

THIRD DIVISION

[G.R. No. 175689, August 13, 2014]

GEORGE A. ARRIOLA, PETITIONER, VS. PILIPINO STAR NGAYON, INC. AND/OR MIGUEL G. BELMONTE, RESPONDENTS.

DECISION

LEONEN, J.:

The prescriptive period for filing an illegal dismissal complaint is four years from the time the cause of action accrued. This four-year prescriptive period, not the three-year period for filing money claims under Article 291 of the Labor Code, applies to claims for backwages and damages due to illegal dismissal.

This is a petition for review on certiorari of the Court of Appeals' decision^[1] and resolution^[2] in CA-G.R. SP No. 91256, affirming the decision of the National Labor Relations Commission. The Commission affirmed the Labor Arbiter's findings that there was no illegal dismissal in this case and that petitioner George A. Arriola abandoned his employment with respondent Pilipino Star Ngayon, Inc.

In July 1986, Pilipino Star Ngayon, Inc. employed George A. Arriola as correspondent assigned in Olongapo City and Zambales. Arriola had held various positions in Pilipino Star Ngayon, Inc. before becoming a section editor and writer of its newspaper. He wrote "Tinig ng Pamilyang OFWs" until his column was removed from publication on November 15, 1999. Since then, Arriola never returned for work.^[3]

On November 15, 2002, Arriola filed a complaint^[4] for illegal dismissal, non-payment of salaries/wages, moral and exemplary damages, actual damages, attorney's fees, and full backwages with the National Labor Relations Commission. In his position paper,^[5] Arriola alleged that Pilipino Star Ngayon, Inc. "arbitrarily dismissed"^[6] him on November 15, 1999. Arguing that he was a regular employee, Arriola contended that his rights to security of tenure and due process were violated when Pilipino Star Ngayon, Inc. illegally dismissed him.^[7]

Pilipino Star Ngayon, Inc. and Miguel G. Belmonte denied Arriola's allegations. In their position paper,^[8] they alleged that around the third week of November 1999, Arriola suddenly absented himself from work and never returned despite Belmonte's phone calls and beeper messages. After a few months, they learned that Arriola transferred to a rival newspaper publisher, Imbestigador, to write "Boses ng Pamilyang OFWs."^[9]

In his reply,^[10] Arriola denied that he abandoned his employment. He maintained that Pilipino Star Ngayon, Inc. ordered him to stop reporting for work and to claim

his separation pay. To prove his allegation, Arriola presented a statement of account^[11] allegedly faxed to him by Pilipino Star Ngayon, Inc.'s accounting head. This statement of account showed a computation of his separation pay as of November 30, 1999.

Labor Arbiter Fatima Jambaro-Franco decided the case. At the outset, she ruled that laches had set in, emphasizing that Arriola took three years and one day to file his complaint. According to the Labor Arbiter, this was "contrary to the immediate and natural reaction of an aggrieved person."^[12] If Arriola were indeed aggrieved, he would not have waited three years and one day to sue Pilipino Star Ngayon, Inc.^[13]

The Labor Arbiter found that Arriola abandoned his employment with Pilipino Star Ngayon, Inc. to write for a rival newspaper publisher.^[14] She also noted Arriola's admission that he did not contemplate the filing of an illegal dismissal complaint but nevertheless filed one upon his lawyer's advice.^[15]

On Arriola's money claims, the Labor Arbiter ruled that they have already prescribed.^[16] She cited Article 291 of the Labor Code, which requires that all money claims arising from employer-employee relations be filed three years from the time the cause of action accrued. Since Arriola filed his complaint on November 15, 2002, which was three years and one day from his alleged illegal dismissal on November 15, 1999,^[17] the Labor Arbiter ruled that his money claims were already barred.

Thus, in the decision^[18] dated July 16, 2003, the Labor Arbiter dismissed Arriola's complaint for lack of merit.

