

FORD PHILIPPINES, INC., JOHN SAGOVAC AND ANASTACIO R. TEODORO, II, PETITIONERS, VS. COURT OF APPEALS AND MANUEL I. OBOZA, RESPONDENTS.

G.R. No. 99039, February 03, 1997

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

The facts of this case as found by the respondent Court of Appeals and which we quote with approval are as follows:

“Manuel I. Oboza worked with appellee Ford Philippines from 1968 to 1983. He was initially employed as supervisor of Ford’s Sales and Planning Distribution Section. He received promotions in succession and on August 19, 1980 he was appointed to the newly-created position of General Sales Manager and concurrently member of the Operating Committee (Exh. “A”, Records, p. 270). The position is one rank below the position of Director of Sales and Marketing, then occupied by appellee Malcolm J. Johnston, an American Citizen.

“In a letter dated December 9, 1982, Ford Philippines through Anastacio R. Teodoro II, in his capacity as Director of Industrial Relations, wrote the following advisory to the appellant:

‘When WHQ approved the establishment of the position of General Sales Manager (SG T-11) on August 1980 and your appointment to the same position on September 1980, the condition laid out was for this position to be transitory and the continued appropriateness of this position would be revised within the next 18 months. It has now been decided and approved that it is no longer appropriate to maintain the position of General Sales Manager as originally planned. Consequently, the position is declared redundant and the more relevant position of Vehicle Sales Manager (SG-10) is re-established.

‘On October 12, 1982, I confirmed with you this fact and advised you of two alternatives. The first was for you to accept redundancy which includes the payment of full benefits in accordance with the provision of law as well as under Company policy. The second was for you to accept an appointment to the position of Vehicle Sales Manager (SG-T11). The second alternative is offered in recognition of your long years of service to the company. During this discussion, you asked for more time to decide.

‘On Wednesday, December 1, 1982, I again requested for your decision and you still do not have any decision in this regard. I explained that management is hard-pressed by APAQ for a resolution of this case on or before December 31, 1982. To date you still have not advised me officially of your decision and in view of your reluctance to do so, Management has no choice but to conclude that you are not interested in the position of Vehicle Sales Manager (SG-10).

‘This is to advise you, therefore, that with the abolition of the position of General Sales Manager, the Company is declaring you redundant as of January 15, 1983. x.x.x. (Underscoring supplied, Exh. “C”, Records, p. 278).’

“Under these circumstances, Oboza left the employ of Ford, Philippines.

“On August 31, 1983, Oboza filed an action for damages in the trial court, alleging that the abolition of his position on the ground of redundancy was done in bad faith.

“It is admitted that what prompted appellant to file this action for damages was his discovery of the existence of an appeal and memorandum filed before the Department of Labor and Employment by appellee Ford Philippines in behalf of its employee Malcolm Johnston who holds a position one rank higher than that of Manuel Oboza’s and, in effect, the latter’s immediate superior. The appeal and memorandum was filed pursuant to the denial of Ford’s petition for extension of the alien employment permit of Malcolm J. Johnston.

“This appeal and memorandum dated November 29, 1982 alleged among others, that:

‘xxx

‘2. On September 1, 1980, Mr. Manuel I. Oboza, Vehicle Sales Manager (understudy), was appointed and tried as General Sales Manager of appellant company to further strengthen his development with the prime intention of the appellant company of ultimately appointing him as replacement of Mr. Malcolm J. Johnston as the other understudy, Mr. Clarito P. Munda (Dealer Affairs Manager) had resigned from Ford Philippines, Inc. on June 30, 1980. However, after more than eighteen (18) months on the job training. Mr. Manuel Oboza has not developed the proper attitudes motivation and qualities required for the position of Director of Sales and Marketing.

‘3. Due to the aforesaid development, appellant Ford Philippines, Inc., on September 2, 1982 thru its counsel filed an extension/renewal (sic) the Alien Employment Permit of Mr. Malcolm J. Johnston which was valid until October 9, 1982, with the prime purpose of retaining him until and after a deserving Filipino understudy can qualify to the position x x x.

