

## SECOND DIVISION

[ G.R. No. 175481, November 21, 2012 ]

**DIONISIO F. AUZA, JR., ADESSA F. OTARRA, AND ELVIE JEANJAQUET, PETITIONERS, VS. MOL PHILIPPINES, INC. AND CESAR G. TIUTAN, RESPONDENTS.**

### DECISION

**DEL CASTILLO, J.:**

"[J]ustice is in every case for the deserving, to be dispensed in the light of the established facts and the applicable law and doctrine."<sup>[1]</sup> Although we are committed to protect the working class, it behooves us to uphold the rights of management too if only to serve the interest of fair play. As applied in this case, the employees who voluntarily resigned and executed quitclaims are barred from instituting an action or claim against their employer.

By this Petition for Review on *Certiorari*,<sup>[2]</sup> petitioners Dionisio F. Auza, Jr. (Auza), Adessa F. Otarra (Otarra) and Elvie Jeanjaquet (Jeanjaquet) assail the August 17, 2006 Decision<sup>[3]</sup> and November 15, 2006 Resolution<sup>[4]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 01375, which reversed the July 22, 2005 Decision<sup>[5]</sup> and November 30, 2005 Resolution<sup>[6]</sup> of the National Labor Relations Commission (NLRC) and consequently dismissed their Complaints for illegal dismissal against respondents MOL (Mitsui O.S.K Lines) Philippines, Inc. (MOL) and Cesar G. Tiutan (Tiutan), in his capacity as its President.

#### ***Factual Antecedents***

Respondent MOL is a common carrier engaged in transporting cargoes to and from the different parts of the world. On October 1, 1997, it employed Auza and Jeanjaquet as Cebu's Branch Manager and Administrative Assistant, respectively. It also employed Otarra as its Accounts Officer on November 1, 1997.

On October 14, 2002, Otarra tendered her resignation<sup>[7]</sup> letter effective November 15, 2002 while Auza and Jeanjaquet submitted their resignation letters<sup>[8]</sup> on October 30, 2002 to take effect on November 30, 2002. Petitioners were then given their separation pay and the monetary value of leave credits, 13th month pay, MOL cooperative shares and unused dental/optical benefits as shown in documents entitled "Remaining Entitlement Computation,"<sup>[9]</sup> which documents were signed by each of them acknowledging receipt of such benefits. After which, they executed Release and Quitclaims<sup>[10]</sup> and then issued Separation Clearances.<sup>[11]</sup>

In February 2004 or almost 15 months after their severance from employment, petitioners filed separate Complaints<sup>[12]</sup> for illegal dismissal before the Arbitration

Branch of the NLRC against respondents and MOL's Manager for Corporate Services, George Dolorfino. These complaints were later consolidated.

### ***Proceedings before the Labor Arbiter***

In an Order<sup>[13]</sup> dated May 26, 2004, Labor Arbiter Ernesto F. Carreon directed the parties to submit their respective Position Papers within 10 days from receipt of notice. Petitioners' counsel of record, Atty. Narciso C. Boiser (Atty. Boiser), received the same on June 22, 2004.

In their Position Paper,<sup>[14]</sup> respondents alleged that petitioners were not dismissed but voluntarily resigned from employment. In fact, separation benefits were paid to them for which quitclaims were duly executed. Hence, petitioners are effectively barred from instituting any action or claim in connection with their employment. They likewise posited that petitioners are guilty of laches by estoppel considering that they filed their complaints only after the lapse of 15 months from their severance from employment. To support these allegations, respondents submitted together with the said Position Paper, documentary evidence, affidavit of witnesses and a formal offer of exhibits.

Instead of promptly filing their Position Paper, petitioners, on the other hand, wrote the Labor Arbiter on July 7, 2004 requesting for additional time as they were looking for another lawyer because Atty. Boiser was frequently out of town.<sup>[15]</sup> They were able to secure the services of Atty. Amorito V. Cañete (Atty. Cañete), who filed on July 29, 2004 an Entry of Appearance with Motion for Extension of Time to File Complainants' Position Paper.<sup>[16]</sup> However, in an Order<sup>[17]</sup> of even date, the Labor Arbiter refused to recognize Atty. Cañete's appearance without the corresponding withdrawal of appearance of Atty. Boiser. Nevertheless, petitioners were given 10 days from date to submit their Position Paper. The next day, Atty. Boiser filed a Manifestation that Atty. Cañete had been engaged by petitioners as a co-counsel.

