

THIRD DIVISION

[G.R. No. 185665, February 08, 2012]

**EASTERN TELECOMMUNICATIONS PHILIPPINES, INC.,
PETITIONER, VS. EASTERN TELECOMS EMPLOYEES UNION,
RESPONDENT.**

D E C I S I O N

MENDOZA, J.:

Before the Court is a petition for review on certiorari seeking modification of the June 25, 2008 Decision^[1] of the Court of Appeals (CA) and its December 12, 2008 Resolution,^[2] in CA-G.R. SP No. 91974, annulling the April 28, 2005 Resolution^[3] of the National Labor Relations Commission (NLRC) in NLRC-NCR-CC-000273-04 entitled "*In the Matter of the Labor Dispute in Eastern Telecommunications, Philippines, Inc.*"

The Facts

As synthesized by the NLRC, the facts of the case are as follows, viz:

Eastern Telecommunications Phils., Inc. (ETPI) is a corporation engaged in the business of providing telecommunications facilities, particularly leasing international data lines or circuits, regular landlines, internet and data services, employing approximately 400 employees.

Eastern Telecoms Employees Union (ETEU) is the certified exclusive bargaining agent of the company's rank and file employees with a strong following of 147 regular members. It has an existing collective bargaining agreement with the company to expire in the year 2004 with a Side Agreement signed on September 3, 2001.

In essence, the labor dispute was a spin-off of the company's plan to defer payment of the 2003 14th, 15th and 16th month bonuses sometime in April 2004. The company's main ground in postponing the payment of bonuses is due to alleged continuing deterioration of company's financial position which started in the year 2000. However, ETPI while postponing payment of bonuses sometime in April 2004, such payment would also be subject to availability of funds.

Invoking the Side Agreement of the existing Collective Bargaining Agreement for the period 2001-2004 between ETPI and ETEU which stated as follows:

"4. Employment Related Bonuses. The Company confirms that the 14th, 15th and 16th month bonuses (other than 13th month pay) are granted."

The union strongly opposed the deferment in payment of the bonuses by filing a preventive mediation complaint with the NCMB on July 3, 2003, the purpose of which complaint is to determine the date when the bonus should be paid.

In the conference held at the NCMB, ETPI reiterated its stand that payment of the bonuses would only be made in April 2004 to which date of payment, the union agreed. Thus, considering the agreement forged between the parties, the said agreement was reduced to a Memorandum of Agreement. The union requested that the President of the company should be made a signatory to the agreement, however, the latter refused to sign. In addition to such a refusal, the company made a sudden turnaround in its position by declaring that they will no longer pay the bonuses until the issue is resolved through compulsory arbitration.

The company's change in position was contained in a letter dated April 14, 2004 written to the union by Mr. Sonny Javier, Vice-President for Human Resources and Administration, stating that "the deferred release of bonuses had been superseded and voided due to the union's filing of the issue to the NCMB on July 18, 2003." He declared that "until the matter is resolved in a compulsory arbitration, the company cannot and will not pay any 'bonuses' to any and all union members."

Thus, on April 26, 2004, ETEU filed a Notice of Strike on the ground of unfair labor practice for failure of ETPI to pay the bonuses in gross violation of the economic provision of the existing CBA.

On May 19, 2004, the Secretary of Labor and Employment, finding that the company is engaged in an industry considered vital to the economy and any work disruption thereat will adversely affect not only its operation but also that of the other business relying on its services, certified the labor dispute for compulsory arbitration pursuant to Article 263 (q) of the Labor Code as amended.

