SUPREME COURT
SECOND DIVISION

CENTRAL AZUCARERA DEL DANAO,
***Petitioner*,**

-versus-

G.R. No. L-41615
June 29, 1985

HON. COURT OF APPEALS, NONELON BANA-AY, and DANAO DEVELOPMENT CORPORATION,
***Respondents*.**
x----------x

CENTRAL AZUCARERA DEL DANAO,
***Petitioner*,**

-versus-

G.R. No. L-41616
June 29, 1985

HON. COURT OF APPEALS, JOSE COSCULLUELA, and DANAO DEVELOPMENT CORPORATION,
***Respondents*.**
x----------x

CENTRAL AZUCARERA DEL DANAO,
***Petitioner*,**

-versus-

G.R. No. L-41617
June 29, 1985

HON. COURT OF APPEALS, GORGONIO PALMA, and DANAO DEVELOPMENT CORPORATION,
Respondents.
x----------x

D E C I S I O N

CUEVAS, *J.*:

Petition to Review the joint Decision[1] of the then Court of Appeals dated June 23, 1975 in three (3) separate cases for "Recovery of Termination Pay with Damages" under R.A. 1052, as amended by R.A. 1787, which affirmed the three (3) separate decisions of the defunct Court of First Instance of Negros Occidental-Branch II, ordering petitioner Central Azucarera del Danao to pay termination pay to private respondents Nonelon Bana-ay, Jose A. Cosculluela, and Gorgonio Palma.

Private respondents Nonelon Bana-ay, Jose Cosculluela, and Gorgonio Palma were among the regular and permanent employees of Central Azucarera del Danao (Central Danao, for short), owner-operator of a sugar mill in Danao milling district of Toboso, Negros Occidental. Nonelon Bana-ay started working with petitioner Central Danao on October 16, 1939 as a railroad repair man until 1941. He was promoted as locomotive conductor in 1946.[2] Jose Cosculluela, on the other hand, was hired on October 10, 1935 as superintendent of the transportation department;[3] whereas, Gorgonio Palma was employed as machinist on August 1, 1931.[4]

On July 7, 1961, Central Danao sold its sugar mill properties and other assets to Danao Development Corporation (Dadeco, for short), a duly organized corporation composed of sugar planters of the

milling district of Central Danao. Immediately thereafter, or on July 8, 1961, Dadeco actually took over the management and operation of the purchased sugar mill properties pursuant to the terms and conditions of the Deed of Sale.[5]

Although the document of sale made no express mention of the continued employment status of the old employees of Central Danao upon the consequent change of its ownership and management, Dadeco, the purchasing corporation, however hired Central Danao's regular and permanent employees but in accordance with its own hiring and selection policies.

Nonelon Bana-ay was hired by the new management on August 1, 1961, or after the lapse of 23 days from the date of sale; Jose Cosculluela on July 8, 1961, or immediately the day after the date of sale; and Gorgonio Palma, only on August 1, 1961.

During the period of their new employment with Dadeco, Nonelon Bana-ay was terminated on December 15, 1961; Gorgonio Palma on July 10, 1966; and Jose Cosculluela, on February 1, 1967.

As a consequence thereof, Nonelon Bana-ay, along with eight others,[6] Jose Cosculluela, and Gorgonio Palma, filed separate complaints for recovery of termination pay with damages against Dadeco and Central Danao as common defendants with the then Court of First Instance of Negros Occidental, Bacolod City — Branch II. Said cases were docketed therein as Civil Case Nos. 8214, 8255, and 8353. The complaints respectively alleged among other things, that Dadeco maliciously and fraudulently dismissed them without justifiable cause or any advance notice of separation.

Controverting said complaints, Dadeco denied liability for termination pay, asserting lack of cause of action since Dadeco was not their employer for the period in question and prior to the time it took over the management and operation of the sugar central on July 8, 1961. By way of cross-claim, Dadeco contended that the liability for the termination pay corresponding to complainants' (now private respondents) years of employment until the date of sale on July 7, 1961 should be shouldered by Central Danao, private respondents' previous owner and employer.

