SUPREME COURT
SECOND DIVISION

ATLANTIC GULF AND PACIFIC COMPANY OF MANILA, INC. (AG&P),
***Petitioner*,**

-versus-

G.R. No. 127516
May 28, 1999

NATIONAL LABOR RELATIONS COMMISSION, SECOND DIVISION, ENRIQUE M. GAMBOA, CLARO M. TUASON and JOHN DIN,
***Respondents*.**
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D E C I S I O N

PUNO, *J.*:

In this Special Civil Action for *Certiorari*, petitioner assails the Decision dated 30 September 1996, as well as the Resolution dated 6 December 1996 of public respondent National Labor Relations Commission (NLRC), Second Division, in NLRC NCR Case No. 05-02295-89 invalidating its redundancy program and the separation from service of private respondents.

It is of public notice that in the late 1980's, the construction industry experienced a major slump. In 1987, petitioner, a corporation

engaged in general construction work, reportedly incurred huge operating losses of P134.8 million and net losses of P35.42 million. To save itself, petitioner implemented on 1 March 1988, a redundancy program wherein one hundred seventy seven (177) employees occupying rank and file, managerial and staff positions were separated from employment. Among them were private respondents Gamboa, Tuason and Din, all members of the AG&P United Rank and File Association (AG&P URFA), the certified collective bargaining representative for all the rank and file employees of petitioner. These employees received all the benefits due them under the Labor Code. As separation pay equivalent to one (1) month salary for every year of service, respondent Gamboa received P149,261.13; respondent Tuazon was paid P99,037.26; and respondent Din was given P46,111.56. They also signed releases indicating their conformity with petitioner's redundancy program.[1]

More than a year after, or on 16 May 1989, petitioner was charged with unfair labor practice and illegal dismissal by private respondents. On 31 January 1991, Labor Arbiter Cresencio J. Ramos rendered a Decision in favor of private respondents. The dispositive portion of the decision reads:

> "WHEREFORE, premises considered, judgment is hereby rendered in this case as follows:
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> "1. declaring respondent's redundancy program as illegal;
>
> "2 ordering respondents to reinstate complainants to their previous or equivalent positions without loss of seniority rights with full backwages, to pay complainants backwages from April 1, 1988 to January 31, 1991 (2 years and 10 months) as follows:
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> | | |
> |---|---|
> | John Din | P90,221.72 |
> | Enrique Gamboa | 101,583.60 |
> | Claro Tuason | 99,373.50 |
> | | P291,178.82 |
> | | ========= |

"3. ordering respondents to pay complainants ten percent (10%) of the total award as attorneys fees or P29,117.88.

"The claims for moral and exemplary damages are denied for lack of sufficient basis.

"SO ORDERED."[2]

Arbiter Ramos held that the complaint of the private respondents was similar to the four (4) complaints[3] for illegal dismissal and unfair labor practice filed on 14 March 1988, by the AG&P URFA and thirty-six (36) union members against the petitioner. In these cases, the Third Division of the NLRC found petitioner guilty of the charge of unfair labor practice and illegal dismissal and ordered the reinstatement of complainants without loss of seniority rights and the payment of their full backwages plus attorney's fees. Arbiter Ramos adopted this ruling, thus:

x x x

"The evidence on hand provides us with no reason to deviate from the findings of the Commission in NLRC-NCR CASE NO. 00-03-1072-88 (and other cases related/consolidated thereto). As correctly found by the Commission, the termination of complainants from their work was placed under the guise of a redundancy program. The implementation of this program, effected in the wake of developments arising between the union and the company, particularly the strike on September 22 to October 18, 1987; the assumption of jurisdiction by the Secretary of Labor which subsequently rendered a decision on the economic issues of the strike and the CBA; and the pendency of the motion for reconsideration filed by both company and union with the Secretary of Labor (sic).

"It was also borne out by the evidence, and viewed correctly by the Honorable Commission, that the company's redundancy program has no basis for implementation on account of the substantial profits obtained by the company from 1983 to 1988.

