

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**AZCOR MANUFACTURING INC.,  
FILIPINAS PASO and/or ARTURO  
ZULUAGA/Owner,**

*Petitioners,*

*-versus-*

**G.R. No. 117963  
February 11, 1999**

**NATIONAL LABOR RELATIONS  
COMMISSION (NLRC) AND CANDIDO  
CAPULSO,**

*Respondents.*

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**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 vs. 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 —

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.

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.

Petitioners insist that Capulso was not really dismissed but he voluntarily resigned from AZCOR and Filipinas Paso, and that there

was nothing illegal or unusual in the letters of resignation he executed.

We disagree. To constitute a resignation, it must be unconditional and with the intent to operate as such. There must be an intention to relinquish a portion of the term of office accompanied by an act of relinquishment.<sup>[17]</sup> In the instant case, the fact that Capulso signified his desire to resume his work when he went back to petitioner AZCOR after recuperating from his illness, and actively pursued his case for illegal dismissal before the labor courts when he was refused admission by his employer, negated any intention on his part to relinquish his job at AZCOR.

Moreover, a closer look at the subject resignation letters readily reveals the following: (a) the resignation letter allegedly tendered by Capulso to Filipinas Paso was identically worded with that supposedly addressed by him to AZCOR; (b) both were pre-drafted with blank spaces filled up with the purported dates of effectivity of his resignation; and, (c) it was written in English, a language which Capulso was not conversant with considering his low level of education. No other plausible explanation can be drawn from these circumstances than that the subject letters of resignation were prepared by a person or persons other than Capulso. And the fact that he categorically disowned the signatures therein and denied having executed them clearly indicates that the resignation letters were drafted without his consent and participation.

Even assuming for the sake of argument that the signatures were genuine, we still cannot give credence to those letters in the absence of any showing that Capulso was aware that what he was signing then were in fact resignation letters or that he fully understood the contents thereof. Having introduced those resignation letters in evidence, it was incumbent upon petitioners to prove clearly and convincingly their genuineness and due execution, especially considering the serious doubts on their authenticity. Petitioners miserably failed in this respect.

The Labor Arbiter held that Capulso's repudiation of the signatures affixed in the letters of resignation was weakened by the fact that he filed the case only after almost four (4) months from the date of his

dismissal. But it should be noted that private respondent still wanted his job and thus, understandably, refrained from filing the illegal dismissal case against his employer so as not to jeopardize his chances of continuing with his employment. True enough, when it became apparent that he was no longer welcome at AZCOR he immediately instituted the instant case.

In addition, an action for reinstatement by reason of illegal dismissal is one based on an injury which may be brought within four (4) years from the time of dismissal pursuant to Art. 1146 of the Civil Code. Hence, Capulso's case which was filed after a measly delay of four (4) months should not be treated with skepticism or cynicism. By law and settled jurisprudence, he has four (4) years to file his complaint for illegal dismissal. A delay of merely four (4) months in instituting an illegal dismissal case is more than sufficient compliance with the prescriptive period. It may betray an unlettered man's lack of awareness of his rights as a lowly worker but, certainly, he must not be penalized for his tarrying.

In illegal dismissal cases like the present one, the onus of proving that the dismissal of the employee was for a valid and authorized cause rests on the employer<sup>[18]</sup> and failure to discharge the same would mean that the dismissal is not justified and therefore illegal.<sup>[19]</sup> Petitioners failed in this regard.

Petitioners also contend that they could not be held jointly and severally liable to Capulso for back wages since AZCOR and Filipinas Paso are separate and distinct corporations with different corporate personalities; and, the mere fact that the businesses of these corporations are interrelated and both owned and controlled by a single stockholder are not sufficient grounds to disregard their separate corporate entities.

We are not persuaded. The doctrine that a corporation is a legal entity or a person in law distinct from the persons composing it is merely a legal fiction for purposes of convenience and to subserve the ends of justice. This fiction cannot be extended to a point beyond its reason and policy.<sup>[20]</sup> Where, as in this case, the corporate fiction was used as a means to perpetrate a social injustice or as a vehicle to evade obligations or confuse the legitimate issues, it would be discarded and

the two (2) corporations would be merged as one, the first being merely considered as the instrumentality, agency, conduit or adjunct of the other.<sup>[21]</sup>

