

**BENSON INDUSTRIES EMPLOYEES UNION-ALU-TUCP AND/OR VILMA GENON, EDISA HORTELANO, LOURDES ARANAS, TONY FORMENTERA, RENEBOY LEYSON, MA. ALONA ACALDO, MA. CONCEPCION ABAO, TERESITA ...**

*G.R. No. 200746. August 06, 2014*

Ponente: PERLAS-BERNABE, J.

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**PERLAS-BERNABE, J.:**

Before the Court is a petition for review on certiorari[1] assailing the Decision[2] dated September 27, 2011 and the Resolution[3] dated January 31, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 03842 which reversed and set aside the Decision[4] dated October 24, 2008 of the Voluntary Arbitrator (VA) of the National Conciliation and Mediation Board (NCMB), and accordingly deleted the award to petitioners Vilma Genon, Edisa Hortelano, Lourdes Aranas, Tony Formentera, Reneboy Leyson, Ma. Alona Acaldo, Ma. Concepcion Abao, Teresita Calinawan, Niciforo Cabansag, Stella Barongo, Marilyn Potot, Welmer Abanid, Lorenzo Alia, Lino Paradero, Diosdado Andales, Lucena Abesia, and Armando Ybañez (petitioners) of additional separation pay equivalent to four (4) days of work for every year of service.

**The Facts**

Respondent Benson Industries, Inc. (Benson) is a domestic corporation engaged in the manufacturing of green coils with the brand name Lion-Tiger Mosquito Killer. On February 12, 2008, Benson sent its employees, including herein petitioners, a notice[5] informing them of their intended termination from employment, to be effected on March 15, 2008 on the ground of closure and/or cessation of business operations. In consequence, the majority of Benson's employees resigned.[6] Meanwhile, petitioners, through Benson Industries Employees Union-ALU-TUCP (Union), filed a notice of strike, claiming that the company's supposed closure was merely a ploy to replace the union members with lower paid workers, and, as a result, increase its profit at their expense.[7] The strike did not, however, push through due to the parties' amicable settlement during the conciliation proceedings before the NCMB, whereby petitioners accepted Benson's payment of separation pay, computed at 15 days for every year of service, as per the parties' Memorandum of Agreement[8] dated April 9, 2008.[9]

This notwithstanding, petitioners proffered a claim for the payment of additional separation pay at the rate of four (4) days for every year of service. As basis, petitioners invoked Section 1, Article VIII of the existing collective bargaining agreement (CBA) executed by and between the Union and Benson which states that "[Benson] shall pay to any employee/laborer who is terminated from the service without any fault attributable to him, a 'Separation Pay' equivalent to not less than nineteen (19) days' pay for every year of service based upon the latest rate of pay of the employee/laborer concerned." [10] Benson opposed petitioners' claim, averring that the separation pay already paid to them was already more than what the law requires. Reaching an impasse on the conflict, the parties referred the issue to voluntary arbitration, wherein the validity of Benson's closure was brought up as well.[11]

### The VA Ruling

In a Decision[12] dated October 24, 2008 (October 24, 2008 VA Decision), the VA ruled in favor of petitioners, and, thus, ordered Benson to pay each of them separation benefits in “an amount equivalent to four (4) days for every year of service based on the latest rate of pay of the [individual petitioner] concerned subject to whatever legally valid deductions chargeable against [said individual petitioner] whenever applicable.”[13]

The VA ratiocinated that in computing the amount of separation benefits due to petitioners, the basis should be the provision of the existing CBA between Benson and the Union which explicitly states that should the employees be terminated through no fault of their own, they should be awarded separation benefits at the rate of 19 days for every year of service. In this regard, the VA opined that the provisions of the CBA should be given effect because it expresses the latest agreement of the union and the company, not to mention the fact that it gives more benefits to the employees.[14]

Separately, the VA found adequate proof to support Benson’s position that it was indeed in a state of insolvency, which, therefore, justified its closure and/or cessation of business operations on the ground of serious business losses and/or financial reverses.[15]

Dissatisfied, Benson elevated the matter on appeal before the CA.

### The CA Ruling

In a Decision[16] dated September 27, 2011, the CA reversed and set aside the VA’s ruling, and accordingly deleted the award of additional separation benefits equivalent to four (4) days of work for every year of service. It held that despite the express provision in the CBA stating that Benson should pay its employees who were terminated without their fault separation benefits equivalent to at least 19 days’ pay for every year of service, Benson cannot be compelled to do so considering its current financial status.[17]

Aggrieved, petitioners moved for reconsideration, which was, however, denied by the CA in a Resolution[18] dated January 31, 2012, hence, this petition.

### The Issue Before the Court

The sole issue for the Court’s resolution is whether or not the CA correctly deleted the award to petitioners of additional separation benefits equivalent to four (4) days of work for every year of service.

### The Court’s Ruling

The petition is impressed with merit.

Closure of business may be considered as a reversal of an employer’s fortune whereby there is a complete cessation of business operations and/or an actual locking-up of the doors of the establishment, usually due to financial losses. Under the Labor Code, it is treated as an authorized cause for termination, aimed at preventing further financial drain upon an employer who cannot anymore pay its employees since business has already stopped. As a form of recompense, the employer is required to pay its employees separation benefits, except when the closure is due to serious business losses.[19] Article 297 (formerly Article 283)[20] of the Labor Code, as amended, states this rule:

Art. 297. 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, x x x. 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 at least one-half ( $\frac{1}{2}$ ) 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. (Emphasis and underscoring supplied)

While serious business losses generally exempt the employer from paying separation benefits, it must be pointed that the exemption only pertains to the obligation of the employer under Article 297 of the Labor Code. This is because of the law's express parameter that mandates payment of separation benefits "in case of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses." The policy distinction underlying Article 297 – that is, the distinction between closures due to serious business losses and those which are not – was deftly discussed by the Court in the case of *Cama v. Joni's Food Services, Inc.*,<sup>[21]</sup> as follows:

The Constitution, while affording full protection to labor, nonetheless, recognizes "the right of enterprises to reasonable returns on investments, and to expansion and growth." In line with this protection afforded to business by the fundamental law, Article 283 [(now, Article 297)] of the Labor Code clearly makes a policy distinction. It is only in instances 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" that employees whose employment has been terminated as a result are entitled to separation pay. In other words, Article 283 [(now, Article 297)] of the Labor Code does not obligate an employer to pay separation benefits when the closure is due to serious losses. To require an employer to be generous when it is no longer in a position to do so, in our view, would be unduly oppressive, unjust, and unfair to the employer. Ours is a system of laws, and the law in protecting the rights of the working man, authorizes neither the oppression nor the self-destruction of the employer. x x x.<sup>[22]</sup> (Emphasis supplied)

When the obligation to pay separation benefits, however, is not sourced from law (particularly, Article 297 of the Labor Code), but from contract,<sup>[23]</sup> such as an existing collective bargaining agreement between the employer and its employees, an examination of the latter's provisions becomes necessary in order to determine the governing parameters for the said obligation. To reiterate, an employer which closes shop due to serious business losses is exempt from paying separation benefits under Article 297 of the Labor Code for the reason that the said provision explicitly requires the same only when the closure is not due to serious business losses; conversely, the obligation is maintained when the employer's closure is not due to serious business losses. For a similar exemption to obtain against a contract, such as a CBA, the tenor of the parties' agreement ought to be similar to the law's tenor. When the parties, however, agree to deviate therefrom, and unqualifiedly covenant the payment of separation benefits irrespective of the employer's financial position, then the obligatory force of that contract prevails and its terms should be carried out to its full effect. Verily, it is fundamental that obligations arising from contracts have the force of law between the contracting parties and thus should be complied with in good faith;<sup>[24]</sup> and parties are bound by the stipulations, clauses, terms and conditions they have agreed to, the only limitation being that these stipulations, clauses, terms and conditions are not contrary to law, morals, public order or public policy.<sup>[25]</sup> Hence, if the terms of a CBA are clear and there is no doubt as to the intention of the contracting parties, the literal meaning of its stipulations shall prevail.<sup>[26]</sup> As enunciated in *Honda Phils., Inc. v. Samahan ng Malayang Manggagawa sa Honda*:<sup>[27]</sup>

A collective bargaining agreement refers to the negotiated contract between a legitimate labor organization and the employer concerning wages, hours of work and all other terms and conditions of employment in a bargaining unit. As in all contracts, the parties in a CBA may establish such stipulations, clauses, terms and conditions as they may deem convenient provided these are not contrary to law, morals, good customs, public order or public policy. Thus, where the CBA is clear and unambiguous, it becomes the law between the parties and compliance therewith is mandated by the express policy of the law.<sup>[28]</sup>

In this case, it is undisputed that a CBA was forged by the employer, Benson, and its employees, through the Union, to govern their relations effective July 1, 2005 to June 30, 2010. It is equally undisputed that Benson agreed to and was thus obligated under the CBA to pay its employees who had been terminated without any fault attributable to them separation benefits at the rate of 19 days for every year of service. This is particularly found in Section 1, Article VIII of the same contract, to wit:

Section 1. Separation Pay – The Company shall pay to any employee/laborer who is terminated from the service without any fault attributable to him, a “Separation Pay” equivalent to not less than nineteen (19) days’ pay for every year of service based upon the latest rate of pay of the employee/laborer concerned.[29]

As may be gleaned from the following whereas clauses in a Memorandum of Agreement[30] dated November 20, 2003 between the parties, Benson had been fully aware of its distressed financial condition even at the time of the previous CBA (effective from July 1, 2000 to June 30, 2005):

WHEREAS, on February 01, 2001 the Company and the Union entered into a Collective Bargaining Agreement (CBA) with effectivity from July 01, 2000 to June 30, 2005;

x x x x

WHEREAS, the Company and the Union recognize that the Philippines is at present in grave economic crisis;

WHEREAS, the Union recognizes and acknowledges that the Company in particular is in grave financial difficulties and that the Company is hard up to meet its financial obligations to creditor banks that said creditor banks have even threatened to foreclose the mortgages on and to seize the Company’s factory, realties, machineries and assets and in fact, the Bank of the Philippine Islands, one of the creditor banks scheduled on November 17, 1998 a foreclosure sale of the Company’s factory, realties, machineries and assets in Extrajudicial Foreclosure Case No. EJF-2773-CEB;

x x x x (Emphases supplied)

Benson even admits in its Comment that it was already saddled with loan from banks as early as 1997[31] and that it had been unable to service its loan obligations.[32] And yet, nothing appears on record to discount the fact that it still unqualifiedly and freely agreed to the separation pay provision in the July 1, 2005 to June 30, 2010 CBA, its distressed financial condition notwithstanding.

Thus, in view of the foregoing, the Court disagrees with the CA in negating Benson’s obligation to pay petitioners their full separation benefits under the said agreement. The postulation that Benson had closed its establishment and ceased operations due to serious business losses cannot be accepted as an excuse to clear itself of any liability since the ground of serious business losses is not, unlike Article 297 of the Labor Code, considered as an exculpatory parameter under the aforementioned CBA. Clearly, Benson, with full knowledge of its financial situation, freely and voluntarily entered into such agreement with petitioners. Hence, having failed to show that the subject CBA provision on separation benefits is contrary to law, morals, public order or public policy, or that the same can be interpreted as one with a condition – for instance, that the parties actually contemplated non-payment of separation benefits in the event of closure due to serious business losses – the Court is constrained to reinstate the October 24, 2008 VA Decision ordering Benson to pay each of the petitioners separation benefits in “an amount equivalent to four (4) days for every year of service based on the latest rate of pay of the [individual petitioner] concerned, subject to whatever legally valid deductions chargeable against [said individual petitioner], whenever applicable.”[33]

Analogous to the foregoing is the Court’s disquisition in *Lepanto Ceramics, Inc. v. Lepanto Ceramics Employees Association*,[34] whereby the employer therein was held liable for the payment of Christmas bonus benefits,

considering that the grant thereof was voluntarily and unqualifiedly agreed upon by the parties under the CBA despite the employer's full awareness of its distressed financial position (as Benson in this case), viz.:

It is a familiar and fundamental doctrine in labor law that the CBA is the law between the parties and they are obliged to comply with its provisions. This principle stands strong and true in the case at bar.

