

LAO SOK, PETITIONER, VS. LYDIA SABAYSABAY, AMPARO MANGULAT, ROSITA SALVIEJO, NENITA RUINATA, VILMA CAPILLO, VIRGINIA SANORJO AND THE NATIONAL LABOR RELATIONS COMMISSION, RESPOND...

G.R. No. 61898. August 09, 1985

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition for review which seeks to set aside for grave abuse of discretion the decision of the National Labor Relations Commission dated June 21, 1982 affirming the decision of Labor Arbiter Apolonio L. Reyes ordering the petitioner to pay the private respondents their separation pay.

The undisputed facts are:

Petitioner Lao Sok owned and operated the Shelton Department Store located at Carriedo Street, Quiapo, Manila.

Private respondents, Lydia Sabaysabay, Amparo Mangulat, Rosita Salviejo, Nenita Ruinata, Vilma Capillo and Virginia Sanorjo were all salesladies of the department store with a daily wage of P14.00 each.

On October 12, 1980, petitioner's store was razed by fire. He did not report the loss of jobs of the salesladies which resulted from the burning of his department store to the Regional Office of the Ministry of Labor.

Petitioner promised the private respondents that he would transfer them to his other department stores. Several weeks passed but petitioner still did not fulfill his promise.

The petitioner, however, told the respondents that he would give them their separation pay and other benefits due them as soon as he collected the insurance proceeds arising from his burned store. The private respondents accepted this offer of the petitioner.

Petitioner later collected the proceeds of his insurance but he did not give the private respondents their separation pay and other benefits. Neither did he employ them in his other stores as earlier promised.

On May 14, 1981, the private respondents filed a complaint with the Ministry of Labor and Employment charging the petitioner with illegal dismissal and non-payment of their separation pay, allowance and incentive leave pay.

Labor Arbiter Apolonio L. Reyes required the parties to submit their position papers and on the basis of these position papers, he rendered a decision on July 23, 1981, the dispositive portion of which reads:

"WHEREFORE, judgment is rendered in favor of the complainants against the respondent, ordering the latter to pay the former their separation pay equivalent to one month salary for every year of service proportionate to their individual length of service with the respondents at legal rate of interest in the event that respondent failed or refused to pay the same within ten days from receipt thereof. Other issues are dismissed for being judicata."

On October 2, 1981, the petitioner appealed said decision to the National Labor Relations Commission (NLRC.)

The NLRC affirmed the decision of the Labor Arbiter and dismissed the appeal.

Petitioner moved for a reconsideration of the decision but the motion was likewise denied.

Hence, this petition for review.

The issue in this case is whether or not petitioner Lao Sok is obligated to pay the private respondents' separation pay.

The petitioner contends that he may not be compelled to pay separation pay on the basis of his mere failure to make a report about the fire and the consequent dismissal of his employees which may be effected without prior clearance. Sections 10 and 11(c), Rule XIV, Book V of the Labor Code provide:

"Sec. 10. Exception.— No clearance is required if the shutdown of establishment is due to serious accidents, fire, flood, typhoon, earthquakes, or other disaster, calamity or public emergencies, provided that the employer makes a report thereon to the Regional Office in accordance with the form prescribed by the Department.

"Sec. 11. When reports required.—Every employer shall submit a report to the Regional Office in accordance with the form prescribed by the Department on the following instances of termination of employment, suspension, layoff or shutdown which may be effected by the employer without prior clearance, within five (5) days thereafter:

(a) xxx xxx xxx

(b) xxx xxx xxx

"(c) All shutdowns or cessations of work or operations falling under the exceptional circumstances specified in Section 10 hereof;

xxx xxx xxx

Compliance with the above rules is only an administrative matter and the failure to make a report does not make the dismissal illegal per se. But the employer who fails to file such report may be subjected to such administrative penalties or sanctions as may be duly provided. (*Oceanic Bic Division (FFW) v. Romero*, 130 SCRA 392, 405).

However, the petitioner's obligation to pay severance compensation is not based on his failure to make a report or to ask for a prior clearance. Article 284 of the Labor Code provides for separation pay whenever there is a reduction of personnel caused by the closure of an establishment which is not intended to circumvent the provisions of the law. We also note that Book VI, Rule 1, Section 4(b) of the Rules and Regulations Implementing the Labor Code provides:

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"(b) In case the establishment where the employee is to be reinstated has closed or ceased operations or where his former position no longer exists at the time of reinstatement for reasons not attributable to the fault of the employer, the employee shall be entitled to separation pay equivalent at least to one month salary or to one month salary for every year of service, whichever is higher, a fraction of at least six months being considered as one whole year."(Underlining supplied).

