

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**GLOBE TELECOM, INC., DELFIN
LAZARO, JR., and ROBERTO GALANG,
*Petitioners,***

-versus-

**G.R. No. 150092
September 27, 2002**

**JOAN FLORENDO-FLORES,
*Respondent.***

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DECISION

BELLOSILLO, J.:

This is a Petition for Review under Rule 45 of the Rules of Court seeking to annul and set aside the Decision^[1] of the Court of Appeals of 25 May 2001 in CA-G.R. SP No. 60284 which affirmed the Decision of the National Labor Relations Commission of 28 January 2000 in NLRC RAB-CAR 05-0170-98, NLRC NCR CA No. 020270-99.^[2]

Petitioner GLOBE TELECOM, INC. (GLOBE) is a corporation duly organized and existing under the laws of the Philippines. Petitioners Delfin Lazaro Jr. was its President and Roberto Galang its former Director-Regional Sales. Respondent Joan Florendo-Flores was the Senior Account Manager for Northern Luzon.

On 1 July 1998 Joan Florendo-Flores filed with the Regional Arbitration Branch of the National Labor Relations Commission (NLRC) an amended complaint for constructive dismissal against GLOBE, Lazaro, Galang, and Cacholo M. Santos, her immediate superior, Luzon Head-Regional Sales. In her affidavit submitted as evidence during the arbitration proceedings, Florendo-Flores bared that Cacholo M. Santos never accomplished and submitted her performance evaluation report thereby depriving her of salary increases, bonuses and other incentives which other employees of the same rank had been receiving; reduced her to a house-to-house selling agent (person-to-person sales agent or direct sales agent) of company products (“handyphone”) despite her rank as supervisor of company dealers and agents; never supported her in the sales programs and recommendations she presented; and, withheld all her other benefits, i.e., gasoline allowance, per diems, representation allowance, and car maintenance, to her extreme pain and humiliation.^[3]

GLOBE and its co-petitioners claimed that after receiving her salary in the second week of May 1998 Florendo-Flores went AWOL (Absent Without Leave) without signifying through letter or any other means that she was resigning from her position; that notwithstanding her absence and the filing of her case, respondent Florendo-Flores’ employment was not terminated as shown by the fact that salary was still provided her until July 1998 to be released upon her presentation of the attendance-record sheet indicating that she already returned and reported for work; that she continued to have the use of a company car and company “handyphone” unit; that she was replaced only when her absence became indefinite and intolerable as the marketing operations in Northern Luzon began to suffer; that during the pre-trial conference it was learned that Florendo-Flores’ complaint rested on her alleged personal and private disagreement with her immediate superior Cacholo M. Santos; that there was no official act from GLOBE or from other officers of the company, including respondents Lazaro and Galang, which called for Florendo-Flores’ termination, diminution in rank, seniority and benefits, or would imply, even remotely, any of the same; and, that Florendo-Flores filed the complaint without going through the grievance process of GLOBE’s Human Resources Department and without informing its officers of her problems with Cacholo M. Santos.

Labor Arbiter Monroe C. Tabinan declared Florendo-Flores to have been illegally dismissed and ordered petitioners to reinstate her without loss of seniority rights and full benefits; and to pay full back wages, inclusive of basic pay, allowances and bonuses as prayed for in the complaint amounting to P307,625.00, exemplary damages in the sum of P200,000.00, and ten percent (10%) of the total monetary award as attorney's fees. However, the Labor Arbiter set aside the claim of abandonment as the company failed to send the requisite notice to Florendo-Flores,^[4] hence, there was no adherence to procedural due process. Although he recognized that the problem brewed and eventually boiled over due to the acts of Cacholo M. Santos, GLOBE's former Head of Regional Sales, Luzon Area, the Labor Arbiter found the company negligent in monitoring all its key personnel, and thus assessed against it exemplary damages at the same time deleting actual and moral damages.^[5]

