497 Phil. 621

SECOND DIVISION

[G.R. NO. 159195, May 09, 2005]

MOBILE PROTECTIVE & DETECTIVE AGENCY AND/OR BENJAMIN AGUILAR, PETITIONERS, VS. ALBERTO G. OMPAD, RESPONDENT. [1]

DECISION

PUNO, J.:

The instant petition stemmed from a complaint for illegal dismissal, underpayment or non-payment of wages, overtime pay, premium pay for holiday and rest day, separation pay, holiday pay, service incentive leave pay, 13th month pay and attorney's fees filed by respondent Alberto G. Ompad against petitioners Mobile Protective & Detective Agency (Agency) and/or its president and general manager, Benjamin C. Aguilar.

Respondent alleged that he was employed by the Agency as security guard in January 1990 and was, since then, detailed to its various clients. He claimed having worked twelve (12) hours a day, even during rest days and holidays, without receiving overtime pay, rest day pay, holiday pay, service incentive leave pay and 13th month pay. His daily wages of P138.00 since 1995 and P140.00 in 1997 were allegedly below the minimum wage.[2]

Sometime in June 1997, respondent inquired from the project manager of the Agency's client, Manila Southwoods, if the latter had already paid their backwages to the Agency. When petitioners found out about his query, respondent was allegedly relieved from his post and never given another assignment.[3]

On September 23, 1998, petitioners allegedly promised that they would pay respondent his money claims provided he signs a resignation letter. He was also told to copy in his handwriting the same resignation letter. As he needed the money, he complied. Thereafter, petitioners would give him only the meager amount of P5,000.00, which he rejected. Respondent filed the instant complaint the following day. He claimed that he was illegally dismissed in October 1997[4] and prayed for reinstatement with backwages or backwages with separation pay and money claims, as may be determined by the Labor Arbiter.[5]

On the other hand, petitioners denied respondent's allegations. According to their version, respondent was assigned to another client, the Valle Verde Country Club (VVCC), from August 29 to October 31, 1997 after he was relieved from his post at Manila Southwoods.[6] Respondent's co-guard at VVCC, Merlyn V. Chavez, attested that respondent drove his own tricycle whenever he was not on duty. He told her that if he engages in his tricycle operation full time, he would be earning well.[7]

On October 15, 1997, respondent reported for duty at VVCC limping due to an injury sustained from his tricycle operation. He told his headguard, Wifredo D. Bialen, "*(m)alabo na siguro ang balik ko baka mamasada na lang ako ng aking tricycle*" (My return is unlikely, I might just drive my own tricycle). On October 16, 1997, respondent allegedly stopped reporting for work.[8]

On September 23, 1998, the operations manager of the Agency, Domingo A. Alonzo, saw respondent in his office and asked him whether he was still available for posting. Respondent told him that he "cannot accept any duty anymore because [he was] rheumatic and filing [his] partial disability with SSS." Alonzo advised him that if he was no longer interested to work, he might as well resign. Respondent submitted his handwritten resignation letter and left the office.[9] He secured the necessary clearance prior to his resignation which was signed by him and approved by petitioner Aguilar. Petitioners pointed out that respondent stated in his resignation letters that he had no more claims against the Agency. They also alleged that it took respondent at least a year to file the instant complaint.[10]

In his Reply to [Petitioners'] Position Paper,[11] respondent assailed the affidavits of the Agency's employees as self-serving and contended that as employer, the Agency has the burden to prove payment of salaries and benefits. In their Reply to [Respondent's] Position Paper,[12] petitioners submitted payrolls and petty cash vouchers to show that respondent received his salaries and benefits for January to December 1996, January to May 1997 and September to October 1997. They claimed that respondent's allegation that he was offered money for his resignation was a mere "product of [his] imagination." In his Rejoinder,[13] respondent submitted the Agency's Statement of Account to its client Fil-Estate Development, Inc. (Fil-Estate) and a certification from the officer-in-charge of Fil-Estate to show that he worked for 12 hours every day without rest day and even during holidays. Finally, in their Rejoinder,[14] petitioners averred that the certification submitted by respondent was self-serving because the said officer-in-charge was separated after a brief employment. They also argued that their billing to another client, Fil-Estate, is irrelevant to the case at bar.

