

ERNESTO MEDINA AND JOSE G. ONG, PETITIONERS, VS. HON. FLORELIANA CASTRO--BARTOLOME IN HER CAPACITY AS PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL, BRANCH XV, MAKATI,...

G.R. No. 59825. September 11, 1982

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

Civil Case No. 33150 of the Court of First Instance of Rizal, Branch XV, was filed in May, 1979, by Ernesto Medina and Jose G. Ong against Cosme de Aboitiz and Pepsi-Cola Bottling Co. of the Philippines, Inc. Medina was the former Plant General Manager and Ong was the former Plant Comptroller of the company. Among the averment in the complaint are the following:

"3. That on or about 1:00 o'clock in the afternoon of December 20, 1977, defendant Cosme de Aboitiz, acting in his capacity as President and Chief Executive Officer of the defendant Pepsi-Cola Bottling Company of the Philippines, Inc., went to the Pepsi-Cola Plant in Muntinlupa, Metro Manila, and without any provocation, shouted and maliciously humiliated the plaintiffs with the use of the following slanderous language and other words of similar import uttered in the presence of the plaintiffs' subordinate employees, thus -

'GOD DAMN IT. YOU FUCKED ME UP X X X. YOU SHUT UP! FUCK YOU! YOU ARE BOTH SHIT TO ME! YOU ARE FIRED (referring to Ernesto Medina). YOU TOO ARE FIRED!' (referring to Jose Ong).

"4. That on January 9, 1978, the herein plaintiffs filed a joint criminal complaint for oral defamation against the defendant Cosme de Aboitiz duly supported with respective affidavits and corroborated by the affidavits of two (2) witnesses: Isagani Hernandez and Jose Ganseco II, but after conducting a preliminary investigation, Hon. Jose B. Castillo, dismissed the complaint allegedly because the expression 'Fuck you' and 'You are both shit to me' were uttered not to slander but to express anger and displeasure;

"5. That on February 8, 1978, plaintiffs filed a Petition for Review with the office of the Secretary of Justice (now Ministry of Justice) and on June 13, 1978, the Deputy Minister of Justice, Catalino Macaraig, Jr., issued a resolution sustaining the plaintiffs' complaint, reversing the resolution of the Provincial Fiscal and directing him to file against defendant Cosme de Aboitiz an information for Grave Slander. x x x;

"6. That the employment records of plaintiffs show their track performance and impeccable qualifications, not to mention their long years of service to the Company which undoubtedly caused their promotion to the two highest positions in Muntinlupa Plant having about 700 employees under them with Ernesto Medina as the Plant General Manager receiving a monthly salary of P6,600.00 excluding other perquisites accorded only to top executives and having under his direct supervision other professionals like himself, including the plaintiff Jose G. Ong, who was the Plant Comptroller with a basic monthly salary of P4,855.00;

"7. That far from taking these matters into consideration, the defendant corporation, acting through its President, Cosme de Aboitiz, dismissed and slandered the plaintiffs in the presence of their subordinate employees although this could have been done in private;

"8. That the defendants have evidently enjoyed the act of dismissing the plaintiffs and such dismissal was planned to make it as humiliating as possible because instead of allowing a lesser official like the Regional Vice President to take whatever action was necessary under the circumstances, Cosme de Aboitiz himself went to the Muntinlupa Plant in order to publicly upbraid and dismiss the plaintiffs;

"9. That the defendants dismissed the plaintiffs because of an alleged delay in the use of promotional crowns when such delay was true with respect to the other Plants, which is therefore demonstrative of the fact that Cosme de Aboitiz did not really have a strong reason for publicly humiliating the plaintiffs by dismissing them on the spot;

"10. That the defendants were moved by evil motives and an anti-social attitude in dismissing the plaintiffs because the dismissal was effected on the very day that plaintiffs were awarded rings of loyalty to the Company, five days before Christmas and on the day when the employees' Christmas party was held in the Muntinlupa Plant, so that when plaintiffs went home that day and found their wives and children already dressed up for the party, they didn't know what to do and so they cried unashamedly;

x x x x x x x x

"20. That because of the anti-social manner by which the plaintiffs were dismissed from their employment and the embarrassment and degradation they experience in the hands of the defendants, the plaintiffs have suffered and will continue to suffer wounded feelings, sleepless nights, mental torture, besmirched reputation and other similar injuries, for which the sum of P150,000.00 for each plaintiff, or the total amount of P300,000.00 should be awarded as moral damages;

