

RICARDO M. REYES, PETITIONER, VS. PHILIPPINE DUPLICATORS, INC. AND THE NATIONAL LABOR RELATIONS COMMISSION, RESPONDENTS.

G.R. No. 54996. November 27, 1981

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

Petition for certiorari praying that the decision dated October 25, 1979 of respondent Commission be set aside and another one entered affirming the decision dated January 26, 1978 of the Labor Arbiter.

In 1953, petitioner was employed by Gestetner Limited, Philippines. In 1962, private respondent Philippine Dupli-cators, Inc. took over the business and operation of Ges-tetner Limited Philippines.

A Collective Bargaining Agreement was entered into which provided for the retention of petitioner's services with full recognition of petitioner's ten (10) years of service with Gestetner Ltd. Philippines. Said CBA likewise established a retirement scheme pursuant to which an "em-ployee, who has reached the age of fifty-five (55) or completed twenty (20) years of continuous service has an option to retire in accordance with the PDI Plan.

On January 25, 1977, after a total of 24 years of continuous service to both Gestetner Ltd. Philippines and Philippine Duplicators, Inc., petitioner opted to retire and notified private respondent of his option effective February 28, 1977.[1]

On February 18, 1977, private respondent after admit-ting to have received the notice of petitioner to retire notified him that his services were terminated on grounds of lack of confidence and conflict of interest.[2] The reason behind private respondent's refusal to grant peti-tioner's retirement benefits, and its termination of pe-titioner's services is the alleged fact that the latter appears as one of the incorporators of another corporation, MOSECOR (Modern System and Equipment Corporation) and that MOSECOR is engaged in the selling of stencils and duplicating machines, the very same equipment and supplies which Philippine Duplicators, Inc. sells. Private respondent concluded that petitioner committed acts which were totally unexpected and detrimental to the business interest of Philippine Duplicators, Inc. Thus, the rationale behind petitioner's termination.

This case was referred for compulsory arbitration. On January 26, 1978, Labor Arbiter Porfirio E. Villanueva, rendered a decision ordering respondent Philippine Dupli-cators Inc. to pay petitioner P84,000.00 plus P8,400.00 attorney's fees.

In ruling in favor of petitioner, the arbiter a quo held that the records show that as far back as June 1975, the stockholdings and board membership in MOSECOR of petitioner became known to respondent; that despite this knowledge, respondent retained petitioner in its employ though it was then in a position to confront the latter with the issue of conflict of interest; that after a lapse of two years, respondent can not now claim and is now estopped from claiming that such relation of petitioner with MOSECOR is in conflict with its interest; that during the period petitioner was employed with respondent, the latter reached its record growth in sales and net income; and

this growth in sales could not have been realized if petitioner had committed acts detrimental to respondent.[3]

On appeal by the Company, the Commission reversed the arbiter's decision, ruling that petitioner and his other companions took over MOSECOR for the purpose of competing with respondent company; that there is nothing in the transcript of stenographic notes that indicate respondent's knowledge of petitioner's business interest as early as June 1975; and that respondent came to know about MOSECOR when it was able to obtain from the Securities and Exchange Commission the pertinent papers relating thereto.[4]

In the instant petition, it was alleged that:

- (1) Respondent did not conduct any investigation as to the existence of the alleged cause of petitioner's dismissal nor did it confront petitioner of the charges against him from the time the alleged cause existed up to the date of the latter's termination.
- (2) Entitlement to retirement benefits becomes vested right on the employee upon his exercise of his option to retire by giving notice to the company, and it becomes the duty of the company to recognize said right and give what is due to the employee.
- (3) A close examination of the records however, would readily show that except for the bare allegation that MOSECOR has for its principal purpose similar with that of private respondent, nothing therein can be found that private respondent indeed has a similar principal purpose of creation. In fact not even the Articles of Incorporation of Private Respondent was offered in evidence to show that both MOSECOR and private respondent was created under one and the same principal purpose. Nonetheless, the respondent Commission assumed it as an established fact based solely upon the bare allegation of private respondent that it is so.
- (4) On the contrary, the records will show that during the period 1975 to 1976 when petitioner and "others" were declared to have competed with private respondent, the latter reached the highest growth in terms of net sales and income with an increase of no less than 61% in sales and income.
- (5) Petitioner, however, believes that the procedure adopted by the Commission in passing upon the case has deprived petitioner of his day in the proceedings --- a deprivation of right without due process of law. Regretfully, when the case was pending before the respondent Commission, Second Division, the same was still under conciliation upon the initiative of Commissioner Cecilio T. Seno. Its abrupt transfer therefore to the Third Division and thus resulting as a sequel, to the termination of the conciliation was unfair to the petitioner who was all along vouching on the integrity of the commission which turned out to be otherwise.