On the other hand, Central Danao invoked the defense of lack of cause of action, prescription, and laches in denying liability and by way of cross-claim, shifted the burden to Dadeco. Central Danao claimed that Dadeco assumed the liability to pay the termination pay corresponding to the alleged years of employment prior to July 8, 1961, contending, that the assets of Central Danao had already been sold to Dadeco pursuant to the Deed of Sale of July 7, 1961; and that at the time of their alleged termination, Dadeco was already their employer.

After the issues were joined, pre-trial conferences were held on different dates, after which, a "Stipulation of Facts" was entered into in each of the three (3) cases which may be briefly summarized as follows:

1. On July 7, 1961, the Central Danao sold its Danao mill (sugar mill) properties to Dadeco under the Deed of Sale dated July 7, 1961, Annex A of the complaints;

2. On July 8, 1961, Dadeco started its actual operation and management of the mill properties of Central Danao by virtue of the aforesaid Deed of Sale;

3. That plaintiff Nonelon Bana-ay started working with Dadeco on August 1, 1961 in the Transportation Department and he last reported for work on December 15, 1961; that plaintiff Jose Cosculluela prior to February, 1967 was employed as Superintendent of the Transportation Department with a monthly salary of P1,028.00 and that as of February, 1967, he was employed in the sugar central, while plaintiff Gorgonio Palma started working also with the sugar central on August 1, 1961 and last reported for work with Dadeco on July 10, 1966. He received from Dadeco the amount of P790.50 as separation pay; whether he resigned or not remain to be proved;

4. That the parties further agreed to waive all their claims for attorney's fees and damages against each other and to limit the trial of these cases on the following issues:

a) whether or not plaintiffs are entitled to Termination Pay Law, R.A. 1052, as amended;

b) in case plaintiffs are entitled to termination pay, who should be liable for its payment, Central Danao or Dadeco?

As herein earlier stated, originally there were other plaintiffs together with Nonelon Bana-ay in Civil Case No. 8214. The complaints of the other plaintiffs against Central Danao and Dadeco were, however, dismissed due to lack of interest to prosecute, thus leaving Nonelon Bana-ay alone in Civil Case No. 8214 pursuing his claim. Hence, the trial of the three cases proceeded only with respect to plaintiffs Nonelon Bana-ay, Jose Cosculluela and Gorgonio Palma.

After trial, the Court of First Instance of Negros Occidental, Branch II, rendered three (3) separate decisions, all in favor of plaintiffs (now private respondents), ordering Central Danao —

1) in Civil Case No. 8214, to pay Nonelon Bana-ay the sum of P1,320.00 plus 6% interest per annum from the date of filing of the complaint and to pay the costs;

2) in Civil Case No. 8353, to pay Gorgonio Palma the sum of P2,790.00 plus legal interests from the date of filing of the complaint.

The complaints were dismissed as against the defendant, now private respondent Dadeco. The trial court found that Jose Cosculluela actually received from Dadeco the amount of P2,006.06 after deducting the amount of P9,622.58 representing his accounts and advances from the amount of P11,628.64 representing his retirement gratuity based on the number of years of service with Dadeco. Gorgonio Palma was found to have been actually overpaid by Dadeco of the separation due him for his almost 5 years of service, having received P750.50 instead of only P465.00; while Nonelon Bana-ay is not entitled to separation pay since he did not render continuous service being considered only a temporary laborer of Dadeco.

From the three (3) decisions, Central Danao appealed to the then Court of Appeals which, on June 23, 1975, affirmed the decisions of the Court of First Instance of Negros Occidental but modified the award of termination pay to Jose Cosculluela so as to cover only the years of service from 1935 to July 7, 1961, the date when the sugar mill properties were sold to Dadeco.

Central Danao's motion for reconsideration having been denied[7] it now filed the instant petition seeking a consolidated review of the joint decision of the then Court of Appeals, now Intermediate Appellate Court, in the three (3) cases, contending that the trial court erred:[8]

I

IN HOLDING THAT PETITIONER IS LIABLE TO PAY EMPLOYEES SEPARATION PAYS FROM 1935 to 1961;

II

IN HOLDING THAT CLAIMANTS EMPLOYMENT WITH PETITIONER WAS TERMINATED WHEN DADECO PURCHASED AND ASSUMED OPERATION OF PETITIONER'S MILL PROPERTIES; and

III

IN HOLDING THAT EMPLOYEES WERE NOT GUILTY OF LACHES.