"21. That the defendants have demonstrated their lack of concern for the rights and dignity of the Filipino worker and their callous disregard of Philippine labor and social legislation, and to prevent other persons from following the footsteps of defendants, the amount of P50,000.00 for each plaintiff, or the total sum of P100,000.00, should be awarded as exemplary damages;

"22. That plaintiffs likewise expect to spend no less than P5,000.00 as litigation expenses and were constrained to secure the services of counsel for the protection and enforcement of their rights for which they agreed to pay the sum of P10,000.00 and P200.00 per appearance, as and for attorney's fees."

The complaint contains the following:

"P R A Y E R

WHEREFORE, in view of all the foregoing, it is most respectfully prayed that after proper notice and hearing, judgment be rendered for the plaintiffs and against the defendants ordering them, jointly and solidarily, to pay the plaintiffs the sums of:

1. Unrealized income in such sum as will be established during the trial;
2. P300,000.00 as moral damages;
3. P100,000.00 by way of exemplary damages;
4. P5,000.00 as litigation expenses;
5. P10,000.00 and P200.00 per appearance as and for attorney's fees; and
6. Costs of this suit.

Plaintiffs also pray for such further reliefs and remedies as may be in keeping with justice and equity."

On June 4, 1979, a motion to dismiss the complaint on the ground of lack of jurisdiction was filed by the

defendants. The trial court denied the motion on September 6, 1979, in an order which reads as follows:

"Up for resolution by the Court is the defendants' Motion to Dismiss dated June 4, 1979 , which is basically anchored on whether or not this Court has jurisdiction over the instant petition.

"The complaint alleges that the plaintiffs' dismissal was without any provocation and that defendant Aboitiz shouted and maliciously humiliated plaintiffs and used the words quoted in paragraph 3 thereof. The plaintiffs further allege that they were receiving salaries of P6,600.00 and P4,855.00 a month. So the complaint for civil damages is clearly not based on an employer-employee relationship but on the manner of plaintiffs' dismissal and the effects flowing therefrom. (Jovito N. Quisaba vs. Sta. Ines-Melale Veneer & Plywood Co., Inc., et al., No. L-38088, Aug. 30, 1974 .)

"This case was filed on May 10, 1979 . The amendatory decree, P.D. 1367, which took effect on May 1, 1978 and which provides that Regional Directors shall not indorse and Labor Arbiters shall not entertain claims for moral or other forms of damages, now expressly confers jurisdiction on the courts in these cases, specifically under the plaintiffs' causes of action.

"Because of the letter dated January 4, 1978 and the statement of plaintiff Medina that his receipt of the amount from defendant company was done 'under strong protest,' it cannot be said that the demands set forth in the complaint have been paid, waived or other extinguished. In fact, in defendants' Motion to Dismiss, it is stated that 'in the absence of a showing that there was fraud, duress or violence attending said transactions, such Release and Quitclaim Deeds are valid and binding contracts between them,' which in effect admits that plaintiffs can prove fraud, violence, duress or violence. Hence, a cause of action for plaintiffs exist.

"It is noticed that the defamatory remarks standing alone per se had been made the sole cause under the first cause of action, but it is alleged in connection with the manner in which the plaintiffs had been dismissed, and whether the statute of limitations would apply or not would be a matter of evidence.

"It has been already settled by jurisprudence that mere asking for reinstatement does not remove from the CFI jurisdiction over the damages. The case must involve unfair labor practices to bring it within the jurisdiction of the CIR (now NLRC).

"WHEREFORE, the defendants' Motion to Dismiss dated June 4, 1979 is hereby denied.

"The defendants are hereby directed to interpose their answer within ten (10) days from receipt hereof."

While the trial was underway, the defendants filed a second motion to dismiss the complaint dated January 23, 1981, because of amendments to the Labor Code immediately prior thereto. Acting on the motion, the trial court issued on May 23, 1981, the following order:

"Up for resolution by the Court is the defendants' Motion to Dismiss dated January 23, 1981 , on grounds not existing when the first Motion to Dismiss dated June 4, 1979 was interposed. The ground relied upon is the promulgation of P.D. No. 1691 amending Art. 217 of the Labor Code of the Philippines and Batasan Pambansa Blg. 70 which took effect on May 1, 1980, amending Art. 248 of the Labor Code.