> "Thus, the redundancy program was but a mere scheme to get rid of the complainants, all active union members, from further working at the company and to continue championing the cause of labor — which act constitutes not only illegal dismissal but unfair labor practice as well.
>
> "The receipt by the complainants of their respective separation pay, even if without protestation or reservation, does not stop them from asserting their right to security of tenure and self organization. As mere salaried employees, complainants were faced with no other choice but to accept the money to enable them to meet the demands of everyday living.
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> "In view of the foregoing and considering further that the individual complainants herein are similarly situated with the complainants in the aforementioned cases previously decided by the commission, we are constrained to rule in favor of complainants."[4]

In the meanwhile, the NLRC was reorganized pursuant to R. A. No. 6715, otherwise known as the New Labor Relations Law. The aforementioned decision of the former Third Division of the NLRC went to its First Division. After admitting on appeal evidence of losses sustained by the petitioner from 1987 up to 1990, the First Division set aside the decision of its former Third Division and dismissed the employees' complaints for illegal dismissal. After their motion for reconsideration was denied, complainants filed a petition[5] before this Court alleging grave abuse of discretion on the part of the NLRC. On 29 November 1996, the Second Division of this Court, through Mr. Justice Vicente V. Mendoza, denied the petition.

Going back to the case at bar, public respondent, on appeal, affirmed in toto the decision of Labor Arbiter Ramos in a Decision dated 30 September 1996. Petitioner moved for reconsideration but its motion was denied in a Resolution dated[6] December 1996. Hence, this petition.

Petitioner contends:

"1. The NLRC cannot overturn the decision of the Supreme Court dated November 29, 1996 in the case of AG&P [United] Rank and File Association vs. NLRC [First Division] and AG&P (G.R. No. 108259) upholding the legality of the redundancy program of AG&P.

"2. The NLRC ignored the fact that the present case is similarly situated to the facts of NLRC Case No. 00-03-01072-88, NLRC Case No. 00-03-01248-88, NLRC Case No. 00-05-01970-88, NLRC Case No. 00-05-01972-88 which were the cases in reviews in AG&P [United] Rank and File Association vs. NLRC [First Division] and AG&P (G.R. No. 108259).

"3. The dismissal of the private respondents was in accordance with law and public policy."[6]

The petition is impressed with merit.

The key issue is whether our Decision in G.R. No. 108259 is applicable to the case at bar. No less than the Solicitor General[7] makes the submission that said Decision is decisive of the case at bar. We quote in extenso the well taken view of the Solicitor General, viz.:

x x x

"It should be noted that this case is similar to and, in fact, ought to be regarded as part of the cases filed by the employees affected by AG&P's retrenchment program in 1988.

"In [the] implementation of its retrenchment program in 1988, AG&P laid off 177 of its employees. Thirty-six (36) of these employees, which excludes private respondents, filed complaints for illegal dismissal and unfair labor practice with the NLRC-NCR. These complaints, docketed as NLRC-NCR Cases Nos. 00-03-01072, 00-01248-88, 00-05-01970-88 and 00-05-01972-88, were heard by Labor Arbiter Quintin Mendoza who, in his decision dated 8 November 1988 (pp. 181-187, Record), dismissed them for lack of merit.

"On appeal, the NLRC's Third Division reversed the aforesaid Labor Arbiter's Decision in its Resolution dated 20 March 1989 (pp. 24-30, Record) and declared AG&P's redundancy program as illegal and, consequently, found AG&P guilty of unfair labor practice. AG&P moved for a reconsideration. On 29 May 1992, the NLRC's First Division, to which the case was reassigned, rendered a Resolution (pp. 424-430, Record) which reconsidered the Resolution of the NLRC's Third Division and reinstated Labor Arbiter Mendoza's Decision. After the employees' motion for reconsideration was denied by the NLRC in a Resolution dated 29 October 1992, they filed a petition for *certiorari* before this Honorable Court, docketed as G.R. No. 108259 (AG&P United Rank and File Association, et al. vs. NLRC, et al.). In this case, the employees squarely raised the issue of the validity of AG&P's redundancy/retrenchment program as well as the validity of the termination of their employment.

