

## SECOND DIVISION

[ G.R. No. 117963, February 11, 1999 ]

**AZCOR MANUFACTURING INC., FILIPINAS PASO AND/OR  
ARTURO ZULUAGA/OWNER, PETITIONERS, VS. NATIONAL  
LABOR RELATIONS COMMISSION (NLRC) AND CANDIDO  
CAPULSO, RESPONDENTS.**

### DECISION

**BELLOSILLO, J.:**

AZCOR MANUFACTURING, INC., Filipinas Paso and Arturo Zuluaga instituted this petition for *certiorari* under Rule 65 of the Rules of Court to assail, for having been rendered with grave abuse of discretion amounting to lack or excess of jurisdiction, the Decision of the National Labor Relations Commission which reversed the decision of the Labor Arbiter dismissing the complaint of respondent Candido Capulso against petitioners.<sup>[1]</sup>

Candido Capulso filed with the Labor Arbiter a complaint for constructive illegal dismissal and illegal deduction of P50.00 per day for the period April to September 1989. Petitioners Azcor Manufacturing, Inc. (AZCOR) and Arturo Zuluaga who were respondents before the Labor Arbiter (Filipinas Paso was not yet a party then in that case) moved to dismiss the complaint on the ground that there was no employer-employee relationship between AZCOR and herein respondent Capulso; that the latter became an employee of Filipinas Paso effective 1 March 1990 but voluntarily resigned therefrom a year after. Capulso later amended his complaint by impleading Filipinas Paso as additional respondent before the Labor Arbiter.

On 14 January 1992, Labor Arbiter Felipe T. Garduque II denied the motion to dismiss holding that the allegation of lack of employer-employee relationship between Capulso and AZCOR was not clearly established. Thereafter, the Labor Arbiter ordered that hearings be conducted for the presentation of evidence by both parties.

The evidence presented by Capulso showed that he worked for AZCOR as ceramics worker for more than two (2) years starting from 3 April 1989 to 1 June 1991 receiving a daily wage of P118.00 plus other benefits such as vacation and sick leaves. From April to September 1989 the amount of P50.00 was deducted from his salary without informing him of the reason therefor.

In the second week of February 1991, upon his doctor's recommendation, Capulso verbally requested to go on sick leave due to bronchial asthma. It appeared that his illness was directly caused by his job as ceramics worker where, for lack of the prescribed occupational safety gadgets, he inhaled and absorbed harmful ceramic dusts. His supervisor, Ms. Emily Apolinaria, approved his request. Later, on 1 June 1991, Capulso went back to petitioner AZCOR to resume his work after recuperating

from his illness. He was not allowed to do so by his supervisors who informed him that only the owner, Arturo Zuluaga, could allow him to continue in his job. He returned five (5) times to AZCOR but when it became apparent that he would not be reinstated, he immediately filed the instant complaint for illegal dismissal.<sup>[2]</sup>

Capulso presented the following documentary evidence in support of his claim: (a) His affidavit and testimony to prove that he was terminated without just cause and without due process;<sup>[3]</sup> (b) Identification card issued by AZCOR which he continued to use even after his supposed employment by Filipinas Paso;<sup>[4]</sup> (c) Certification of SSS premium payments;<sup>[5]</sup> (d) SSS Member Assistance Form wherein he stated that he worked with AZCOR from March 1989 to April 1991;<sup>[6]</sup> (e) Certification of Employee Contribution with SSS;<sup>[7]</sup> and, (f) Payslips issued by AZCOR.<sup>[8]</sup>

On the other hand, petitioners alleged that Capulso was a former employee of AZCOR who resigned on 28 February 1990 as evidenced by a letter of resignation and joined Filipinas Paso on 1 March 1990 as shown by a contract of employment; in February 1991 Capulso allegedly informed his supervisor, Ms. Emilia Apolinaria, that he intended to go on terminal leave because he was not feeling well; on 1 March 1991 he submitted a letter of resignation addressed to the President of Filipinas Paso, Manuel Montilla; and, in the early part of June 1991 Capulso tried to apply for work again with Filipinas Paso but there was no vacancy.