‘x x x in view of the failure of Mr. Manuel I. Oboza (understudy) to mature and qualify for the position of Director, Sales and Marketing appellant, Ford Philippines Inc. has no alternative but to request the extension/renewal of the alien employment permit of Mr. Malcolm J. Johnston, Director Sales Marketing (sic), Ford Philippines, Inc. on September 2, 1982, otherwise the company will have no qualified Sales and Marketing Director.

‘The Alien Employment Permit of Mr. Malcolm J. Johnston was only valid up and until October 9, 1982. (Exh. “D”, Records, pp. 282-283, 286, Underscoring supplied)’

“Appellant, upon discovery of said Appeal and Memorandum filed an action for damages alleging that:

‘The abolition of his [appellant’s] position, as will be clearly seen, was timed in such a way that as admitted by Mr. Teodoro, it was after the denial of the petition for extension of Mr. Johnston’s alien work permit to stay in the Philippines. And to support or buttress the appeal memorandum, defendants had to resort to the abolition of plaintiff’s position on the ground of redundancy. Of course, he was offered an alternative, reappointment to the position of Vehicle Sales Manager, [which] plaintiff previously occupied which was another debasing, degrading and humiliating act. Plaintiff Oboza had no choice but to accept redundancy. (Memorandum for plaintiff, Records, p. 199).’

“To these allegations, defendants-appellees interposed the defense that the abolition of plaintiff’s position was done in good faith on the ground of redundancy and that the allegation in appellant’s testimony that Ford Philippines terminated his employment in order to use it as an argument in support of Ford’s application for extension of Johnston’s alien employment permit is without basis.x x x.”[1]

After hearing, the trial court rendered a decision dismissing private respondent’s complaint. It found that the only basis for the private respondent’s claim for damages against the petitioners was their act of insulting, maligning and discrediting him in their Appeal and Memorandum filed before the Department of Labor and Employment

(DOLE) for the extension of Malcolm Johnston's Alien Employment Permit. The trial court viewed the statements contained in the said Appeal and Memorandum as falling under the category of privileged communication which cannot be the basis of an action for damages.[2]

The foregoing decision was, however, reversed upon appeal to the respondent court which held, among others, that the trial court gravely erred in *motu proprio* amending the private respondent's complaint, thereby limiting his cause of action to the discrediting statements contained in the Memorandum and Appeal. The allegations in the complaint filed before the trial court conclusively establish that the private respondent predicated his cause of action on the allegation that in dismissing him from employment, the petitioners acted with injustice, failed to give him his due and did not observe honesty and good faith.[3] Thus, as correctly held by the respondent court, what the private respondent invokes for the redress of the wrong committed against him are the following provisions of the Civil Code[4]:

"ART. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith."

"ART. 21. Any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage."

Thus, the issue of paramount consideration which confronted the respondent court and which is now before us for resolution is: whether or not the petitioners, in dismissing the private respondent from employment on the ground of redundancy, had acted with bad faith.

The respondent court agreed with the private respondent's theory that the latter's dismissal was a mere subterfuge in order to secure with certainty the extension of the Alien Employment Permit of Johnston. The respondent court justified its conclusion of bad faith on the part of the petitioners in this wise:

"Ford Philippines' duplicity in dealing with appellant Oboza in the matter of his dismissal has been plainly demonstrated. While Oboza was made to believe that he was dismissed on the ground of redundancy, Ford Philippines, unknown to appellant almost simultaneously filed a Memorandum and Appeal on the Bureau of Local Employment's previous denial of the request for extension of the alien employment permit of Ford employee, Malcolm J. Johnston on the ground that Oboza, who is the local understudy failed to develop the proper attitude and qualities required for the position held by said alien employee (Exh. "D", *supra*). The Appeal and Memorandum dated November 29, 1982 was filed only ten (10) days ahead of the letter dated December 9, 1982 advising Oboza of the abolition of his position on ground of redundancy. The proximity in time and personalities involved expose Ford's hidden agenda: to ease out appellant Oboza from his position effectively as the understudy of Johnston in order to render moot and academic the question of whether or not to grant an extension of Johnston's alien employment permit.

