

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**ANTONIO CATATISTA, JAIME
MONSERATE, FRANCISCO ELISAN,
FERNANDO DE LA PENA, DIEGO
TUPAS, ROSENDO MONSERATE,
ERNESTO SIBUNAL, DIOSCORO
HINO-O, AURELIO DESCATAMIEN
TO, LODOVICO DELA PENA, and
DIONISIO BALLADOS,**

Petitioners,

-versus-

**G.R. No. 102422
August 3, 1995**

**NATIONAL LABOR RELATIONS
COMMISSION and VICTORIAS
MILLING COMPANY, INC.,**

Respondents.

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DECISION

ROMERO, J.:

Assailed in this Petition is the Decision of the NLRC, Fourth Division, of Cebu City dated March 8, 1991 which reversed the Decision of the Labor Arbiter dated October 18, 1988 and the Resolution dated July 23, 1991 which denied petitioners' Motion for Reconsideration.

Petitioners were regular plantation workers in Hacienda Binanlutan, one of the six haciendas operated and managed by private respondent Victorias Milling Company, Inc. with an area of 14.8 hectares planted to sugarcane.

Sometime in June 1984, private respondent decided to permanently stop and close its sugarcane operations in Hacienda Binanlutan “due to low sugar prices which affected the viability and profitability of said hacienda” and convert it instead into an ipil-ipil plantation. In view of such decision, management subsequently held a conference with all thirteen field workers to explain to them the reason for this move, as well as the computation of their termination pay.^[1]

In a letter dated July 10, 1984, each of the thirteen petitioners was formally informed of private respondent’s decision to close and stop sugarcane operations and the reason for such closure. In said letter, private respondent informed petitioners that “considering that they have been hired specifically for Hacienda Binanlutan’s operations and considering further that there is no plan to revive sugarcane operations at said company farm,” their services would be terminated effective August 1, 1984.^[2]

Petitioners received their termination pay or retirement pay under the pension plan, whichever was higher.^[3]

On March 18, 1987, petitioners filed a complaint against private respondent with the arbitration branch of the National Labor Relations Commission for illegal dismissal, damages and attorney’s fees. Labor Arbiter Rodolfo Lagoc rendered a decision dated October 18, 1988 the dispositive portion of which states:

“WHEREFORE, premises considered, respondent is hereby ordered to reinstate complainants without loss of seniority and with backwages for three (3) years without any qualifications.”

Private respondent appealed to the National Labor Relations Commission which reversed the decision of the Labor Arbiter, the dispositive portion of which states:

“WHEREFORE, the decision of the Labor Arbiter dated October 18, 1988 is hereby reversed and set aside, entering a new one ordering the dismissal of the complaint for lack of merit.”

Petitioners filed a motion for reconsideration of the NLRC decision and an addendum to said motion which was denied for lack of merit.

Hence, this petition.

Petitioners claim that public respondent NLRC abused its discretion in rendering its questioned decision when it misappreciated or failed to consider the following:

- “1. Private respondent’s net profit from its company-wide operations for 1983 and 1984 at a staggering amount of P11,508,406.00 and P48,229,400.00, respectively;
2. Private respondent’s own admission of profits in the raw and refined sugar production as stated in page 4, of its Position Paper dated November 2, 1988;
3. Private respondent’s payment of wages and benefits for company hacienda workers more than what is prescribed by law. It even granted wage increases at P1.20/day in 1983 to 1985 CBA which private respondent alleged to be the years it incurred losses in the hacienda operation;
4. There is a stipulation in the CBA wherein the company shall comply with statutory salary increases in the event it is decreed by law;
5. Private respondent had not submitted a separate financial statement or balance sheet for its company haciendas except only an income statement. Obviously, such income statement cannot show such items as retained earnings, fixed assets, and real networth which could be found only in financial statements or balance sheets that is determinative of losses or profits of any business;

6. Only Hacienda Binanlutan, where petitioners were employed, has closed its operation exempting other company haciendas such as Florencia, Candelaria, Pacita, Begonia and Bacayan;
7. Petitioners have already worked for two months in the ipil-ipil plantation before they were terminated from the service;
8. Petitioners worked also in other company owned haciendas after milling season in Hacienda Binanlutan and in case the need arises and return again to Hacienda Binanlutan upon resumption of work;
9. Private respondent change only on crops from sugarcane to ipil-ipil trees which is definitely the same agricultural undertaking with the same need for workers for its operation;
10. After petitioners' termination, private respondent hired a labor-only contractor to supply workers in the ipil-ipil plantation to the exclusion of petitioners;
11. The uncontroverted fact that Hacienda Binanlutan was not losing in its operation in 1984 but was converted to ipil-ipil plantation only for reason of 'land use' which is the idea of Mr. Virgilio Flores who was then private respondent's Division Head of Research and Development" (par. 2, Addendum to Motion for Reconsideration, dated July 24, 1991)."^[4]

The issue being presented by petitioners for resolution is whether or not they were illegally terminated from work resulting from the closure of Hacienda Binanlutan, one of the company farms owned by private respondent.