Petitioner Central Danao argues that it cannot be held accountable to the three private respondents for the latter's termination pay since the responsibility therefor should be borne by Dadeco, the purchasing corporation. In support of its theory, Central Danao contends that when it sold all its sugar mill properties and assets to Dadeco on July 7, 1961, the employees were not terminated as would entitled them to termination pay. Instead they were absorbed, re-employed and in fact, continued working in the sugar mill upon Dadeco's takeover of the management and operation. Private respondents (employees) therefore should have directed their claims solely against their

present employer, Dadeco, because at the time they were allegedly terminated, there was no employer-employee relationship between them and Central Danao; that assuming arguendo, that they were terminated by Central Danao when the latter sold the sugar mill properties and assets to Dadeco on July 7, 1961, Central Danao is not liable to pay termination pay because their termination was for a just cause — closing or cessation of employer's business — under Sec. 1, R.A. 1052, as amended by R.A. 1787; and assuming further, that there was in fact no closure or cessation of employer's business since Dadeco continued to operate the mill properties, still, the purchase and takeover by Dadeco of the mill properties can be considered analogous to closing or cessation of the operation of the establishment conformably with paragraph (f) of Section 1, R.A. 1052, as amended by R.A. 1787; and finally, that the claims for termination pay are barred by laches inasmuch as they were filed almost six (6) years after their (private respondents) termination from the service.

We disagree.

There can be no question that the closing or cessation of operation of an establishment or enterprise may be considered as a just cause for termination of employment without a definite period.[9] But the closing or cessation of operation referred to, must not be to defeat the purpose of the law. The situation we have in the case at bar however stops short of "closing or cessation of operation." What the record indubitably disclosed is a sale or disposition of all or substantially all the properties and assets of Central Danao to the purchasing corporation Dadeco and not a cessation of operation by Central Danao. But while it is true that what is authorized as a just cause for termination of employment is the closing or cessation of operation, still it has to be conceded that the Termination Pay Law also recognizes the right of an employer to sell, dispose or lease his business enterprise provided such disposition is not intended to desecrate the law or adversely affect public interest.

In the instant case, the sale by Central Danao of its sugar mill properties and assets to Dacedo on July 7, 1961 is not disputed. And, as a consequence of that sale or disposition of its corporate properties and assets, the ownership or management of the sugar mill properties and assets were transferred from Central Danao to Dadeco. Likewise

not assailed is the fact that immediately thereafter, Dadeco, as the purchasing corporation, continued the integral business operation of its predecessor in an essentially unchanged manner that is, milling of sugar cane and manufacture of centrifugal sugar. In short, there was a change of ownership or management of the sugar mill properties and assets.

Change of ownership or management of a business establishment or enterprise however, is not one of the just causes enumerated by the Termination Pay Law to terminate employment without a definite period Neither can it be construed as synonymous with nor analogous to closing or cessation of operation of an establishment or enterprise contemplated under par. (a), Section 1, R.A. 1052, as amended by R.A. 1787. That the Termination Pay Law should be strictly interpreted and construed against the employer finds expression in the decisions of this Court starting from the 1968 case of Wenceslao vs. Zaragosa, Inc., 24 SCRA 554, then Insular Lumber Co. vs. Court of Appeals, 29 SCRA 371 (1969), followed by another Insular Lumber Co. vs. Court of Appeals, 80 SCRA 28 (1977), Cortez vs. Frias, 81 SCRA 342 (1978), and more recently, Duay vs. Court of Industrial Relations, 122 SCRA 834 (1983). Decided on the basis of the particular facts of each case, this Court has interpreted strictly "closing or cessation of operation of the establishment or enterprise" against the employer.

