

SECOND DIVISION

[G.R. No. 173231, December 28, 2007]

RUBEN L. ANDRADA, BERNALDO V. DELOS SANTOS, JOVEN M. PABUSTAN, FILAMER ALFONSO, VICENTE A. MANTALA, JR., HARVEY D. CAYETANO, AND JOVENCIO L. POBLETE, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, SUBIC LEGEND RESORTS AND CASINO, INC., AND/OR MR. HWA PUAY, MS. FLORDELIZA MARIA REYES RAYEL, AND ITS CORPORATE OFFICERS, RESPONDENTS.

D E C I S I O N

VELASCO JR., J.:

To provide full protection to labor, the employers' prerogative to bring down labor costs through retrenchment must be exercised carefully and essentially as a measure of last resort. So should managements' prerogative to declare the employees' services redundant not be used a weapon to frustrate labor. This case brings to fore the continuing labor-management struggle for mutual survival.

Petitioners Ruben Andrada, Jovencio Poblete, Filamer Alfonso, Harvey Cayetano, Vicente Mantala, Jr., Bernaldo delos Santos, and Joven Pabustan were hired on various dates from 1995 up to 1997 and worked as architects, draftsmen, operators, engineers, and surveyors in the Subic Legend Resorts and Casino, Inc. (Legend) Project Development Division on various projects. Hwa Puay, Flordeliza Maria Reyes Rayel, and other corporate officers are impleaded in this case in their official capacities as officers of Legend.

On January 6, 1998, Legend sent notice to the Department of Labor and Employment of its intention to retrench and terminate the employment of thirty-four (34) of its employees, which include petitioners, in the Project Development Division. Legend explained that it would be retrenching its employees on a last-in-first-out basis on the strength of the updated status report of its Project Development Division, as follows: (1) shelving of the condotel project until economic conditions in the Philippines improve; (2) completion of the temporary casino in Cubi by mid-February 1998; (3) subcontracting the super structure work of Grand Legend to a third party; (4) completion of most of the rectification work at the Legenda Hotel; (5) completion of the temporary casino in Cubi; and (6) abolition of the Personnel and Administrative Department of the Project Development Division and transfer of its function back to Legend's Human Resources Department.

The following day, on January 7, 1998, Legend sent the 34 employees their respective notices of retrenchment, stating the same reasons for their retrenchment. It also offered the employees the following options, to wit:

1. Temporary retrenchment/lay-off for a period not to exceed six months within which we shall explore your possible reassignment to

other departments or affiliates, after six months and redeployment and/or matching are unsuccessful, permanent retrenchment takes place and separation pay is released.

2. Permanent retrenchment and payment of separation pay and other benefits after the thirty (30) days notice has lapsed; or
3. Immediate retrenchment and payment of separation pay, benefits and one month's salary in lieu of notice to allow you to look for other employment opportunities.^[1]

Legend gave said employees a period of one week or until January 14, 1998 to choose their option, with option number 2 (permanent retrenchment) as the default choice in case they failed to express their preferences. After the employees made their choices, they also expressed their reservation that their choice should not be deemed as waiver of their rights granted under the Labor Code or their right to question the validity of their retrenchment should their separation benefits not be settled by January 30, 1998.

Curiously, on the same day, the Labor and Employment Center of the Subic Bay Metropolitan Authority advertised that Legend International Resorts, Inc. was in need of employees for positions similar to those vacated by petitioners.^[2]

Afterwards, on February 6, 1998, Legend informed the retrenched employees of their permanent retrenchment and/or their options. Legend paid the retrenched employees their salaries up to February 6, 1998, separation pay, pro-rated 13th-month pay, *ex-gratia*, meal allowance, unused vacation leave credits, and tax refund. Petitioners, in turn, signed quitclaims but reserved their right to sue Legend.

Subsequently, on March 3, 1998, 14^[3] of the 34 retrenched employees filed before the Regional Arbitration Branch of the National Labor Relations Commission (NLRC) in San Fernando City, Pampanga, a complaint for illegal dismissal and money claims for the payment of their share in the service charges, unused leaves, and their salaries for the unexpired portion of their respective employment contracts, damages, and attorney's fees against Legend and its officials, Hwa Puay and Flordeliza Maria Reyes Rayel. The complaint was docketed as NLRC RAB III-03-9080-98.

Before the Labor Arbiter, complainants alleged that they were illegally dismissed because Legend, after giving retrenchment as the reason for their termination, created new positions similar to those they had just vacated. Legend, on the other hand, invoked management prerogative when it terminated the retrenched employees; and said that complainants voluntarily signed quitclaims so that they were already barred from suing Legend.

