

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**ELIAS C. GARCIA,
*Petitioner,***

-versus-

**G.R. No. L-67825
September 4, 1987**

**NATIONAL LABOR RELATIONS
COMMISSION, JUANITA FERNANDEZ,
JULIAN AGUILA and TITO
PAGLINAWAN,**

Respondents.

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DECISION

FERNAN, J.:

Petitioner Elias C. Garcia, an executive vice-president of Filriters Guaranty Assurance Corporation, challenges in this *Certiorari* proceedings the Resolution^[1] of the National Labor Relations Commission dated March 15, 1984 which affirmed the Decision^[2] of the Labor Arbiter dated November 24, 1982, finding him liable in his personal capacity, as one of the respondents in NLRC-NCR Case No. 9-6045-82, on private respondents' claim for separation pay and/or retirement benefits, share in the profits for the year 1980, bonus for the year 1981, and accumulated vacation leave in addition to the retrenchment benefits they received by virtue of their having been

retrenched when Filriters Guaranty Assurance Corporation was placed under conservatorship pursuant to Section 248 of the Insurance Code.

The antecedent facts of the case are undisputed.

Filriters Guaranty Assurance Corporation (FILRITERS, for short), an insurance company with home office at the 6th floor, Sterling Life Condominium, De la Rosa St., corner Esteban St., Legaspi Village, Makati, Metro Manila, was placed under conservatorship as a financially distressed company by the Insurance Commissioner sometime in September 1981 pursuant to Section 248 of the Insurance Code.

On September 17, 1981, Insurance Commissioner Gregoria Cruz-Arnaldo appointed Mr. Julian J. Locsin as her representative vested with the powers of a conservator under Section 248 of the Insurance Code.^[3] In his letter of appointment, Mr. Julian J. Locsin was likewise informed that he was elected as member of the Board of Directors and Chairman of the Executive Committee of Filriters.

At the time of Filriters was placed under conservatorship, Mr. Joaquin Rodriguez was the president of the company while Elias C. Garcia, petitioner herein, was the executive vice-president. Private respondents Julian Aguila and Tito Paglinawan were the vice presidents and Juanita FERNANDEZ was the assistant vice-president.

In carrying out his functions as conservator, Mr. Julian J. Locsin (CONSERVATOR, for short) wrote the president of Filriters on January 11, 1982 advising him that all officers of the company, particularly the president and Executive vice-president, shall in proper cases see to it that the policies, orders and instructions promulgated by the Insurance Commissioner and or the legal conservator are strictly implemented, which policies and orders, shall be considered to have amended and superseded any standing policy or power granted by the board or by-laws of the corporation in favor of any officer of the company in accordance with Section 248 of the Insurance Code.^[4]

A retrenchment policy was thereafter instituted by the CONSERVATOR who, in a letter dated January 27, 1982,^[5] confirmed the guidelines that the Board of Directors and the operating officer should consider and follow. Thus:

- “1. The company may only allow the retrenched employee or officer one-half salary for every year of service; and
- “2. The company may also allow the 13th month pay for those receiving P1,500.00 below.”

On July 31, 1982, private respondents were formally notified of their retrenchment and termination from the service effective as of the close of office hours on August 6, 1982 in separate letters signed by Elias C. Garcia, executive vice-president of FILRITERS acting as operating officer of the CONSERVATOR.

Upon their separation from the service and after executing identical release and waiver documents, private respondents were given their retrenchment benefits equivalent to fifteen [15] days salary for every year of service in accordance with the guidelines set by the CONSERVATOR on January 27, 1982. Thus, Julian Aguila received P46,000.00; Tito Paglinawan P40,000.00; and Juanita FERNANDEZ P13,600.00.

Notwithstanding acceptance of their retrenchment benefit checks, private respondents wrote FILRITERS on August 20, 1982 demanding payment of their unenjoyed vacation leave, share in the profits for the year 1980 and bonus for the year 1981, stating therein, among others, that the waivers of claim that they signed were made under duress and do not reflect their voluntary act and deed.^[6]

Unable to elicit a favorable response from FILRITERS, private respondents filed on September 21, 1982 with the then Ministry of Labor and Employment a complaint for payment of separation pay and/or retirement benefits, share in the profits for the year 1980, bonus for the year 1981, and accumulated vacation leave, naming as respondents therein, Filriters Guaranty Assurance Corporation and Elias C. Garcia.^[7] The case was docketed as NLRC-NCR Case No. 96045-82.

