

PHILIPPINE AIRLINES, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND OSCAR IRINEO, RESPONDENTS.

G.R. No. 87698. September 24, 1991

Ponente: NARVASA, J.

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NARVASA, J.:

This case treats of an employee of Philippine Airlines, Inc. (PAL), who was dismissed from his work on August 23, 1967 on the basis of the findings and recommendations of a Fact Finding Panel, submitted on August 11, 1967 after an investigation commenced in July, 1967 in coordination with a well known accounting firm.[1] The Fact Finding Panel recommended the criminal prosecution of the employee, Oscar Irineo, together with four others, namely: Rogelio Damian, Antonio Rabasco, Jacinto Macatol and Jesus Saba, on account of complicity in irregular refunds of international plane tickets.[2]

On the basis of the panel's report, and the testimony of witnesses taken in the course of the investigation, criminal proceedings were also initiated against four of the PAL employees above named, namely: Oscar Irineo, Rogelio Damian, Antonio Rabasco, and Jacinto Macatol. They were prosecuted for estafa thru falsification of commercial documents in the Court of First Instance of Rizal, under an information filed by the Provincial Fiscal on September 25, 1968.[3] The case resulted in the conviction after due trial of all the accused on March 1, 1976; this, despite the fiscal's having earlier moved for the dismissal of the charges as against Irineo and Macatol.[4]

All four (4) defendants filed motions for reconsideration and/or new trial. All the motions were denied except Macatol's. After due hearing on said motions, the Trial Court rendered an amended decision dated September 23, 1977 absolving Macatol of any liability for the offense charged, "for lack of sufficient evidence." The other three appealed.[5]

On July 6, 1978 — about twelve (12) years after his dismissal from employment — Macatol filed a complaint for illegal dismissal against PAL in the Department of Labor. His complaint was however dismissed by the Labor Arbiter on the ground that his right of action had prescribed. That dismissal was affirmed by the National Labor Relations Commission in a decision promulgated on May 30, 1980. The Commission ruled that "the running of the prescriptive period * * * commenced on the date * * * (Macatol's) cause of action accrued;" that such cause of action did not accrue "upon the termination of the criminal case," but upon "his dismissal, the legality or illegality of which could be determined soon after it was effected * * * (and a) suit to contest its legality could proceed independently of any criminal proceedings;" that "if no criminal case was instituted, following the logic of the complainant's argument, the cause of action would not and could not have accrued at all; * * * (and) the institution of the criminal action did not bar the complainant from filing a complaint for illegal dismissal." [6]

On the other hand, the appeal taken by Oscar Irineo, Rogelio Damian, Antonio Rabasco, resulted in a decision promulgated on September 23, 1983 by the Intermediate Appellate Court,[7] affirming the judgment of conviction only as regards Rogelio Damian, but acquitting Irineo and Rabasco "on grounds of reasonable doubt." [8]

On May 10, 1984, seventeen (17) years after the termination of his employment on August 23, 1967, Irineo filed a

complaint against PAL for reinstatement and back wages on the claim that that termination was illegal. It is the action thus instituted that has given rise to the proceedings now before this Court.

Irineo's action eventuated in a decision of the Labor Arbiter dated November 12, 1985,[9] decreeing his reinstatement to his position in 1967 without loss of seniority rights and the payment to him of back wages "from August 13, 1967 up to his actual reinstatement," as well as "moral damages in the amount of P300,000.00."

The Arbiter overruled the defense of prescription asserted by PAL, among others. The Arbiter held that since there was a PAL circular dated June 15, 1966 to the effect that "(a)n employee charged with any crime inimical to the company's interest shall be placed under preventive suspension until the final adjudication of his case," and there was, too, a standing order by the Court of Industrial Relations at that time forbidding the dismissal of any employee by PAL without court authority, the termination by PAL of Irineo's employment on August 23, 1967 merely "amounted to a suspension per (said) PAL IRD Circular No. 66-11." According to the Arbiter, said IRD Circular No. 66-11 was not raised in issue in the earlier case instituted by Macatol, *supra*,[10] and this serves to distinguish Macatol's case from Irineo's, precluding reaching a conclusion in the latter similar to that in the former (i.e., that the claim was barred by prescription). The Arbiter held, in fine, that in view of said Circular No. 66-11, PAL's termination of Irineo's employment should be deemed only as an act by which "Irineo was placed under preventive suspension until his (criminal) case was finally adjudicated, for after all, the arbitration branch of the Commission should put meaning to the law between the parties and unless such law between the parties are (sic) implemented the same would become useless." The Arbiter concluded with the following disposition:

"WHEREFORE, judgment is hereby rendered directing PAL to terminate the suspension of Irineo which it imposed on August 23, 1967 and to reinstate him to his position without loss of seniority rights and with backwages from August 13, 1967 up to his actual reinstatement.

"Lastly, moral damages in the amount of P300,000.00 is (sic) awarded to complainant."

PAL appealed to the NLRC but failed to obtain reversal of the Arbiter's judgment. In a Resolution promulgated on February 28, 1989, the Third Division of the NLRC upheld all the Arbiter's conclusions.[11] The NLRC agreed with the Arbiter that "applying the mandate of IRD Circular No. 66-11 which respondent PAL itself solely promulgated," Irineo was never dismissed from employment but "was merely under preventive suspension;" and that PAL's termination of Irineo's work was violative of the "Injunction Order dated September 3, 1963 in CIR Case No. 43-IPA" (forbidding, during the pendency of said case, the dismissal of any employee by PAL without court authority), even though that order "lost its efficacy when the parties concerned entered into a valid Certified Bargaining Agreement" (on December 7, 1965, according to petitioner PAL[12]). It also affirmed the award of moral damages.

