

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**CAMARA SHOES, represented by
LUCIA VDA. DE CAMARA,**
Petitioner,

-versus-

**G.R. Nos. 63208-09
May 5, 1989**

**KAPISANAN NG MGA MANGGAGAWA
SA CAMARA SHOES, HON.
FRANCISCO ESTRELLA, HON.
VICENTE LEOGARDO, JR., and
NATIONAL LABOR RELATIONS
COMMISSION,**
Respondents.

X-----X

DECISION

GUTIERREZ, JR., J.:

The members of the respondent union numbering twenty (20), who are themselves private respondents, were regular employees of the petitioner, Camara Shoes, a single proprietorship engaged in the manufacture and sale of shoes.

On December 22, 1979, the petitioner served notice to lay off the respondents effective January 31, 1980, subject to the approval of the clearance application by the Ministry of Labor and Employment.

On December 28, 1979, the petitioner filed its application for clearance to terminate the services of the employees on grounds of financial losses, business reversals and lack of work due to shortage of raw materials. This case was docketed as NCR-STF-1-281-80.

On January 11, 1980, the respondent union, Kapisanan ng mga Manggagawa sa Camara Shoes filed its opposition to said application. At the same time, the respondent union together with the individual respondents filed a complaint for illegal layoff, unpaid wages and service incentive leave pay. This complaint was docketed as NCR-STF-1-234-80.

On February 1, 1980, the petitioner refused to allow the individual respondents to continue working.

On March 28, 1980, the respondent Director of Labor denied the petitioner's application for clearance due to lack of substantial proofs. The dispositive portion of its decision in favor of the individual respondents reads as follows:

“WHEREFORE, responsive to the foregoing, respondent is hereby directed to reinstate Edna P. Villegas, Carlos Lapid, Eustaquio Mariano, Remedios Jacinto, Constancia Magbanua, Noel Pasco, Adelina Villanueva, Bienvenido Antonio, Erving Rios, Saturnina Capistrano, Benjamin Villafuerte, Mario Ongcal, Eliseo Martizo, Guivar Paloyo Armando dela Cruz, Vicente Lacsam, Reynaldo Escamis, Zaldy Arpon, Myrna Manalo and Andres Ramilo to their former or equivalent positions with full backwages from February 1, 1980 up to actual reinstatement. Respondent is further directed to pay individual complainants their respective five (5) days service incentive leave for the year 1979.

Accordingly, respondent's application for clearance is hereby denied.” (Rollo, p. 22).

On April 18, 1980, the petitioner appealed the above order to the National Labor Relations Commission (NLRC).

On June 11, 1980, pending said appeal, the petitioner moved to dismiss the aforesaid cases (NCR-STF-1-281-80 and NCR-STF-234-80) because sixteen (16) individual respondents except for Carlos Lapid, Eustaquio Mariano, Adelina Villanueva and Erving Rios had agreed to the settlement of their claims as shown in an affidavit of release and quit-claim (Annex E, petition).

On July 3, 1980, the respondent union moved to dismiss the appeal for having been filed out of time.

On December 29, 1982, Deputy Minister Vicente Leogardo issued an Order dismissing the appeal, to wit:

“We find that the appeal was indeed filed out of time. Respondent should have filed it within ten working days from its receipt (on 2 April) of the Order or not later than 16 April 1982. But as pointed out by complainants, the appeal was ‘dated April 18, 1980 (and) was filed on the same date’. Clearly, then, the case has gone beyond our power to review.

“WHEREFORE, the appeal is hereby dismissed, and the Order of 28 March 1980 declared final and executory.” (Rollo, p. 43).

On the issue whether or not the appeal to the NLRC was filed on time, we rule in favor of the petitioner.

The applicable rule in 1980 was Sec. 7, Rule XIII of Book V which provides:

“Sec. 7. When to appeal. — The aggrieved party may appeal the decision of the Labor Arbiter or compulsory arbitrator to the National Labor Relations Commission within ten (10) working days from receipt of the decision on any of the following grounds:”

The records show that the decision of the Director of Labor denying the application for clearance was received by the petitioner on April 2, 1980. The appeal with the NLRC was filed on April 18, 1980.

The NLRC ruled that the appeal should have been filed within ten working days from its receipt of the Order on April 2 or not later than April 16, 1980. However, the NLRC failed to consider the holidays which supervened during this period as pointed out by the petitioner.

The petitioner computes the period to appeal as follows:

- “a) April 2, 1980 — is not counted for the reason that on said date Respondent received the said order;
- “b) April 3, which is a Maundy Thursday is not counted for it is a Holiday;
- “c) April 4, it is a Good Friday and it is also a Holiday not to be counted;
- “d) April 5, is a Saturday not counted for it is not a working day;
- “e) April 6, is a Sunday, not counted for it is not a working day;
- “f) April 7, Monday, it is a working day;
- “g) April 8, Tuesday, it is a working day;
- “h) April 9, Wednesday, not counted, it is Bataan day and is a Holiday;
- “i) April 10, Thursday, is a working day;
- “j) April 11, Friday, a working day;
- “k) April 12, Saturday, not counted, it is not a working day;
- “l) April 13, Sunday, not counted, it is not a working day; and

“m) April 14, to April 18, 1980 from Monday to Friday, they are all working days, or an equivalent of five (5) days;” (Rollo, p. 30-31).