"Subsequently, private respondents filed on 16 May 1989 their own complaint a quo with [the] NLRC-NCR, where it was docketed as NLRC-NCR Case No. 00-05-02295-89. They raised the same issues posed in the earlier complaints filed by their thirty six (36) co-employees. The complaint was filed at the time the NLRC's Third Division already rendered its Resolution finding AG&P's retrenchment program as illegal and declaring it guilty of unfair labor practice in dismissing the 36 complaining AG&P employees but before the NLRC's First Division set aside the same Resolution.

"As already adverted to, Labor Arbiter Cresencio Ramos and the NLRC's Second Division both ruled in favor of private respondents, following the Resolution of the NLRC's Third Division in the former cases.

"Since the cases a quo stemmed from the same circumstances as the ones previously filed by the thirty six (36) AG&P employees, they share the same core issue: Was the redundancy/retrenchment program undertaken by AG&P in 1988 and the resulting termination of the employment of 177 of its employees, including private respondents herein, valid?

"The NLRC decided in the negative in its questioned Decision dated 30 September 1996. The NLRC, however, should have reconsidered its Decision after the Decision of this Honorable Court in G.R. No. 108259, which was promulgated on 29 November 1996, was brought to its attention.

"In G.R. No. 108259, this Honorable Court's Second Division; speaking through Justice Mendoza, ruled in favor of the validity of AG&P's 'redundancy' program. The Court declared though that the program should have been more properly denominated as a 'retrenchment' program because the reason for resorting to the dismissal by AG&P of its employees was economic in nature, i.e., to avoid or minimize business losses. The Court rejected the complaining employees' claim that the program was a mere scheme to bust the local union and instead ruled that AG&P duly established its claim of company losses which was the basis of the questioned retrenchment program. Thus:

> 'As already stated, the Labor Code recognizes retrenchment as one of the authorized causes for terminating the employer-employee relationship and the decision to retrench or not to retrench is a management prerogative. In the case at bar, the company losses were duly established by the financial statements presented by both parties. As the NLRC (First Division) noted:
>
> 'In the case at bar, there is no question that respondent's income had been continuously decreasing — P205 million in 1984; P175 million in 1985 and P101 million in 1986. In 1987, however, it declared a loss of P34 million. The declining trend in respondent's income and losses in 1987 confirms its allegation that respondent is predicting a bleak future considering the slump not only in foreign contracts but with respect to domestic contracts as well. True enough, respondent incurred further tremendous losses in 1990 in the amount of P176,181,505.00. In other words, the losses or abrupt down fall in income which respondent wanted to abate by resorting to the reduction in the number of employees was imminent and real.'

‘Indeed, the records show that aside from its ‘redundancy program’, respondent company had to resort to other cost-cutting measures in order to stave off impending losses.

‘Petitioners contend that the ‘redundancy program’ was actually a union-busting scheme of management, aimed at removing union officers who had declared a strike. This contention cannot stand in the face of evidence of substantial losses suffered by the company. Moreover, while it is true that the company rehired or reemployed some of the dismissed workers, it has been shown that such action was made only as company projects became available and that this was done in pursuance of the company’s policy of giving preference to its former workers in the hiring of project employees. The rehiring or reemployment does not negate the imminence to (sic) losses, which prompted private respondent to retrench.

‘Lastly, it is not disputed that petitioners signed documents of waiver which, in part, read:

‘I do hereby further acknowledge and declare that I have been paid by the Atlantic Gulf and Pacific Company of Manila, Inc. all amounts due me by way of compensation arising out and in the course of my employment; and that this separation from the service has no relation whatsoever with my union affiliations or activities; that I admit the regularity of my separation and that I signed these presents after having fully understood its contents.’