Records show that FILRITERS and petitioner Elias C. Garcia did not appear during the three [3] scheduled hearings and, as a consequence thereof, both were deemed by the Labor Arbiter to have waived their right to present evidence in support of their stand. On motion of private respondents upon submission of their position paper, the case was submitted for resolution by the Labor Arbiter on November 22, 1982 on the basis of the documents on record.^[8]

On November 24, 1982, the Labor Arbiter rendered his decision directing FILRITERS and petitioner Elias C. Garcia to pay the claims of private respondents, the dispositive portion of which reads:

“WHEREFORE, respondents [Filriters and E. C. Garcia] are hereby ordered to pay herein complainants, as follows:

1. Julian B. Aguila	P30,422.15
2. Tito O. Paglinawan	25,768.50
3. Juanita T. Fernandez	<u>9,307.44</u>
TOTAL	P64,498.09
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representing the latter’s share in profits for 1980, money equivalent of accumulated vacation leave for the list three [3] years and 13th month pay or bonus for 1981.

“SO ORDERED.” (Words in parenthesis supplied)

FILRITERS and petitioner Elias C. Garcia filed on December 16, 1982 a motion to re-open the case and to admit the attached position paper and to reset the case for hearing with proper notice. Treated as a motion for reconsideration, the motion to re-open the case was denied by the Labor Arbiter on December 23, 1982.

On separate appeals, FILRITERS and petitioner Elias C. Garcia elevated the case to the National Labor Relations Commission.

In the meantime, while the case was pending appeal before the NLRC, the Insurance Commissioner suspended on January 30, 1983 FILRITERS’ certificate of authority effective February 1, 1983 in view

of its consistent inability to maintain an unimpaired paid-up capital and required margin of solvency. A cease and desist order was issued on the same day enjoining the company from taking any risk of any kind or character until such time its certificate of authority is restored by the Insurance Commission.^[9]

Following the suspension of FILRITERS' certificate of authority, the services of all senior officers, including that of petitioner Elias C. Garcia as executive vice-president and vice-president for finance were likewise terminated by the end of February 1983. However, for reasons of necessity, the CONSERVATOR retained Elias C. Garcia and Mrs. Pilar R. Jacobe on special arrangements or terms to be determined by the CONSERVATOR.^[10]

In a memorandum addressed to petitioner Elias C. Garcia dated February 22, 1983,^[11] the CONSERVATOR laid down the rules and guidelines to be observed following the suspension of the company's certificate of authority. The CONSERVATOR likewise, formally informed petitioner that the CONSERVATOR would enter into a new working arrangement with him and Mrs. Pilar R. Jacobe to handle the duties and responsibilities assigned to them by the CONSERVATOR.

On March 15, 1984, the National Labor Relations Commission issued its resolution denying the appeal and thus affirming the decision of the Labor Arbiter dated November 24, 1982 and the order dated December 23, 1982.

Petitioner Elias C. Garcia filed a motion for reconsideration^[12] pointing out, among others, that the NLRC only passed upon the issue of whether or not private respondents are entitled to additional retrenchment benefits but did not rule on the issue of whether or not he, who is neither the employer of private respondents nor a stockholder of Filriters Guaranty Assurance Corporation, could be held liable for the latter's corporate liabilities as an employer of private respondents.

On June 13, 1984, petitioner's motion for reconsideration was denied for lack of merit by the NLRC.^[13]

Dissatisfied, Elias C. Garcia instituted the instant petition for *certiorari* seeking the reversal of the resolution of the NLRC dated March 15, 1984 insofar as it holds him personally liable and praying that he be absolved from liability on the claim of private respondents for additional retrenchment benefits from Filriters Guaranty Assurance Corporation.

