SUPREME COURT
FIRST DIVISION

BALIWAG TRANSIT, INC.,
***Petitioner*,**

-versus-

G.R. No. 57642
March 16, 1989

HON. BLAS F. OPLE, Minister of Labor and Employment, and ROMEO HUGHES,
***Respondents*.**
x----------x

D E C I S I O N

CRUZ, *J.*:

Even before security of tenure for the laborer was dignified into a constitutional right in 1973, it was already recognized as one of the great guarantees of the worker against arbitrary dismissal by his employer. Pursuant to the social justice policy, the government has consistently emphasized and strengthened this right, which in a less enlightened age not far from ours was scornfully dismissed as an unspeakable heresy.

This is not to say that once invoked, the right is automatically granted because of our compassionate concern for the worker. That is not exactly correct. While security of tenure stands faithful vigil over his

interests, it will be extended to him for his protection only when it is shown that he deserves it. This is also part of social justice.

In the case at bar, the petitioner contends that its employee, the private respondent, did not have that right or has lost or abandoned it by his own omissions. It therefore asks us to reverse the decision of the then Minister of Labor ordering the reinstatement of the employee and the payment to him of back wages.

The petitioner is a duly organized corporation with a valid authorization from the Board of Transportation to operate a bus line. The private respondent was hired by it in 1966 and continued serving therein as a bus driver until the incident in question, when he was relieved of his duties. He has not been reinstated to date.

The incident occurred on August 10, 1974, at about 2:30 in the afternoon. Romeo Hughes was driving Baliwag Transit Bus No. 1066 when it was stalled at the railroad crossing in Calumpit, Bulacan, because the vehicle ahead of it had stopped owing to a jeep that was making its way into a garage. As thus positioned, the bus was hit at its rear end by an onrushing train of the Philippine National Railways that dragged it several meters and flung it on its side at a nearby ditch. Eighteen passengers died and fifty six others suffered serious physical injuries. The bus itself sustained extensive damage. According to the petitioner, it spent P436,642.03 for the settlement of the claims of the deceased and injured passengers and another P179,511.52 for the repair of the bus.[1]

The petitioner filed a complaint for damages against the Philippine National Railways, which was held liable for its negligence in a decision rendered on April 6, 1977, by Judge Benigno Puno.[2] The private respondent was absolved of any contributory negligence.[3] The decision was elevated to the Court of Appeals, which had not yet resolved the same at the time this petition was filed with this Court. The private respondent was also prosecuted for multiple homicide and multiple serious physical injuries, but the case was provisionally dismissed by the trial court on March 19, 1980. The reason was failure of the prosecution witness to appear at the scheduled hearing.[4]

The private respondent claims that soon after the decision against the PNR, he had his driver's license renewed and then sought reinstatement with Baliwag Transit. He was advised to wait until termination of the criminal case against him. He repeated his request several times thereafter but with the same result, even after the dismissal of the criminal case. He then decided to seek the assistance of Minister Ople, who wrote the petitioner on April 24, 1980, and "implored" the private respondent's re-employment.[5] As this request was also ignored, Hughes finally demanded his reinstatement on May 2, 1980, in a letter signed by his counsel.[6] On May 10, 1980, the petitioner replied to say he could not be reinstated because his driver's license had already been revoked and his driving was "extremely dangerous to the riding public."[7]

The private respondent's reaction to this rejection was to file on July 29, 1980, a formal complaint with the Ministry of Labor and Employment for illegal dismissal against the petitioner, with a prayer for his reinstatement with back wages from May 10, 1980, plus emergency cost of living allowance.[8]

On January 22, 1981, the complaint was dismissed by Director Francisco L. Estrella, National Capital Region, on the ground of prescription, "it appearing that although the private respondent was separated from the service on 10 August 1974 (date of the accident), or in 1975 when his suspension had presumably metamorphosed into a dismissal, it was not until 29 July 1980, or a little less than 6 years thereafter, when he filed the complaint." The decision also said, he was guilty of criminal negligence.[9]

The regional director was, however, reversed by Minister Ople in his order dated May 21, 1981, calling for the reinstatement of Hughes with full back wages and without loss of seniority rights. The finding of the public respondent was that Hughes was not guilty of criminal or civil negligence nor was it correct to say that his action had prescribed.[10]

In challenging this order, the petitioner contends that the private respondent is not entitled to reinstatement because he had abandoned his work; that he is guilty of laches in not asserting his right sooner; and that in any case his cause of action had long

prescribed. Moreover, it had lost confidence in the private respondent, a circumstance that by itself alone was sufficient to justify his dismissal.

