

ASSOCIATED CITIZENS BANK AND LEONARDO TY, PETITIONERS, VS. JUDGE RAMON V. JAPSON, IN HIS CAPACITY AS PRESIDING JUDGE, COURT OF FIRST INSTANCE OF RIZAL, BRANCH XXVI AND EDMUND YA...*G.R. No. 50098. April 30, 1991*

Ponente: BIDIN, J.

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This is a petition for certiorari and prohibition with preliminary injunction questioning (1) the order dated September 14, 1978 of the respondent Judge deferring until trial on the merits the resolution of petitioners' motion to dismiss based on lack of jurisdiction and lack of cause of action, and (2) the order dated January 16, 1979 denying petitioners' motion for reconsideration in Civil Case No. 28757 entitled "Edmund Yap v. Associated Citizens Bank and Leonardo Ty."

It appears on record that on February 22, 1978, private respondent Edmund Yap filed an action for damages against petitioners Associated Citizens Bank and Leonardo Ty. In his complaint, private respondent Yap alleged, inter alia, that he was employed with the Associated Citizens Bank as Assistant Vice President with a monthly salary of P1,400.00 from February 1, 1967 to February 28, 1977; that during his employment with the petitioner Bank, he was able to attract numerous clients who made substantial deposits and/or availed of its banking facilities; that despite his loyal, efficient and productive service, he was informed thru Norberto Katigbak, the Bank's Executive Vice President, that his employment had been terminated effective December 31, 1976; that he was dismissed at the instance and upon the inducement of petitioner Ty who with ill will and evident bad faith and as Chairman of the Board of Directors and controlling stockholder caused the sending of the letter of termination; that petitioner Ty is sued in his personal capacity and as Chairman of the Board of Directors of petitioner Bank; that his dismissal was without legal or factual basis as the position of Assistant Vice President in the petitioner's bank by-laws is not an elective position and he was purportedly dismissed because he was not elected to the said position; that after he was illegally dismissed, petitioner Bank created three (3) new positions of Assistant Vice President although the other reason cited for his dismissal was redundancy; that he was dismissed "without just cause, hearing, investigation, or clearance from the Secretary of Labor, in violation of his right to security of tenure and due process as well as in gross disregard of his rights as a human being protected under Articles 19 and 21 of the Civil Code"; that in order to obtain immediate reinstatement, he filed on November 28, 1977, an action for reinstatement with backwages against petitioner Bank with the Department of Labor. As relief, he prayed that petitioners be ordered jointly and severally to pay him actual, moral and exemplary damages as the Court may determine, plus expenses of litigation, attorney's fees and costs of litigation.

On March 16, 1978, petitioners filed a motion to dismiss on the grounds that (1) the respondent court has no jurisdiction over the subject and nature of the action; (2) assuming it has jurisdiction, the prayer for actual damages should be dismissed as private respondent Yap by his own admission had earlier filed on November 28, 1977 a complaint with the Department of Labor which includes a claim for backwages; and (3) the complaint

failed to state a cause of action against petitioner Ty, the sole party-in-interest being the petitioner Bank. In their supplemental motion to dismiss filed on March 31, 1978, petitioners pointed out that (a) the complaint is barred by prior judgment and/or lacks cause of action because of the findings of the Department of Labor that private respondent Yap's dismissal is for a just cause, and (b) Yap is estopped from availing of the jurisdiction of the respondent court after he availed of the jurisdiction of the Department of Labor. Private respondent Yap filed an opposition to the motion to dismiss and to the supplemental motion to dismiss to which petitioners filed a consolidated reply.

On September 14, 1978, the respondent court issued an order deferring the resolution on the motion to dismiss until trial on the merits to enable the court to appreciate fully the facts in issue considering that the grounds relied upon are not indubitable. Petitioners' motion for reconsideration of said order was denied on January 16, 1979. Hence, the instant petition.

In its Resolution dated March 16, 1979, the First Division of this Court issued a temporary restraining order prohibiting the respondent court from proceeding with Civil Case No. 28757.

On June 27, 1979, this Court gave due course to the petition and required the parties to submit simultaneous memoranda within thirty (30) days from notice. Both parties submitted their respective memoranda.

Cited as grounds for the petition are the following, viz:

I

"THE COURT HAS NO JURISDICTION OVER THE SUBJECT AND NATURE OF THE ACTION OR SUIT;

II

"ASSUMING JURISDICTION, THE COMPLAINT FAILED TO STATE A CAUSE OF ACTION AGAINST THE PETITIONER LEONARDO TY. SINCE THE SOLE PARTY IN INTEREST IS THE PETITIONER ASSOCIATED CITIZENS BANK, PRIVATE RESPONDENT'S FORMER EMPLOYER; and

III

"SINCE THE MOTION TO DISMISS IS BASED ON LACK OF JURISDICTION OR LACK OF CAUSE OF ACTION, A DEFERMENT OF ITS RESOLUTION ALLEGEDLY BECAUSE THE GROUND IT RELIED UPON IS NOT INDUBITALE, IS IN EXCESS OF JURISDICTION, BECAUSE IN SUCH A CASE, THE ALLEGATION IN THE COMPLAINT ARE DEEMED ADMITTED FOR PURPOSES OF THE ACTION SO THAT IT CAN BE RESOLVED BEFORE TRIAL."

