

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

COCA-COLA BOTTLERS (PHILS.), INC.,^[]
*Petitioner,***

-versus-

**G.R. Nos. 93530-36
February 27, 1991**

**NATIONAL LABOR RELATIONS
COMMISSION and COCA-COLA
WAREHOUSE BOTTLERS EMPLOYEES
ASSOCIATION (CCWBEA-PASSLU),
*Respondents.***

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RESOLUTION

FELICIANO, J.:

On 13 January 1987, private respondent union filed against petitioner a complaint for illegal dismissal of twenty-one (21) of its members.

An amended complaint dated 2 May 1988 and several original complaints were subsequently filed by private respondent union alleging that other union members were similarly dismissed by petitioner, making a total of ninety-eight (98) workers allegedly illegally dismissed and ten (10) workers allegedly illegally transferred by petitioner. The complaints also asserted claims by members of

private respondent union for 13th month pay, service incentive leave pay, interest and attorney's fees, and included a prayer for reinstatement and backwages. Complainants also claimed that their dismissal was tainted with unfair labor practice.

Petitioner denied the charges in the several complaints, claiming that the complainant workers were not its employees but rather were employees of one Juanito C. Arcibal, a service contractor, who had detailed them with petitioner company in order to carry out his contractual obligations with petitioner company. Petitioner further claimed that its service contract with Arcibal had already expired and that the same had not been renewed because petitioner no longer needed the services theretofore rendered by the service contractor.^[1]

Pending resolution of the illegal dismissal cases, private respondent union filed with the Bureau of Labor Relations ("BLR") a petition for a certification election docketed as BLR Case No. A-10-325-87 among the rank-and-file workers assigned to petitioner's warehouse facility in Las Piñas, Metro Manila. Petitioner company opposed the petition for a certification election, asserting the same ground pleaded in the illegal dismissal cases that there existed no employer-employee relationship between itself and the members of private respondent union. The proceedings in the illegal dismissal cases were held in abeyance pending resolution of the certification election case before the BLR.

On 18 September 1987, Med-Arbiter Tomas Falcotin issued an Order finding that an employer-employee relationship did exist between petitioner company and the members of respondent union, and ordering a certification election to be held among the rank-and-file employees of petitioner company working in the warehouse facility located at Pamplona, Las Piñas, Metro Manila.

On Appeal by petitioner, the BLR on 15 December 1987 affirmed the findings and Order of the Med-Arbiter.

Petitioner company then went on a Petition for *Certiorari* to this Court, docketed as G.R. No. 82195, asking for the setting aside of the decision of the BLR in the certification election case. In a Resolution dated 27 July 1988, this Court dismissed the Petition for *Certiorari*

holding that petitioner company had not sufficiently shown that the BLR had committed a grave abuse of discretion in rendering its appealed decision.

The illegal dismissal cases were consolidated and hearing thereon then resumed. The cases were set for hearing on 13 April 1989. Because of petitioner's failure to appear on that date, the hearing was reset to 10 May 1989. At the hearing on 10 May 1989, petitioner company promised to submit its memorandum while the members of private respondent union manifested that they would file a reply memorandum, after which the case would be deemed submitted for resolution.

Petitioner company failed to submit its memorandum. The Labor Arbiter considered this omission as a waiver of petitioner's right to file a memorandum and accordingly rendered a Decision on 15 June 1989. The Labor Arbiter found that since the issue of existence of an employer-employee relationship between petitioner company and the members of respondent union had been resolved by the Resolution of the Supreme Court in G.R. No. 82195, and since petitioner company had not thereafter submitted any argument in respect of the charge of illegal dismissal, there appeared no valid cause for such dismissals and accordingly held those dismissals as illegal. The Labor Arbiter required petitioner to reinstate the complaining union members with full backwages and without loss of seniority rights, as well as to pay 13th month pay and service incentive leave pay to those complainants who had not yet received such benefits.

Petitioner company then went on appeal to the National Labor Relations Commission ("NLRC"), contending that the Labor Arbiter had erroneously found the complaining workers to have been illegally dismissed solely on the basis of this Court's Resolution in G.R. No. 82195, and contending that it had been deprived of due process not having been given an opportunity to prove that the termination of the services of the complaining workers had been effected for a valid and legal cause. Petitioner company protested that it had not received notice from the Labor Arbiter about the resumption of the hearings.