Labor Arbiter Edgardo M. Madriaga dismissed the complaint for lack of merit.[15] He held that: "[i]t is hard to believe that he (respondent) was coerced twice [into signing the resignation letters] and he did nothing about it." He also gave credence to the official payrolls and vouchers submitted by petitioners to prove that respondent was paid all his money claims. Labor Arbiter Madriaga further held that if respondent was really aggrieved, he should have filed his complaint immediately and not one year after.

Respondent appealed to the National Labor Relations Commission (NLRC) which reversed the decision of Labor Arbiter Madriaga as to the issue of illegal dismissal. The *fallo* of the decision states:

> WHEREFORE, the Decision of the Labor [A]rbiter dated 15 July 1999 is MODIFIED declaring the dismissal of complainant illegal and ordering respondent to pay complainant his separation benefits in lieu of reinstatement by reason of strained relationship of one (1) month pay for every year of service based on the prevailing minimum wage times

length of service as well as backwages from the time his compensation was withheld on October 1997 up to February 2000.

SO ORDERED.[16]

The NLRC held that respondent, who "had been in the employ of [petitioner Agency] for almost eight (8) years and his employment being his only source of living to support his family will not [in his] right mind quit his employment if not for the fact as observed by the Labor Arbiter that he was relieved from his post and never given any detail assignment after making inquiry [with] Manila Southwood[s] about their unpaid backwages." It observed that the two identical resignation letters, one *pro forma* and the other handwritten, were "lopsided[ly] worded" to free the Agency from liabilities. The NLRC ruled that respondent was illegally dismissed from the time he was relieved from his post and not given subsequent assignment. It held that the offer to sign the letters of resignation in exchange for separation pay was the only option available to respondent at that time. It did not, however, change the fact that respondent was "constructively dismissed" by the Agency. The NLRC, however, agreed with the findings of the Labor Arbiter as regards the issue of money claims.[17]

Petitioners filed their motion for reconsideration of the NLRC's decision, attaching respondent's daily time records from August to October, 1997.[18] After their motion was denied,[19] they filed a Petition for *Certiorari*[20] with the Court of Appeals (CA).

In its Decision dated March 21, 2003,[21] the CA found the petition bereft of merit. It noted that the decision of the Labor Arbiter took note of the allegations of respondent "that he (respondent) was coerced into signing a resignation letter on September 23, 1998" and "that he was relieved from his post at Manila Southwoods and never given an assignment after he inquired as to payment of backwages to the agency by the client." The CA held that there is no voluntariness "[w]hen the first resignation letter was a pro forma one, entirely drafted by the petitioner Agency for the private respondent to merely affix his signature, and the second one entirely copied by the private respondent with his own hand from the first resignation letter." The CA upheld the NLRC's findings that the resignation letters were "lopsidedly worded" in favor of the Agency and gave credence to respondent's version that he only signed those letters upon petitioners' assurance that he would, in exchange, be given his separation pay. The *fallo* of the CA's decision states:

WHEREFORE, premises considered, the instant petition is DENIED DUE COURSE and is hereby DISMISSED for lack of merit. The Resolution dated April 28, 2000, as well as the Resolution dated August 31, 2000, is hereby AFFIRMED.

SO ORDERED.[22]

Petitioners filed a motion for reconsideration, attaching Duty Detail Order No. 9993, [23] an order from petitioner Aguilar assigning respondent to render security duties at VVCC from September 29 to October 31, 1997. Their motion was denied,[24] hence, they filed this appeal assigning the lone error that:

THE COURT OF APPEALS GRAVELY ERRED WHEN IT DISMISSED THE PETITION AND DENIED THE MOTION FOR RECONSIDERATION BY DISREGARDING THE LAW AND JURISPRUDENCE APPLICABLE TO DISMISS THE COMPLAINT OF PRIVATE RESPONDENT.[25]