"The scheme is simple. With the understudy effectively removed ostensibly on the ground of redundancy, there would be no further obstacle in obtaining the BLE's grant of extension for Johnston's alien work permit since Oboza's dismissal renders useless the bureau's reservations for the grant of said request - i.e. the presence of the local sales and marketing staff who are now in a position to carry on the duties and responsibilities of Johnston x x x." [5]

At the outset it must be stressed that it is not the factual findings of the respondent court that petitioners assails but the abovementioned inferences drawn therefrom. After taking a second hard look at the facts of this case, we are constrained to rule differently, and to agree with the petitioners' contention that their act of dismissing the private respondent was not motivated by the "hidden agenda" of securing the extension of Johnston's Alien Employment Permit. Several factors contribute to effectively rebut the private respondent's allegation of bad faith and render erroneous the respondent court's similar conclusion.

First of all, it is important to note that on November 29, 1982 when the Memorandum with its criticisms of private respondent was filed, the latter was still employed with Ford Philippines. The abolition of the private respondent's position did not take place until after the filing of the said Memorandum. Thus, as correctly pointed out by the petitioners, such belated abolition clearly would not have helped secure the extension of Johnston's Alien Employment Permit. And, as a matter of fact, the extension prayed for was denied by the Bureau of Local Employment (BLE).[6] Another point of significance which the respondent court failed to consider is the presence of two other understudies aside from private respondent who could take the place of Johnston in the event his Alien Employment Permit is not extended by the BLE. As a matter of fact, the BLE took cognizance of this in denying the extension of Johnston's Alien Employment Permit, thereby stating that:

"4. Granting that Mr. Manuel Oboza does not qualify for the position, either Mr. Elmer Yap or Mr. Alfredo Velayo could be considered for the position inasmuch as they have been working for Mr. Johnston even before the latter became Director of Sales and Marketing. (p. 1)

"2. The understudies for the past 2 years were Messrs. Yap and Oboza. During the incumbency of Mr. Marshall, the understudies were Messrs. Munda and Oboza. To claim that Mr. Oboza is the only remaining understudy is therefore inaccurate. (p. 2) (emphasis ours)"[7]

Also, the Memorandum and Appeal are bereft of any representation to the effect that the extension of Johnston's Alien Employment Permit is necessitated by the abolition of the private respondent's position. The said extension was sought not because of private respondent's dismissal but because the latter had "not developed the proper attitude, motivation and qualities required for the position of Director of Sales and Marketing" and could, therefore, not yet be promoted to latter position. We agree with the petitioners' contention that had it been their intention to use the abolition of the private respondent's position as an excuse to facilitate the extension Johnston's Alien Employment Permit, they would have prominently played up such abolition. The fact is they did not, as they could not, precisely because at that time, the private respondent was still employed with Ford Philippines.

Bad faith does not simply connote bad judgment or negligence. It imports a dishonest purpose or some moral obliquity and conscious doing of wrong.[8] It means a breach of a known duty through some motive or interest or ill will that partakes of the nature of fraud.[9] Applying this precept to the foregoing circumstances, we find that there was no "dishonest purpose," or some moral obliquity," or "conscious doing of wrong," or "breach of a known duty," or "some motive or interest or ill will" that "partakes the nature of fraud" that can be attributed to the petitioners. It must be reiterated that bad faith should be established by clear and convincing evidence.[10] Furthermore, the settled rule is that the law always presumes good faith such that any person who seeks to be awarded damages due to acts of another has the burden of proving that the latter acted in bad faith or with ill motive.[11] In the case at bench, we find the evidence presented by the private respondent insufficient to overcome the presumption of good faith. On the contrary, a careful scrutiny of the evidence leads us to take the opposite view. We are convinced that the petitioners had in fact acted in accord with the norms of good faith.