The decisive issue in this case is whether or not petitioner is entitled to the retirement benefits pursuant to the Collective Bargaining Agreement.

It was the contention of respondent that there were sufficient grounds to dismiss petitioner since the latter was engaged in a business endeavor which runs in conflict with the former's business interests. Respondent, to strengthen its stand, submitted in evidence newspaper clipping and award of contract to MOSECOR[5] to confirm its true intention of competing with respondent.

In brief, a perusal of the records shows:

- (1) Respondent's lone witness admitted during the hearing before the arbiter, that the company came to know of the stockholdings of petitioner even before June 14, 1977, the date of the newspaper clipping.
- (2) Respondent averred that it received information from a reliable source that petitioner has already acquired interest in MOSECOR on June 2, 1975 but it was only on February 14, 1977 when it was able to obtain a certification from the Securities and Exchange Commission.
- (3) The newspaper announcements which were relied upon by the Commission in reversing the Arbiter's

decision were published on April 24 and April 15, 1977 and the award of contract to MOSECOR as a result of the bidding dated July 7, 1977, or a few months after petitioner's dismissal on February 18, 1977.

(4) Petitioner was summarily dismissed. He was not given the opportunity to defend himself, hence, a denial of due process. He was not confronted with the charges before his actual dismissal.

Based on the foregoing, the Court finds no compelling reasons to disturb the Arbiter's findings of fact and conclusion. The company acted in bad faith in denying petitioner his retirement benefits. The alleged grounds of loss of confidence and conflict of interest can not hold water. Respondent company is now estopped from questioning the involvement of petitioner in another corporation, for by its own omission, it failed to apprise petitioner of his supposed detrimental acts immediately upon knowledge thereof, considering petitioner's length of service, having been in the company's employ for twenty (20) years. Estoppel which has its roots in equity and based on good faith and moral right, which are apparently lacking in the case at bar, therefore, operates against respondent Corporation. Respondent should have exercised caution and care in dealing with its employees to prevent suspicion that its dismissal of petitioner is only a scheme to evade its responsibility of granting retirement benefits. Thus, it should not have waited until petitioner applied for retirement to have taken adverse action against him for a cause it had already knowledge of.

It is very clear that the newspaper announcements came after petitioner's dismissal. It is absurd to think that petitioner who is a family man, would just stand by and await the outcome of this case without looking for some other means of livelihood. An investment in a corporation is a prerogative of every one as a preparation for any eventuality in the future. In the competitive world of business like ours, man should learn how to survive in the best way he could for the desire to survive is akin to the principle of self-preservation.

It is undisputed that MOSECOR was formed wayback in 1975, but the records are bereft of any showing that petitioner during his employment with respondent, transacted any business prejudicial to the latter. It was also not disputed that the company even reached the highest growth in terms of net sales and income during the period of 1975 to 1976. That during all this time respondent took no adverse action against petitioner for acts in conflict with its interest is evidence that petitioner committed no act inimical to respondent's business, but continued to be an asset to it.

As adverted to earlier, petitioner's dismissal is not justified for being arbitrary since he was denied due process and therefore, he is entitled to the benefits provided for in the collective bargaining agreement. Time and again, the court has ruled that without any showing that the findings of the Arbiter are not supported by substantial evidence, such findings are conclusive with this Court.^[6]

In view of the above conclusion, there is no further need to discuss the other issues raised by petitioner.

WHEREFORE, the decision of the Commission dated October 25, 1979 is hereby set aside and the decision of the Labor Arbiter dated January 26, 1978 is affirmed in toto, without costs.

SO ORDERED.

Barredo, Concepcion, Jr., Guerrero, and Abad Santos, JJ., concur.
Aquino, J., no part.

[1] Exh. I, p. 53, Original NLRC Records.

[2] Exh. II, pp. 54-55, Ibid.

[3] Decision, pp. 38-45, rollo.

[4] Decision, pp. 45-A-53, rollo.

[5] pp. 151-152, Original NLRC Records.

[6] *Genconsu Free Workers Union, vs. Inciong*, 91 SCRA 311.

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