

SMI FISH INDUSTRIES, INC., AMADO C. SANTERO, JR., VIRGILIO RODAJE AND ARMANDO ESTRELLADO, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, LABOR ARBITER FRUCTUOSO T. AURELL...

G.R. Nos. 96952-56. September 02, 1992

Ponente: REGALADO, J.

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REGALADO, J.:

Petitioners invoke the remedy of the extraordinary writ of certiorari to set aside the resolution of respondent National Labor Relations Commission (NLRC) promulgated on August 27, 1990[1] which affirmed, with modification, the joint decision of Labor Arbiter Fructuoso T. Aurellano dated October 28, 1988, as well as its resolution of December 21, 1990 denying petitioners' motion for the reconsideration thereof.[2]

On March 30, 1987, private respondents filed separate but identical complaints for unfair labor practice, illegal dismissal, illegal suspension, illegal lay-off, underpayment, non-payment of overtime pay, premium pay for holiday and rest days, night-shift differential, 13th month pay, (ECOLA), service incentive leave pay, and damages. Petitioners denied all the foregoing charges and claims.

After hearing and submission by the parties of their respective position papers, a joint decision was rendered by the aforementioned labor arbiter of the NLRC Regional Arbitration Branch No. V, Legazpi City, ordering the payment by petitioners to private respondents of separation pay equivalent to one (1) month's pay for every year of service and full backwages without qualification or deduction for a period not exceeding three (3) years in the total amount of P153,476.23 in lieu of reinstatement.[3]

On December 22, 1988, petitioners appealed the aforestated joint decision to the NLRC, disputing the findings of the labor arbiter that they violated the security of tenure of private respondents. As already stated, a resolution was promulgated by the NLRC affirming that joint decision of the labor arbiter, but with a modification setting aside the payment of separation pay and ordering petitioners to reinstate private respondents to their former or equivalent positions with backwages, including ECOLA, 13th month pay and service incentive leave pay, equivalent to three (3) years, without loss of privileges, seniority rights and other benefits.[4]

Their motion for reconsideration having been denied by respondent NLRC, petitioners have now come to us, raising the following arguments:

1. The labor arbiter and the NLRC committed grave abuse of discretion amounting to lack of jurisdiction when they failed to consider and thus set aside the compromise agreement; and
2. The NLRC committed grave abuse of discretion amounting to lack of jurisdiction when it ordered the reinstatement of the individual private respondents despite their acceptance of the decision of the labor arbiter ordering payment of separation pay.[5]

The first issue is without merit. We cannot uphold the theory of petitioners that private respondents are already

barred from filing the present complaint by reason of the amicable settlement which terminated NLRC Cases Nos. 0216-86 and 0338-86 theretofore filed by herein private respondents De la Trinidad, Arroyo and Parro, together with Orlando Gratil and Teresita Borromeo, for unfair labor practice, illegal dismissal, violation of labor standards, and damages.

The alleged compromise agreement, dated January 15, 1987, has only the effect of putting an end to those previous cases but will not and cannot bar the signatories therein from filing complaints against petitioners for subsequent or future violations of the Labor Code. The pertinent provisions of said compromise agreement read as follows:

x x x

"2. That after a series of dialogues with the management, the herein parties have agreed to put an end to this case and settle the matter amicably;

"3. That the claims in the complaints stated in our petition and affidavit are hereby withdrawn, condoned and set aside, the same having been remedied and fully satisfied and that the continuation of this case would merely prejudice and strain the relationship with management and the rank-in-file;

"4. That the parties in this case have mutually agreed to comply with the provisions of the Labor Standards Laws and Labor Relations Laws as exemplified in the New Labor Code with the end-in-view (sic) to uplift the working conditions of the respondent employer." [6]

On the other hand, the instant cases for illegal dismissal and the other causes of action hereinbefore detailed indisputably arose out of the incident on March 27, 1987, long after the execution of the above-quoted compromise agreement, wherein petitioners, through their security guard, one Santiago Bucal, Jr., unjustifiedly prevented private respondents from entering their regular place of work, after deceitfully confiscating their identification cards, in clear violation of the Labor Code and of the very terms of the compromise agreement.

