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SUPREME COURT
SECOND DIVISION

DIONISIO EBON, MARCELO BENOCILLA, CASIANO RESOTA, DANIEL L. CUTAMORA and RAINERIO RECENTES,
***Petitioners*,**

-versus-

G.R. No. 58265
March 25, 1982

JUDGE FELIZARDO S.M. DE GUZMAN of the Court of First Instance of Surigao del Norte, Branch II and MARINDUQUE MINING AND INDUSTRIAL CORPORATION (MMIC),
***Respondents*.**
x---x

D E C I S I O N

AQUINO, *J.*:

Dionisio Ebon, Marcelo Benocilla, Casiano Resota, Daniel L. Cutamora and Rainerio Recentes were dismissed in 1976 by their employer, Marinduque Mining and Industrial Corporation. The dismissal of Ebon, Resota and Benocilla was recommended by their union, Surigao United Mines Workers Union, on the ground of incompetence and inefficiency (pp. 47-48, Rollo).

Each of the said five employees filed with the Labor Arbiter of Regional Offices Nos. X and IX of the Department of Labor a complaint against Marinduque Mining for reinstatement with backwages (pp. 3, 29, Rollo).

Not content with that remedy, each of them filed against their erstwhile employer in the Court of First Instance of Surigao del Norte a complaint for moral and exemplary damages (Civil Cases Nos. 2340, 2343, 2408, 2426 and 2427) presumably on the theory that such damages are outside the jurisdiction of the National Labor Relations Commission. Said cases were filed before Presidential Decree No. 1367 was issued.

After the issue was joined in the said five cases and after the hearing had started, or on September 9, 1980, the learned trial judge in a "joint decision/order" dismissed the five cases on the ground of lack of jurisdiction. He ruled that the claims for damages fall within the jurisdiction of the Labor Arbiters and the National Labor Relations Commission as provided for in Article 217 of the Labor Code and as held in Garcia vs. Martinez, L-47629, August 3, 1978, 84 SCRA 577 (pp. 28-36, Rollo).

A copy of that decision was received by plaintiffs' counsel on September 12, 1980. Twenty days later, or on October 2, the plaintiffs (the five dismissed employees) filed a motion for reconsideration which was denied in the order of July 24, 1981 (p. 20, Rollo).

The instant petition for certiorari and mandamus assailing the dismissal order was mailed to this Court on September 9, 1981. Private respondent is correct in contending that petitioners' remedy is an appeal under Republic Act No. 5440, a 1968 law which up to this time is not known to many lawyers and judges.

Hence, the petition herein cannot be entertained. Certiorari and mandamus do not lie where an appeal should have been the proper remedy and the period for appealing had already expired. The lower court's decision dismissing the five cases is final and no longer subject to review.

Nevertheless, just to set the jurisdictional issue at rest, it should be stated that the trial court correctly ruled that it had no jurisdiction over petitioners' claims for moral and exemplary damages allegedly caused by their dismissal and that such claims come within the competence and province of the Labor Arbiters and the NLRC as provided in the Labor Code which took effect on October 1, 1974 and which provides:

> "ART. 217. Jurisdiction of Labor Arbiters and the Commission. — (a) The Labor Arbiters shall have exclusive jurisdiction to hear and decide the following cases involving all workers, whether agricultural or non-agricultural:
>
> > "(1) Unfair labor practice cases;
> >
> > "(2) Unresolved issues in collective bargaining including those which involve wages, hours of work, and other terms and conditions of employment duly indorsed by the Bureau in accordance with the provisions of this Code;
> >
> > "(3) All money claims of workers involving nonpayment or underpayment of wages, overtime or premium compensation, maternity or service incentive leave, separation pay and other money claims arising from employer-employee relation, except claims for employee's compensation, social security and medicare benefits and as otherwise provided in Article 128 of this Code;
> >
> > "(4) Cases involving household services; and
> >
> > "(5) All other cases arising from employer-employee relation unless expressly excluded by this Code.
>
> "(b) The Commission shall have exclusive appellate jurisdiction over all cases decided by labor Arbiters, compulsory arbitrators, and voluntary arbitrators in appropriate cases provided in Article 263 of this Code."