The issue that arises then is, whether or not a change of ownership or management of an establishment or corporation by virtue of the sale or disposition of all or substantially all of its properties and assets operates to insulate the selling corporation (Central Danao) from its obligation to its employees under the Termination Pay Law.[10]

Under the Termination Pay Law — then enforced prior to the effectivity of the New Labor Code on November 1, 1974 — an employee may be terminated with or without just cause. If there is just cause, the employer is not required to serve any notice nor pay termination pay to employees concerned. If the termination is without just cause, the employer must serve timely notice to the employee, otherwise the employer is obliged to pay termination pay, except where other applicable statutes provide a different remedy as in unfair labor practice.[11] The purpose of the Termination Pay Law,

as a regulatory measure,[12] is to give the employer the opportunity to find replacement or substitute; and other place of employment or source of livelihood in the case of an employee.[13] The law should be interpreted with the aim in view of advancing the beneficient purpose thereof to give justifiable protection to the laborers so dismissed and their families.[14]

There can be no controversy for it is a principle well-recognized, that it is within the employer's legitimate sphere of management control of the business to adopt economic policies or make some changes or adjustments in their organization or operations that would insure profit to itself or protect the investment of its stockholders. As in the exercise of such management prerogative, the employer may merge or consolidate its business with another, or sell or dispose all or substantially all of its assets and properties which may bring about the dismissal or termination of its employees in the process. Such dismissal or termination should not however be interpreted in such a manner as to permit the employer to escape payment of termination pay. For such a situation is not envisioned in the law. It strikes at the very concept of social justice.[15]

In a number of cases[16] on this point, the rule has been laid down that the sale or disposition must be motivated by good faith as an element of exemption from liability. Indeed, an innocent transferee of a business establishment has no liability to the employees of the transferor to continue employing them. Nor is the transferee liable for past unfair labor practices of the previous owner, except, when the liability therefor is assumed by the new employer under the contract of sale, or when liability arises because of the new owner's participation in thwarting or defeating the rights of the employees.

A judicious examination of the pertinent Deed of Sale dated July 7, 1961 reveals no express stipulation whatsoever relative to the continued employment by Dadeco of the former employees of Central Danao. Their fate under the new owners appeared unprovided for. And there is no law requiring that the purchaser should absorb the employees of the selling company.[17] The most that the purchasing company may do, for reasons of public policy and social justice, is to give preference to the qualified separated employees of the selling company, who in their judgment are necessary in the continued

operation of the business establishment. In the instant case, while some of the employees were hired the day after the sale, like private respondent Jose Cosculluela, other employees were however hired only 23 days after. Clearly then, there was in fact, an interruption of the employment of the private respondents in the sugar central. In reality then, they were rehired anew by Dadeco, their new employer.

The records further reveal that the negotiations for the sale of the assets and properties of Central Danao to Dadeco were held behind the back of the employees who were taken by surprise upon the consummation of the sale. They were not formally notified of the impending sell-out to Dadeco and its attendant consequences with respect to their continued employment status under the purchasing company. As such, they were uncertain of being retained, hired, or absorbed by the new owner and its management. Technically then, the employees were actually terminated and/or separated from the service on the date of the sale, or on July 7, 1961. Worse, they were not at all given the required notice of their termination. Inasmuch as there was no notice of termination whatsoever given to the employees of Central Danao coupled with the fact that no efforts were exerted by Central Danao to apprise its employees of the consequences of the sale or disposition of its assets to Dadeco, justice and equity dictate that private respondents be entitled to their termination or separation pay corresponding to the number of years of service with Central Danao until June 7, 1961. In Philippine Refining Company, Inc. vs. Garcia,[18] this Court, speaking thru Justice J.B.L. Reyes, stated thus: "Except where other applicable statutes provide differently, it is not the cause for the dismissal but the employer's failure to serve notice upon the employee that renders the employer answerable to the employee for termination pay." Hence, the untenability of petitioner's contention that private respondents should have directed their claims for termination pay solely against the Dadeco on the flimsy ground that at the time of their alleged termination, there was no employee-employer relations between them and Central Danao.

By way of reminder, employers should exercise caution and care in dealing with its employees to prevent suspicion that the adoption of certain corporate combinations such as merger or consolidation or outright sale or disposition of assets is but a scheme to evade payment of termination pay to its employees.