On February 7, 2000, the Labor Arbiter rendered a Decision, the *fallo* of which reads:

WHEREFORE, premises considered, respondents are hereby adjudged guilty of Illegal dismissal, and they are ordered to immediately reinstate the complainants without loss of seniority rights and to pay to them the

following:

1. Ruben Andrada:

a) Back salaries from February 6, 1998 to February 6, 2000 (24 months) in the sum of P14,300.00 and the same amount every month thereafter until reinstated	----- P343,200.00
b) Meal allowance at P800.00 a month from February 6, 1998 to February 6, 2000 (24 months) and the same amount every month thereafter until reinstated	----- P19,200.00
c) 13 th month pay for 2 years (1998 to 1999)	----- P28,600.00
d) 14 th month pay for 2 years (1998 to 1999)	----- P28,600.00
e) Damages	----- P100,000.00
T O T A L	----- P519,600.00

2. Darryl Bautista:

a) Back salaries from February 6, 1998 to February 6, 2000 (24 months) in the sum of P11,200.00 and the same amount every month thereafter until reinstated	----- P268,800.00
b) Meal allowance at P800.00 a month from February 6, 1998 to February 6, 2000 (24 months) and the same amount every month thereafter until reinstated	----- P19,200.00
c) 13 th month pay for 2 years (1998 to 1999)	----- P22,400.00
d) 14 th month pay for 2 years (1998 to 1999)	----- P22,400.00
T O T A L	----- P332,800.00

3. Jovencio Poblete

a) Back salaries from February 6, 1998 to February 6, 2000 (24 months) in the sum of P12,000.00 and the same amount every month thereafter until reinstated	----- P288,000.00
b) Meal allowance at P800.00 a month from February 6, 1998 to February 6, 2000 (24	-----

months) and the same amount every month thereafter until reinstated	P19,200.00
c) 13 th month pay for 2 years (1998 to 1999)	----- P24,000.00
d) 14 th month pay for 2 years (1998 to 1999)	----- P24,000.00
e) Damages	----- P100,000.00
T O T A L	----- P455,200.00

4) Renato Pangilinan:

a) Back salaries from February 6, 1998 to February 6, 2000 (24 months) in the sum of P17,000.00 and the same amount every month thereafter until reinstated	----- P408,000.00
b) Meal allowance at P800.00 a month from February 6, 1998 to February 6, 2000 (24 months) and the same amount every month thereafter until reinstated	----- P408,000.00
c) 13 th month pay for 2 years (1998 to 1999)	----- P408,000.00
d) 14 th month pay for 2 years (1998 to 1999)	----- P34,000.00
T O T A L	----- P495,200.00

5) Dario Rapada:

a) Back salaries from February 6, 1998 to February 6, 2000 (24 months) in the sum of P10,000.00 and the same amount every month thereafter until reinstated	----- P240,000.00
b) Meal allowance at P800.00 a month from February 6, 1998 to February 6, 2000 (24 months) and the same amount every month thereafter until reinstated	----- P19,200.00
c) 13 th month pay for 2 years (1998 to 1999)	----- P20,000.00
d) 14 th month pay for 2 years (1998 to 1999)	----- P20,000.00
T O T A L	----- P299,200.00

6) Adrian Camacho:

a) Back salaries from February 6, 1998 to February 6, 2000 (24 months) in the sum of P7,000.00 and the same amount every month thereafter until reinstated	----- P168,000.00
b) Meal allowance at P800.00 a month from February 6, 1998 to February 6, 2000 (24 months) and the same amount every month thereafter until reinstated	----- P19,200.00
c) 13 th month pay for 2 years (1998 to 1999)	----- P14,000.00
d) 14 th month pay for 2 years (1998 to 1999)	----- P14,000.00
T O T A L	----- P215,200.00

7) Marvin Samaniego:

a) Back salaries from February 6, 1998 to February 6, 2000 (24 months) in the sum of P7,000.00 and the same amount every month thereafter until reinstated	----- P168,000.00
b) Meal allowance at P800.00 a month from February 6, 1998 to February 6, 2000 (24 months) and the same amount every month thereafter until reinstated	----- P19,200.00
c) 13 th month pay for 2 years (1998 to 1999)	----- P14,000.00
d) 14 th month pay for 2 years (1998 to 1999)	----- P14,000.00
T O T A L	----- P215,200.00

8) Filamer Alfonso:

a) Back salaries from February 6, 1998 to February 6, 2000 (24 months) in the sum of P10,000.00 and the same amount every month thereafter until reinstated	----- P240,000.00
b) Meal allowance at P800.00 a month from February 6, 1998 to February 6, 2000 (24 months) and the same amount every month thereafter until reinstated	----- P19,200.00
c) 13 th month pay for 2 years (1998 to 1999)	----- P20,000.00
d)	-----