Primarily, the issue to be resolved is whether or not the respondent court has jurisdiction to hear and decide an action for damages based on the dismissal of an employee.

On all fours to the above issue is the ruling of this Court in *Primero v. Intermediate Appellate Court* (156 SCRA 435 [1987]) which once again reiterated the doctrine that the jurisdiction of the Labor Arbiter under Article 217 of the Labor Code is broad and comprehensive enough to include claims for moral and exemplary damages sought to be recovered by an employee whose services has been illegally terminated by his employer (*Ebon v. De Guzman*, 113 SCRA 55 [1982]; *Aguda v. Vallejos*, 113 SCRA 69 [1982]; *Getz Corporation v. Court of Appeals*, 116 SCRA 86 [1982]).

For the unlawful termination of employment, this Court in *Primero v. Intermediate Appellate Court*, supra, ruled that the Labor Arbiter had the exclusive and original jurisdiction over claims for moral and other forms of damages, so that the employee in the proceedings before the Labor Arbiter should prosecute his claims not only

for reliefs specified under the Labor Code but also for damages under the Civil Code. This is because an illegally dismissed employee has only a single cause of action although the act of dismissal may be a violation not only of the Labor Code but also of the Civil Code. For a single cause of action, the dismissed employee cannot institute a separate action before the Labor Arbiter for backwages and reinstatement and another action before the regular court for the recovery of moral and other damages because splitting a single cause of action is procedurally unsound and obnoxious to the orderly administration of justice (*Primero v. Intermediate Appellate Court*, supra, citing *Gonzales v. Province of Iloilo*, 38 SCRA 209; *Cyphil Employees Association-Natu v. Pharmaceutical Industries*, 77 SCRA 135; *Calderon v. Court of Appeals*, 100 SCRA 459, etc.).

Here, private respondent Yap in his complaint filed before the respondent court on February 22, 1978, admitted that earlier, he filed on November 28, 1977 an action for reinstatement with backwages against petitioner Bank as defendant, with the Department of Labor. Indubitably, respondent Yap as plaintiff is splitting a single cause of action. At the time he filed his action for reinstatement with backwages, the Labor Arbiter under Article 217, paragraphs 3 and 5 of Presidential Decree No. 442 dated May 1, 1974, the law then in force, had exclusive and original jurisdiction over claims for moral and other forms of damages arising from or connected with the unlawful termination of employment. Question of damages which arose out of or connected with a labor dispute should be determined by the labor tribunal to the exclusion of the regular courts of justice (*Limquiaco, Jr. v. Ramolete*, 156 SCRA 162 [1978]). The regular courts have no jurisdiction over claims for moral and exemplary damages arising from the illegal dismissal of an employee (*Vargas v. Akai Philippines, Inc.*, 156 SCRA 531 [1978]).

Inclusion in the Civil Case for damages of petitioner Ty as defendant who allegedly with ill will and evident bad faith caused the sending of the letter of termination does not change the cause of action nor affect the complexion of the case as petitioner Ty is acting in his official capacity as Chairman of the Board and it does not appear from the allegations of the complaint that the Board of Directors of Associated Citizens Bank has repudiated his official act. Personally, he is therefore not liable for the act complained of as he is merely acting as an agent of petitioner Bank. A reading of the complaint shows that it is an action for damages arising from employer-employee relationship.

While it is true that in this Court's Resolution dated May 28, 1979 in *Garcia v. Martinez* (90 SCRA 331 [1979]), the earlier decision in the said case (*Garcia v. Martinez*, 84 SCRA 577 [1978]) dismissing the complaint in the regular court was set aside and the regular court was allowed to take cognizance of an action for damages arising from dismissal of an employee, said ruling could not be applied to the case at bar. As clarified in the case of *Bengzon v. Inciong* (91 SCRA 248 [1979]), the reconsideration in May 28, 1979 was based on the fact that at that time, the case could not be refiled with the Labor Tribunal as the Labor Arbiter had been deprived of jurisdiction to hear claims for moral damages by virtue of the issuance on May 1, 1978 of Presidential Decree No. 1367. However, the law-making authority realized the problem of splitting the cause of action as it could result in conflicting findings and conclusions by two tribunals on one and the same claim, so that on May 1, 1980, Presidential Decree No. 1691 was issued restoring the jurisdiction of the Labor Arbiter over all money claims including claims for moral and exemplary damages arising from employer-employee relations (*Ebon v. De Guzman*, 113 SCRA 52; *Aguda v. Vallejos*, 113 SCRA 69).

The soundness of the doctrine laid down in the cases of *Ebon v. De Guzman*, *Aguda v. Vallejos*, and *Getz v. Court of Appeals*, was reiterated and revitalized in the case of *Primero v. Intermediate Appellate Court* (supra). Respondent court gravely abused its discretion in not dismissing Civil Case No. 28757.

The issue of jurisdiction having been resolved, it appears unnecessary to discuss the other issues raised in this petition.

WHEREFORE, the petition is Granted and the respondent Court is ordered to dismiss Civil Case No. 28757. No cost.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Feliciano, and Davide, Jr., JJ., concur.

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