Subsequently and notwithstanding the earlier refusal of the Labor Arbiter to recognize the appearance of Atty. Cañete, petitioners filed on August 11, 2004 a verified Position Paper<sup>[18]</sup> signed by the said counsel. They averred in said pleading that their consent to resign was not voluntarily given but was instead obtained through mistake and fraud. They claimed that they were led to believe that MOL's Cebu branch would be downsized into a mere skeletal force due to alleged low productivity and profitability volume. Pressured into resigning prior to the branch's closure as they might be denied separation pay, petitioners were constrained to resign.

Petitioners further averred that their separation from employment amounts to constructive dismissal due to the shabby treatment they received from Tiutan at the time they were being compelled to quit employment. Aside from Tiutan's incessant imputations that the Cebu branch is overstaffed, manned by incompetent employees, and is heavily losing money, Auza was stripped of his authority to sign checks for the branch's expenditures; his and Otarra's assigned company cars, cellphones and landline phones were recalled; representation expenses were cut-off; and travel and hotel expenses were drastically reduced. These were done to them despite the fact that the Cebu branch had consistently surpassed the performance goal set by the Manila office as shown by documentary evidence submitted. Later,

they discovered that the planned downsizing of the Cebu branch was a mere malicious scheme to oust them and to accommodate Tiutan's own people. This is because after they were duped to resign, additional employees were hired by the management as their replacement; they moved to a bigger office; and more telephone lines were installed. In view of their illegal dismissal, petitioners thus prayed for reinstatement plus backwages as well as for damages and attorney's fees.

Petitioners also filed a Supplemental Position Paper<sup>[19]</sup> to show an itemized computation of backwages due them and to further reiterate that their signatures in the resignation letters and quitclaims were conditioned upon respondents' misrepresentation that the Cebu office will eventually be manned by a skeletal force, which, however, did not take place.

Subsequently, respondents filed a Motion to Expunge and/or Strike Out Position Paper for Complainants Dated August 9, 2004 Filed by Atty. Amorito V. Cañete.<sup>[20]</sup> They pointed out the belated filing of petitioners' Position Paper and the lack of authority of Atty. Cañete to file and sign the same, among others. The Labor Arbiter granted the Motion in an Order<sup>[21]</sup> dated November 12, 2004 ratiocinating that a Position Paper must be filed within the inextendible 10-day period as provided under Section 4, Rule V of the NLRC Rules of Procedure. In this case, petitioners' counsel of record, Atty. Boiser, received on June 22, 2004 the May 26, 2004 Order requiring the parties to file position papers within 10 days from receipt thereof. However, petitioners were only able to file their Position Paper on August 11, 2004, way beyond the said 10-day period. And for being filed late, said pleading must be stricken off the records. Consequently, the Labor Arbiter dismissed the Complaints without prejudice for failure to prosecute pursuant to Section 3, Rule 17 of the Rules of Court.

### ***Proceedings before the National Labor Relations Commission***

Petitioners appealed to the NLRC<sup>[22]</sup> claiming that the Labor Arbiter defied judicial pronouncements that the failure to submit a Position Paper on time is not a ground for dismissing a complaint. Moreover, considering their dilemma at the time when Atty. Boiser could hardly be reached and the unfortunate non-recognition order by the Labor Arbiter of their new counsel, Atty. Cañete, petitioners prayed for the relaxation of the rules to admit their Position Paper which, they contended, was filed only two days late since they were given an extension of 10 days from July 29, 2004 to file the same in an Order of even date.

In their Reply,<sup>[23]</sup> respondents countered that petitioners' Position Paper was filed more than 60 days late from receipt by Atty. Boiser (who remained petitioners' counsel of record) of the Labor Arbiter's May 26, 2004 Order. They insisted that this inexcusable delay should not be allowed. The Labor Arbiter should have dismissed the Complaints with prejudice in the first place; a fortiori, the NLRC should also dismiss the appeal for want of merit. Moreover, petitioners' appeal deserves outright dismissal as no appeal may be taken from an order dismissing an action without prejudice, the remedy being only to revive or re-file the case with the Labor Arbiter.

In its Decision<sup>[24]</sup> dated July 22, 2005, the NLRC set aside the Labor Arbiter's ruling that petitioners' Position Paper was filed late. It held that the 10-day period given to petitioners for filing their Position Paper should be reckoned from Atty. Cañete's receipt on August 9, 2004 of the July 29, 2004 Order of the Labor Arbiter. The filing, therefore, of petitioners' Position Paper on August 11, 2004 is well within the allowed period, hence, there was no basis in dismissing the Complaints for failure to prosecute.

