

**CARLOS KENG SENG, PETITIONER, VS. LORENZO DE LA CRUZ,
ELVIRA SEVERO, ALICE UBERAS, CRISTINA BULADRAN, ELVIRA
CATALUNA, DANNY ORTEGA, JOSE ESCALARES, EVELYN SEVERO,
ROBERTO CALAM...**

G.R. No. 76768. September 18, 1988

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal from the Order dated November 20, 1986 of the then Minister of Labor Augusto S. Sanchez denying petitioner's Motion for Reconsideration. The said motion was filed against the Order of Deputy Minister Vicente Leogardo, Jr., the dispositive portion of which states:

"WHEREFORE, premises considered, the contested Order is hereby affirmed subject to the modification that the backwages of the complainants shall be fixed for three years without qualification or reduction, and their money claims dismissed for lack of merit." (p. 6, Rollo)

Hereunder are the pertinent background facts:

The herein private respondents, nine in all, were employees of petitioner Carlos Keng Seng in his moviehouse business in Bacolod City.

Sometime in the first week of July 1980 petitioner made known to his workers his intention to temporarily close its business due to the City government's strict imposition of taxes. As a result of which, private respondents, on July 21, 1980 executed individual releases of claims before a labor conciliator of the Bacolod District Office stating among other things that they had tendered their resignations and had received their 13th month pay, living allowance, overtime pay and other benefits in accordance with the Labor Code. Then on July 24, 1980, private respondents signed individual cash vouchers attesting to their having received the said benefits and on July 31, 1980, petitioner filed a report of termination of the private respondents before the Bacolod District Office on the ground of voluntary resignation effective July 21, 1980.

However, on September 2, 1980, private respondents filed a complaint for illegal dismissal with prayer for reinstatement with backwages, violation of P.D.'s 525, 1123, 1614, and 1678, under payment, overtime pay, 10% night shift differential, 30% holiday pay and rest day and service incentive leave pay. They alleged that because of their loyalty to their employer, they acceded to his request to tender their resignations as part of the scheme of the Cinema Operators to close or shut down their operations in protest of the City government's strict imposition of taxes, on the promise that as soon as the moviehouse reopens, they would be reinstated to their former positions.

Petitioner (then the respondent) vehemently denied that he promised reinstatement. He claims that private respondents (then the complainants) are not entitled to be reinstated to their work and neither are they entitled to backwages because they voluntarily resigned from their employment and have accepted their separation pay and all other benefits per agreement which was even ironed out before the Labor Conciliator of the Ministry of Labor

and Employment, Regional Office No. VI, Bacolod City.

On December 15, 1980, the Assistant Regional Director issued an Order in favor of the private respondents, the dispositive portion of which reads:

"WHEREFORE, respondent is ordered to pay complainants the following:

Name of Employees

ECOLA

INCENTIVE LEAVE

1. LORENZO DE LA CRUZ

P 5,480.10

230.38

2. ELVIRA SEVERO

5,480 10

176.75

3. ALICE UBERAS

5,370 10

184.38

4. CRISTINABULADRAN

5,480.10

172.88

5. ELVIRA CATALUNA

5,480.10

192.00

6. DANNY ORTEGA

5,480.10

176.75

7. JOSE ESCALARES

2,366.06

106.96

8. EVELYN SEVERO

5,480.10

192.00

9. ROBERTO CALAMBA

5,480.10

192.00

TOTAL**P 46,066.10****P 1,624.10**

Respondent is further ordered to reinstate the nine (9) aforementioned complainants to their work with backwages, from the date of termination to date of actual reinstatement, without loss of seniority rights and other privileges."(p. 16, Rollo)

On appeal, the Deputy Minister of Labor affirmed the decision with modification. The pertinent portion of the said decision reads —

"We are in accord with the ruling of the Director below insofar as complainants' reinstatement effective 4 August 1980 with back wages is concerned. While there may have been an agreement by the parties that complainants would resign and accept separation pay, there was also the promise to reinstate them as soon as the cinemas reopen for business. We disagree, however, with the award of money claims. In this regard, they agreed to compromise their claims and the same was made before an official in the District Office. They cannot now renege from their word. To obviate, however, claims and counter claims on possible earnings elsewhere, the back wages shall be limited to three years.

"WHEREFORE, premises considered, the contested Order is hereby affirmed subject to the modification that the backwages of the complainants shall be fixed for three years without qualification or reduction, and their money claims dismissed for lack of merit.

"SO ORDERED. (pp. 18-19, Rollo)

Petitioner moved to reconsider the aforesaid decision but the same was denied, hence, this petition. It is the contention of petitioner that the Labor Minister committed reversible error in ordering the reinstatement, with three years backwages, of herein private respondents, notwithstanding the undisputed fact that the latter had

voluntarily chosen to resign from their employment and executed individual releases of claims after receiving from petitioner the amounts due them pursuant to the settlement they arrived at before a labor conciliator of the Ministry of Labor and Employment.

We would have gone along with petitioner were it not for the finding of the Assistant Regional Director and affirmed by the Minister of Labor that indeed petitioner promised to rehire or reinstate private respondents once his movie house resumes operation.

"In ruling that complainants were illegally dismissed, the Director below gave credence to their assertions that because of their loyalty to their employer they acceded to the request of their employer to tender their resignation as part of the scheme of the Cinema Operators to close or shut down their (Cinema Operators) operations in protest or defiance of the City Government's strict imposition of taxes on the promise that as soon as the cinemas reopen complainants would be reinstated. To bolster his ruling, the Director cited the cases of People 's Bank and Trust Company vs. People 's Bank and Trust Company Employees Union (69 SCRA 10) where the Supreme Court held that acceptance of separation pay does not bar the workers from questioning the validity of their dismissal, and the case of Firestone Filipinas Employees Association vs. Firestone Tire and Rubber Co. of the Phils., G.R. No. L-37952, December 10, 1974 where the same Court ruled that acceptance of separation pay by laborers did not estopped them from questioning the legality of their separation." (pp. 17-18, Rollo)

It is not disputed that petitioner's moviehouse has already resumed operation. On this score, reinstatement is proper.

We however agree with the Solicitor General that while reinstatement is proper, private respondents are not entitled to backwages because this would be tantamount to unjust enrichment of private respondents at the expense of petitioner.

WHEREFORE, with the modification as above indicated the order appealed from is hereby **AFFIRMED**.

SO ORDERED.

Melencio-Herrera (Chairperson) Padilla, Sarmiento, and Regalado, JJ., concur.

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