

DIONISIO PEREZ, PLAINTIFF-APPELLANT, VS. CENTRAL AZUCARERA DON PEDRO, DEFENDANT-APPELLEE.

G.R. No. 20215. April 24, 1967

Ponente: MAKALINTAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-20215/>

MAKALINTAL, J.:

This is an appeal from the decision of the Court of First Instance of Batangas dismissing the complaint of herein appellant Dionisio Perez.

The record shows that appellant had been employed with appellee since 1931, rendering continuous service until January 31, 1959, when he was dismissed for "loss of confidence." On the date of his discharge he was holding the position of Chief Clerk, Supply and Ware-housing, of appellee and was carried on the payrolls as a permanent and regular employee with a salary of P230.00 a month, plus other fringe benefits. He was also covered by the voluntary non-contributory gratuity and retirement plan for the personnel of appellee.

On June 8, 1959 appellant filed a complaint in the trial court seeking reinstatement, backwages and damages.

On June 17, 1959 appellee moved for the dismissal of the complaint on the ground that the trial court had no jurisdiction over the subject-matter of the case.

On July 16, 1959 the trial court denied the motion to dismiss and on July 27, 1959 appellee filed its answer denying each and every material averment of the complaint and setting up several affirmative defenses. When the case was called for hearing, the parties made a stipulation of facts at the preliminary conference held in chambers. Thereafter, the parties filed their respective memoranda solely on the question raised on the third affirmative defense, which we quote:

"(3) That by law, defendant has the right to separate plaintiff from its service even without cause by serving on the latter a previous notice of separation, or in lieu thereof, payment to him of the legal separation pay. Consequently, even granting, *arguendo*, that plaintiff's separation from the service was not for just cause, he has no right for reinstatement and back wages, but only to ask for payment of the said separation pay."

On October 1, 1959 the trial court issued an order dismissing the complaint, with costs against appellant. He moved to reconsider and later submitted, with leave of court, an amended complaint.

On September 20, 1960 the trial court denied the motion for reconsideration as well as the admission of the amended complaint.

In this appeal appellant avers that the trial court erred: "(1) in concluding that the employment of the plaintiff with the defendant corporation is without a definite period as stated under Section 1, Republic Act No. 1052, as amended by Republic Act No. 1787; (2) in holding that the right to separation pay is within the exclusive and original jurisdiction of the regional office of the Department of Labor; and (3) in dismissing the complaint and in denying the admission of the amended complaint."

The original appointment as well as all the sub-sequent promotional appointments of appellant were never reduced to writing. No evidence was presented to show that his employment with appellee was for a definite period. Indeed, all that appellant claims is that he was a per-manent employee, but as correctly stated by the trial court, the fact that he was considered a permanent employee does not itself show that he had been hired for a definite term.

Appellant stresses the fact that he was covered by defendant's "Voluntary Non-Contributory Retirement Gratuity Plan" for its personnel. The said plan, he says, gives certain retirement benefits to employees upon retire-ment at age 65, irrespective of length of service, or after completing 35 years in appellee's employ, irrespective of age. But as pointed out by appellee, the plan does not fix any definite period of employment. It is nothing more than a schedule of rates which serves as a basis in com-puting the amount an employee would receive upon his retirement, depending on his length of service, age, salary and other conditions, at the time of his separation.

Section 1 of Republic Act No. 1052, as amended by Republic Act No. 1787, governs this case. It provides:

"Section 1. In cases of employment, without a definite period, in a commercial, industrial or agricultural establishment or enterprise, the employer or the employee may terminate at any time the employment with just cause; or without just cause in the case of the employee by serving written notice on the employer at least one month in advance, or in the case of an employer, by serving such notice to the employee at least one month in advance or one-half month for every year of service of the employee, whichever is longer x x x x"

"x x x x x"

"The employee, upon whom no such notice was served in case of termination of employment without just cause shall be entitled to compensation from the date of termination of his employment in an amount equivalent to his salaries or wages corresponding to the required period of notice."

Interpreting the foregoing provision, this Court said in *Ricardo Gutierrez vs. Bachrach Motor Co., Inc.*, G. R. No. L-11298, 11586 and 11603, January 19, 1959:

"x x x x x was the company justified in dismissing him without cause? For the reason that the contract of em-ployment of plaintiff was not for any period or term, the answer must have to be in affirmative x x x"

"x x x x x"

"Whatever the courts, including this Tribunal may in the past have said about the validity or impro-priety of dismissals of employees by their employers, the law or rule is and has always been that in the absence of a contract of employment for a specific period, just as an employee in a commercial or industrial establishment may quit at any time singly or collectively, with or without cause, so the employer can dismiss any employee at any time with or without cause. This right of the employer is commonly referred to as his right to hire and fire his employee in the same way that the employee can stop working by himself or go on strike with his fellow employees."

Appellant calls attention to his amended complaint, filed after the order of dismissal was issued by the trial court, and denied admission subsequently. The amendment consists in the allegation that appellant "was hired by defendant according to the prevailing customs existing in the locality and the general business policy of the latter, for a definite period of thirty-five (35) years or until the herein plaintiff reaches the age of sixty-five (65) years in accordance with the existing voluntary non-contributory gratuity and retirement plan being enforced by the herein defendant." Obviously this amendment was nothing new, and had already been passed upon by the trial court in its order of dismissal, when it ruled that the retirement plan did not establish any definite term of employment within the meaning of Republic Act No. 1052, as amended.

In his brief on appeal appellant makes reference to his right to receive separation pay if his dismissal was without cause, and consequently he should be given an opportunity to prove the factual basis of that right. The point appears to us well-taken. Although it is true that neither the original complaint nor the amended complaint contains a prayer for separation pay - presumably for the reason that appellant's cause of action was for reinstatement, back salaries and damages - it is also true that in the third affirmative defense in the answer, which was submitted to the trial court for preliminary hearing, appellee avers that even if appellant's separation was without just cause his only claim would be for separation pay. The right to separation pay is inherent in this defense put up by defendant, and results automatically from the resolution of the trial court upholding the same. Plaintiff should therefore be given an opportunity to prove the amount to which he is entitled. The matter is within the jurisdiction of the trial court and not of the Regional Office of the Department of Labor (*Stoll et al., vs. Mardo et al.*, G. R. No. L-17241, June 29, 1962 and cases cited.)

WHEREFORE, the order of dismissal is set aside and the case is remanded for trial and judgment with respect to the issue of whether the separation of plaintiff-appellant was with or without cause, and in the latter case, with respect to the amount of separation pay due to him. No pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Bengzon, J.P., Zaldivar, Sanchez, and Castro, JJ., concur.

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.