On 26 September 1989, petitioner company filed a Supplemental Appeal^[2] with the NLRC arguing that, on the supposition that

petitioner had been guilty of illegal dismissal, the order of the Labor Arbiter still must be modified because reinstatement had become “no longer feasible.” Petitioner claimed that there were no positions which were substantially equivalent to those previously occupied by the complainant workers; that reinstatement of the dismissed workers would result in requiring petitioner to hire ninety-eight (98) more workers than its business operations actually demanded; that the service contract of petitioner with Juanito C. Arcibal was terminated precisely because petitioner no longer needed the services of the workers. Thus, petitioner contended, it would either be compelled to create positions unnecessary for its business or to displace ninety-eight (98) of its current employees.

The NLRC, apparently acting under the belief that petitioner had not been notified of the resumption of the hearings on the illegal dismissal cases, initially ordered the remand of those cases to the Labor Arbiter for reception of evidence on the illegal dismissal, illegal transfer and non-payment of 13th month pay and service incentive leave pay.^[3]

On motion for reconsideration by private respondent union, the NLRC reversed itself and in its Decision dated 14 March 1990,^[4] upheld and affirmed the Decision of the Labor Arbiter of 15 June 1989. The NLRC noted that petitioner company had in fact been notified of the resumption of the hearings and had undertaken to submit its memorandum but had failed to do so, thus opting to remain silent until the Labor Arbiter had rendered his decision. Petitioner company moved for reconsideration of the NLRC’s Decision, without success.

The instant Petition for *Certiorari* was filed on 8 June 1990, and asks this Court to set aside the Decision of the NLRC, raising the same arguments it had already raised in its Supplemental Appeal to the NLRC and its motion for reconsideration of the NLRC’s Decision of 14 March 1990.

In a Consolidated Reply, dated 25 October 1990, to the Comments filed by private respondent union and the Solicitor General on behalf of the NLRC, petitioner raises an additional argument, the cessation of its business operations at its warehouse in Pamplona, Las Piñas,

due to alleged expiration of its lease contract with the owner of the warehouse and premises. In this Consolidated Reply, petitioner stated that it had filed a motion to dismiss in the certification election proceedings (In Re: Petition for Certification Election at the Coca-Cola Bottlers [Phils.], Inc., Las Piñas, Metro Manila, OS-MA-A-3-75-90). In an Order dated 5 September 1990, Undersecretary of Labor Bienvenido E. Laguesma ruled as follows:

“On 17 August 1990, the respondent while seeking for a reconsideration of the aforementioned resolution alleged among others that the parties have been meeting and discussing the possibility of settling the controversy between them and that some workers have opted for the payment of their separation pay.

On 30 August 1990, petitioner Coca-Cola Warehouse Bottlers Employees Association-PSSLU alleging that the warehouse of the company in Las Piñas had already ceased operations and that the subject employees have already received their separation pay or in the process of receiving it, moved that this case be closed and terminated.

This being the factual situation, we are left with no alternative than to grant the relief being prayed for.

PREMISES CONSIDERED, the Motion to Dismiss is hereby granted and the Motion for Reconsideration considered moot and academic.

SO ORDERED.”^[5]

In a manifestation dated 14 November 1990, petitioner company stated that only eight (8) members of private respondent union had not yet entered into an amicable settlement with petitioner company.

Upon the other hand, private respondent union, in a “Rejoinder to Petitioner’s Consolidated Reply” dated 24 November 1990, opposed the setting aside of the NLRC’s Decision and in effect asked that such Decision be upheld.

Deliberating upon the instant Petition for *Certiorari*, the Court considers that petitioner company has failed to show any grave abuse of discretion or any act without or in excess of jurisdiction on the part of public respondent NLRC in rendering its decision dated 14 March 1990.