After due consideration, a temporary restraining order was issued, as prayed for, on July 9, 1984 restraining respondent National Labor Relations Commission and its officers, agents, representatives and/or any person or persons acting upon its orders or in its place or stead from enforcing and executing the decision dated March 15, 1984 rendered in NLRC-NCR Case No. 9-6045-82 entitled “Juanita FERNANDEZ, et. al., Complainants-Appellees, versus Filriters Guaranty Assurance Corporation, et. al., Respondents-Appellants.”^[14]

Records show that Filriters Guaranty Assurance Corporation did not appeal the NLRC decision of March 15, 1984 to this Court. A party who did not appeal the decision of the NLRC is bound by its findings of facts and cannot impugn the correctness of its judgment.^[15] Insofar therefore as the liability of FILRITERS is concerned, the same has now become final although the nature and extent of FILRITERS’ liability depend on the resolution of the issue raised in the instant petition, i.e.: whether or not petitioner Elias C. Garcia is jointly and severally liable with Filriters Guaranty Assurance Corporation for the payment of private respondents’ claims for profit sharing in 1980, bonus for 1981, and accrued vacation leave when petitioner, as executive vice president of FILRITERS at the time it was placed under conservatorship pursuant to Section 248 of the Insurance Code, formally informed private respondents of their termination pursuant to the retrenchment policy undertaken by the CONSERVATOR.

In asserting his theory of non-liability for the corporate obligations of FILRITERS to its retrenched employees as a results of its having been placed under conservatorship proceedings by the Insurance Commissioner, petitioner Elias C. Garcia relies on Section 248 of the Insurance Code^[16] which provides:

“SEC. 248. If at any time before, or after, the suspension or revocation of the certificate of authority of an insurance

company as provided in the preceding title, the Commissioner finds that such company is in a state of continuing inability or unwillingness to maintain a condition of solvency or liquidity deemed adequate to protect the interest of policyholders and creditors, he may appoint a conservator to take charge of the assets, liabilities, and the management of such company, collect all moneys and debts due said company and exercise all powers necessary to preserve the assets of said company, reorganize the management thereof, and restore viability. The said conservator shall have the power to overrule or revoke the actions of the previous management and board of directors of the said company, any provision of law, or of the articles of incorporation or by-laws of the company, to the contrary notwithstanding and such other powers as the Commissioner shall deem necessary.

“The conservator may be another insurance company doing business in the Philippines, and officer or officers of such company, or any other competent and qualified person, firm or corporation. The remuneration of the conservator and other expenses attendant to the conservation shall be borne by the insurance company concerned.

“The conservator shall not be subject to any action, claim or demand by, or liability to, any person in respect of anything done or omitted to be done in good faith in the exercise or in connection with the exercise of the powers conferred on the conservator.

“The conservator appointed shall report and be responsible to the Commissioner until such time as the Commissioner is satisfied that the insurance company can continue to operate on its own and the conservatorship shall likewise be terminated should the Commissioner, on the basis of the report of the conservator or of his own findings, determine that the continuance in business of the insurance company would be hazardous to policyholders and creditors, in which case the provisions of Title shall apply.”

Referring to the aforementioned Section 248 of the Insurance Code, petitioner maintains that when FILRITERS was placed under conservatorship proceedings, the CONSERVATOR appointed by the Insurance commissioner virtually took over the management of FILRITERS, took charge of its assets and liabilities and was authorized to collect all moneys and debts due said company, exercise all powers necessary to preserve the assets of said company, reorganize the management thereof, restore its viability, and overrule or revoke the actions of the previous management and board of directors of the said company.