It is well-settled that in labor cases, the factual findings of the NLRC are accorded respect and even finality by this Court when they coincide with those of the Labor Arbiter and are supported by substantial evidence. However, where the findings of the NLRC and the Labor Arbiter are in variance, as in the case at bar, this Court may delve into the records and examine for itself the questioned findings.[26]

In this case, petitioners maintain that the CA and the NLRC gravely erred in ruling that there was illegal dismissal on the basis of respondent's "bare allegations." Allegedly, the two elements for a valid resignation, viz, the formal act of resignation and the intent to resign, are present in this case. First, petitioners contend that the resignation letters are the "hard evidence" that respondent resigned. Second, the affidavits of Merlyn V. Chavez, Wilfredo D. Bialen, and Domingo A. Alonzo proved respondent's intention to relinquish his position, as shown by his conduct proximate to his tender of resignation. They contend that respondent merely "concretized his intention to sever his relations" with the Agency by not reporting for duty for a period of almost one (1) year. Finally, petitioners contend that respondent's claim that he was relieved from his post at Manila Southwoods and never given any assignment after petitioners learned of his inquiry with Manila Southwoods regarding its payment of backwages to the Agency is belied by petitioners' documentary evidence consisting of Duty Detail Order No. 9993,[27] payrolls[28] and daily time records. [29]

We find the contentions unmeritorious.

First, it is a rule that quitclaims, waivers or releases are looked upon with disfavor and are commonly frowned upon as contrary to public policy and ineffective to bar claims for the measure of a worker's legal rights.[30]

In this case, the subject resignation letters identically read:

Sept. 23/98
(Date)

The Manager
MOBILE PROT. & DET. AGENCY, INC.
E. Rodriguez Jr. Ave. cor. Atis St.,
Valle Verde I, Pasig City

Sir:

I have the honor to tender my resignation as Security guard under your Agency effective today Sept. 23/98 .

That I have regularly received all what is due me for the services rendered as Security Guard under said Agency for the whole period of my employment.

That I have never incurred any injury during and in the course of my employment.

That the MOBILE PROTECTIVE & DETECTIVE AGENCY, INC. has no further obligation due me, either for money or otherwise as a result of or arising out of my employment, and that I have no claims or complaints against my employer or the Agency, judicial or administrative.

Hoping for your consideration on this matter.

Respectfully yours,

_____

(sgd.) Security Guard
(Print Name)
ALBERTO G. OMPAD

Approved by:

_____

(sgd.) COL. BENJAMIN C. AGUILAR (ret)
President & General Manager[31]

We agree with the NLRC and the CA that the two resignation letters are dubious, to say the least. A bare reading of their content would reveal that they are in the nature of a quitclaim, waiver or release. They were written in a language obviously not of respondent's and "lopsidedly worded" to free the Agency from liabilities. We uphold the CA's ruling that: "[w]hen the first resignation letter was a *pro forma* one, entirely drafted by the petitioner Agency for the private respondent to merely affix his signature, and the second one entirely copied by the private respondent with his own hand from the first resignation letter, voluntariness is not attendant." [32]

Moreover, it is a rule that resignation is difficult to reconcile with the filing of a complaint for illegal dismissal.[33] Hence, the finding that respondent's resignation was involuntary is further strengthened by the fact that respondent filed the instant case the day after the alleged tender of resignation.

Second, the affidavits of Chavez, Bialen and Alonzo are highly suspect as these affiants are under the employ of the very agency which extracted the dubious resignation letters from respondent. Even if we do give full credit to them, the following excerpts from the same affidavits put in grave doubt petitioners' claim that respondent lost interest to work: First, Chavez appears to have no direct personal knowledge of the real reason for respondent's absence. While she attested that respondent "was proud of having acquired a tricycle" and that "when off duty, he drives his tricycle for fares," she merely attested that on October 15, 1997, respondent "came in for duty limping" and that she "**suspected** then, that the injury was **possibly** due to a motor accident, considering his off duty tricycle operations."[34] (*emphases supplied*) Second, headguard Bialen attested that respondent approached him on October 15, 1997 and informed him that he