Acting on the certified labor dispute, a hearing was called on July 16, 2004 wherein the parties have submitted that the issues for resolution are (1) unfair labor practice and (2) the grant of 14th, 15th and 16th month bonuses for 2003, and 14th month bonus for 2004. Thereafter, they were directed to submit their respective position papers and evidence in support thereof after which submission, they agreed to have the case considered submitted for decision.^[4]

In its position paper,^[5] the Eastern Telecoms Employees Union (ETEU) claimed that Eastern Telecommunications Philippines, Inc. (ETPI) had consistently and voluntarily

been giving out 14th month bonus during the month of April, and 15th and 16th month bonuses every December of each year (*subject bonuses*) to its employees from 1975 to 2002, even when it did not realize any net profits. ETEU posited that by reason of its long and regular concession, the payment of these monetary benefits had ripened into a company practice which could no longer be unilaterally withdrawn by ETPI. ETEU added that this long-standing company practice had been expressly confirmed in the Side Agreements of the 1998-2001 and 2001-2004 Collective Bargaining Agreements (CBA) which provided for the continuous grant of these bonuses in no uncertain terms. ETEU theorized that the grant of the subject bonuses is not only a company practice but also a contractual obligation of ETPI to the union members.

ETEU contended that the unjustified and malicious refusal of the company to pay the subject bonuses was a clear violation of the economic provision of the CBA and constitutes unfair labor practice (*ULP*). According to ETEU, such refusal was nothing but a ploy to spite the union for bringing the matter of delay in the payment of the subject bonuses to the National Conciliation and Mediation Board (*NCMB*). It prayed for the award of moral and exemplary damages as well as attorney's fees for the unfair labor practice allegedly committed by the company.

On the other hand, ETPI in its position paper,^[6] questioned the authority of the NLRC to take cognizance of the case contending that it had no jurisdiction over the issue which merely involved the interpretation of the economic provision of the 2001-2004 CBA Side Agreement. Nonetheless, it maintained that the complaint for nonpayment of 14th, 15th and 16th month bonuses for 2003 and 14th month bonus for 2004 was bereft of any legal and factual basis. It averred that the subject bonuses were not part of the legally demandable wage and the grant thereof to its employees was an act of pure gratuity and generosity on its part, involving the exercise of management prerogative and always dependent on the financial performance and realization of profits. It posited that it resorted to the discontinuance of payment of the bonuses due to the unabated huge losses that the company had continuously experienced. It claimed that it had been suffering serious business losses since 2000 and to require the company to pay the subject bonuses during its dire financial straits would in effect penalize it for its past generosity. It alleged that the non-payment of the subject bonuses was neither flagrant nor malicious and, hence, would not amount to unfair labor practice.

Further, ETPI argued that the bonus provision in the 2001-2004 CBA Side Agreement was a mere affirmation that the distribution of bonuses was discretionary to the company, premised and conditioned on the success of the business and availability of cash. It submitted that said bonus provision partook of the nature of a "one-time" grant which the employees may demand only during the year when the Side Agreement was executed and was never intended to cover the entire term of the CBA. Finally, ETPI emphasized that even if it had an unconditional obligation to grant bonuses to its employees, the drastic decline in its financial condition had already legally released it therefrom pursuant to Article 1267 of the Civil Code.

On April 28, 2005, the NLRC issued its Resolution dismissing ETEU's complaint and held that ETPI could not be forced to pay the union members the 14th, 15th and 16th month bonuses for the year 2003 and the 14th month bonus for the year 2004 inasmuch as the payment of these additional benefits was basically a management

prerogative, being an act of generosity and munificence on the part of the company and contingent upon the realization of profits. The NLRC pronounced that ETPI may not be obliged to pay these extra compensations in view of the substantial decline in its financial condition. Likewise, the NLRC found that ETPI was not guilty of the ULP charge elaborating that no sufficient and substantial evidence was adduced to attribute malice to the company for its refusal to pay the subject bonuses. The dispositive portion of the resolution reads:

WHEREFORE, premises considered, the instant complaint is hereby
DISMISSED for lack of merit.

SO ORDERED.^[7]

Respondent ETEU moved for reconsideration but the motion was denied by the NLRC in its Resolution dated August 31, 2005.