Since retrenchment of personnel was undertaken by the CONSERVATOR as early as January 1982, petitioner argues that he cannot be held liable in his personal capacity for the payment of additional retrenchment benefits to the retrenched employees benefits because he merely implemented the CONSERVATOR'S retrenchment program and has no discretion or choice on the matter; that the resolution of the NLRC results in an unjust and iniquitous situation that while the CONSERVATOR cannot be liable under Section 248 of the Insurance Code, petitioner was made liable in his personal capacity to the retrenched personnel by the mere accident that he was the one who formally notified them of the CONSERVATOR'S order of retrenchment; that there is no factual nor legal basis to hold petitioner personally liable as he is neither an employer of private respondents nor a stockholder of Filriters Guaranty Assurance Corporation is himself an employee who was also retrenched but subsequently appointed as manager-in-charge by the CONSERVATOR from March 1, 1983 to handle duties and responsibilities assigned to him; that private respondents actually received retrenchment benefits in accordance with the guideline fixed by the CONSERVATOR and had executed release and waiver deeds fully and completely releasing Filriters Guaranty Assurance Corporation from all claims of whatever nature resulting from their retrenchment.

We sustain petitioner.

At the outset, mention must be made of the fact that in the resolution of October 1, 1984^[17] We granted the motion of the Solicitor General

that he be excused from filing the required comment because he is unable to agree with the decision of public respondent NLRC.

Business reverses or losses are recognized by law as a just cause for terminating employment.^[18] 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.^[19] But it is essentially required that the alleged losses in business operations must be prove.^[20] 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 case out employees.

Conservatorship proceedings against a financially distressed insurance company are statutory in nature and are resorted to only if and when the Insurance Commissioner finds that such company is in a state of continuing inability or unwillingness to maintain a condition of solvency or liquidity deemed adequate to protect the interest of policyholders and creditors. In other words, the insurance company placed under conservatorship is facing financial difficulties which require the appointment of a conservator to take charge of its assets, liabilities, and management aimed at preserving its assets and restoring its viability as a going business enterprise.

The retrenchment of personnel as a consequence of conservatorship proceedings against an insurance company in financial difficulties is, understandably, a cost-saving measure resorted to by the CONSERVATOR to preserve the assets of the company for the protection not only of the policy-holders and creditors but also of the investors and the public in general. Rightly so, for conservatorship proceedings contemplate, not the liquidation of the insurance company involved, but a conservation of company assets and business during the period of stress by the Commissioner of Insurance, who thereafter yields control to the regular officers of the company.^[21] The power of the Insurance Commissioner with respect to the statutory proceedings against insolvent or delinquent insurer is of general public concern, to which contract and property rights must yield.^[22]

Essentially, conservatorship under Section 248 of the Insurance Code is in the nature of rehabilitation proceedings. As such, the CONSERVATOR may only act with the approval of the Insurance Commissioner with respect to the major aspects of rehabilitation. With respect to the ordinary details of administration, the CONSERVATOR has implied authority by virtue of his appointment to proceed without the approval of the Insurance Commissioner. He is clothed with such discretion in conducting and managing the affairs of the insurance company placed under his control.^[23]

It is within that sphere of authority that a program of retrenchment was undertaken by the CONSERVATOR as early as January 1982. The authority conferred by law upon the CONSERVATOR to reorganize the management of the insurance company under his control embraces, among others, the authority to carry out a retrenchment program to prevent the further dissipation of company funds. The general rules of agency as to the binding effect of the acts of the company's executive vice-president, petitioner herein, as the operating officer of the CONSERVATOR, would apply to the implementation of the retrenchment program delegated to him by the CONSERVATOR. It was well within the scope of his delegated authority for petitioner to formally inform private respondents of their termination from FILRITERS. Thus, merely being impleaded in the complaint is no justifiable reason at all to hold petitioner personally and severally liable with FILRITERS for the latter's corporate obligations to private respondents.

Verily, it is a reversible error for the NLRC to affirm the resolution of the Labor Arbiter holding petitioner Elias C. Garcia personally and severally liable with FILRITERS for the payment of additional retrenchment benefits to private respondents. The Labor Arbiter inexplicably failed to disclose the reasons why petitioner Elias C. Garcia, as one of the named respondents in NLRC-NCR-Case No. 9-6045-82, was made personally and severally liable with FILRITERS. Except for the allegations of private respondents in their complaint that petitioner's act of terminating them was ULTRA VIRES in nature as it was done without the authority and approval of the FILRITERS' Board of Directors, there is nothing in the decision which reasonably justify the liability of petitioner in his personal capacity. Instead of

correcting said error, the NLRC, on the other hand, did not at all touch on the issue.

