

**RONILO OLVIDO, CRISTINA DULGUIME, SOFRONIA HERNANDEZ,
WILMA SUICO, ARSENIA MAYORES, ERLINDA HIDALGO, MARIETTA
MONDERO, MA. THERESA MACASINAG, ELMIRA PAMARANGLAS,
CRISTINA SAMBIT...**

G.R. NOS. 141166-67. October 15, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Subject of the present petition for review on certiorari is the Decision[1] dated May 19, 1999, as well as the Resolution[2] dated December 9, 1999, of the Court of Appeals in CA-G.R. SP Nos. 52108 and 52109. The appellate court affirmed the Resolution dated July 31, 1996 of the National Labor Relations Commission (NLRC) in NCR CA No. 008784-95, which had reversed the Decision dated February 6, 1995 of the Labor Arbiter in NLRC NCR No. 00-03-02163-93.

These are the facts:

Petitioners Ronilo Olvido, Cristina Dulguime, Sofronia Hernandez, Wilma Suico, Arsenia Mayores, Erlinda Hidalgo, Marietta Mondero, Ma. Theresa Macasinag, Elmira Pamaranglas, Cristina Sambitan, Elizabeth Manalon, Gloria Vizcarra, Laarni Apuli, Castiela Mendoza and Meriam Olvido were regular employees of respondent Sicaltek Manufacturing, Inc.

Petitioners R. Olvido, Suico, and Macasinag were also the President, Vice-President, and Sergeant-at-Arms, respectively, of respondent Sicaltek Employees Union-ADFLO[3] (SEU-ADFLO) while the other petitioners were the founding or original members thereof.

On August 24, 1992, R. Olvido, Suico, and Macasinag, with the assistance of respondent Antonio C. Cedilla, President of their Federation, ADFLO, filed a complaint for illegal lay-off, illegal deductions, non-payment of overtime pay, premium pay for holiday, service incentive leave pay, 13[th]month pay, and night shift differential pay.

In the meantime, SEU-ADFLO filed a petition for certification election on August 28, 1992. During the certification proceedings, ADFLO and Sicaltek agreed that SEU-ADFLO will withdraw the labor case in exchange for the company's voluntary recognition of SEU-ADFLO as the sole bargaining agent of its employees. On September 10, 1992, the Med-Arbiter issued an order certifying SEU-ADFLO as the sole bargaining agent of Sicaltek's rank-and-file employees.

ADFLO then prepared a motion to dismiss the labor case, but petitioners refused to sign it. Thus, ADFLO barred R. Olvido and Suico from attending and participating in the initial negotiations of the new Collective Bargaining Agreement (CBA). This prompted petitioners to disaffiliate from SEU-ADFLO on September 17, 1992. They formed another union, the Sicaltek Workers Union (SWU), and filed a petition for certification election on October 5, 1992. The petition was, however, dismissed due to the earlier certification order by the Med-Arbiter.

SWU appealed to the Secretary of Labor and Employment, but the appeal was also denied.

On October 10, 1992, Sicaltek and SEU-ADFLO concluded their new CBA made effective on October 1, 1992.

SEU-ADFLO, through its new President, respondent Dina Villagrancia, forthwith demanded that Sicaltek dismiss petitioners as provided in the Modified Union Shop Provision in the CBA,[4] due to falsification and disloyalty. On March 3, 1993, Sicaltek required petitioners to explain in writing why they should not be dismissed. Petitioners countered that the demand for their dismissal was pure harassment since the certification issue between the two unions was still pending at the time with the Secretary of Labor and Employment while the falsification charge had no basis.

On March 22, 1993, Sicaltek dismissed petitioners. Petitioners then filed a complaint for unfair labor practice, illegal dismissal, damages, and attorney's fees.

The Labor Arbiter dismissed the complaint for lack of merit. On appeal, the NLRC reversed the decision of the Labor Arbiter. It ordered petitioners' reinstatement to their former positions but without backwages.