Petitioners appealed the decision to the NLRC which modified the judgment of the Labor Arbiter. The NLRC ruled that petitioners did not dismiss Florendo-Flores but that the latter actually abandoned her employment because of a disagreement with her immediate superior which she failed to bring to the attention of GLOBE and its officers, particularly petitioners Lazaro and Galang.^[6] However, the NLRC declared that if only as an act of grace for the latter's past services with the company, GLOBE, Lazaro and Galang should be held accountable for the back wages of Florendo-Flores amounting to P307,625.00 minus the amount of P63,000.00 for the value of the company car in Florendo-Flores' possession, or the net amount of P244,625.00.^[7]

Both parties elevated the NLRC decision to the Court of Appeals, each side through a petition for certiorari. In its Resolution of 2 September 2000 the appellate court dismissed the petition of Florendo-Flores for failure to append the required verification and certification of non-forum shopping,^[8] while it gave due course to the petition of GLOBE, Lazaro and Galang.

In their petition before the appellate court, GLOBE, Lazaro and Galang averred that the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it ordered them to

pay Florendo-Flores full back wages and damages despite its express finding that they did not cause the dismissal of Florendo-Flores as the latter had actually abandoned her employment on account of her personal differences with her superior.

In its Decision of 25 May 2001 the Court of Appeals found that Florendo-Flores was constructively dismissed and that payment of back wages and damages was in order. On 21 June 2001 GLOBE, Lazaro and Galang filed a motion for reconsideration but the motion was denied in the appellate court's Resolution of 19 September 2001.

Petitioners pose the following questions in this petition: In a special civil action for certiorari where factual findings are deemed to be final and conclusive, can the Court of Appeals alter or substitute the findings of fact of the lower court/tribunal? In the face of the finding of the NLRC that respondent abandoned her employment because of a personal squabble with her immediate superior, and that petitioners had nothing to do with the severance of Flores' employment, can petitioners be held legally liable for back wages while the guilty party Cacholo M. Santos is legally absolved of liability?

Petitioners submit that the answers to both questions must be in the negative. They argue that the appellate court can neither alter nor substitute the factual findings of the NLRC as they are legally deemed to be final and conclusive in a certiorari proceeding. They contend that a special civil action for certiorari is an extraordinary remedy created not to correct mistakes in the factual findings or conclusions of the lower court or tribunal, but a remedy intended to rectify jurisdictional errors and grave abuse of discretion. Thus, the Court of Appeals cannot make its own factual findings and substitute them for the factual findings of the NLRC, and on such basis render a decision.

Petitioners further note that the appellate court failed to address the issues raised in their petition. They reiterate their position that they cannot be held liable for payment of back wages as an act of grace in view of the express finding by the NLRC that respondent abandoned her employment because of a personal rift with her immediate superior and not due to any act attributable to them. They stress that there can be no liability in the absence of any wrongful act.

Invoking the principle of *res inter alios acta* declaring that the rights of a party cannot be prejudiced by the act, declaration or omission of another, petitioners insist that since the NLRC found that respondent's problems arose from the acts and deeds of Santos, he alone should be held liable. Petitioners find special exception to the NLRC's application of the concept of "act of grace" to justify the award since an "act of grace" is not a source of demandable obligation. They argue that it is not within the power of any judicial or administrative agency to compel an employer to be liberal.

In the review of an NLRC decision through a special civil action for certiorari, resolution is confined only to issues of jurisdiction and grave abuse of discretion on the part of the labor tribunal.^[9] Hence, the Court refrains from reviewing factual assessments of lower courts and agencies exercising adjudicative functions, such as the NLRC. Occasionally, however, the Court is constrained to delve into factual matters where, as in the instant case, the findings of the NLRC contradict those of the Labor Arbiter.