The charge of abandonment must fail for shallowness and proven falsity. In the first place, the petitioner's allegation that it never heard from the private respondent again for six years after the collision is obviously untrue for it is a matter of record that he was in fact its principal witness in its civil complaint for damages against the PNR.[11] In the second place, it is not disputed that after the decision of Judge Puno absolving Hughes of contributory negligence, the private respondent requested his reinstatement but the request was rejected as many times as it was made, and even when it was reiterated by Minister Ople himself.[12] In the third place, it is plain that if the private respondent did not demand his reinstatement earlier, it was because the petitioner deceived him into believing he would be eventually reinstated, although he never was, even after he had renewed his driver's license and, still later, after the criminal charge against him had been dropped.[13] Never at any time did the private respondent manifest loss of interest in recovering his work nor did he make any waiver, express or implied, of his right to be reinstated. In fact, when his demand was finally rejected on May 10, 1980, he lost no time in asserting his security of tenure and filed his complaint for reinstatement less than three months later.

Incidentally, the jurisprudence cited by the petitioner on this point refers to public office, title to which is deemed abandoned if not asserted within one year from divestment. Public interest requires that all conflicting claims are resolved as soon as possible, to stabilize the title to such office.[14] No similar urgency applies to private positions, which is the reason why a longer period is allowed for the vindication of one's right to such employment.

The claim of prescription deserves a more extended examination if only because this was the principal basis of the decision rendered by the regional director. According to him, the complaint should be dismissed because it was filed late under Article 291[*] of the Labor Code providing that all claims accruing before the effectivity of the Code on November 1, 1974 should be filed within one year thereafter. The decision continued to say that even assuming that the indefinite

suspension developed into a dismissal only in 1975, after the effectivity of the Code, the action should still be deemed prescribed and also forever barred because it was not filed within three years from such dismissal, conformably to the same article.

The said article reads in material part as follows:

> ART. 291. Money claims. — All money claims arising from employer-employee relations accruing during the effectivity of this Code shall be filed within three (3) years from the time the cause of action accrued; otherwise they shall be forever barred.
>
> All money claims accruing prior to the effectivity of this Code shall be filed with the appropriate entities established under this Code within one (1) year from the date of effectivity, and shall be processed or determined in accordance with implementing rules and regulations of the Code; otherwise, they shall be forever barred.

Echoing the regional director, the petitioner contends that the private respondent's complaint was filed tardily on July 29, 1980, as this was way beyond the prescriptive periods prescribed in Article 291 as counted from August 10, 1974, the date when the collision occurred.

It is important to observe that another prescriptive period must also be considered, to wit, that established under Article 1146 of the Civil Code, providing as follows:

> ART. 1146. The following actions must be instituted within four years:
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> (1) Upon an injury to the rights of the plaintiff;
>
> (2) Upon a quasi-delict.

The Court, in applying this period in Callanta vs. Carnation Philippines, Inc.,[15] gave the following rationale:

> One's employment or profession is a 'property right' and the wrongful interference therewith is an actionable wrong. The

> right is considered to be property within the protection of the constitutional guarantee of due process of law. Clearly then, when one is arbitrarily and unjustly deprived of his job or means of livelihood, the action instituted to contest the legality of one's dismissal from employment constitutes, in essence, an action predicated 'upon an injury to the rights of the plaintiff,' as contemplated under Article 1146 of the New Civil Code, which must be brought within 4 years.

The doctrine was recently affirmed in Pan-Fil Co. vs. Agujar,[16] albeit with several dissents.