Petitioners and respondents filed separate petitions, docketed as G.R. Nos. 129104 and 128798, respectively, with this Court. After the petitions were consolidated, this Court referred the case to the Court of Appeals in accordance with *St. Martin Funeral Home v. NLRC*.^[5]

In CA-G.R. SP No. 52108, Sicaltek contended that the NLRC committed grave abuse of discretion when it ruled that (1) petitioners' dismissal was unjustified; (2) petitioners cannot be validly charged with disloyalty to SEU-ADFLO because they were not members thereof; and (3) petitioners are entitled to reinstatement. Sicaltek argued that since petitioners were former officers and members of SEU-ADFLO, the certified exclusive bargaining agent of the rank-and-file employees, they are covered by the Modified Union Shop provision in the CBA. In CA-G.R. SP No. 52109, petitioners assailed the denial of the payment of backwages.

On May 19, 1999, the appellate court dismissed the consolidated petitions:

WHEREFORE, the petitions in these cases are hereby DENIED DUE COURSE and accordingly DISMISSED, for lack of merit.

SO ORDERED.^[6]

The appellate court ruled that petitioners were not covered by the Modified Union Shop provision in the CBA. The provision requires all new employees to become union members after sometime, but does not require present employees to join the union. The appellate court noted that when the CBA was signed on October 10, 1992, petitioners were already regular employees and were already members of SWU as of September 17, 1992. Thus, they could not be obliged to become members of SEU-ADFLO after the signing of the CBA under pain of being dismissed from employment.

Nevertheless, the appellate court ruled that the dismissal was not attended by bad faith. The appellate court held that contrary to petitioners' contentions, there was nothing sinister about the company's act of settling amicably the labor case with ADFLO. Sicaltek also had a right to inform the Med-Arbiter that there was already a certified collective bargaining agent in the company. Further, there was no evidence that Sicaltek and SEU-ADFLO rushed the execution of the CBA to prevent SWU from being certified as the new collective bargaining agent. The appellate court further held that Sicaltek cannot be faulted for complying with the demand of SEU-ADFLO to dismiss petitioners since it was only protecting itself. In any event, according to the appellate court, Sicaltek sent petitioners show-cause letters before actually terminating their employment.

Petitioners now come to this Court via the present petition. They argue that the Court of Appeals erred:

IN RULING THAT PETITIONERS ARE NOT ENTITLED TO THEIR BACKWAGES DESPITE [THE] CLEAR FINDING THAT PETITIONERS WERE ILLEGALLY DISMISSED BY THE COMPANY[.][7]

Thus, the sole issue for our resolution is: Are petitioners entitled to backwages?

Notably, Sicaltek did not assail the finding of the Court of Appeals that petitioners were not covered by the Modified Union Shop provision in the CBA. The appellate court found that petitioners were already members of SWU when the CBA was signed on October 10, 1992. Thus, they could not be obliged to become members of SEU-ADFLO after the CBA was signed, and their dismissal by reason of disloyalty or disaffiliation was illegal. Such being the case, the ruling of the appellate court in this regard should now be considered final.

Nevertheless, petitioners contend that their dismissal was effected by Sicaltek in bad faith, thus, entitling them not only to reinstatement but also the payment of backwages. Sicaltek counters that it merely complied in good faith with its covenant in the CBA.