Also, instead of remanding the case to the Labor Arbiter, the NLRC opted to decide the same on the merits, in consonance with its mandate to speedily dispose of cases. In so doing, it found that petitioners' resignation letters and quitclaims are invalid and were signed under duress. The NLRC noted that contrary to the representations made to petitioners, the Cebu branch was not actually closed but merely transferred to another location with a bigger office space and with new employees hired as petitioners' replacements. Further, the NLRC noted that under MOL's employment manual, an employee who voluntarily resigns shall only be entitled to benefits if he/she has rendered 10 years of continuous service. Hence, the grant of benefits to petitioners is questionable considering that each of them rendered only five years of service. It therefore opined that petitioners' receipt of benefits is just part of respondents' plan to secure their resignations.

The NLRC concluded that petitioners were illegally dismissed and thus granted them the relief of reinstatement, full backwages computed in accordance with the computation presented by petitioners in their Supplemental Position Paper, and attorney's fees. For Tiutan's bad faith in pressuring both Auza and Otarra to resign, moral and exemplary damages were likewise awarded to the two. The dispositive portion of the NLRC Decision reads:

**WHEREFORE**, we find respondents guilty of illegally dismissing complainants consequently they are ordered to reinstate complainants to their positions without loss of seniority rights with full backwages from the time they were illegally dismissed until their actual reinstatement, the backwages are computed as of June 30, 2005 as follows: Dionisio F. Auza, Jr. – P2,106,165.90; P1,203,705.13 for Adessa F. Otarra and P685,027.68 for Elvie Jeanjaquet, subject to further recomputation. In addition, respondents are ordered to pay moral and exemplary damages of P500,000.00 to Dionisio F. Auza, Jr. and P100,000.00 to Adessa F. Otarra. Further, respondents are ordered to pay complainants equivalent to 10% of the total amount awarded as attorney's fees.

**SO ORDERED.**<sup>[25]</sup>

Both parties filed their respective Motions for Reconsideration.<sup>[26]</sup> With respect to petitioners, they moved that their entitlement to 27 sacks of rice, which was discussed in the body of the NLRC Decision but omitted in the dispositive portion thereof, be declared. For their part, respondents alleged that the NLRC has no jurisdiction to entertain petitioners' appeal; hence, it usurped the jurisdiction and function of the Labor Arbiter to hear and decide the case which had been dismissed without prejudice. Reiterating this argument, respondents also subsequently filed An Urgent Motion to Dismiss Instant Appeal for Lack of Jurisdiction.<sup>[27]</sup>

The NLRC, in its Resolution<sup>[28]</sup> dated November 30, 2005, granted petitioners' motion by awarding 27 sacks of rice to each of them in addition to the monetary awards. On the other hand, it denied respondents' motions by upholding its jurisdiction to entertain petitioners' appeal in line with its authority to correct errors made by the Labor Arbiter and in order to prevent delays in the disposition of labor cases.

### ***Proceedings before the Court of Appeals***

A Petition for *Certiorari* with Prayer for the Issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction<sup>[29]</sup> was filed by respondents with the CA. In a Resolution<sup>[30]</sup> dated January 13, 2006, the CA issued a temporary restraining order to prevent the enforcement of the NLRC Decision of July 22, 2005 upon respondents' posting of a bond. A writ of preliminary injunction<sup>[31]</sup> was then issued to further restrain the implementation of the assailed Decision.

On August 17, 2006, the CA rendered its Decision<sup>[32]</sup> annulling and setting aside the Decision of the NLRC. The CA did not find any element of coercion and force in petitioners' separation from employment but rather upheld the voluntary execution of their resignation letters as gleaned from the tenor thereof. It opined that petitioners were aware of the consequences of their acts in voluntarily resigning and executing quitclaims. Notably, however, the CA did not touch upon the issue raised by respondents regarding the NLRC's lack of jurisdiction. The dispositive portion of the CA's Decision reads:

**WHEREFORE**, the petition for certiorari filed by the petitioners is hereby **GRANTED**. Accordingly, the assailed decision of the public respondent National Labor Relations Commission (NLRC) 4<sup>th</sup> Division of Cebu City dated 22 July 2005 in NLRC Case No. V-000079-2005 (RAB-VII-02-0342-04 and RAB-VII-02-0418-04) as well as the Resolution of the public respondent Commission dated 30 November 2005 are **REVERSED** and **SET ASIDE**. A new decision is entered dismissing the complaints filed by private respondents for illegal dismissal against petitioners.

SO ORDERED.<sup>[33]</sup>

A motion for reconsideration<sup>[34]</sup> was filed by the petitioners but the same was denied by the CA in a Resolution<sup>[35]</sup> dated November 15, 2006.

Hence, this petition.

### **Issues**

Petitioners ascribe upon the CA the following errors: