

FIRST DIVISION

[G.R. NO. 168719, February 22, 2006]

PHILIPPINE CARPET EMPLOYEES ASSOCIATION (PHILCEA), FOR AND IN BEHALF OF ITS 77 MEMBERS AFFECTED, PETITIONER, VS. HON. PATRICIA STO. TOMAS, SECRETARY OF LABOR AND EMPLOYMENT, PHILIPPINE CARPET MANUFACTURING CORPORATION, PATRICIO LIM, EVELYN LIM FORBES, RAFAEL VILLAREAL AND MANUEL IKE DIAZ, RESPONDENTS.

DECISION

CALLEJO, SR., J.:

The Philippine Carpet Manufacturing Corporation (Corporation for brevity), a corporation duly registered in the Philippines, is engaged in the business of manufacturing wool and yarn carpets and rugs.^[1] The Corporation also had 100% equity investments in the following corporations: Pacific Carpet Mills Corporation (PCMC-USA) which sold carpets and mats on wholesale basis; Pacific Carpet Manufacturing Corporation (PCMC-Clark) which manufactured hand-tufted and machine-tufted carpets and rugs; and the Philippine Woolen Spinning Corporation (PWSC) which manufactured wool yarn. The Corporation also owned 17.95% of the shares of stocks in DI Security and General Services, Inc., and 2.20% of such shares in the Manila Peninsula Hotel, Inc.^[2] The Corporation employed 473 employees, 355 of whom were members of the sole bargaining unit of the employees therein, the Philippine Carpet Employees Association (Union for brevity).^[3]

The 2002-2004 Collective Bargaining Agreement (CBA) between the Corporation and the Union was to expire on March 16, 2004.^[4] In a letter dated February 10, 2004 addressed to the Corporation's Assistant Vice President for Administration, Manuel Ike Diaz, the Union proposed the holding of a conference between representatives of the Union and the Corporation on February 24, 2004, to commence negotiations for the next CBA. Appended to the letter were proposals on revisions of the previous CBA, which included wage and bonus increase, welfare allowances and hospitalization incentives, transportation, uniform, and rice subsidy augmentation. The Union also proposed the amendment of the existing retirement program of the Corporation for its employees.^[5]

The Corporation did not respond to the letter. Consequently, the proposed conference failed to materialize.^[6] On March 9, 2004, Diaz issued a Memorandum informing all employees that a comprehensive cost reduction program would be implemented by the Corporation on April 15, 2004, "on account of depressed business conditions brought about by the currency crisis in Southeast Asia, the Middle East war and the 9/11 incident in the United States of America." According to the Memorandum, the employees concerned would receive the following benefits:

- a) Separation pay
- b) Cash equivalent of earned but unused vacation and sick leave credits
- c) Pro-rata 13th month pay^[7]

Of the 88 employees who were terminated from employment, 77 were Union members,^[8] including Edgardo Villanueva, who was elected Union officer after the personnel reduction program commenced. The 14 Union members who were retrenched received their separation pay and other benefits from the Corporation.^[9]

In a letter dated March 11, 2004, Diaz informed the Department of Labor and Employment (DOLE) of its retrenchment program, which was being implemented "on account of a slump in the demand of its products due to their uncompetitiveness compared to similar products made elsewhere in Asia where cost of labor is very low." According to the letter, the Corporation decided to retrench its personnel to save production costs and to stay in business.^[10] The Corporation submitted the list of 88 employees who were to be retrenched effective at the close of working hours on or about April 15, 2004.^[11]

In a letter^[12] dated March 18, 2004 signed by Rafael G. Villareal, Acting Assistant General Manager, the Corporation proposed a moratorium on wage increase and additional benefits, considering that business, especially the export manufacturing sector, had been hard hit by "a series of externally generated factors." It was pointed out that the prices of the Corporation's products remained uncompetitive compared to those of China, Thailand, and Indonesia, and this drove prospective buyers away. The Corporation was also confronted with stiff competition coming from traders who brought in smuggled goods and the fact that the market trend had shifted to cheap foreign-produced carpet rolls. The letter also stressed that the carpet industry profits were predominantly marginal due to competition and customer requirements.

The letter further stated that the Philippine economy in general was in crisis, and that the biggest problem of all was the uncertainty of the country's political and economic future. Consequently, the volume of business generated by the Corporation had steadily declined from 2000 to 2003, such that workers were forced to avail of their leaves as there was not enough workload. The Corporation's objective was to keep the business viable by rationalizing manpower and reducing production and labor cost, including the implementation of the voluntary retirement program. The Corporation anticipated a prolonged demand slowdown and it was surmised that, based on reasonable projections, the business would remain at a standstill with no improvement until after two or three years.^[13] Thus, given these circumstances, the only way to survive the crisis was for the Union to agree on a moratorium on increase in wages and benefits.^[14]

Frustrated at the Corporation's response, the Union filed a notice of strike with the DOLE on the same day. Negotiations before the National Conciliation and Mediation Board ensued,^[15] but the Corporation stood pat on its stance for a moratorium on increases in wages and benefits. The Union rejected this and accused the Corporation of union busting, as 77 of its members were dismissed.

On March 31, 2004, the Union filed a petition^[16] with the DOLE for the Secretary of

Labor and Employment (SOLE) to assume jurisdiction over the labor dispute involving the following issues:

A. ECONOMIC ISSUES

1. Wage Increase
2. Benefits
 - 2.1 Uniform
 - 2.2 HMO (Hospitalization Assistance)
 - 2.3 Christmas Bonus
 - 2.4 Rice Subsidy
 - 2.5 Early Retirement

B. NON-ECONOMIC ISSUES

1. Scope of the Bargaining Unit

C. UNFAIR LABOR PRACTICE

1. Illegal dismissal of 76 union members;
2. CBA violation; and
3. Refusal to bargain.^[17]

In its Position Paper, the Union alleged that its proposed CBA package for three years (2004 to 2007) would amount only to P35,890,500.00, or an average of P11,963,500.00 per CBA year, hardly a dent on the Corporation's accumulated net profit of P213,858,402.00 for the last six years (1998 to 2003). It was pointed out that the Corporation earned a net income of P39,553,028.00 in 2002, and P12,729,776.00 in 2003. The Union claimed that there was no valid economic reason to retrench employees, and that a "slump" in demand of the Corporation's products was not a valid ground to dismiss employees. The Union also charged the Corporation of resorting to a sinister scheme of re-channeling its carpet business to its wholly owned subsidiary, PCMC-Clark, while negotiations for a new CBA were ongoing. According to the Union, this was also to justify the dismissal of the 77 Union members and bust the Union in the process. The Union insisted that the Corporation was guilty of unfair labor practice.^[18]

The Union maintained that in dismissing its employees, the Corporation violated the mandatory 30-day notice rule because such employees received the notice of termination on March 13, 2004 (Saturday), to take effect the following working day, March 15, 2004 (Monday). It stressed that the 30-day mandatory notice could not be substituted by paying the affected employees their respective one month salaries.^[19]

For its part, the Corporation alleged that based on the documents submitted to the SOLE, it suffered a sharp decline in business in terms of volume and income derived since 2001, caused by the Asian financial crisis and later aggravated by the 9/11 incident in the U.S. and the ongoing war in the Middle East. This was aggravated by higher production and labor costs as compared to its competitors in China, Thailand, and Indonesia; as such, the net incomes of the Corporation drastically declined from 2000 to 2003, as follows:

2000	—	P41,905,721.00
2001	—	P32,903,800.00

2002 — P27,661,213.00
 2003 — P11,122,142.00^[20]

The Corporation went on to explain that its income from the domestic market and export operations declined sharply: from its export operations, its income of P28,855,000.00 in 2001 dropped to P23,927,000.00 in 2002; and, thereafter, to P5,796,000.00 in 2003. From its domestic operations, it had a net loss of P1,406,000.00 in 2001 which increased to P7,363,000.00 in 2002, and to P6,605,000.00 in 2003. The sharp decline in export sales and income in 2003 was due to the fact that it lost 16 of its clients in the Middle East, costing the Corporation a total of US\$4,668,908.28 in unrealized sales.^[21] It also lost 70 of its domestic clients to its competitors, resulting in unrealized sales of P69,866,638.67.^[22] Due to the lack of orders, the volume of business was drastically reduced, as shown in the workload of the Corporation as of April 2004:

x x x the workload for PPC was good for only 8 days; for Spinning, 40 days; for Dyeing, 2 days; for Graphic Arts, 8 days; for Stenciling, 15 days; for Weaving, 8 days; for Sample, 3 days; for Pass Machine, 1 day; and for Car Carpet, 16 days.^[23]

Aside from the 88 affected employees, even managerial and supervisory employees were not spared, as six of them were also retrenched. Seventeen Union members had accepted their separation pay and other benefits, and as to the remaining employees, the Corporation averred that they received the following, aside from productivity incentive bonuses:

Average basic wage	P382.15 per day
Transportation allowance	8.00 per day
Meal allowance	5.50 per day
ECOLA	20.21 per day
13 th month pay	37.84 per day
Average seniority pay	41.62 per day
Average vacation/sick leave conversion	18.92 per day
Rice subsidy	14.52 per day ^[24]

On June 23, 2004, the SOLE rendered a Decision^[25] granting wage increases totalling P8,039,330.00 to the employees for the three years of the CBA:

1st year — ten pesos per day (P10.00/day)
 2nd year — twelve pesos per day (P12.00/day)
 3rd year — thirteen pesos per day (P13.00/day)^[26]

Relative to increased benefits for uniform, Christmas package, rice subsidy, and early retirement plan/separation pay, the SOLE ordered the retention of the status quo. However, the SOLE denied the demand of the Union as to the scope of the bargaining unit.^[27]

The SOLE likewise affirmed the termination of the 88 employees on the ground that, if not for the personnel reduction program implemented from 2001 to 2004, the

Corporation would have lost P12,024,958.00 in 2003; P22,820,151.00 in 2004; P29,274,211.00 in 2005; and P26,924,602.00 in 2006.^[28] The SOLE also ruled that the Corporation was not guilty of union-busting.^[29]

The Union thereafter filed a petition for *certiorari* with the Court of Appeals (CA), assailing the decision of the SOLE on the following grounds:

I

THE HON. SECRETARY OF LABOR AND EMPLOYMENT GRAVELY ABUSED HER DISCRETION AMOUNTING TO LACK OF JURISDICTION IN RULING THAT THERE WAS JUST CAUSE FOR DISMISSAL. THE ALLEGED "SLUMP IN THE DEMAND FOR OUR PRODUCTS" IS NOT A GROUND FOR DISMISSAL AS RULED IN THE CASE OF *VIVIAN Y. IMBUIDO VERSUS NATIONAL LABOR RELATIONS COMMISSION, INTERNATIONAL INFORMATION SERVICES, INC. AND GABRIEL LIBRANDO*.

II

THE HON. SECRETARY OF LABOR AND EMPLOYMENT GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF JURISDICTION IN NOT FINDING THAT RESPONDENT PHILIPPINE CARPET MANUFACTURING CORP. AND ITS OFFICERS ARE LIABLE FOR UNFAIR LABOR PRACTICE. RESPONDENTS CANNOT BE ALLOWED TO HIDE ON ITS CORPORATE VEIL IN ORDER TO IMPLEMENT THEIR "EVIL SCHEME" AGAINST THE UNION AND ITS MEMBERS.

III

THE HON. SECRETARY OF LABOR AND EMPLOYMENT GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF JURISDICTION IN NOT FINDING THAT THE 30-DAY MANDATORY NOTICE WAS SUBVERTED FOR VALID DISMISSAL.^[30]

On June 2, 2005, the Union submitted a Manifestation dated May 30, 2005, stating "that Philippine Carpet had more business in 2004 than the previous year thereby negating its very ground for Mass Dismissal of 77 Union members on ground of low volume of business."^[31] The Union averred that based on the Consolidated Balance Sheets of the Corporation and its subsidiaries, there was a P504,580,259.00 increase in net sales in 2004, compared to the P469,129,788.00 net sales in 2003. They alleged that the income from their operations tripled to P60,494,908.00 in 2004 with a net profit of P48,193,416.00. After the retrenchment program was implemented, more than 100 new workers were hired, including some of those who had been retrenched, and 12 managers and supervisors were promoted. The Union appended to its Manifestation an audit report of the Corporation dated March 10, 2005 prepared by SGV & Co. which was filed with the Securities and Exchange Commission (SEC) on April 15, 2005.^[32]

The Corporation replied that the newly hired and rehired employees were only for fixed periods, a practice it had adopted even before it dismissed the 88 employees, inclusive of the 77 Union members.