PAL is now before this Court, praying for the issuance of a writ of certiorari to nullify and set aside the NLRC Resolution of February 28, 1989 as constituting "a plain case of patent abuse of discretion amounting to excess of jurisdiction or lack of the same — an exemplary example of power arbitrarily exercised without due regard to the rule of law." The Court issued a temporary restraining order on April 26, 1989 prohibiting enforcement or implementation of the challenged resolution.[13]

Required to comment in public respondent's behalf, the Office of the Solicitor General begged to be excused, declaring that "(a)fter an exhaustive and judicious scrutiny of the records of the case, as well as the applicable law and jurisprudence on the issues involved, * * * (it could not), without violating the law, espouse the position taken by the respondent * * * (NLRC) * * * ." Comments were filed by private respondent[14] and the Senior Research Attorney of the NLRC in the latter's behalf,[15] which the Court resolved to treat as their answers to PAL's petition.

In light of the material facts above set out, it is not indeed possible, as the Solicitor General holds, to defend the decision of the respondent Commission or that of the Labor Arbiter.

That there should be care and solicitude in the protection and vindication of the rights of workingmen cannot be gainsaid; but that care and solicitude can not justify disregard of relevant facts or eschewal of rationality in the construction of the text of applicable rules in order to arrive at a disposition in favor of an employee who is perceived as otherwise deserving of sympathy and commiseration.

The letter to Oscar Irineo of then PAL President Benigno P. Toda, Jr. dated August 23, 1967, based evidently on the investigation and report of the fact finding panel, leaves no doubt that Irineo's employment was being ended; the language is plain and categorical. It reads pertinently as follows:[16]

"To : Oscar Irineo

Comptroller's Department

For being involved in the irregular refund of tickets in the international service to the damage and prejudice of the company, you are dismissed from the service effective immediately.

The acts committed being criminal, resulting in the swindling of the company, the Legal Department is directed to file immediately the corresponding criminal cases against you."

To say, as both the Arbiter and the respondent Commission do, that that declaration, "you are dismissed from the service effective immediately," should be construed merely as a suspension, not a dismissal, from employment, is illogical if not downright ludicrous. They attempt to justify this conclusion by adverting to a PAL circular dated June 15, 1966 to the effect that "(a)n employee charged with any crime inimical to the company's interest shall be placed under preventive suspension until the final adjudication of his case," and construe this as a complete foreclosure or prohibition of any alternative or concurrent action on PAL's part, such as the imposition of administrative sanctions or penalties; in other words, any disciplinary action against an erring employee was absolutely dependent on the outcome of the criminal action against the latter, no disciplinary measure of any nature being permissible against the employee "until the final adjudication" of his criminal case. It is a construction that has nothing to support it, is contrary to common sense, and one certainly not justified by the recorded facts.

The attempt to sustain the strained theory of dismissal-qua-suspension by referring to a standing order by the Court of Industrial Relations at that time forbidding the dismissal of any employee by PAL without court authority, is equally indefensible. That prohibition was imposed only in relation to a labor dispute then pending before the Court of Industrial Relations. That dispute however ended when the parties entered into a collective bargaining agreement two (2) years or so before Irineo was fired on August 23, 1967. In other words, when Irineo's employment was terminated, the CIR injunction adverted was already *functus officio* and could no longer have any relevance to that event.

There is moreover, nothing in the record to excuse respondent Irineo's omission to impugn his termination of employment by PAL — in line with the respondent commission's theory, i.e., that under existing PAL rules and the CIR injunction, he could only be placed under preventive suspension and therefore his dismissal was illegal. His assertion thereof after seventeen (17) years from his discharge from employment can only mean that he slept on his rights or that his counsel did not share the respondent Commission's belief in the soundness of the theory. His claim must thus be rejected as time-barred, as being unpardonably tardy.

Premises considered, it appears clear to the Court that the respondent Commission's conclusions are flawed by errors so serious as to constitute grave abuse of discretion and should on this account be struck down.

WHEREFORE, the Court GRANTS the petition and issues the writ of certiorari prayed for, NULLIFYING AND SETTING ASIDE the respondent Commission's Resolutions promulgated on February 28, 1989 and on March 20, 1989, MAKING PERMANENT the temporary restraining order issued by this Court on April 26, 1989, and DISMISSING private respondent's complaint. No costs.

SO ORDERED.

Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Rollo, pp. 50-51, 61; SEE, also, pp. 169-178

[2] Id., pp. 177-178

[3] Id., p. 51

[4] Id., pp. 61-65

[5] Id., pp. 65-66

[6] Id., pp. 84-86

[7] In the appellate proceedings docketed as AC-G.R. No. 23219-CR

[8] Rollo, p. 83

[9] Id., pp. 48-58. The Arbiter was Domingo V. del Rosario.

[10] SEE footnote 5 and related text

[11] Rollo, pp. 36-45. The decision was written by Commissioner Roberto P. Tolentino and concurred in by Presiding Commissioner Ceferino B. Dulay.

[12] Rollo, pp. 17, 88 (Annexes G and G-1, petition)

[13] Id., pp. 111-112

[14] Id., pp. 127-139

[15] Id., pp. 154-159. A Reply to said public respondent's comment was filed by PAL under date of December 26, 1989 after applying for and obtaining leave to do so.

[16] Italics supplied

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