Realizing that the appointment of a CONSERVATOR by the Insurance Commissioner as early as September 17, 1981 pursuant to Section 248 of the Insurance Code militates against their argument before the Labor Arbiter, private respondents would now change their posture and alleged that petitioner was not vested with direct or delegated authority from the CONSERVATOR relative to the termination of their employment.^[24] This belated argument is belied by the letter^[25] dated July 24, 1982 of the CONSERVATOR, Mr. Julian J. Locsin, addressed to the President of the Filriters, Mr. Joaquin C. Rodriguez, confirming the retrenchment of Julian B. Aguila, Virginia B. Aluquin, Tito O. Paglinawan and Juanita T. FERNANDEZ, as well as the report^[26] of the CONSERVATOR dated July 14, 1983 to the Ministry of Labor and Employment [MOLE] listing private respondents in No. 32 [AGUILA], No. 34, [PAGLINAWAN] and No. 35 [FERNANDEZ] among the retrenched employees of FILRITERS.

Even the repeated reference by the Labor Arbiter and the NLRC to the fact that FILRITERS and petitioner waived their right to present evidence in support of their stand by virtue of their having failed to appear during the three (3) scheduled hearings^[27] will not legally sustain the conclusion that petitioner is personally and severally liable with FILRITERS for the payment of the latter's corporate obligations to its retrenched employees. Administrative agencies exercising quasi-judicial functions are not bound by the rigidities of technical rules of procedure^[28] precisely to allow them every opportunity to arrive at the truth of the matter in controversy. More often than not, such policy has given rise to abuses on the part of the labor arbiter resulting in the deprivation of the parties' right to due process. The case at bar, on the other hand, presents a study in contrast. In denying FILRITERS' and petitioner's motion to re-open the case and to admit their position paper despite the proffered reason for their failure to appear at the scheduled hearings, the labor arbiter relied too much on technicalities, thereby resulting in herein petitioner being deprived of his right to property without due process of law as well as of his right to the equal protection of the law afforded to similarly situated corporate officers found acting within the scope

of their authority. It would have been more in keeping with the mandate of Article 221 of the Labor Code had the Labor Arbiter granted petitioner's motion to re-open the case and admit his position paper as no full-blown hearing was conducted by the Labor Arbiter.

Liability of corporate officers in their personal capacities to corporate employees who were terminated from their employment depends on whether or not the act of termination was tainted with evident malice and bad faith.^[29] In the instant case, there is no evidence on record which sufficiently shows that petitioner Elias C. Garcia acted in bad faith or with malice in carrying out the retrenchment program of the CONSERVATOR. In fact, the retrenchment of private respondents was confirmed in the letter dated July 24, 1982 of the CONSERVATOR addressed to the President of Filriters and in the report submitted by the CONSERVATOR to the Ministry of Labor and Employment on July 14, 1983.^[30]

We do not, however, quite agree with the general proposition of petitioner that the CONSERVATOR cannot be held liable as he is not subject to any action, claim or demand by, or liability to any person under Section 248 of the Insurance Code. In interpreting a similar provision^[31] of the Insurance Code relating to the receiver or liquidator of the insurance company, We held in PIONEER INSURANCE AND SURETY CORPORATION vs. HON. FORTUN, et. al., G.R. L-44959 [April 15, 1987], that said provision cannot be construed to prohibit suits being brought against a receiver in his or its representative capacity, as custodian and manager of the funds and property of the person or firm under receivership. The Court stated, thus:

“To do so would work inequity and injustice upon parties with just claims against the latter and leave them without remedy to pursue and recover on the claims. Correctly read, the exemption applies only with reference to acts done or left undone in good faith by the receiver in the discharge of the receivership. It does not apply to actions brought upon claims against the person or property under receivership and not, in any event, upon claim which matured before the receivership was established.”
(Emphasis supplied)