Corollary to the above issue is the validity of the closure of a business based on the following: (a) whether or not a company is in good faith when it closed its business; (b) and whether or not such closure is due to causes beyond its control as enunciated in the case of Armed

Forces of the Philippines Mutual Benefit Assn. vs. Armed Forces Mutual Benefit Association, Inc. Employees Union.^[5]

Article 283 of the Labor Code provides that:

“The employer may also terminate the employment of any employee due to the installation of labor-saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this title, by serving a written notice on the workers and the Department of Labor and Employment at least one (1) month before the intended date thereof. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year.”

The termination of employment of the employees of Hacienda Binanlutan brought about by the closure is to be considered as retrenchment as Hacienda Binanlutan is only one of the six haciendas of private respondent.^[6] Clearly, private respondent’s purpose in converting said hacienda into an ipil-ipil plantation and terminating the service of petitioners is to cut down on losses which it had adequately shown to have suffered through an income statement for the fiscal year which ended August 31, 1984.^[7]

This Court has held that “the requisites of a valid retrenchment are: (a) the losses expected should be substantial and not merely de minimis in extent; (b) the substantial losses apprehended must be reasonably imminent; (c) the retrenchment must be reasonably necessary and likely to effectively prevent the expected losses; and (d) the alleged losses, if already incurred, and the expected imminent losses sought to be forestalled, must be proved by sufficient and convincing evidence.”^[8]

We see no grave abuse of discretion on the part of NLRC when it found that “company haciendas including Hacienda Binanlutan incurred huge losses from years 1982 to 1983 in the amount of P2,842,778.03.”^[9] Private respondent showed that Hacienda Binanlutan itself suffered a net loss of P22,624.88.^[10] It is significant to note that petitioners failed to dispute these submissions of private respondent which more than satisfy the first and fourth requirements for a valid retrenchment. The losses incurred are clearly substantial and sufficiently proven by means of an income statement of Hacienda Binanlutan and the financial statement of the company haciendas.^[11] Said losses are not only imminent but had, in fact, already been incurred by private respondent since 1982. This was even more alarming in 1984 considering the worldwide economic situation, as well as the low sugar prices during that year, events which were obviously beyond the control of private respondent.

Considering the losses suffered by private respondent, it is logical for it to implement a retrenchment program to prevent further losses. Private respondent’s personnel reduction program was meant to reduce excessive labor cost in the company.^[12]

Having determined that private respondent suffered losses and had to resort to retrenchment of its employees in Hacienda Binanlutan to prevent further losses, this Court holds that private respondent was within its rights in closing Hacienda Binanlutan and in terminating the service of petitioners.

Article 283 of the Labor Code provides, *inter alia*, that the employer may terminate the employment of his employees to prevent losses. For an employer to validly terminate the service of his employees under this ground, he has to comply with two requirements, namely: (a) serving a written notice on the workers and the Department of Labor and Employment at least one month before the taking effect of the closure, and (b) payment of separation pay equivalent to one month pay or at least one-half (1/2) month pay for every year of service, whichever is higher, with a fraction of at least six months to be considered one whole year.

This Court holds that private respondent had sufficiently complied with the above requirements. First, private respondent informed

petitioners of the termination of their service effective August 1, 1984 in a letter dated July 10, 1984^[13] although prior thereto, the management had explained to them, in a conference called for the purpose, its decision and the computation of their separation pay. The then Ministry of Labor and Employment was furnished with copies of said letter-notices in compliance with the requirement of prior written notice. They were, likewise given their separation pay which were more than what they should have received.^[14]

Petitioners' submission that private respondent profited from its company-wide operations for 1983 and 1984 in the amount of P11,508,406.00 and P48,229,400.00, respectively, is hardly accurate as the alleged profits reflect the "company-wide operations of private respondent in the raw and refined sugar production and other diversified ventures of the company."^[15] Said profits resulted from "cost-cutting and cost-saving measures" in its diversified ventures which include refinery operations and other diversified projects such as prawn culture, fiberglass products, engineering services, piggery, fabrication, engine rebuilding and management and technical services.^[16]