Whatever prescriptive period is applicable, the antecedent question that has to be settled is the date when the cause of action accrued and from which the period shall commence to run. The parties disagree on this date. The contention of the petitioner is that it should be August 10, 1974, when the collision occurred. The private respondent insists it is May 10, 1980, when his demand for reinstatement was rejected by the petitioner.

It is settled jurisprudence that a cause of action has three elements, to wit, (1) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (2) an obligation on the part of the named defendant to respect or not to violate such right; and (3) an act or omission on the part of such defendant violative of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff.[17]

The problem in the case at bar is with the third element as the first two are deemed established.

We hold that the private respondent's right of action could not have accrued from the mere fact of the occurrence of the mishap on August 10, 1974, as he was not considered automatically dismissed on that date. At best, he was deemed suspended from his work, and not even by positive act of the petitioner but as a result of the suspension of his driver's license because of the accident. There was no apparent disagreement then between Hughes and his employer. As the private respondent was the petitioner's principal witness in its complaint for damages against the Philippine National Railways, we may assume

that Baliwag Transit and Hughes were on the best of terms when the case was being tried. Hence, there existed no justification at that time for the private respondent to demand reinstatement and no opportunity warrant either for the petitioner to reject that demand.

We agree with the private respondent that May 10, 1980, is the date when his cause of action accrued, for it was then that the petitioner denied his demand for reinstatement and so committed the act or omission "constituting a breach of the obligation of the defendant to the plaintiff." The earlier requests made by him having been warded off with indefinite promises, and the private respondent not yet having decided to assert his right, his cause of action could not be said to have then already accrued. The issues had not yet been joined, so to speak. This happened only when the private respondent finally demanded his reinstatement on May 2, 1980, and his demand was categorically rejected by the petitioner on May 10, 1980.

We have held in earlier cases that:

> Since a 'cause of action' requires, as essential elements, not only a legal right of the plaintiff and a correlative obligation of the defendant but also 'an act or omission of the defendant in violation of said legal right,' the cause of action does not accrue until the party obligated refuses, expressly or implied, to comply with its duty.[18]
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> x x x
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> The one-year period should instead be counted from the date of rejection by the insurer as this is the time when the cause of action accrues. Since in these cases there has yet been no accrual of cause of action. We hold that prescription has not yet set in.[19]
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> x x x

It follows that appellant's cause of action arose only when the appellees made known their intention, by overt acts, not to abide by the true agreement and the allegations of the complaint establish that this happened when the appellees executed the affidavit of

consolidation of the title allegedly acquired by appellees under the fictitious pacto de retro sale. It was then, and only then, that the appellant's cause of action arose to enforce the true contract and have the apparent one reformed or disregarded, and the period of extinctive prescription began to run against her.[20]

As the private respondent's complaint was filed not later than three months only after such rejection, there is no question that his action has not prescribed, whatever prescriptive period is applied.

This should also dispose of the claim of laches, for equally obvious reasons.

The last contention of the petitioner is that it had lost confidence in the private respondent and so was justified in dismissing him. On this matter, the petitioner is clearly hoist with its own petard.

We assume that the loss of confidence invoked by the petitioner is in the private respondent's driving skill, not in his character or other personal attributes. Otherwise, the claim must be dismissed outright as the position of driver is not primarily confidential in nature like that of a cashier or a private secretary. This alleged loss of confidence is based, as the petitioner said in its letter of May 10, 1980, on the collision between the PNR train and the Baliwag Transit bus the private respondent was driving at the time. The implication in that letter is that the mishap was due to his negligence and that it was for this reason that he had been dismissed.