The department store or the establishment where the six salesladies are employed has ceased operations and admittedly, it was due to reasons not attributable to the fault of the employer. But while we can not fault petitioner Lao Sok for the loss of his store due to a fortuitous event, his acts subsequent to the fire are equally deplorable as a termination without just cause. There is certainly a need to alleviate the plight of the employees who have lost their jobs or sources of livelihood as a result of the closure or cessation of operations of the establishment. Their being given the run around after the loss of their jobs and their being given promises which could be fulfilled but

which were not fulfilled aggravated the situation.

That petitioner Lao Sok promised to give his employees their separation pay as soon as he receives the insurance proceeds for his burned building was not rebutted. In fact, it appears to have been undisputed until the petitioner filed his memorandum on December 6, 1984.

We quote with favor the Solicitor General's explanation:

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"x x x It was in reality not a mere 'promise' as petitioner terms it but a contract, because all the essential requisites of a valid contract are present, to wit: (1) consent was freely given by the parties, (2) there was a subject matter, which is the payment of the separation pay of private respondents, and (3) a cause, which is the loss of job of private respondents who had been petitioner's salesladies for several years. x x x.

xxx xxx xxx

"Respondent NLRC, therefore, acted properly in ordering petitioner to give private respondents their separation pay as he was bound to comply with his contractual obligation which is the law between the parties (Phoenix Assurance Co. LTD. v. United States Lines, 22 SCRA 674). xxx."

Lao Sok made an offer which was duly accepted by the private respondents. There was, therefore, a meeting of the minds between two parties whereby one bound himself with respect to the other, to give something or to render some service (Article 1305, Civil Code). By the unconditional acceptance of the offer that they would be paid se-paration pay, a contract was therefore perfected. As held in the case of Herrera v. Auditor General, (102 Phil. 875):

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"x x x the Government, through the Quezon City Engineer had as late as 1955 acknowledged the financial obligation of the Government, and even offered to pay it, and what is more, the offer was duly accepted by Herrera, thereby constituting a contract, and a renewal of the obligation." (Underlining supplied).

Petitioner contends that the contract though orally made is unenforceable since it does not comply with the Statute of Frauds.

This contention has no merit.

Contracts in whatever form they may have been entered into are binding on the parties unless form is essential for the validity and enforceability of that particular contract. (See Lopez v. Auditor General, 20 SCRA 655). We held in Shaffer v. Palma (22 SCRA 934):

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"x x x Whether the agreement is in writing or not is a question of evidence. Nevertheless, even granting that the agreement is not in writing, this circumstance does not militate against the validity or enforceability of said agreement, because contracts are binding upon the parties in whatever form they may have been entered into unless the law requires otherwise. (Article 1356, Civil Code; Lopez v. The Auditor General, et al., L-25859, July 13, 1967; Pilar Gil Vda. de Murciano v. The Auditor General, et al., 103 Phil. 907). It is true that Article 1358 of the Civil Code provides that contracts involving more than P500.00 must appear in writing, but nothing is said therein that such requirement is necessary for their validity or enforceability. It has been held that the writing required under Article 1358 is merely for convenience, (Thunga Chui v. Que Bentac, 2 Phil. 561; Ng Hoc v. Tong Ho, 52 O.G., 4396) and so the agreement alleged in the amended complaint in the present case can be enforced even if it may not be in writing."

The requirement of writing for the offer made by Lao Sok is only for convenience and not enforceability. In fact,

the petitioner could be compelled to put the offer in writing, a step no longer necessary now because of this petition.

Furthermore, it was also established that petitioner Lao Sok has other department stores where he promised to absorb the salesladies. He was likewise remiss in this obligation. There is merit in the Solicitor General's submission that, in effect, the fire closed only a division or unit of Lao Sok's business. His entire enterprise consisting of the operation of various department stores did not really close down or cease.

We agree with the respondents that:

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"x x x the record shows that petitioner voluntarily agreed to compensate private respondents for the loss of their jobs because they have been his salesladies for a long time; that he did this freely and spontaneously (Motion for Reconsideration, p. 88, record). He should not now, therefore, be allowed to renege on an obligation of his own making. To do so, would be unjust and unfair to the private respondents who took his word for it in good faith. The validity of that agreement must, consequently, be sustained (*Jimeno v. Gacilago*, 14 Phil. 16; *Legarda v. Ongsiaco*, 36 Phil. 185)."

Both the law and equity dictate that private respondents must be compensated for the loss of their jobs considering that they were kept waiting and hoping that they would be re-employed by the petitioner, if not paid their severance pay.

WHEREFORE, the decision is hereby AFFIRMED and judgment is rendered in favor of private respondents, ordering the petitioner to pay the former their separation pay equivalent to one month salary for every year of service proportionate to their individual lengths of service with the petitioner.

SO ORDERED.

Melencio-Herrera, Plana, Relova, De La Fuente, and Alampay, JJ., concur.

Teehankee (Chairman), J., in the result.

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