On Arriola's appeal, the National Labor Relations Commission sustained the Labor Arbiter's findings and affirmed in toto the decision dated July 16, 2003.^[19] The Commission likewise denied Arriola's motion for reconsideration^[20] for lack of merit.^[21]

Arriola filed a petition for certiorari with the Court of Appeals.^[22]

The Court of Appeals noted that the petition for certiorari questioned whether Arriola was illegally dismissed. According to the appellate court, Arriola raised a factual issue "beyond the province of certiorari to resolve."^[23] It added that the Labor Arbiter's factual findings, if affirmed by the National Labor Relations Commission, bound the appellate court.^[24]

Nevertheless, the Court of Appeals resolved the factual issue "in the interest of substantial justice."^[25]

The Court of Appeals ruled that Arriola was not illegally dismissed. Pilipino Star Ngayon, Inc. had the management prerogative to determine which columns to maintain in its newspaper. Its removal of "Tinig ng Pamilyang OFWs" from publication did not mean that it illegally dismissed Arriola. His employment, according to the appellate court, did not depend on the existence of the column.^[26]

The appellate court enumerated the following factual findings belying Arriola's claim of illegal dismissal:

- a) In his complaint, Arriola alleged that he did not receive his salary for the period covering November 1, 1999 to November 30, 1999. This implied that he had worked for the whole month of November 1999. However, this was contrary to his claim that Pilipino Star Ngayon, Inc. dismissed him on November 15, 1999.
- b) Sometime in 1999, an Aurea Reyes charged Arriola with libel. Pilipino Star Ngayon Inc.'s counsel represented Arriola in that case and filed a counter-affidavit on November 24, 1999, nine days after Arriola's alleged illegal dismissal.
- c) Pilipino Star Ngayon, Inc. never sent Arriola any notice of dismissal or termination.^[27]

Similar to the ruling of the Labor Arbiter and the National Labor Relations Commission, the Court of Appeals ruled that it was Arriola who abandoned his employment.^[28] The Court of Appeals likewise ruled that his money claims have all prescribed based on Article 291 of the Labor Code.^[29]

Thus, in the decision^[30] dated August 9, 2006, the Court of Appeals found no grave abuse of discretion on the part of the National Labor Relations Commission and dismissed Arriola's petition for certiorari.

Arriola moved for reconsideration,^[31] but the Court of Appeals denied the motion in its resolution^[32] dated November 24, 2006.

In his petition for review on certiorari,^[33] Arriola maintains that he did not abandon his employment. He insists that Pilipino Star Ngayon, Inc. illegally dismissed him when it removed his column, "Tinig ng Pamilyang OFWs," from publication.^[34]

On the finding that he abandoned his work in Pilipino Star Ngayon, Inc. to write "Boses ng Pamilyang OFWs" in *Imbestigador*, Arriola presents a certification^[35] from *Imbestigador's* Managing Editor, Almar B. Danguilan, stating that Arriola started writing for *Imbestigador* only on February 17, 2003. This was after he had filed his complaint for illegal dismissal on November 15, 2002.

As to the finding that his money claims have prescribed, Arriola argues that the three-year prescriptive period under Article 291 of the Labor Code should be counted from December 1, 1999, not November 15, 1999. According to Arriola, Pilipino Star Ngayon, Inc. computed his separation pay up to November 30, 1999, as evidenced by the faxed statement of account. Consequently, he was deprived of his salary as a regular employee beginning December 1, 1999. His cause of action for payment of backwages and damages accrued only on December 1, 1999.^[36]

Arriola argues that assuming that his cause of action accrued on November 15, 1999, he pleads that his one-day-late filing of the complaint be excused.