‘Petitioners insist that the documents are without any effect because quitclaims and releases are contrary to public policy and, therefore, null and void. Not all quitclaims and releases are, however, contrary to public policy. As we have stated:

‘Not all waivers and quitclaims are invalid as against public policy. If the agreement was voluntarily entered

into and represents a reasonable settlement, it is binding on the parties and may not later be disowned simply because of a change of mind. It is only where there is clear proof that the waiver was wangled from an unsuspecting or gullible person, or the terms of settlement are unconscionable on its face, that the law will step in to annul the questionable transaction. But where it is shown that the person making the waiver did so voluntarily, with full understanding of what he was doing, and the consideration for the quitclaim is credible and reasonable, the transaction must be recognized as a valid and binding undertaking'

'In the case at bar, the documents of waiver were executed by the affected employees without any force or duress used against them by private respondent or its representatives. To the contrary, the employees waived their claims because of awareness of the precarious financial condition of the company as shown by a steady decline in its income. The documents embodied reasonable settlements of the parties' claims. As a matter of fact, the employees received separation pay equivalent to one month pay for every year of service, which was more than what they were entitled to receive under the law which provides for separation pay equivalent to one month pay or one-half (½) month pay for every year of service, whichever is higher."[8]

x x x

Private respondents contend that what we upheld in our aforementioned Decision is the legality of the redundancy program and not the legality of its implementation. The claim is untenable. Suffice to quote our Decision:

x x x

"In the case at bar, evidence of losses for the years 1987 up to 1990 was belatedly introduced in the NLRC. But the delay was satisfactorily explained by respondent company, as the audit

conducted on its financial report by Sycip Gorres Velayo and Co. was completed only in 1991. The additional evidence presented confirmed private respondent's allegation that the losses expected by the company were substantial and reasonably imminent to justify the layoff of the individual petitioners.

"At this point, it is necessary to distinguish 'redundancy' from 'retrenchment'. Both are mentioned in Article 283 of the Labor Code as just causes for the closing of establishments or reduction of personnel. 'Redundancy' exists when the services of an employee are in excess of what is required by an enterprise. 'Retrenchment', on the other hand, is one of the economic grounds for dismissing employees and is resorted to primarily to avoid or minimize business losses. Private respondent's 'redundancy program', while denominated as such, is more precisely termed 'retrenchment' because it is primarily intended to prevent serious business losses.

"As already stated, the Labor Code recognizes retrenchment as one of the authorized causes for terminating the employer-employee relationship and the decision to retrench or not to retrench is a management prerogative. In the case at bar, the company losses were duly established by the financial statements presented by both parties.

"Petitioners contend that the 'redundancy program' was actually a union-busting scheme of management, aimed at removing union officers who had declared a strike. This contention cannot stand in the face of evidence of substantial losses suffered by the company. Moreover, while it is true that the company rehired or re-employed some of the dismissed workers, it has been shown that such action was made only as company projects became available and that it was done in pursuance of the company's policy of giving preference to its former workers in the rehiring of project employees. The rehiring or re-employment does not negate the imminence of losses, which prompted private respondents to retrench."[9]

x x x

IN VIEW WHEREOF, the Petition is **GRANTED**. The public respondent's Decision dated 30 September 1996 and Resolution dated December 6, 1996 are **SET ASIDE**. The Temporary Restraining Order issued on 4 February 1998 is made permanent. No costs.

SO ORDERED.

Bellosillo, Mendoza, Quisumbing and Buena, *JJ.*, concur.

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[1] Rollo, pp. 10-13, 194-195.
[2] Labor Arbiter's Decision, pp. 4-5; Rollo, pp. 13, 53-54, 195-196.
[3] Docketed as NLRC-NCR Case No. 00-03-01072-88, NLRC-NCR Case No. 00-03-01248-88, NLRC-NCR Case No. 00-05-01970-88 and NLRC-NCR Case No. 00-05-01972-88.
[4] Labor Arbiter's Decision, pp. 3-4; Rollo, pp. 52-53.
[5] Entitled "AG&P United Rank and File Association vs. NLRC (First Division)" and docketed as G.R. No. 108259.
[6] Rollo, pp. 14-15.
[7] See Manifestation and Motion (in lieu of Comment), Rollo, pp. 193-206.
[8] Ibid. at 200-205.
[9] AG&P United Rank and File Association vs. NLRC (First Division), 265 SCRA 159, 164-166 [1996].