This is a clear volte face if there ever was one. The petitioner is contending with itself. Earlier, in its complaint for damages against the Philippine National Railways, Baliwag Transit was singing an entirely different tune and was loud in defending the private respondent from the charge that he was responsible for the accident. Thus, in its answer to the counterclaim, the petitioner declared in no uncertain terms:

> 4. — That the driver of the passenger bus of the plaintiff exercised due care in approaching the said railroad crossing at Calumpit, Bulacan, and thereafter passed over the railroad track because there was no train in sight, and said

> passenger bus stopped while its rear portion was on the railroad track due to a stopped vehicle ahead of it, so that said driver cannot remove the passenger bus before the approach of the train of the defendants, which was coming very fast, imprudently and negligently, in wanton disregard of danger to human lives and properties considering that the stopped passenger bus of the plaintiff at the railroad track was visible to locomotive engineer Honorio Cirbado at a great distance sufficient for him to reduce his speed and finally stop to avoid the collision, but that notwithstanding he failed to exercise due care in reducing his speed and stopping the train to avoid hitting and bumping the rear portion of plaintiff's passenger bus, thereby resulting in the fatal collision, all of which was due to the fault and wanton negligence of defendants. (Emphasis supplied.)[21]

The trial court accepted this assertion and rendered judgment against the PNR, at the same time also absolving the private respondent from even contributory negligence, thus:

> Contributory negligence may not be ascribed to the driver, it was evident that he had taken the necessary precautions before passing over the railway track; if the bus was hit, it was for reasons beyond the control of the driver because he had no place to go; there were vehicles to his left which prevented him in swerving towards that direction; his bus stalled in view of the obstructions in his front — where a sand and gravel truck stopped because of a jeep maneuvering into a garage up front. (Emphasis supplied).[22]

If it is also remembered that Hughes had never been involved in any traffic accident during his entire period of employment with Baliwag Transit, from 1965 until 1974 — and indeed even before that — the conclusion must follow that the petitioner had no basis for its alleged loss of confidence in the private respondent.

As the Court sees it, the private respondent simply had the misfortune of being at the wheel of the Baliwag Transit bus when, through no fault of his, it was hit and wrecked by the PNR train due to the

negligence of its driver. The happenstance that Hughes was then driving the bus is certainly no justification for his dismissal on the specious ground that the petitioner had lost confidence in him.

The collision of August 10, 1974, victimized not only the dead and injured passengers but the private respondent as well. For reasons not imputable to him, he has been unable to resume his work as a bus driver with the petitioner since that tragic day almost fifteen years ago when the speeding train crashed into his life. It is time we made things right. Accordingly, we sustain the order requiring his reinstatement by the petitioner and approve the award of civil damages to him except as to the back wages, which are hereby limited to three years only in accordance with existing policy. By this decision, we affirm anew the worker's right to security of tenure, recognizing it once again as a vigilant sentinel of labor in the protection of its interests.

WHEREFORE, subject to the modification of the challenged Order of May 21, 1981 as to the backwages, the Petition is **DISMISSED**, with costs against the petitioner. This decision is immediately executory.

SO ORDERED.

Narvasa, *J.*, *(Chairman)*, Gancayco, Griño-Aquino and Medialdea, *JJ.*, concur.

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[1] Rollo, p. 6.
[2] Ibid., pp. 49-69.
[3] Id., p. 66.
[4] Id., p. 70.
[5] Id., p. 73.
[6] Id., p. 74.
[7] Id., p. 75.
[8] Id., pp. 16-19.
[9] Id., pp. 86-88.
[10] Id., pp. 101-105.
[11] Id., pp. 59-60.
[12] Id., pp. 34; 96.
[13] Id., pp. 33-34.

[14] Cornejo vs. Secretary of Justice, 57 SCRA 663; Galano vs. Rojas, 67 SCRA 8; Sec. 16, Rule 66 of the Rules of Court.
[*] Formerly Article 292.
[15] 145 SCRA 268. See also Santos vs. Court of Appeals, 96 SCRA 448.
[16] G.R. No. 81948, November 9, 1988.
[17] ACCFA vs. Alpha Insurance and Surety Co., Inc. 24 SCRA 151; Ma-ao Sugar Central Co. vs. Barrios, 79 Phil. 666; Santos vs. IAC, 145 SCRA 238.
[18] ACCFA vs. Alpha Insurance and Surety Co., Inc., supra.
[19] Summit Guaranty and Insurance Co., Inc. vs. De Guzman, 151 SCRA 389.
[20] Tormon vs. Cutanda, 9 SCRA 698.
[21] Rollo 98-99.
[22] Ibid., p. 66.