Petitioners submitted the following documentary evidence: (a) Sworn Statement of Ms. Emilia Apolinaria and her actual testimony to prove that respondent indeed resigned voluntarily from AZCOR to transfer to Filipinas Paso, and thereafter, from Filipinas Paso due to failing health;<sup>[9]</sup> (b) Contract of Employment between Filipinas Paso and respondent which took effect 1 March 1991;<sup>[10]</sup> (c) Letter of resignation of respondent from AZCOR dated 28 February 1990, to take effect on the same date;<sup>[11]</sup> (d) Undated letter of resignation of respondent addressed to Filipinas Paso to take effect 1 March 1991;<sup>[12]</sup> (e) BIR Form No. W-4 filed 6 June 1990;<sup>[13]</sup> (f) Individual Income Tax Return of respondent for 1990;<sup>[14]</sup> and, (g) BIR Form 1701-B which was an alphabetical list of employees of Filipinas Paso for the year ending 31 December 1990.<sup>[15]</sup>

On 29 December 1992 the Labor Arbiter rendered a decision dismissing the complaint for illegal dismissal for lack of merit, but ordered AZCOR and/or Arturo Zuluaga to refund to Capulso the sum of P200.00 representing the amount illegally deducted from his salary.

On appeal by Capulso, docketed as NLRC CA No. 004476-93 (NLRC NCR 00-09-05271-91), "*Capulso v. Azcor Manufacturing Inc., Filipinas Paso and/or Arturo Zuluaga/owner*," the NLRC modified the Labor Arbiter's decision by: (a) declaring the dismissal of Capulso as illegal for lack of just and valid cause; (b) ordering petitioners to reinstate Capulso to his former or equivalent position without loss of seniority rights and without diminution of benefits; and, (c) ordering petitioners to jointly and solidarily pay Capulso his back wages computed from the time of his dismissal up to the date of his actual reinstatement. The NLRC held in part -

x x x x the contract of employment (Exh. 2, p. 187, Rollo) issued to complainant indicates that the work to be done during the period was

contracted with Filipinas Paso. The said contract was signed by the Personnel Officer of Ascor Manufacturing Inc. Likewise, the contract period is for six (6) months, which establishes a presumption that the said contract could pass either as to cover the probationary period, or job contracting, the completion of which automatically terminates employment, whichever will work to respondent's advantage should the case be filed. However, appellant continued working with respondent after the lapse of the contract and until the alleged termination of employment of appellant.

Secondly, the two resignation letters allegedly executed by appellant are exactly worded, which only shows that the same were prepared by respondents-appellees plus after the fact that complainant denied having executed and signed the same.

x x x x the letter of resignation (Exh. "3", p. 188, Rollo) supposed to have been executed by complainant-appellant shows that he resigned from Ascor Mfg., Inc. on February 28, 1990 while Exhibit "2", page 187, Rollo, which was the contract of Employment issued to Candido Capulso by the personnel officer of Ascor Mfg., Inc. shows that appellant was being hired from March 1, 1990 to August 31, 1990 by respondent Ascor Mfg., Inc. to do jobs for Filipinas Paso. A run-around of events and dates.

The events that transpired clearly show that there was no interruption in the service of complainant with Ascor Mfg., Inc. from April 13 1989 up to June 1, 1991 when complainant was unceremoniously dismissed.

Considering that Ascor Mfg., Inc. and Filipinas Paso orchestrated the events that appeared to be in order with the alleged execution of resignation letters which was disputed by complainant and confirmed spurious as explained above, likewise overwhelmingly show the bad faith of respondents in the treatment of their employees.

Petitioners' motion for reconsideration was denied by the NLRC through its Resolution of 14 October 1994; hence, the instant petition. Meanwhile, during the pendency of the case before this Court, Capulso succumbed to asthma and heart disease.

The issue to be resolved is whether the NLRC committed grave abuse of discretion in declaring that private respondent Capulso was illegally dismissed and in holding petitioners jointly and solidarily liable to Capulso for back wages.

As a rule, the original and exclusive jurisdiction to review a decision or resolution of respondent NLRC in a petition for *certiorari* under Rule 65 of the Rules of Court does not include a correction of its evaluation of the evidence but is confined to issues of jurisdiction or grave abuse of discretion. The NLRC's factual findings, if supported by substantial evidence, are entitled to great respect and even finality, unless petitioner is able to show that it simply and arbitrarily disregarded the evidence before it or had misappreciated the evidence to such an extent as to compel a contrary conclusion if such evidence had been properly appreciated.<sup>[16]</sup> We find no cogent reason to disturb the findings of the NLRC.