

PHILIPPINE GRAPHIC ARTS INC., IGMIDIO R. SILVERIO AND CARLOS CABAL, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, ROSALINA M. PULPULAAN AND EMELITA SALONGA, RESPONDENTS.

G.R. No. 80737. September 29, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

In October, 1984, the petitioner corporation was forced by economic circumstances to require its workers to go on mandatory vacation leave in batches of seven or nine for periods ranging from 15, 30, to 45 days. The workers were paid while on leave but the pay was charged against their respective earned leaves.

As a result, the private respondents filed complaints for unfair labor practice and discrimination.

On April 9, 1986, the Labor Arbiter rendered a decision the dispositive portion of which reads:

Wherefore, for lack of merit, the complaint for unfair labor practice on grounds of discrimination, forced leave and reduction of working days is hereby, **DISMISSED**. Respondent is hereby ordered to restore and grant to all its employees the company policy regarding groceries previously enjoyed by them." (p. 27, Rollo)

The private respondents filed a "partial appeal" with the National Labor Relations Commission (NLRC) questioning the Labor Arbiter's dismissal of their complaint for unfair labor practice and the resultant forced vacation leaves which were actually without pay.

On June 19, 1986, the NLRC affirmed the arbiter's decision with modification as follows:

"Be that as it may, since as intimated at the outset, the vacation leave forced upon the complainants was visited with arbitrariness not amounting to unfair labor practice, a refund of the amount equivalent to the earned leave of each of the complainants treated as their pay during their vacation is believed in order.

"WHEREFORE, modified as above indicated, the decision appealed from is hereby **AFFIRMED**. (PARTIAL APPEAL TO THE NATIONAL LABOR RELATIONS COMMISSION, P. 1)" (p. 60, Rollo)

The petitioners raise two issues in their petition, namely:

- PUBLIC RESPONDENT COMMITTED A GRAVE ABUSE OF DISCRETION IN RENDERING A RESOLUTION ON AN ISSUE INVOLVING A MONEY CLAIM, WHICH WAS NOT A SUBJECT OF AN APPEAL NOR ASSIGNED AS AN ERROR.
- PUBLIC RESPONDENT COMMITTED A GRAVE ABUSE OF DISCRETION IN RENDERING A RESOLUTION IN FAVOR OF THE UNION AND/OR 23 OTHER EMPLOYEES WHO ARE NOT REAL PARTIES IN THE CASE, NOR IN THE PARTIAL APPEAL. (pp. 17 & 22, Rollo)

After considering the petition and treating the comments of the private respondents and the Solicitor General as

Answers, the Court resolved to give due course to the petition and decide it on the basic merits.

The principal issue now before the Court is the forced vacation leave without pay -- whether or not it is unfair labor practice and if not an unfair labor practice, whether or not it was tainted with arbitrariness.

The Court is convinced from the records now before it, that there was no unfair labor practice. As found by the NLRC, the private respondents themselves never questioned the existence of an economic crisis but, in fact, admitted its existence. There is basis for the petitioner's contentions that the reduction of work schedule was temporary, that it was taken only after notice and consultations with the workers and supervisors, that a consensus was reached on how to deal with deteriorating economic conditions and reduced sales and that the temporary reduction of working days was a more humane solution instead of a retrenchment and reduction of personnel. The petitioner further points out that this is in consonance with the collective bargaining agreement between the employer and its employees.

The Court, therefore, agrees with the Solicitor General in his submission that:

"There is also no showing that the imposition of forced leave was exercised for the purpose of defeating or circumventing the rights of employees under special laws or under valid agreements. As the records show, petitioners instituted the forced leave due to economic crisis, which private respondents do not even question. (Position Paper [Private Respondents'], dated July 1985, p. 2)

"Likewise the forced leave was enforced neither in a malicious, harsh, oppressive, vindictive nor wanton manner, or out of malice or spite. Apart from private respondents' concurrence that the forced leave was implemented due to economic crisis, what only 'hurts' (ibid.) them 'is that said management's plan was not even discussed in the grievance procedure so that the Union members thereof may well be apprised of the reason therefore.' (Ibid.)

"However, to rule that petitioners' failure to bring the question of necessity in the imposition of forced leave and the distribution of work availability before the grievance machinery, as a prior requisite for the implementation of the forced leave scheme, constitutes arbitrariness is erroneous." (Rollo, pp. 63-64)

The decision to resort to forced leaves was, under the circumstances, a management prerogative. The workers' claim of non-resort to the grievance machinery is negated by their failure to initiate steps for its employment.

As stressed by the Solicitor General:

"The statutory law on grievance procedure provides that:

"ART. 261. Grievance machinery. Whenever a grievance arises from the interpretation or implementation of a collective agreement, including disciplinary actions imposed on members of the bargaining unit, the employer and the bargaining representative shall meet to adjust the grievance. Where the grievance procedure as provided herein does not apply, grievances shall be subject to negotiation, conciliation or arbitration as provided elsewhere in this Code." (Labor Code (Italics supplies)

"As the law stands, both employers and bargaining representative of the employees are required to go through the grievance machinery in case a grievance arises. And though the law does not provide who, as between labor and capital, should initiate that said grievance be brought first to the grievance machinery, it is only logical, just and equitable that whoever is aggrieved should initiate settlement of the grievance through the grievance machinery. To impose the compulsory procedure on employers alone would be oppressive of capital, notwithstanding the fact that in most cases the grievance is of the employees.

"In the case at bar, when petitioners sent notice to complainants, no grievance between petitioners and private respondents that need be threshed out before the grievance machinery has yet materialized. But then, private respondents, who received such notice and being aggrieved thereof, instituted a case before the Labor Arbiter

for unfair labor practices and discrimination, prior to any referral to the grievance machinery, which they are equally mandated to go through and under the circumstances they were better situated to initiate; likewise, petitioners even prayed before the Labor Arbiter that the complaint be dismissed and/or referred to the grievance machinery. (Position Paper (Petitioners'), dated 24 July 1985, p. 7) Thus, petitioner should not be faulted if the grievance machinery was in any way bypassed." (Rollo, pp. 64-66)

WHEREFORE, the petition is hereby GRANTED. The June 19, 1987 resolution of the National Labor Relations Commission is set aside and the April 9, 1986 decision of the Labor Arbiter is REINSTATED.

SO ORDERED.

Fernan, C.J., (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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