In any case, Article 283 of the Labor Code is clear that an employer may close or cease his business operations or undertaking even if he is not suffering from serious business losses or financial reverses, as long as he pays his employees their termination pay in the amount corresponding to their length of service. It would, indeed, be stretching the intent and spirit of the law, if we were to unjustly interfere in management's prerogative to close or cease its business operations just because said business operation or undertaking is not suffering from any loss. This Court, in the case of *Maya Farms Employees Organization, et al. vs. NLRC, et al.*,^[17] held that:

"The rule is well-settled that labor laws discourage interference with an employer's judgment in the conduct of his business. Even as the law is solicitous of the welfare of employees, it must also protect the right of an employer to exercise what are clearly management prerogatives. As long as the company's exercise of the same is in good faith to advance its interest and not for the purpose of defeating or circumventing the rights of employees

under the laws or valid agreements, such exercise will be upheld.”

In *Dangan vs. NLRC*,^[18] this Court had occasion to reiterate management’s prerogative to close or abolish a department or section of the employer’s establishment for economic reasons. We reasoned out that since the greater right to close the entire establishment and cease operations due to adverse economic conditions is granted an employer, the closure of a part thereof to minimize expenses and reduce capitalization should similarly be recognized.

Likewise, this Court held in the case of *Special Events & Central Shipping Office Workers Union vs. San Miguel Corporation*^[19] that the determination of the usefulness of a section, being a company prerogative, the closure may not be questioned, specially in this case where it is impelled by economic reasons due to the continuous losses sustained in its operation, coupled with the lack of demand for the service of such section.

We are satisfied with private respondent’s good faith when it closed Hacienda Binanlutan. First, the necessary notice to the affected employees and to the then Ministry of Labor and Employment have been sufficiently complied with. Second, the affected employees were paid their separation pay which was computed at one month pay for every year of service or based on private respondent’s pension plan, whichever was higher.^[20] Third, there was then no brewing labor dispute which could have served as a motive for closing Hacienda Binanlutan,^[21] contrary to petitioners’ insinuation that their demand for meal allowances prompted private respondent to close Hacienda Binanlutan,^[22] a reason which we deem to be rather trivial. In fact, petitioners admitted that they received their meal allowances.^[23] Finally, it took petitioners almost three years to file their complaint^[24] which does not seem to be the natural reaction of persons aggrieved.

It is significant to note that both the Labor Arbiter and the NLRC, Fourth Division made a finding that “Hacienda Binanlutan is losing.”^[25] In a number of cases, we held that we are bound, in principle, by such findings in accordance with well-established jurisprudence that the factual findings of labor administrative officials, if supported by substantial evidence, are entitled, not only to

great respect but even to finality, unless petitioner is able to show that the Labor Arbiter and the NLRC simply and arbitrarily disregarded evidence before them or had misapprehended evidence of such a nature as to compel a contrary conclusion, if properly appreciated.^[26]

Having established that private respondent's closure of Hacienda Binanlutan was done in good faith and that it was due to causes beyond its control, the conclusion is inevitable that said closure is valid. Consequently, petitioners could not have been illegally dismissed.

WHEREFORE, the Petition is hereby **DISMISSED**. The Decision of public respondent NLRC (Fourth Division) dated March 8, 1991 is **AFFIRMED**. No costs.

SO ORDERED.

Feliciano, Melo and Vitug, JJ., concur.

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- [1] Rollo, p. 86.
[2] Rollo, pp. 90-100.
[3] Rollo, pp. 78-79.
[4] Rollo, pp. 6-7.
[5] 97 SCRA 7230.
[6] Rollo, pp. 26 and 40.
[7] Rollo, p. 136.
[8] 234 SCRA 179 citing Lopez Sugar Corp. vs. Federation of Free Workers, 189 SCRA 179.
[9] Rollo, p. 40.
[10] Rollo, p. 85.
[11] Rollo, pp. 85 and 152.
[12] Rollo, p. 134.
[13] Rollo, pp. 90-100.
[14] Rollo, pp. 78-79.
[15] Rollo, p. 179.
[16] Rollo, pp. 152-153.
[17] G.R. No. 106256, December 28, 1994.
[18] 127 SCRA 706.
[19] 122 SCRA 574
[20] Rollo, p. 81.
[21] Rollo, p. 82.
[22] Rollo, p. 5.

- [23] Ibid.
- [24] Rollo, p. 81.
- [25] Rollo, pp. 27 and 43.
- [26] Lopez vs. Federation of Free Workers, 189 SCRA 188 citing Mamerto vs. Inciong 118 SCRA 265; Atlas Consolidated Mining and Development Corp. vs. NLRC, 167 SCRA 758; Reyes vs. Minister of Labor, 170 SCRA 134; Bristol Laboratories Employees Association-DFA, et al., G.R. No. 87974, July 2, 1990.

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