A reading of the provision of the CBA reveals that the same provides for the giving of a "Christmas gift package/bonus" without qualification. Terse and clear, the said provision did not state that the Christmas package shall be made to depend on the petitioner's financial standing. The records are also bereft of any showing that the petitioner made it clear during the CBA negotiations that the bonus was dependent on any condition. Indeed, if the petitioner and respondent Association intended that the P3,000.00 bonus would be dependent on the company earnings, such intention should have been expressed in the CBA.

It is noteworthy that in petitioner's 1998 and 1999 financial Statements, it took note that "the 1997 financial crisis in the Asian region adversely affected the Philippine economy."

From the foregoing, petitioner cannot insist on business losses as a basis for disregarding its undertaking. It is manifestly clear that petitioner was very much aware of the imminence and possibility of business losses owing to the 1997 financial crisis. In 1998, petitioner suffered a net loss of P14,347,548.00. Yet it gave a P3,000.00 bonus to the members of the Association. In 1999, when petitioner's very own financial statement reflected that "the positive developments in the economy have yet to favorably affect the operations of the company," and reported a loss of P346,025,733.00, it entered into the CBA with the respondent Association whereby it contracted to grant a Christmas gift package/bonus to the latter. Petitioner supposedly continued to incur losses on the years 2000 and 2001. Still and all, this did not deter it from honoring the CBA provision on Christmas bonus as it continued to give P3,000.00 each to the members of the respondent Association in the years 1999, 2000 and 2001.

All given, business losses are a feeble ground for petitioner to repudiate its obligation under the CBA. The rule is settled that any benefit and supplement being enjoyed by the employees cannot be reduced, diminished, discontinued or eliminated by the employer. The principle of non-diminution of benefits is founded on the constitutional mandate to protect the rights of workers and to promote their welfare and to afford labor full protection.

Hence, absent any proof that petitioner's consent was vitiated by fraud, mistake or duress, it is presumed that it entered into the CBA voluntarily and had full knowledge of the contents thereof and was aware of its commitments under the contract.[35] (Emphases and underscoring supplied; citations omitted)

A similar disposition was also made in the case of *Eastern Telecommunications Philippines, Inc. v. Eastern Telecoms Employees Union*,[36] wherein the Court held as follows:

The parties to the contract must be presumed to have assumed the risks of unfavorable developments. It is, therefore, only in absolutely exceptional changes of circumstances that equity demands assistance for the debtor. In the case at bench, the Court determines that ETPI's claimed depressed financial state will not release it from the binding effect of the 2001-2004 CBA Side Agreement.

ETPI appears to be well aware of its deteriorating financial condition when it entered into the 2001-2004 CBA Side Agreement with ETEU and obliged itself to pay bonuses to the members of ETEU. Considering that ETPI had been continuously suffering huge losses from 2000 to 2002, its business losses in the year 2003 were not exactly unforeseen or unexpected. Consequently, it cannot be said that the difficulty in complying with its obligation under the Side Agreement was "manifestly beyond the contemplation of the parties." Besides, as held in *Central Bank of the Philippines v. Court of Appeals*, mere pecuniary inability to fulfill an engagement does not discharge a contractual obligation. Contracts, once perfected, are binding between the contracting parties. Obligations arising therefrom have the force of law and should be complied with in good faith. ETPI

cannot renege from the obligation it has freely assumed when it signed the 2001-2004 CBA Side Agreement.[37] (Emphases and underscoring supplied; citations omitted)

To quell any doubts, it bears pointing out that the CA's reliance on *Galaxie Steel Workers Union (GSWU-NAFLU-KMU) v. NLRC*[38] and *Cama v. Joni's Food Services, Inc.*[39] was actually misplaced since no CBA was involved in those cases. As such, consistent with the parameters of Article 297 of the Labor Code as above-discussed, the payment of separation benefits in view of the employer's serious business losses in those cases was not in order. In the same light, *North Davao Mining Corporation v. NLRC*[40] was speciously applied by the CA given that the payment of separation benefits in that case was not sourced from a contractual CBA obligation but merely from a unilateral company practice which was deemed as an act of generosity on the part of the employer. It was in this context that the Court held that "to require [the company] to continue being generous when it is no longer in a position to do so would certainly be unduly oppressive, unfair and most revolting to the conscience." [41] The factual dissimilarity of these cases to Benson and petitioners' situation therefore precludes the application of the same ruling.