This court ordered Pilipino Star Ngayon, Inc. and Belmonte to comment on Arriola's

petition for review on certiorari.^[37]

In their comment,^[38] respondents argue that this court should not entertain Arriola's petition for review on certiorari. Arriola raised questions of fact not allowed in a Rule 45 petition. They highlight that the Labor Arbiter, the National Labor Relations Commission, and the Court of Appeals all found that Arriola was not illegally dismissed and that he abandoned his employment. These factual findings, respondents argue, bind this court.^[39]

Respondents maintain that Arriola was not illegally dismissed. On the contrary, it was Arriola who abandoned his employment in Pilipino Star Ngayon, Inc. According to respondents, they "must not be faulted if they presumed that [Arriola] was no longer interested in [writing for Pilipino Star Ngayon, Inc.]"^[40] considering that he did not report for work for more than three years.

On Arriola's money claims, respondents argue that these have all prescribed. According to respondents, Arriola's one-day late filing of the complaint cannot be excused because prescription is a matter of substantive law, not technicality.^[41]

Arriola replied to respondents' comment, reiterating his arguments in his petition for review on certiorari.^[42]

The issues for our resolution are the following:

- I. Whether Arriola's money claims have prescribed
- II. Whether Pilipino Star Ngayon, Inc. illegally dismissed Arriola

The petition lacks merit.

I

Arriola's claims for backwages and damages have not yet prescribed when he filed his complaint with the National Labor Relations Commission

The Labor Arbiter, the National Labor Relations Commission, and the Court of Appeals all ruled that Arriola's claims for unpaid salaries, backwages, damages, and attorney's fees have prescribed. They cited Article 291 of the Labor Code, which requires that money claims arising from employer-employee relations be filed within three years from the time the cause of action accrued:

Art. 291. *MONEY CLAIMS.* All money claims arising from employer-employee relations accruing during the effectivity of this Code shall be filed within three (3) years from the time the cause of action accrued; otherwise they shall be forever barred.

Article 291 covers claims for overtime pay,^[43] holiday pay,^[44] service incentive leave pay,^[45] bonuses,^[46] salary differentials,^[47] and illegal deductions by an employer.^[48] It also covers money claims arising from seafarer contracts.^[49]

The provision, however, does not cover “money claims” consequent to an illegal dismissal such as backwages. It also does not cover claims for damages due to illegal dismissal. These claims are governed by Article 1146 of the Civil Code of the Philippines, which provides:

Art. 1146. The following actions must be instituted within four years:

(1) Upon injury to the rights of the plaintiff[.]

In *Callanta v. Carnation Philippines, Inc.*,^[50] Virgilio Callanta worked as a salesperson for Carnation Philippines, Inc. beginning in January 1974. On June 1, 1979, Carnation filed with the Regional Office No. X of the then Ministry of Labor and Employment an application for issuance of clearance to terminate Callanta. The application was granted, and Callanta’s employment was declared terminated effective June 1, 1979.^[51]

On July 5, 1982, Callanta filed a complaint for illegal dismissal with claims for backwages and damages. In its defense, Carnation argued that Callanta’s complaint was barred by prescription.^[52]

Carnation stressed that Callanta filed his complaint three years, one month, and five days after his termination. Since illegal dismissal is a violation of the Labor Code, Carnation argued that Callanta’s complaint was barred by Article 290 of the Labor Code.^[53] Under Article 290, offenses penalized under the Code shall prescribe in three years.^[54]

As to Callanta’s claims for backwages and damages, Carnation contended that these claims arose from employer-employee relations. Since Callanta filed his complaint beyond the three-year period under Article 291 of the Labor Code, his claims for backwages and damages were forever barred.^[55]

This court ruled that Callanta’s complaint for illegal dismissal had not yet prescribed. Although illegal dismissal is a violation of the Labor Code, it is not the “offense” contemplated in Article 290.^[56] Article 290 refers to illegal acts penalized under the Labor Code, including committing any of the prohibited activities during strikes or lockouts, unfair labor practices, and illegal recruitment activities.^[57] The three-year prescriptive period under Article 290, therefore, does not apply to complaints for illegal dismissal.

Instead, “by way of supplement,”^[58] Article 1146 of the Civil Code of the Philippines governs complaints for illegal dismissal. Under Article 1146, an action based upon an injury to the rights of a plaintiff must be filed within four years. This court