It has been the jurisprudential rule for quite sometime that the employer is not considered guilty of unfair labor practice if it merely complied in good faith with the request of the certified union for the dismissal of employees expelled from the union pursuant to the union security clause in the CBA.[8] Hence, the company may not be ordered to grant either backwages or financial assistance in the form of separation pay as a form of penalty.[9]

However, we have recently ruled that this doctrine is inconsistent with Article 279[10] of the Labor Code, as amended by Republic Act No. 6715.[11] It is now provided in the Labor Code that an employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. Thus, where reinstatement is adjudged, the award of backwages and other benefits continues beyond the date of the Labor Arbiter's decision ordering reinstatement and extends up to the time said order of reinstatement is actually carried out.[12]

WHEREFORE, the petition is GRANTED. The Decision dated May 19, 1999 and the Resolution dated December 9, 1999 of the Court of Appeals in CA-G.R. SP Nos. 52108 and 52109, which affirmed the Resolution dated July 31, 1996 of the National Labor Relations Commission in NCR CA No. 008784-95, are MODIFIED accordingly. Petitioners are hereby awarded full backwages and other allowances, without qualifications and diminutions, computed from the time they were illegally dismissed up to the time they are actually reinstated. Let this case be remanded to the Labor Arbiter for proper computation of the full backwages due petitioners, in accordance with Article 279 of the Labor Code, as expeditiously as possible.

SO ORDERED.

Carpio, Carpio-Morales, and Tinga, JJ., concur.

Velasco, Jr., J., no part due to prior action in the CA case.

[1] Rollo, pp. 39-46. Penned by Associate Justice Hector L. Hofileña, with Associate Justices Bernardo P. Abesamis and Presbitero J. Velasco, Jr. (now a member of this Court) concurring.

[2] Id. at 38.

[3] Alliance of Democratic and Free Labor Organization.

[4] Section 1. Modified UNION shop. All union members as of the signing date of this Agreement shall maintain

their membership in good standing during its term or extension as a condition of continued employment. Those present employees covered by the agreed bargaining unit but not yet members, although eligible for membership, may join the UNION at any time, while those who shall become regular employment during the effectivity of the Agreement shall join the UNION within fifteen (15) days from the date of regular employment also a condition of continued employment.

Section 2. Termination upon UNION demand. The company shall, upon the written demand of the UNION supported by a duly approved Resolution of its Executive Board, suspend or dismiss from the company or Union member in the Bargaining Unit, provided the said demand is based on any of the following grounds:

a) Upon written finding by the UNION Executive Board of a deliberate failure of refusal by a covered employee to join the UNION as provided for herein to above.

d) Organizing or joining another labor group during the lifetime of this Agreement and participating in activities derogatory to the UNION decision.

e) Upon written finding by the UNION, copy furnished the COMPANY, of any violation of the UNION's Constitution and by Laws, Code of Discipline, and other Rules and Regulations of the UNION, provided however, that the UNION shall furnish the COMPANY, within five (5) days after signing of this Constitution and By-Laws, Code of Discipline and other Rules and Regulation and such other amendments made from time to time.

f) Non-payment of duly authorized and legitimate UNION dues, fines, fees and other assessment. (Rollo, pp. 42-43.)

[5] G.R. No. 130866, September 16, 1998, 295 SCRA 494.

[6] Rollo, p. 45.

[7] Id. at 22.

[8] Soriano v. Atienza, G.R. No. 68619, March 16, 1989, 171 SCRA 284, 289-290; National Labor Union v. Zip Venetian Blind, Nos. L-15827 and L-15828, May 31, 1961, 2 SCRA 509, 514-515.

[9] Soriano v. Atienza, id.

[10] ART. 279. Security of Tenure. - In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

[11] An Act to Extend Protection to Labor, Strengthen the Constitutional Rights of Workers to Self-Organization, Collective Bargaining and Peaceful Concerted Activities, Foster Industrial Peace and Harmony, Promote the Preferential Use of Voluntary Modes of Settling Labor Disputes, and Reorganize the National Labor Relations Commission, Amending for these Purposes Certain Provisions of Presidential Decree No. 442, as Amended, Otherwise Known as the Labor Code of the Philippines, Appropriating Funds Therefor, and for Other Purposes. Effective March 21, 1989.

[12] Del Monte Philippines, Inc. v. Saldivar, G.R. No. 158620, October 11, 2006, 504 SCRA 192, 211.

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