In this instance, the Court in the exercise of its equity jurisdiction may look into the records of the case and re-examine the questioned findings.^[10] As a corollary, this Court is clothed with ample authority to review matters, even if they are not assigned as errors in their appeal, if it finds that their consideration is necessary to arrive at a just decision of the case.^[11] The same principles are now necessarily adhered to and are applied by the Court of Appeals in its expanded jurisdiction over labor cases elevated through a petition for certiorari; thus, we see no error on its part when it made anew a factual determination of the matters and on that basis reversed the ruling of the NLRC.

Glaring however is the discrepancy between the text of the decision of the appellate court which declares that respondent Florendo-Flores "was unlawfully constructively dismissed" from employment,^[12] and its dispositive portion which declares that "the assailed judgment is affirmed."^[13] It should be noted that the "assailed judgment" referred to the NLRC Decision which declared that respondent was not illegally dismissed but that she abandoned her employment. Even in the award of back wages and exemplary damages the two (2) decisions are at odds: The award of back wages made by the NLRC

was a gratuity or an act of grace from petitioners while the award made by the Court of Appeals could be assumed to be anchored on its finding of illegal dismissal. How should the inconsistency be reconciled?

Where there is conflict between the dispositive portion of the decision and the body thereof, the dispositive portion controls irrespective of what appears in the body.^[14] While the body of the decision, order or resolution might create some ambiguity in the manner the court's reasoning preponderates, it is the dispositive portion thereof that finally invests rights upon the parties, sets conditions for the exercise of those rights, and imposes the corresponding duties or obligations.^[15] Hence, for the Court of Appeals to have affirmed the assailed judgment is to adopt and uphold the NLRC finding of abandonment and its award of full back wages to respondent as an "act of grace" from petitioners.

However, we believe this is not the proper view as the records reveal that respondent was constructively dismissed from service.

Constructive dismissal exists where there is cessation of work because "continued employment is rendered impossible, unreasonable or unlikely, as an offer involving a demotion in rank and a diminution in pay."^[16] All these are discernible in respondent's situation. She was singularly edged out of employment by the unbearable or undesirable treatment she received from her immediate superior Cacholo M. Santos who discriminated against her without reason — not preparing and submitting her performance evaluation report that would have been the basis for her increased salary; not forwarding her project proposals to management that would have been the source of commendation; diminishing her supervisor stature by assigning her to house-to-house sales or direct sales;. and withholding from her the enjoyment of bonuses, allowances and other similar benefits that were necessary for her efficient sales performance. Although respondent continued to have the rank of a supervisor, her functions were reduced to a mere house-to-house sales agent or direct sales agent. This was tantamount to a demotion. She might not have suffered any diminution in her basic salary but petitioners did not dispute her allegation that she was deprived of all benefits due to

another of her rank and position, benefits which she apparently used to receive.

Far from pointing to Santos alone as the source of her woes, respondent attributes her degraded state to petitioners as well. Florendo-Flores cited petitioners' apathy or indifference to her plight as she was twice left out in a salary increase in August 1987 and May 1998, without petitioners giving her any reason.^[17] It eludes belief that petitioners were entirely in the dark as the salary increases were granted to all employees across-the-board but respondent was the only one left receiving a P19,100.00 per month basic salary while the rest received a basic salary of almost P35,000.00 per month.^[18] It is highly improbable that the exclusion of respondent had escaped petitioners' notice. The absence of an evaluation report from Santos should have been noted by petitioners and looked into for proper action to have been made. If a salary increase was unwarranted, then it should have been sufficiently explained by petitioners to respondent.

Petitioners argue that respondent Florendo-Flores could have brought to their attention the deplorable treatment she received from Santos by resorting to the company's grievance machinery so that the problems in her relationship with Santos could then have been easily ironed out, but she did not. It remains uncontroverted that respondent had inquired from petitioners the reason why her other benefits had been withheld and sought clarification for her undeserved treatment but petitioner company and Santos remained mum.^[19]

Thus, contrary to the observation of the NLRC, the dispute was not a mere private spat between respondent Florendo-Flores and her immediate superior Santos. Granting that this was the case, it had exceeded the periphery of simple personal affairs that overflowed into the realm of respondent's employment.