"The Court agrees with defendants that the complaint alleges unfair labor practices which under Art. 217 of the Labor Code, as amended by P.D. 1691, has vested original and exclusive jurisdiction to Labor Arbiters, and Art. 248, thereof . . . 'which may include claims for damages and other affirmative reliefs.' Under the amendment, therefore, jurisdiction over employee-employer relations and claims of workers have been removed from the Courts of First Instance. If it is argued that this case did not arise from employer-employee relation, but it cannot be denied that this case would not have arisen if the plaintiffs had not been employees of defendant Pepsi Cola. Even the alleged defamatory remarks made by defendant Cosme de Aboitiz were said to plaintiffs in the course of their employment, and the latter were dismissed from such employment. Hence, the case arose from such employer-employee relationship which under the new Presidential Decree 1691 are under

the exclusive, original jurisdiction of the labor arbiters. The ruling of this Court with respect to the defendants' first motion to dismiss, therefore, no longer holds as the positive law has been subsequently issued and being a curative law, can be applied retroactively (*Garcia v. Martinez, et al.*, L-47629, May 28, 1979; 90 SCRA 331-333).

"It will also logically follow that plaintiffs can reinterpose the same complaint with the Ministry of Labor.

"WHEREFORE, let this case be, as it is hereby ordered, dismissed, without pronouncement as to costs."

A motion to reconsider the above order was filed on July 7, 1981, but it was only on February 8, 1982, or after a lapse of around seven (7) months when the motion was denied.

Plaintiffs have filed the instant petition pursuant to R.A. No. 5440 alleging that the respondent court committed the following errors:

"IN DIVESTING ITSELF OF ITS JURISDICTION TO HEAR AND DECIDE CIVIL CASE NO. 33150 DESPITE THE FACT THAT JURISDICTION HAD ALREADY ATTACHED WHICH WAS NOT OUSTED BY THE SUBSEQUENT ENACTMENT OF PRESIDENTIAL DECREE 1691;

IN HOLDING THAT PRESIDENTIAL DECREE 1691 SHOULD BE GIVEN A RETROSPECTIVE EFFECT WHEN PRESIDENTIAL DECREE 1367 WHICH WAS IN FORCE WHEN CIVIL CASE NO. 33150 WAS FILED AND TRIAL THEREOF HAD COMMENCED, WAS NEVER EXPRESSLY REPEALED BY PRESIDENTIAL DECREE 1691, AND IF EVER THERE WAS AN IMPLIED REPEAL, THE SAME IS NOT FAVORED UNDER PREVAILED JURISPRUDENCE;

IN HOLDING THAT WITH THE REMOVAL BY PRESIDENTIAL DECREE 1691 OF THE PROVISIO INSERTED IN ARTICLE 217 OF THE LABOR CODE BY PRESIDENTIAL DECREE 1367, THE LABOR ARBITERS HAVE ACQUIRED JURISDICTION OVER CLAIMS FOR DAMAGES ARISING FROM EMPLOYER-EMPLOYEE RELATIONS TO THE EXCLUSION OF THE REGULAR COURTS, WHEN A READING OF ARTICLE 217 WITHOUT THE PROVISIO IN QUESTION READILY REVEALS THAT JURISDICTION OVER DAMAGE CLAIMS IS STILL VESTED WITH THE REGULAR COURTS;

IN DISMISSING FOR LACK OF JURISDICTION CIVIL CASE NO. 33150 THEREBY VIOLATING THE CONSTITUTIONAL RIGHTS OF THE PETITIONERS NOTABLY THEIR RIGHT TO DUE PROCESS."

The pivotal question to Our mind is whether or not the Labor Code has any relevance to the reliefs sought by the plaintiffs. For if the Labor Code has no relevance, any discussion concerning the statutes amending it and whether or not they have retroactive effect is unnecessary.

It is obvious from the complaint that the plaintiffs have not alleged any unfair labor practice. Theirs is a simple action for damages for tortious acts allegedly committed by the defendants. Such being the case, the governing statute is the Civil Code and not the Labor Code. It results that the orders under review are based on a wrong premise.

WHEREFORE, the petition is granted; the respondent judge is hereby ordered to reinstate Civil Case No. 33150 and render a decision on the merits. Costs against the private respondents.

SO ORDERED.