In the first place, as duly found by the labor arbiter, the compromise agreement was signed by only three (3) of the herein five (5) respondents, namely, Jesus de la Trinidad, Gertrudes Arroyo and Dolores Parro, while they were still in the employ of petitioner company. Private respondents Avelina Bendaña and Jesus Azares were not signatories thereto, hence, they cannot be bound by that amicable settlement or compromise agreement.

Furthermore, in the earlier two cases, petitioners had contended that private respondents were "terminated for cause," whereas in the present cases, petitioners now maintain that private respondents are guilty of "abandonment" and allegedly staged an "undeclared sort of strike." Public respondent, aside from declaring that there was no evidence whatsoever of such acts imputed to private respondents, tersely discredited this ridiculous theory of petitioners, thus: "Strike and abandonment are two diametrically opposed terminologies. When employees stage a strike, it is precisely to keep their jobs x x x. If one abandons his job, he simply walks away." [7]

With respect to the second issue raised by petitioners, however, we find merit in their submissions thereon. Respondent NLRC exceeded its jurisdiction when it ordered the reinstatement of private respondents, thereby modifying the decision of the labor arbiter awarding separation pay in lieu of reinstatement. As pointed out by Presiding Commissioner Lourdes C. Javier in her partial dissent, since private respondents did not appeal from the decision of the labor arbiter, they are presumed to be satisfied with the adjudication therein. Accordingly, with the finality of the decision as to private respondents, the issue of payment of separation pay instead of reinstatement has been laid to rest.

It is a well-settled procedural rule in this jurisdiction, and we see no reason why it should not apply in this case,

that an appellee who has not himself appealed cannot obtain from the appellate court any affirmative relief other than those granted in the decision of the court below.[8] The appellee can only advance any argument that he may deem necessary to defeat the appellant's claim or to uphold the decision that is being disputed. He can assign errors on appeal if such is required to strengthen the views expressed by the court a quo. Such assigned errors, in turn, may be considered by the appellate court solely to maintain the appealed decision on other grounds, but not for the purpose of modifying the judgment in the appellee's favor and giving him other affirmative reliefs.[9]

Parenthetically, we note that the Solicitor General also takes the position that, under the factual ambience of this case and on pragmatic considerations, the joint decision of the labor arbiter is arguably the correct disposition that should be taken in this labor dispute and constitutes a just resolution of the complaints of private respondents.

WHEREFORE, the questioned resolutions of respondent National Labor Relations Commission, dated August 27, 1990 and December 21, 1990, are SET ASIDE and the joint decision of Labor Arbiter Fructuoso T. Aurellano, dated October 28, 1988, which instead of reinstating private respondents awarded them separation pay equivalent to one (1) month's salary for every year of service and full backwages in the total amount of P153,476.23, is hereby REINSTATED. This judgment is immediately executory.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Nocon, and Melo, JJ., concur.

[1] Per Commissioner Irineo B. Bernardo, with Presiding Commissioner Lourdes C. Javier concurring (in the affirmance) and dissenting (on the modification), and Commissioner Rogelio I. Rayala concurring; RAB V Cases Nos. 03-0119-87, 03-0120-87, 03-0123-87; 03-0124-87 and 03-0125-87; Rollo, 25-43.

[2] Rollo, 45-46.

[3] Rollo, 16-24.

[4] Ibid., 44.

[5] Ibid., 7-8.

[6] Ibid., 47-48.

[7] Ibid., 39-40.

[8] Alba vs. Santander, 160 SCRA 8 (1988); Makati Haberdashery, Inc., et al. vs. NLRC, et al., 179 SCRA 448 (1989); Dizon, Jr. vs. NLRC, 181 SCRA 472 (1990).

[9] Lumibao vs. Intermediate Appellate Court, et al., 189 SCRA 469 (1990).

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