It was likewise an error for petitioner to claim that the execution of release and waiver deeds after private respondents actually received their retrenchment benefits in the total amount of P99,600.00 completely released FILRITERS from all claims of whatever nature resulting from their retrenchment, The rule as held in MERCURY DRUG CO., INC. vs. COURT OF INDUSTRIAL RELATIONS, 56 SCRA 694 and DE LEON vs. NLRC, 100 SCRA 691 [1980] is that employees who received their separation pay are not barred from contesting the legality of their dismissal and that the acceptance of those benefits would not amount to estoppel. In AFPMBA, INC. vs. AFPMBI EMPLOYEES UNION, 97 SCRA 715, this Court ruled that quitclaims and/or complete releases executed by the employees do not estop them from pursuing their claim arising from the unfair labor practice of the employer.

There is then no reason to absolve FILRITERS of its corporate obligations to private respondents which may be satisfied from any available funds or assets of the company under the custody and control of the CONSERVATOR if it is still under conservatorship, or of the Receiver/Liquidator if it is under receivership or liquidation.

While FILRITERS is liable for its corporate obligations to private respondents. We rule, as earlier discussed, that petitioner Elias C. Garcia is not liable in his personal capacity for the payment to private respondents of their additional retrenchment benefits.

WHEREFORE, modified as above indicated, the decision of the National Labor Relations Commission dated March 15, 1984 is affirmed with respect to the sole liability of Filriters Guaranty Assurance Corporation to private respondents. Petitioner is absolved from liability to private respondents. No costs.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin and Cortes, JJ., concur.

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- [1] Annex "J," Petition, pp. 37-41, Rollo.
[2] Annex "H," Petition, pp. 25-30, Rollo.
[3] Annex "A," Petition, p. 18, Rollo.

- [4] Annex “B,” Petition, p. 19, Rollo.
- [5] Annex “C,” Petition, p. 19-A, Rollo.
- [6] Annex “5,” Comment, p. 75, Rollo.
- [7] Annex “D,” Petition, p. 19-B, Rollo.
- [8] See Decision of Labor Arbiter, p. 28, Rollo.
- [9] Annex “E,” Petition, p. 20-21, Rollo.
- [10] Annex “F,” Petition, pp. 22-23, Rollo.
- [11] Annex “G,” Petition, p. 24, Rollo.
- [12] Annex “K,” Petition, p. 42-46, Rollo.
- [13] Annex “L,” Petition, p. 47, Rollo.
- [14] Pp. 50-51, Rollo.
- [15] *Itogon-Suyoc Mines vs. NLRC*, 117 SCRA 523 (1982).
- [16] Presidential Decree No. 612 (December 18, 1974).
- [17] P. 121, Rollo.
- [18] *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.
- [19] *People’s Bank & Trust Company vs. People’s Bank & Trust Company Union*, 69 SCRA 10 (1976).
- [20] *National Federation of Labor Unions (NAFLU) vs. Ople*, 143 SCRA 124 (1986).
- [21] *Caminetti vs. Superior Court in and for City and County of San Francisco*, 108 P 2d 911, 914, 16 Cal 2d 838, cited in 8-A Words and Phrases 229.
- [22] *Caminetti vs. Pacific Mutual Life Insurance Co.*, 22 Cal 2d 334, 139 P. 2d 908, cert den 320 US 802, 88 L ed 484, 64 S CT 428.
- [23] *Lucas vs. Mfg. Lumbermen’s Underwriters*, 349 Mo 835, 163 SW 2d 750.
- [24] P. 10, Memorandum for Private Respondents, pp. 152-162, Rollo.
- [25] p. 106, Rollo.
- [26] Pp. 107-110, Rollo.
- [27] Pp. 37, 39, Rollo.
- [28] *Tajonera vs. Lamoroza*, 110 SCRA 438 (1981); *Magdalena Estate, Inc. vs. Kapisanan ng Manggagawa sa Magdalena Estate*, 8 SCRA 237 (1966).
- [29] *Sunio vs. NLRC*, 127 SCRA 390 (1984); *General Bank and Trust Co. vs. Court of Appeals*, 135 SCRA 569 (1985).
- [30] See Footnote 26 and 27.
- [31] Section 251, Insurance Code.