Barredo, (Chairman), Concepcion, Jr., Guerrero, De Castro, and Escolin, JJ., concur.
Aquino, J., see dissent.

DISSENTING OPINION

AQUINO, J.:

I dissent with due deference to the opinion penned by Mr. Justice Abad Santos.

This case is about the jurisdiction of the Court of First Instance to entertain an action for damages arising from the alleged disgraceful termination of petitioners' employment.

Ernesto Medina, the manager of the Muntinlupa plant of Pepsi-Cola Bottling Company of the Philippines with a monthly salary of P6,600, and Jose G. Ong, Pepsi's controller in the same plant with a monthly salary of P4,855, were summarily dismissed by Cosme de Aboitiz, Pepsi's president and chief executive officer, on December 20, 1977 for having allegedly delayed the use of promotional crowns (pp. 29-31, Rollo).

The two signed on January 5, 1978 letters of resignation and quitclaims and were paid P93,063 and P84,386 as separation pay, respectively. However, before receiving those amounts, Medina and Ong sent by registered mail to Aboitiz letters wherein they indicated that they objected to their illegal dismissal and that they would sign the quitclaim and resignation papers "under protest" (pp. 32, 270-275, Rollo).

More than a month after their dismissal, or on January 27, 1978, Medina and Ong filed with the Ministry of Labor a complaint for illegal dismissal. They prayed for reinstatement with full backwages and, in the alternative, they prayed for additional separation pay of P72,904 for Medina and P35,927 for Ong (NLRC Case No. R4-STF-1-492-78, pp. 40, 288-299, Rollo).

The director of Region IV of the Ministry of Labor dismissed that complaint because of their resignation and quitclaim. Medina and Ong appealed to the National Labor Relations Commission. Deputy Minister Amado C. Inciong affirmed the dismissal in his order of April 23, 1979 (p. 246, Rollo). He denied the motion for reconsideration of Medina and Ong in his order of October 25, 1979 (p. 327, Rollo).

Seventeen days after that order of dismissal, or on May 10, 1979, Medina and Ong filed, in the Court of First Instance of Rizal, Makati Branch XV an action for damages against Aboitiz and Pepsi-Cola by reason of the humiliating manner in which they were dismissed. They prayed for the payment of unrealized income and P415,000 as moral and exemplary damages, attorney's fees and litigation expenses (pp. 34-5, 246, Rollo).

Aboitiz and Pepsi-Cola filed a motion to dismiss on the grounds of lack of jurisdiction, pendency of a labor case, lack of cause of action, payment and prescription (p. 37, Rollo). Ong and Medina opposed the motion.

Judge Floreliana Castro-Bartolome in her order of September 6, 1979 denied the motion to dismiss on the ground that under Presidential Decree No. 1367, which took effect on May 1, 1979, the NLRC and Labor Arbiters cannot entertain claims for moral/or other damages, thus implying that such claims should be ventilated in court (p. 247, Rollo).

After Medina had commenced his testimony, Aboitiz and Pepsi-Cola filed another motion to dismiss based on Presidential Decree No. 1691, which took effect on May 1, 1980 and which repealed Presidential Decree No. 1367 and restored to the NLRC and Labor Arbiters the jurisdiction to adjudicate money claims of workers, including moral damages, and other claims arising from employer-employee relationship.

Judge Bartolome in her order of May 23, 1981 dismissed the case for lack of jurisdiction. That order of dismissal is assailed in this appeal by Medina and Ong under Republic Act No. 5440.

In my opinion the dismissal of the civil action for damages is correct because the claims of Medina and Ong were within the exclusive jurisdiction of the Labor Arbiter and the NLRC, as originally provided in article 217 of the

Labor Code and as re-affirmed in Presidential Decree No. 1691. Medina and Ong could not split their cause of action against Aboitiz and Pepsi-Cola. (See *Aguda vs. Judge Vallejos*, G. R. No. 58133, March 26, 1982; *Ebon vs. Judge De Guzman*, G. R. No. 58265, March 25, 1982; *Cardinal Industries, Inc. vs. Vallejos*, G. R. No. 57032, June 19, 1982; *Pepsi-Cola Bottling Co. vs. Martinez*, G. R. No. 58877, March 15, 1982).

The decisions of the Regional Director and Deputy Minister Inciong are res judicata as to the claims of Medina and Ong.

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