In this particular case, there was much confusion as to the identity of Capulso's employer — whether it was AZCOR or Filipinas Paso; but, for sure, it was petitioners' own making, as shown by the following: First, Capulso had no knowledge that he was already working under petitioner Filipinas Paso since he continued to retain his AZCOR Identification card; Second, his payslips contained the name of AZCOR giving the impression that AZCOR was paying his salary; Third, he was paid the same salary and he performed the same kind of job, in the same work area, in the same location, using the same tools and under the same supervisor; Fourth, there was no gap in his employment as he continued to work from the time he was hired up to the last day of his work; Fifth, the casting department of AZCOR where Capulso was working was abolished when he, together with six (6) others, transferred to Filipinas Paso; and Sixth, the employment contract was signed by an AZCOR personnel officer, which showed that Capulso was being hired from 1 March 1990 to 31 August 1990 by AZCOR to do jobs for Filipinas Paso. The employment contract provided in part:

The contract is for a specific job contract only and shall be effective for the period covered, unless sooner terminated when the job contract is completed earlier or withdrawn by client, or when the employee is dismissed for just and lawful causes provided by law and the company's rules and regulations, in which case the employment contract will automatically terminate.

As correctly observed by the NLRC, the contract was only for six (6) months, which could pass either as a probationary period or a job contracting, the completion of which automatically terminated the employment. Observe further, however, that respondent continued working even after the lapse of the period in the contract — for whom it was not clear. It may be asked: Was the six (6)-month period probationary in nature, in which case, after the lapse of the period he became a regular employee of Filipinas Paso? Or was the period job-

contracting in character, in which case, after the period he was deemed to have come back to AZCOR?

Interestingly, petitioners likewise argue that it was grave abuse of discretion for the NLRC to hold them solidarily liable to Capulso when the latter himself testified that he was not even an employee of Filipinas Paso.<sup>[22]</sup> After causing much confusion, petitioners have the temerity to use as evidence the ignorance of Capulso in identifying his true employer. It is evident from the foregoing discussion that Capulso was led into believing that while he was working with Filipinas Paso, his real employer was AZCOR. Petitioners never dealt with him openly and in good faith, nor was he informed of the developments within the company, i.e., his alleged transfer to Filipinas Paso and the closure of AZCOR's manufacturing operations beginning 1 March 1990.<sup>[23]</sup> Understandably, he sued AZCOR alone and was constrained to implead Filipinas Paso as additional respondent only when it became apparent that the latter also appeared to be his employer.

In fine, we see in the totality of the evidence a veiled attempt by petitioners to deprive Capulso of what he had earned through hard labor by taking advantage of his low level of education and confusing him as to who really was his true employer — such a callous and despicable treatment of a worker who had rendered faithful service to their company.

However, considering that private respondent died during the pendency of the case before this Court, reinstatement is no longer feasible. In lieu thereof, separation pay shall be awarded. With respect to the amount of back wages, it shall be computed from the time of private respondent's illegal dismissal up to the time of his death.

**WHEREFORE**, the Petition is **DISMISSED**. The NLRC Decision of 12 September 1994 is **MODIFIED**. Petitioners AZCOR MANUFACTURING, INC., FILIPINAS PASO and ARTURO ZULUAGA are **ORDERED** to pay, jointly and solidarily, the heirs of private respondent Candido Capulso the amounts representing his back wages, inclusive of allowances and other benefits, and separation pay to be computed in accordance with law.

## **SO ORDERED.**

### **Puno, Mendoza, Quisumbing and Buena, *JJ.*, concur.**

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- [1] Decision penned by Commissioner Rogelio I. Rayala, concurred in by Commissioner Victoriano R. Calaycay.
- [2] TSN, 5 June 1992, p. 35; Records, p. 89;
- [3] Exh. "A;" Records, pp. 108-109.
- [4] Exh. "B;" id., p. 111.
- [5] Exh. "C;" id., p. 172.
- [6] Exh. "D;" id., p. 173.
- [7] Exh. "E;" id., p. 174.
- [8] Exhs. "F," "G" and "H;" id., pp. 173, 176-177.
- [9] Exh. "11;" id., pp. 183-185.
- [10] Exh. "2;" id., p. 188.
- [11] Exh "3;" id., p. 188.
- [12] Exh. "4;" id., p. 188.
- [13] Exh. "5;" id., p. 190.
- [14] Exh. "6;" id., p. 191.
- [15] Exh. "7;" id., p. 192.
- [16] Loadstar Shipping Co., Inc. vs. Gallo, G.R. No. 102845, 4 February 1994, 229 SCRA 659.
- [17] Words and Phrases, Vol. 37, State vs. Huff, 87 N.E. 141, 144.
- [18] Art. 277, Labor Code, as amended.
- [19] Agoy vs. NLRC, G.R. No. 112096, 30 January 1996, 252 SCRA 588, 594-595.
- [20] 13 Am. Jur. 2d 559.
- [21] See Pabalan vs. National Labor Relations Commission, G.R. No. 89879, 20 April 1990, 184 SCRA 495, 500.
- [22] Rollo, p. 7.
- [23] AZCOR manifested for the first time before this Court that it has already ceased its business operations.