notice should not nullify the dismissal or render it illegal or ineffectual. Instead, the employer should indemnify the employee for the violation of his statutory rights.^[13] Here, the failure to fully comply with the one-month notice of termination of employment did not render the retrenchment illegal but it

entitles respondents to nominal damages.

Validity of Retrenchment

The Court of Appeals ruled that there was no valid cause for retrenchment. The Court of Appeals noted that while Plastimer claimed financial losses from 2001 to 2004, records showed an improvement of its finances in 2003.

We do not agree.

The Court of Appeals acknowledged that an independent auditor confirmed petitioners' losses for the years 2001 and 2002.[14] The fact that there was a net income in 2003 does not justify the Court of Appeals' ruling that there was no valid reason for the retrenchment. Records showed that the net income of P6,185,707.05 for 2003 was not even enough for petitioners to recover from the P52,904,297.88 loss in 2002.[15] Article 283 of the Labor Code recognizes retrenchment to prevent losses as a right of the management to meet clear and continuing economic threats or during periods of economic recession to prevent losses.[16] There is no need for the employer to wait for substantial losses to materialize before exercising ultimate and drastic option to prevent such losses.[17]

Validity of Waivers and Quitclaims

The Court has ruled that a waiver or quitclaim is a valid and binding agreement between the parties, provided that it constitutes a credible and reasonable settlement, and that the one accomplishing it has done so voluntarily and with a full understanding of its import.[18]

We agree with the Labor Arbiter and the NLRC that respondents were sufficiently apprised of their rights under the waivers and quitclaims that they signed. Each document contained the signatures of Edward Marcaida (Marcaida), PICCB President, and Atty. Bayani Diwa, the counsel for the union, which proved that respondents were duly assisted when they signed the waivers and quitclaims. Further, Marcaida's letter to Teo Kee Bin, dated 28 May 2004, proved that proper assistance was extended upon respondents, thus:

Nais po naming iparating sa inyo na ginagampanan ng pamamahala ng unyon ang kanilang tungkulin lalo na sa pag "assist" ng mga miyembrong kasali sa retrenchment program at tumanggap ng kanilang separation pay sa ilalim ng napagkasunduang "Memorandum of Agreement."

Naipaliwanag po sa bawat miyembro ang epekto ng kanilang pagtanggap ng kanilang mga separation pay. Wala kaming natanggap na masamang reaksiyon nang sila ay aming makausap at kanilang naiintindihan ang sitwasyon ng kumpanya.[19]

Hence, we rule that the waivers and quitclaims that respondents signed were valid.

WHEREFORE, we SET ASIDE the 13 August 2007 Decision and 5 June 2008 Resolution of the Court of Appeals in CA-G.R. SP No. 97271. We REINSTATE the 22 August 2005 Decision of the Labor Arbiter and the 29 December 2005 Resolution of the NLRC upholding the validity of respondents' retrenchment with MODIFICATION that petitioners pay each of the respondents the amount of P30,000 as nominal damages for non-compliance with statutory due process.

SO ORDERED.

Nachura, Peralta, Abad, and Mendoza, JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo, pp. 249-255. Penned by Associate Justice Estela M. Perlas-Bernabe with Associate Justices Portia

Aliño-Hormachuelos and Lucas P. Bersamin, concurring.

[3] Id. at 272.

[4] Id. at 176-183. Penned by Labor Arbiter Salimathar V. Nambi.

[5] Id. at 219-227. Penned by Commissioner Romeo C. Lagman with Commissioner Tito F. Genilo, concurring.

[6] Id. at 246-247. Penned by Commissioner Gregorio O. Bilog III with Commissioners Lourdes C. Javier and Tito F. Genilo, concurring.

[7] Id. at 255.

[8] *Maralit v. Philippine National Bank*, G.R. No. 163788, 24 August 2009, 596 SCRA 662.

[9] Id.

[10] Id., citing *Marival Trading, Inc. v. National Labor Relations Commission*, G.R. No. 169600, 26 June 2007, 525 SCRA 708.

[11] *Philamlife v. Gramaje*, 484 Phil. 880 (2004).

[12] 485 Phil. 248 (2004).

[13] Id.

[14] *Rollo*, p. 252.

[15] Id. at 244.

[16] *Mendros, Jr. v. Mitsubishi Motors Phils. Corporation (MMPC)*, G.R. No. 169780, 16 February 2009, 579 SCRA 529.

[17] Id.

[18] *Alabang Country Club, Inc. v. NLRC*, 503 Phil. 937 (2005).

[19] *CA rollo*, p. 183.

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