FIRST DIVISION

[G.R. No. 120008, October 18, 1996]

PHILIPPINE ADVERTISING COUNSELORS, INC. AND/OR ADRIEL C. PEÑA, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND TEODORO M. DIAZ, RESPONDENTS.

D E C I S I O N

VITUG, J.:

Petitioners assail, in the petition (*for certiorari*) before us, the decision, dated 29 December 1994 and the resolution, dated 11 April 1995, of public respondent National Labor Relations Commission ("NLRC") reversing the 29th November 1993 ruling of Labor Arbiter Manuel R. Caday in NLRC-NCR-Case No. 00-07-03769-91.

Private respondent Teodoro M. Diaz joined the Philippine Advertising Counselors/BBDO Worldwide, Inc. ("PAC"), in 1976. His initial appointment with the firm was that of an Executive Account Trainee. He later rose to the position of Vice President and concurrently, head of the Account Management Group.

In December, 1990, during a meeting of the company's senior management officials, Chairman of the Board Antonio G. Cumagun accused Elenita C. Panganiban, then the owner of fifty-two (52%) percent of PAC, of trying to manipulate the value of PAC's share of stock in order to obtain a better price of her shares. Cumagun thereupon made known his intention to organize a new advertising agency. He asked private respondent to join the group but the latter expressed reluctance to the idea. He, instead, suggested that the owners should reconcile their differences. On 20 January 1991, private respondent was summoned by petitioner Adriel C. Peña, PAC President, to the latter's townhouse unit. Peña expressed his disappointment over private respondent's non-committal stance. Peña again asked private respondent to join the Cumagun group but Diaz would not be convinced. From then on, Diaz was treated with indifference, if not hostility, by Peña.

Ultimately, the Cumagun faction bought out the Panganiban group. A major reorganization of PAC followed, The Account Management Group, then composed of four major divisions, was expanded into six departments. Diaz's position was abolished and he was made to merely head a division of the Account Management Group. On 27 June 1991, Diaz served on petitioners notice that he considered himself constructively dismissed. He forthwith filed a complaint for illegal dismissal, non-payment of 13th month pay, payment of separation pay, and other monetary claims, against petitioners.

On 29 November 1993, Labor Arbiter Manuel R. Caday held that Diaz was "never dismissed, constructively or otherwise," but that he had "voluntarily severed his employment with respondent." The labor Arbiter further adjudged:

"Lastly anent the third issue of whether or not complainant Diaz is entitled to separation pay and to other monetary benefits like retirement pay accrued vacation leave and proportionate 13th month pay for the year 1991, this Office is of the considered view and so holds that except for the other mentioned monetary benefits to which complainant Diaz is considered to be entitled, he is not entitled to any separation pay for the same reasons in denying him entitlement to damages and attorney's fees, namely his being not dismissed as in fact, it was he who voluntarily severed his employment relationship with the respondent Company.

"Regarding retirement benefits, accrued vacation leave and proportionate 13th month pay for the year 1991, these were admitted to be due to complainant and offered to be paid during the proposed (but aborted) settlement of the case. Under the retirement plan of the Company, Diaz' entitlement of one-half month pay for each year of service will amount to P240,000.00, computed as follows: P32,000.00 divided by 2 times 15 years.

"As to vacation leave, Diaz has an accrued leave of 24 days amounting to P29,350.32 and a pro rata 13the month pay for the year 1991 equivalent to 6 months or one-half month pay amounting to P16,000.00. (Exhs. 'II and '3-A).

"All in all, herein three (3) monetary benefits due to complainant amounted to P285,350.32.

"Considering, however, that complainant Diaz' unpaid balance on his car loan plus interest will amount to more than the amount due him, and this does not include yet his unpaid balance on his housing loan plus interest to the Dominion Development and Investment, Inc. payment of Diaz' monetary benefits has to be withheld or be considered as payment to offset part of his outstanding balance on his car loan. This is in consonance with his commitment in the Promissory note for P303,704.00 car loan (Exh. 'C' and '2'), wherein he authorizes the respondent Company to deduct his outstanding balance from any and all benefits he may received or may be entitled to receive from the Company and from the employees' pension fund as a result of his termination for any reason whatsoever. In case of any further balance he shall continue to be liable therefor and the same shall be paid as of date of default or separation (Exh. '2-B').

"WHEREFORE, premises all considered, the respondents are hereby ordered to pay complainant Teodoro M. Diaz the sum of TWO HUNDRED EIGHTY FIVE THOUSAND THREE HUNDRED FIFTY & 32/100 (P285,350.32) as above computed, subject however to their right to withhold payment thereof and instead consider it as payment to off-set part of his still outstanding balance on his car loan.

"As to the other charges or claims of the complainant, the same are hereby dismissed for lack of merit.

SO ORDERED."[1]

Dissatisfied with the decision, Diaz appealed to respondent commission.

The NLRC's Second Division[2] partly upheld Diaz and, in its decision of 29 December 1994, concluded:

> "WHEREFORE, in view of all the foregoing, the appeal is hereby GRANTED. The Decision, dated 29 November 1993, of the Labor Arbiter a quo is hereby MODIFIED, ordering Appellees to pay Appellant separation pay equivalent to one-month pay for every year of his 15 years of service or P600,000.00 (P32,000.00 basic salary + P8,000.00 allowances = P40,000.00 x 15 years = P600,000.00; sick leave and vacation leave benefits plus 13th month pay in proportion to the number of months in 1991 when he was constructively dismissed on 27 June 1991 in the amount of P16,000.00; moral damages in the amount of P500,000.00; and exemplary damages in the amount of P500,000.00 and attorney's fees equivalent to ten (10%) percent of the total money judgment herein, subject however to Appellees' right to set-off part of the total money judgement herein as payment for the principal balance of Appellant's car loan in the amount of P293,480.29.

> "SO ORDERED."[3]

Petitioners brought the case to this Court for relief, alleging that respondent commission-

> "x x x acted with grave abuse of discretion amounting to a lack or excess of jurisdiction in ruling for private respondent in the 29 December 1994 Decision and denying petitioners' Motion for Reconsideration in the questioned resolution dated for the following reasons:

> "a. Public respondent NLRC utterly and completely ignored in an arbitrary, capricious and one-sided manner the definitive findings of fact of Honorable Labor Arbiter Manuel Caday, who was in the best position to ascertain the credibility of the witnesses and other evidence during trial, and the compelling evidence adduced and elicited by petitioners in the proceedings below; and

> "b. Public respondent NLRC, without any factual or legal basis and contrary to this Honorable Court's ruling in Radio Communications of the Philippines vs. Rodriguez (182 SCRA 906) [1990], awarded private respondents moral and exemplary damages and in sums so unconcionably and palpably excessive so as to effect the unjust enrichment of private respondent."[4]

> The first contention is without merit.

The well-settled rule confines the original and exclusive jurisdiction of the Supreme Court in the review of decisions of the NLRC under Rule 65 of the Revised Rules of Court only to the issue of jurisdiction or grave abuse of discretion amounting to lack of jurisdiction.[5] Grave abuse of discretion is committed when the judgment is rendered in a capricious, whimsical, arbitrary or despotic manner.[6] An abuse of discretion does not necessarily follow just because there is a reversal by the NLRC of