Accordingly, finding no cogent reason for Benson not to comply with its obligations under the July 1, 2005 to June 30, 2010 CBA, and considering further that the interpretation of any law or provision affecting labor should be interpreted in favor of labor,[42] the Court hereby reverses the CA Decision and reinstates the October 24, 2008 VA Decision.

WHEREFORE, the petition is GRANTED. The Decision dated September 27, 2011 and the Resolution dated January 31, 2012 of the Court of Appeals in CA-G.R. SP No. 03842 are hereby REVERSED and SET ASIDE. The Decision dated October 24, 2008 of the Voluntary Arbitrator of the National Conciliation and Mediation Board is REINSTATED.

**SO ORDERED.**

Carpio, (Chairperson), Brion, Del Castillo, and Perez, JJ., concur.

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[1] Rollo, pp. 5-26.

[2] *Id.* at 31-39. Penned by Associate Justice Gabriel T. Ingles, with Associate Justices Pampio A. Abarintos and Eduardo B. Peralta, Jr., concurring.

[3] *Id.* at 41-42.

[4] *Id.* at 253-260. Penned by Voluntary Arbitrator Manuel P. Legaspi.

[5] *Id.* at 60-62.

[6] See *id.* at 43-44.

[7] See *id.* at 33 and 52.

[8] *Id.* at 63.

[9] See *id.* at 44.

[10] *Id.* at 255.

[11] See *id.* at 254-255.

[12] *Id.* at 253-260.

[13] Id. at 50.

[14] Id. at 255.

[15] See id. at 255-260.

[16] Id. at 31-39.

[17] See id. at 35-38.

[18] Id. at 41-42.

[19] See *Sangwoo Philippines, Inc. v. Sangwoo Philippines, Inc. Employees Union – Olalia*, G.R. No. 173154 and G.R. No. 173229, December 9, 2013; citations omitted.

[20] As amended and renumbered by Republic Act No. 10151, entitled “AN ACT ALLOWING THE EMPLOYMENT OF NIGHT WORKERS, THEREBY REPEALING ARTICLES 130 AND 131 OF PRESIDENTIAL DECREE NUMBER FOUR HUNDRED FORTY-TWO, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES.”

[21] 469 Phil. 223 (2004).

[22] Id. at 235-236.

[23] Article 1157 of the Civil Code provides:

Art. 1157. Obligations arise from:

- (1) Law;
- (2) Contracts;
- (3) Quasi-contracts;
- (4) Acts or omissions punished by law; and
- (5) Quasi-delicts. (Emphases supplied)

[24] *Prisma Construction & Development Corporation v. Menchavez*, G.R. No. 160545, March 9, 2010, 614 SCRA 590, 597.

[25] Id. at 601.

[26] *Supreme Steel Corporation v. Nagkakaisang Manggagawa Ng Supreme Independent Union (NMS-IND-APL)*, G.R. No. 185556, March 28, 2011, 646 SCRA 501, 521.

[27] G.R. No. 145561, June 15, 2005, 460 SCRA 186.

[28] Id. at 190-191.

[29] Rollo, p. 255.

[30] Id. at 415-418.

[31] Id. at 455.

[32] Id.

[33] Id. at 260.

[34] G.R. No. 180866, March 2, 2010, 614 SCRA 63.

[35] Id. at 73-74.

[36] G.R. No. 185665, February 8, 2012, 665 SCRA 516.

[37] Id. at 531-532.

[38] 535 Phil. 675 (2006).

[39] Supra note 21.

[40] G.R. No. 112546, March 13, 1996, 254 SCRA 721.

[41] Id. at 730.

[42] LABOR CODE, Article 4.

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