Respondent narrates that sometime in June 1997 Santos wrote her a baseless accusatory letter, and he together with GLOBE Sales Director Roberto Galang, one of petitioners herein, verbally told her that she should resign from her job, but she refused.^[20] Thereafter, in July 1997 and the months subsequent thereto all of respondent's other

benefits were withheld without any reason nor explanation from the company.^[21] Even as petitioners endeavored to lay the blame on Santos alone, he would not have been able to single-handedly mastermind the entire affair as to influence Sales Director Galang and manipulate the payroll. It only stands to reason that Santos was acting pursuant to a management directive, or if not, then petitioners had condoned it, or at the very least, were negligent in supervising all of their employees. As aptly observed by the Labor Arbiter —

x x x it would appear however that the respondent company was negligent in monitoring all its key personnel. For it is the bounden duty of the corporate officialdom to constantly monitor their managerial staff if only to ascertain the smooth flow of work and operations, which includes the inter-personal relations of each and every key segment of the corporate machinery. For such, it must be assessed with just and reasonable exemplary damages.^[22]

The unauthorized absence of respondent should not lead to the drastic conclusion that she had chosen to abandon her work. To constitute abandonment, there must be: (a) failure to report for work or absence without valid or justifiable reason; and, (b) a clear intention, as manifested by some overt act, to sever the employer-employee relationship,^[23] requisites that are negated by the immediate filing by respondent Florendo-Flores of a complaint for constructive dismissal against petitioners. A charge of abandonment is totally inconsistent with the immediate filing of a complaint for illegal dismissal; more so, when it includes a prayer for reinstatement.^[24]

The reduction of respondent's functions which were originally supervisory in nature to a mere house-to-house sales agent or direct sales agent constitutes a demotion in rank. For this act of illegal dismissal, she deserves no less than full back wages starting from the time she had been illegally dismissed until her actual reinstatement to her former position without loss of seniority rights and other benefits — earned, accrued and demandable. She shall continue to enjoy her benefits, privileges and incentives including the use of the company car and “handyphone.”

The managerial prerogative to transfer personnel must be exercised without grave abuse of discretion. It must always bear in mind the basic elements of justice and fair play. Having the right should not be confused with the manner that right is exercised. Thus, it cannot be used as a subterfuge by the employer to rid himself of an undesirable worker.^[25]

In constructive dismissal, the employer has the burden of proving that the transfer and demotion of an employee are for just and valid grounds such as genuine business necessity.^[26] The employer must be able to show that the transfer is not unreasonable, inconvenient, or prejudicial to the employee. It must not involve a demotion in rank or a diminution of salary and other benefits. If the employer cannot overcome this burden of proof, the employee's demotion shall be tantamount to unlawful constructive dismissal.

It should be noted that the award of back wages in the instant case is justified upon the finding of illegal dismissal, and not under the principle of "act of grace" for past services rendered. There are occasions when the Court exercises liberality in granting financial awards to employees, but even then they contemplate only the award of separation pay and/or financial assistance, and only as a measure of social justice when the circumstances of the case so warrant, such as instances of valid dismissal for causes other than serious misconduct or those reflecting on the employees' moral character.^[27] Proper regard for the welfare of the labor sector should not dissuade us from protecting the rights of management such that an award of back wages should be forthcoming only when valid grounds exist to support it.