We now come to the next issue of whether or not the claims for termination pay were barred by laches.

Prescinding from the above discussion, private respondents were deemed terminated as of July 7, 1961 when Central Danao sold all its assets and properties to Dadeco. It is the contention of Central Danao that the actions for payment of termination pay were filed on October 21, 1967, July 14, 1967 and October 10, 1967, or almost six years from the date of termination, hence, barred by laches.

The contention is untenable. The doctrine of "laches" is a creation of equity applied only to bring about equitable results, never to defeat justice.[19] It is addressed to the sound discretion of the court. Central Danao cannot take refuge under the equitable doctrine of laches to shield itself from an obligation created by law, R.A. 1787 which, undoubtedly, is a social legislation intended to protect the workingman. From the time of the enactment of its predecessor, R.A. 1052, it is a matter of public policy to accord protection to the workingman once the requirements of the law are not complied with. Since this is an obligation created by law, and as correctly ruled by the then Court of Appeals, Article 1144(2) of the New Civil Code applies. The action to enforce compliance with the obligation to pay termination pay may be instituted within the period of 10 years from the time the right of action accrues.[20]

Finally, considering that private respondents, with the exception of Nonelon Bana-ay, had already been paid their termination or separation pay or its equivalent covering the entire period of their service with Dadeco, Dadeco is under no obligation to pay further any termination or separation pay to private respondents covering the period of their employment with Central Danao. As correctly observed by the then Court of Appeals, Jose Cosculluela is entitled to termination or separation pay only for the period of employment with Central Danao or from October 10, 1935 up to July 7, 1961.

WHEREFORE, and except as thus modified with respect to Jose Cosculluela, the Decision appealed from is hereby **AFFIRMED**. Costs against petitioner.

SO ORDERED.

Concepcion, Jr., Escolin and Alampay, *JJ.*, concur.
Aquino, *J.*, concurs in the result.
Makasiar and Abad Santos, *JJ.*, took no part.

---

[1] Annex "A", Petition, page 25, Rollo.
[2] P. 76 Record on Appeal, Civil Case No. 8214.
[3] P. 97, Record on Appeal, Civil Case No. 8255.
[4] P. 93, Record on Appeal, Civil Case No. 8353.
[5] P. 8, Record on Appeal, Civil Case No. 8214.
[6] Eleuterio Pastrano, Anatolio Diagbel, Proceso Cañoso, Amado Tagnaman, Bonifacio Tagnaman, Ambrosio Mahayag, Pio Escamos, and Toribio Salipud.
[7] Page 50, Rollo.
[8] Petitioner's Brief, page 109, Rollo.
[9] Sec. 1, R.A. 1052, as amended by R.A. 1787.
[10] R.A. 1052, as amended by R.A. 1787.
[11] Pepito vs. Sec. of Labor, 96 SCRA 454 (1980); Jackbilt Concrete Block Co., Inc. vs. Norton & Harrison, 71 SCRA 44 (1976); Catague vs. Emilia, 53 SCRA 487; Philippine Rabbit Bus Lines vs. Calma, 42 SCRA 173 (1971).
[12] Abe vs. Foster Wheeler, 110 Phil. 198 (1960).
[13] Ibid.
[14] Insular Lumber Co. vs. CA, 29 SCRA 371 (1969).
[15] Ibid.
[16] Majestic & Republic Theaters Employees Association vs. Court of Industrial Relations, 4 SCRA 457 (1962); Fernando vs. Angat Labor Union, 5 SCRA 248; H. Aronson vs. Associated Labor Union, 40 SCRA 7; Plasly vs. Sy Indong Co., 11 SCRA 277; Cruz vs. PAFLU, 42 SCRA 68.
[17] MDDII Supervisors & Confidential Employees Association (FFW) vs. Presidential Assistant on Legal Affairs, 79 SCRA 40.
[18] 18 SCRA 107 (1966).
[19] Sotto vs. Teves, 86 SCRA 154; Manila Railroad Company vs. Luzon Stevedoring Company, 100 Phil. 135.
[20] Cielos vs. Bacolod Murcia Milling, Inc., 20 SCRA 1131.