Aggrieved, ETEU filed a petition for certiorari^[8] before the CA ascribing grave abuse of discretion on the NLRC for disregarding its evidence which allegedly would prove that the subject bonuses were part of the union members' wages, salaries or compensations. In addition, ETEU asserted that the NLRC committed grave abuse of discretion when it ruled that ETPI is not contractually bound to give said bonuses to the union members.

In its assailed June 25, 2008 Decision, the CA declared that the Side Agreements of the 1998 and 2001 CBA created a contractual obligation on ETPI to confer the subject bonuses to its employees without qualification or condition. It also found that the grant of said bonuses has already ripened into a company practice and their denial would amount to diminution of the employees' benefits. It held that ETPI could not seek refuge under Article 1267 of the Civil Code because this provision would apply only when the difficulty in fulfilling the contractual obligation was manifestly beyond the contemplation of the parties, which was not the case therein. The CA, however, sustained the NLRC finding that the allegation of ULP was devoid of merit. The dispositive portion of the questioned decision reads:

WHEREFORE, premises considered, the instant petition is GRANTED and the resolution of the National Labor Relations Commission dated April 28, 2005 is hereby ANNULLED and SET ASIDE. Respondent Eastern Telecommunications Philippines, Inc. is ordered to pay the members of petitioner their 14th, 15th and 16th month bonuses for the year 2003 and 14th month for the year 2004. The complaint for unfair labor practice against said respondent is DISMISSED.

SO ORDERED.^[9]

ISSUES

Dissatisfied, ETPI now comes to this Court via Rule 45, raising the following errors

allegedly committed by the CA, to wit:

I.

THE COURT OF APPEALS COMMITTED GRAVE ERROR OF LAW WHEN IT ANNULLED AND SET ASIDE THE RESOLUTIONS OF THE NLRC DISREGARDING THE WELL SETTLED RULE THAT A WRIT OF CERTIORARI (UNDER RULE 65) ISSUES ONLY FOR CORRECTION OF ERRORS OF JURISDICTION OR GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION.

II.

THE COURT OF APPEALS COMMITTED GRAVE ERROR OF LAW WHEN IT DISREGARDED THE RULE THAT FINDINGS OF FACTS OF QUASI-JUDICIAL BODIES ARE ACCORDED FINALITY IF THEY ARE SUPPORTED BY SUBSTANTIAL EVIDENCE CONSIDERING THAT THE CONCLUSIONS OF THE NLRC WERE BASED ON SUBSTANTIAL AND OVERWHELMING EVIDENCE AND UNDISPUTED FACTS.

III.

IT WAS A GRAVE ERROR OF LAW FOR THE COURT OF APPEALS TO CONSIDER THAT THE BONUS GIVEN BY EASTERN COMMUNICATIONS TO ITS EMPLOYEES IS NOT DEPENDENT ON THE REALIZATION OF PROFITS.

IV.

THE COURT OF APPEALS COMMITTED A GRAVE ERROR OF LAW WHEN IT DISREGARDED THE UNDISPUTED FACT THAT EASTERN COMMUNICATIONS IS SUFFERING FROM TREMENDOUS FINANCIAL LOSSES, AND ORDERED EASTERN COMMUNICATIONS TO GRANT THE BONUSES REGARDLESS OF THE FINANCIAL DISTRESS OF EASTERN COMMUNICATIONS.

V.

THE COURT OF APPEALS COMMITTED A GRAVE ERROR OF LAW WHEN IT ARRIVED AT THE CONCLUSION THAT THE GRANT OF BONUS GIVEN BY EASTERN COMMUNICATIONS TO ITS EMPLOYEES HAS RIPENED INTO A COMPANY PRACTICE.^[10]

A careful perusal of the voluminous pleadings filed by the parties leads the Court to conclude that this case revolves around the following core issues:

1. Whether or not petitioner ETPI is liable to pay 14th, 15th and 16th month bonuses for the year 2003 and 14th month bonus for the year 2004 to the members of respondent union; and