Public respondent NLRC correctly held that the question of the existence of an employer-employee relationship between petitioner company and the workers here involved, was finally resolved by this Court in its Resolution dated 27 July 1988 in G.R. No. 82195. That Resolution was, of course, binding on both petitioner company and the members of private respondent union. The illegal dismissal cases were thus in effect brought and resumed by the members of private respondent union as employees of petitioner company. The burden of proving that the termination of the services of the members of respondent union was for a valid or authorized cause, lay upon petitioner employer.^[6] That burden was not discharged by petitioner which, for reasons satisfactory to itself, chose not to submit any memorandum or other pleadings before the Labor Arbiter after this Court had resolved the issue of the workers' employment status. Thus, the Labor Arbiter and the NLRC were correct in holding that the members of private respondent union had been illegally dismissed by petitioner company. Petitioner's assertion of denial of due process was properly rejected as entirely bereft of merit.

It follows that the complainant members of private respondent union are entitled to backwages as well as to their 13th month pay and service incentive leave pay (i.e., those who have not already received such pay).

We turn to the question of whether petitioner should also be required to reinstate complaining members of private respondent union. Ordinarily, the closing of a warehouse facility and the termination of the services of employees there assigned is a matter that is left to the determination of the employer in the good faith exercise of its management prerogatives. The applicable law in such a case is Article 283 of the Labor Code which permits "closure or cessation of operation of an establishment or undertaking not due to serious business losses or financial reverses," which, in our reading, includes both the complete cessation of operations and the cessation of only

part of a company's activities. In such a case, however, the company is required to notify both the employees concerned and the Department of Labor and Employment ("DOLE") at least one (1) month before the intended date of closure. The notice to the DOLE is, of course, intended to enable the proper authorities to determine after hearing whether such closure is being done in good faith, i.e., for bonafide business reasons, or whether, to the contrary, the closure is being resorted to as a means of evading compliance with the just obligations of the employer to the employees affected.^[7]

In the instant case, we note that the alleged expiration of petitioner's lease contract covering its warehouse facility was for the first time alleged in its Consolidated Reply dated 25 October 1990, almost four (4) years after petitioner first dismissed the complainant members of private respondent union. That Consolidated Reply, however, makes no mention of when that lease contract expired and no copy of the lease contract was submitted to this Court. Moreover, petitioner has notably failed to indicate when its operations in its Las Piñas warehouse actually ceased. There is, in other words, a substantial doubt as to whether the alleged closure of petitioner's Las Piñas warehouse operations was resorted to for the purpose of evading petitioner's obligations either under the certification election proceedings or in the present illegal dismissal proceedings. In the total circumstances of this case, we do not feel justified in simply setting aside the NLRC's Decision in respect of reinstatement upon the bare assertions of petitioner company.

FOR ALL THE FOREGOING, the Court Resolved to **DISMISS** the Petition for *Certiorari* for lack of merit and to **AFFIRM** the Decision of public respondent NLRC with the modification that complainant members of private respondent union shall be entitled to three (3) years backwages and regular allowances, without deduction or qualification. In all other respects, the Decision dated 14 March 1990 of the NLRC is hereby **AFFIRMED**.

This Decision is, however, without prejudice to the right of petitioner company to file, if it wishes, a notice of closure of its Las Piñas warehouse facility with the DOLE, furnishing a copy of such notice to the employees concerned, proceeding under Article 283 of the Labor Code. It is understood, however, that the filing of such a notice of

closure and any proceedings before the DOLE shall not suspend the effectivity of this Resolution.

Costs against petitioner. This Resolution is immediately executory.

Fernan, C.J., (Chairman), Gutierrez, Jr., Bidin and Davide, Jr., JJ., concur.

[**] The title used by petitioner in its Petition was: “Coca-Cola Bottlers (Philippines), Inc. (Warehouse, Las Piñas).” Petitioner’s operations in its warehouse in Las Piñas were not, however, incorporated into a distinct legal person; hence, the name used by petitioner in its Petition before this Court was incorrect.

[1] Rollo, 20.

[2] Id., p. 61.

[3] Decision of the NLRC, dated 31 October 1989, Rollo, p. 76.

[4] Rollo, p. 17.

[5] Id., p. 190.

[6] Article 277 (b), Labor Code. See also *Indino vs. National Labor Relations Commission*, 178 SCRA 168 (1989).

[7] *Wiltshire File Co., Inc. vs. National Labor Relations Commission, et al.*, G.R. No. 82249, promulgated 7 February 1991.