As held in the case of Bonifacio Murillo vs. Sun Valley Realty, Inc. (G.R. No. 67272, June 30, 1988):

“From Dec. 18, 1980 to Jan. 6, 1981 is exactly ten (10) working days considering the holidays and the Saturdays and Sundays that supervened during that period. In other words, private respondent’s appeal to the NLRC having been filed during the time that the prevailing period of appeal was ten (10) working days and prior to the promulgation of the VIR-JEN Case on July 20, 1982, it must be held to have been timely filed.”

It was, therefore, error for the NLRC to have dismissed the appeal which was seasonably filed within the 10 working days period for appeal.

The petitioner alleges that “its business is in a state of bankruptcy. All its properties are heavily mortgaged and are endangered of being foreclosed. For this reason, the petitioner’s act in terminating the services of individual respondents is to avoid or minimize business losses in order that the mortgages of their properties as well as the debts incurred in favor of the suppliers of raw materials be paid.” (Rollo, p. 13)

We held in the case of Garcia vs. National Labor Relations Commission [153 SCRA 639 (1987)] that:

“Business reverses or losses are recognized by law as a just cause for terminating employment. (Columbia Development Corporation vs. Minister of Labor and Employment, 146 SCRA 421 [1986]; LVN Pictures and Workers Association vs. LVN Pictures, Inc., 35 SCRA 147) Under Article 284 of the Labor Code, as amended, retrenchment of personnel to prevent losses can only be availed of by management if the company is losing or meeting financial reverses. But it is essentially required that the alleged losses in business operations must be proved. (National Federation of Labor Unions (NAFLU) vs. Ople, 143

SCRA 124 [1986]). Otherwise, said ground for termination would be susceptible to abuse by scheming employers who might be merely feigning business losses or reverses in their business ventures in order to ease out employees.”

In the case at bar, the petitioner must be faulted for having failed to substantiate its allegations that the business was indeed in a state of bankruptcy. The Director of Labor dismissed the petitioner’s application for clearance precisely on the ground that adequate proof was not presented in support of its application. Moreover, we find that the petitioner failed to appear during the scheduled hearing for the reception of the petitioner’s evidence on its application on January 28, 1980 despite due notice. The hearing was reset to February 6, 1980 but the petitioner appeared through Atty. Sergio R. Manzo only to ask for another resetting to February 15, 1980. On February 20, 1980, the petitioner agreed to submit the application for its resolution by merely filing a position paper. In its position paper, the petitioner alleged:

X X X

“3. That respondent, much as it would like to keep the said twenty (20) employees in its employ, was left with no recourse but to terminate their services to prevent further losses in their business.” (Rollo, p. 61)

The above statement was not backed by proof. The failure to appear during the scheduled hearings casts doubt on the validity of the petitioner’s application for clearance. If indeed it had a genuine intention to terminate its employees to prevent further losses in their business it should have been more aggressive in presenting its case. The statement of assets and liabilities annexed to the petition filed with the Ministry of Labor is not sufficient to justify the application for clearance. No other financial statements or evidences were presented.

Absent any showing of substantial proof, we find no grave abuse of discretion on the part of the Regional Director in denying the application for clearance.

The petitioner finally alleges that the present labor cases do not survive considering that on January 13, 1979 the proprietor of the petitioner company, Santos Camara, died intestate. As a result of the death of Mr. Camara, it is alleged that the labor case was automatically extinguished. There is no merit to this contention.

We agree with the Solicitor General that:

“NCR-STF-1-234-80 sought reinstatement of individual respondents to their work. It was not a money claim, not to say it involved purely employer-employee relationship, which fell under the exclusive authority of respondent officials to hear and resolve. While it combined a claim for backwages and the like, the entitlement of individual respondents thereto solely depended on their right to be reinstated. Besides, Santos Camara died on January 13, 1979. Individual respondents were dismissed without the required clearance on February 1, 1980. Also, the backwages, that individual respondents claimed in NCR-STF-1-234-80 covered the period from February, 1980 until actual reinstatement. Moreover, they were claims against petitioner, as business concern that continued to operate after his death.” (Rollo, p. 106).

Clearly then, the present case was not extinguished because of the death of the proprietor, Santos Camara who died long before the application for clearance to terminate was filed. This case falls under the jurisdiction of the Ministry of Labor and not the civil courts as contended by the petitioner. Considering, however, that sixteen (16) out of the original twenty (20) claimants had agreed to the settlement of their claims, the petition is dismissed as academic insofar as they are concerned.

WHEREFORE, the petition is hereby **DISMISSED** for lack of merit. The decision of the Director of Labor, dated March 28, 1980 is **AFFIRMED** with **MODIFICATION**. The petitioner Camara Shoes is ordered to reinstate the remaining individual respondents Carlos Lapid, Eustaquio Mariano, Adelina Villanueva and Erving Rios to their former or equivalent positions with full backwages equivalent to three (3) years without deductions or qualifications and to pay them their respective five (5) days service incentive leaves for the year 1979.

SO ORDERED.

**Fernan, C.J., (Chairman), Feliciano, Bidin and Cortes, JJ.,
concur.**

Philippine Copyright © 2005
ChanRobles Publishing Company
www.chanrobles.com