Thus, in Bengzon vs. Inciong, L-48706-07, June 29, 1979, 91 SCRA 248, we sustained the award by the NLRC to a dismissed employee of P300,000 as moral and exemplary damages in addition to backwages and separation pay (See Garcia case in 84 SCRA 577).

However, Presidential Decree No. 1367, which took effect on May 1, 1978, amended Article 217 by specifically providing that "Regional Directors shall not indorse and Labor Arbiters shall not entertain claims for moral or other forms of damages."

The lawmaker in divesting the Labor Arbiters and the NLRC of jurisdiction to award moral and other forms of damages in labor cases could have assumed that the Labor Arbiters' position-paper procedure of ascertaining the facts in dispute might not be an adequate tool for arriving at a just and accurate assessment of damages, as distinguished from backwages and separation pay, and that the trial procedure in the Court of First Instance would be a more effective means of determining such damages (See Resolution of May 28, 1979 in Garcia vs. Martinez, 90 SCRA 331; Calderon vs. Amor, et al. and Court of Appeals, G.R. No. 52235, October 28, 1980, 100 SCRA 459 and Abad vs. Philippine American General Ins. Co., G.R. No. 50563, October 30, 1981).

Evidently, the lawmaking authority had second thoughts about depriving the Labor Arbiters and the NLRC of the jurisdiction to award damages in labor cases because that set up would mean duplicity of suits, splitting the cause of action and possible conflicting findings and conclusions by two tribunals on one and the same claim.

So, on May 1, 1980, Presidential Decree No. 1691 (which substantially reenacted Article 217 in its original form) nullified Presidential Decree No. 1367 and restored to the Labor Arbiters and the NLRC then jurisdiction to award all kinds of damages in cases arising from employer-employee relations (Pepsi-Cola Bottling Company of the Philippines vs. Martinez, G.R. No. 58877).

The provisions of paragraphs 3 and 5 of Article 217(a), as originally enacted and as restored by Presidential Decree No. 1691, that the Labor Arbiters and the NLRC have jurisdiction over "all money claims of workers" and "all other claims arising from employer-employee

relations," are comprehensive enough to include the claims for moral and exemplary damages of a dismissed employee against his employer.[*]

The exercise of that kind of jurisdiction by the Labor Arbiters and the NLRC would not be a novelty or a radical innovation because the Court of Industrial Relations, the predecessor of the NLRC, was invested with a similar jurisdiction (Maria Cristina Fertilizer Plant Employees Assn. vs. Tandayag, L-29217, May 11, 1978, 83 SCRA 56, 63, and other cases).

WHEREFORE, the petition is dismissed. No costs.

SO ORDERED.

Barredo, *J.*, *(Chairman)*, Concepcion Jr., De Castro, Ericta and Escolin, *JJ.*, concur.
Abad Santos, *J.*, took no part.

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* Article 217, as amended by Section 2 of Batas Pambansa Blg. 130, now reads as follows:

> "ART. 217. Jurisdiction of Labor Arbiters and the Commission. — (a) The Labor Arbiters shall have the original and exclusive jurisdiction to hear and decide the following cases involving all workers, whether agricultural or non-agricultural:
>
> "1. Unfair labor practice cases;
>
> "2. Those that involve wages, hours of work and other terms and conditions of employment;
>
> "3. All money claims of workers, including those based on non-payment or underpayment of wages, overtime compensation, separation pay and other benefits provided by law or appropriate agreement, except claims for employees compensation, social security, medicare and maternity benefits;
>
> "4. Cases involving household services; and
>
> "5. All other claims arising from employer-employee relations, unless expressly excluded by this Code.
>
> "(b) The Commission shall have exclusive appellate jurisdiction over all cases decided by Labor Arbiters" (265, PD 442; 266, PD 570-A; 215, PD 626; 216, PD 850; 217, PD 1367; PD 1691; BP 130).

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