An award of actual and moral damages is not proper as the dismissal is not shown to be attended by bad faith, or was oppressive to labor, or done in a manner contrary to morals, good customs or public policy.^[28] Exemplary damages are likewise not proper as these are imposed only if moral, temperate, liquidated or compensatory damages are awarded.^[29]

WHEREFORE, the judgment appealed from is **MODIFIED**. The Decision of the Court of Appeals of 25 May 2001 in CA-G.R. SP No. 60284 affirming the Decision of the National Labor Relations

Commission of 28 January 2000 declaring that respondent Joan Florendo-Flores had abandoned her work is **SET ASIDE**. Petitioners Globe Telecom, Inc., Delfin Lazaro, Jr., and Roberto Galang are ordered to pay respondent Joan Florendo-Flores full back wages from the time she was constructively dismissed on 15 May 1998 until the date of her effective reinstatement, without qualification or deduction. Accordingly, petitioners are ordered to cause the immediate reinstatement of respondent to her former position, without loss of seniority rights and other benefits. No pronouncement as to costs.

SO ORDERED.

**Quisumbing, Austria-Martinez, and Callejo, Sr., JJ., concur.
Mendoza, J., on official leave.**

- [1] Decision penned by Associate Justice Delilah Vidallon-Magtolis, concurred in by Associate Justices Teodoro P. Regino and Josefina Guevara-Salonga, Tenth Division.
- [2] Decision penned by Presiding Commissioner Rogelio I. Rayala, First Division, NLRC.
- [3] Rollo, pp. 32-36.
- [4] Rollo, p. 40.
- [5] *Id.*, pp. 40-41.
- [6] *Id.*, pp. 47-48.
- [7] *Id.*, p. 49.
- [8] *Id.*, p. 92.
- [9] *Deles Jr. vs. NLRC*, G.R. No. 121348, 9 March 2000, 327 SCRA 540.
- [10] *Aklan Electric Cooperative Inc. vs. NLRC*, G.R. No. 121439, 25 January 2000, 323 SCRA 258.
- [11] *Barons Marketing Corp. vs. Court of Appeals*, G.R. No. 126486, 9 February 1998, 286 SCRA 96.
- [12] Rollo, pp. 25-27.
- [13] *Id.*, p. 28.
- [14] *Olac vs. Court of Appeals*, G.R. No. 84256, 2 September 1992, 213 SCRA 321; *Republic vs. De Los Angeles*, 148-B Phil. 902 (1971).
- [15] *Dy Pac Pakiao Workers Union vs. Dy Pac and Co., Inc.*, No. L-27377, 31 March 1971, 38 SCRA 263.
- [16] *Philippine Japan Active Carbon Corporation, et al. vs. NLRC, et al.*, G.R. No. 83239, March 8, 1989, 171 SCRA 164; *Lemery Savings and Loan Bank, et al. vs. NLRC, et al.*, G.R. No. 96439, January 27, 1992, 205 SCRA 492.
- [17] Rollo, p. 34.

- [18] Ibid.
- [19] Ibid.
- [20] Ibid.
- [21] Ibid.
- [22] Id., p. 39.
- [23] Leonardo vs. NLRC, G.R. No. 125303, 16 June 2000, 333 SCRA 589.
- [24] Icawat vs. NLRC, G.R. No. 133573, 20 June 2000, 334 SCRA 75.
- [25] Jarcia Machine Shop and Auto Supply, Inc. vs. NLRC, 334 Phil. 93 (1997), citing Philippine Telegraph and Telephone Corp. vs. Laplana, et al., G.R. No. 76045, 23 July 1991, 199 SCRA 485.
- [26] Jarcia Machine Shop and Auto Supply, Inc. vs. NLRC, supra at 95.
- [27] Philippine Long Distance Telephone Co. vs. NLRC, G.R. No. 80609, 23 August 1988, 164 SCRA 671; Philippine Airlines, Inc. vs. NLRC, G.R. No. 126805, 16 March 2000, 328 SCRA 273.
- [28] Nueva Ecija I Electric Cooperative, Inc. vs. NLRC, G.R. No. 116066, 24 January 2000, 323 SCRA 86.
- [29] Art. 2229, Civil Code.