As admitted by the private respondent, he was not immediately terminated from the employ of Ford Philippines, but was given the prerogative of choosing between availing of the benefits under redundancy or continuing his employment as Vehicle Sales Manager. This was in recognition of private respondent's long years of service to Ford Philippines and is indicative of the petitioners' good will. Moreover, at the time that private respondent was dismissed from employment, Ford Philippines was losing heavily and had resorted to massive layoffs of employees from both the rank and file and managerial levels. That Ford Philippines was in dire financial straits could not have been unknown to the private respondent who was then its General Sales Manager. As a matter of fact, Ford Philippines closed down barely a year after the institution of the case before the trial court and even

before the latter could render a decision therein. Ford Philippines could have retrenched the private respondent as it had the right to do so because of severe financial reverses. Despite this, the private respondent was not retrenched but was dismissed on the ground of redundancy, thus, entitling him to a larger amount of separation pay equivalent one (1) month salary for every year of service.

Finally, worth reiterating is our consistent pronouncement on the matter of awarding damages in illegal dismissal cases that moral damages are recoverable only where the dismissal of the employee was attended by bad faith or fraud, or constituted an act oppressive to labor, or was done in a manner contrary to morals, good customs or public policy.[12]In the case of *Primero v. IAC*,[13] we held further that an award of moral damages in the illegal dismissal of an employee is not based on the Labor Code but is grounded on the Civil Code. Such an award cannot be justified solely upon the premise that the employer fired his employee without just cause or due process. Additional facts must be pleaded and proven to warrant the grant of moral damages under the Civil Code, these being, to repeat, that the act of dismissal was attended by bad faith or fraud, or constituted an act oppressive to labor, or was done in a manner contrary to morals, good customs or public policy; and, of course, that social humiliation, wounded feelings, grave anxiety, and similar injury resulted therefrom.[14]

In this case, not only was there good faith in the dismissal of the private respondent, as previously discussed, but the same was also grounded on just cause. The private respondent concedes that termination of employment due to redundancy is a management prerogative. And at the hearing before the trial court, he admitted that his functions as General Sales Manager were similar to the functions of Johnston as Director of Sales and Marketing.[15]Obviously, private respondent recognized that the petitioners had a just cause for terminating his employment, and for this reason did not file a case for illegal dismissal against them.

WHEREFORE, the petition is granted and the assailed decision of the Court of Appeals is REVERSED. The trial court's decision in Civil Case No. 83-20001 dismissing the complaint and the counterclaim is hereby REINSTATED.

SO ORDERED.

Narvasa, C.J. (Chairman)., Davide, Jr., Melo, and Panganiban, JJ., concur.

[1]DECISION IN CA-G.R. CV No. 06708 dated March 25, 1991, pp.1-5; Rollo, pp. 106-110.

[2] DECISION in Civil Case No. 83-20001 dated May 9, 1985, p. 6; Rollo, p. 61.

[3] *Supra*, p. 10; Rollo, p.115.

[4] *Ibid*.

[5] *Supra*, pp.11-12; Rollo, pp.116-117.

[6]MEMORANDUM for the Petitioners in G. R No. 99039 dated December 27, 1991, p.7; Rollo, p.15.

[7]*Ibid.*, citing the BLE's letter dated November 11, 1982.

[8]*Board of Liquidators vs. Kalaw*, 20 SCRA 987, 1007[1967].

[9] *Ibid.*; *Philippine Air Lines vs. Miano*, 242 SCRA 235, 238 [1995]; *Lopez, et al. vs. Pan American World Airways*, 16 SCRA. 431.

[10] *Philippine Air Lines vs. Miano*, *ibid.*, p.240 citing *LBC vs. Court of Appeals*, G.R. No. 108670, September 21, 1994.

[11] Chua vs. Court of Appeals, 242 SCRA 341, 345 [1995].

[12] Zamboanga City Electric Cooperative, Inc. vs. Buat, 243 SCRA 47, 52 [1995]; Spartan Security and Detective Agency, Inc. vs. NLRC, 213 SCRA 528 [1992]; Maglutac vs. NLRC, 189 SCRA 767 [1990].

[13] 156 SCRA 435 [1987].

[14]Ibid., p. 444.

[15] Supra, p.7 citing TSN., June 8, 1984, pp.42-43; Rollo, p.18.

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