

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**KAY PRODUCTS, INC. and/or KAY LEE,
*Petitioners,***

-versus-

**G.R. No. 162472
July 28, 2005**

**HONORABLE COURT OF APPEALS,
KAY PRODUCTS EMPLOYEES UNION,
MYRNA ABILA, FLORDELIZA
MORANTE and FE REGIDOR,
*Respondents.***

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DECISION

CALLEJO, SR., J.:

Before us is a Petition for Review on Certiorari under Rule 45 of the Rules of Court of the Decision^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 73028 and its resolution denying the motion for reconsideration of its decision by petitioners Kay Products, Incorporated (KPI) and Kay Lee.

The Antecedents

The employees of KPI had a meeting for the purpose of forming a union within their workplace. Among those in attendance were

Myrna Abila, Flordeliza Morante, Fe Regidor, Rowena Escudro and Jeofrey del Valle, who were employed by KPI as factory sewers in June to August 1999.

When the management of KPI got wind of the employees' plan to form a union, it called a meeting to announce that the said employees were to be transferred to an employment agency with which it had a manpower contract, the Gerrico Resources & Manpower Services, Inc. (GRMSI). Through a Memorandum^[2] dated July 13, 2000, KPI, through its president, Mr. Kay Y. Lee, promised that the employees would receive bigger and better benefits under GRMSI as regular employees thereof. On July 14, 2000, KPI directed all employees concerned to sign resignation letters preparatory to their employment with GRMSI. Thus, the employees submitted handwritten letters of resignation, and KPI took custody of their identification cards.

The employees continued to report for work in the KPI factory but received less wages/salaries. On July 31, 2000, KPI issued a Memorandum^[3] to the employees, stating that GRMSI had been dissolved and that there was a need for them to sign separate contracts with RCVJ, another corporation with which KPI had a manpower contract.

This time, some employees, including Abila, Morante, Regidor, Escudro and Del Valle, refused to sign any contract with RCVJ.

In the meantime, the employees of KPI were able to organize their union, the Kay Products Employees Union, and affiliated themselves to the Philippine Transport & General Workers Organization (PTGWO) on July 25, 2000.^[4]

On August 25, 2000, seventy-three (73) employees, together with the Kay Products Employees Union-PTGWO, filed a Complaint^[5] with Regional Arbitration Branch No. IV of the Department of Labor and Employment (DOLE) against the petitioners. The employees claimed that the petitioners were guilty of unfair labor practice (ULP), underpayment of salaries and service incentive leave pay, and failure to classify them as regular employees. The case was docketed as NLRC Case No. RAB-IV-8-12829-00-L.

On September 4, 2000, the employees were ordered to take a two-week leave from work without pay. The employees complained. When they tried to report for work after the two-week period, they were refused entry and were told that they had ceased to be KPI employees since they had resigned upon agreeing to be employed by GRMSI.

On October 18, 2000, the employees and their union amended their complaint (docketed as NLRC Case No. RAB-IV-8-12829-00-L) to illegal dismissal.^[6] Only Abila, Morante, Regidor, Escudro and Del Valle, who were able to sign and verify the amended complaint, remained as complainants.

In their position paper,^[7] the complainants alleged, inter alia, that they were illegally dismissed; their dismissal was not grounded on any just and authorized cause under the law, and they were deprived of their right to due process. They also asserted that in interfering with their right to self-organization by deceitfully transferring them to an employment agency, KPI thereby engaged in ULP. They claimed that such acts were in violation of the principles enunciated under the Labor Code of the Philippines. The complainants further contended that they were coerced and intimidated into signing letters of resignation. Moreover, they were entitled to money claims, particularly 13th month pay, service incentive leave pay, vacation and sick leave pay from the time of their illegal dismissal until their reinstatement.

On the other hand, the petitioners denied the material allegations of the complainants, and maintained that the latter voluntarily resigned from their work. They asserted that aside from the typewritten resignation letter, the complainants also wrote other letters in their own handwriting. They pointed out that the complainants voluntarily secured their clearances from KPI, transferred to RCVJ, and never went back to work. KPI asserted that it never interfered with its workers' right to self-organization or any of their plans to form any union. Hence, in view of their voluntary resignations, the complainants were not entitled to reinstatement, backwages, moral and exemplary damages, and attorney's fees.

On September 28, 2001, the Labor Arbiter^[8] rendered his decision. The decretal portion reads as follows:

WHEREFORE, premises considered, judgment is hereby rendered dismissing complainants' charge for illegal dismissal and for ULP for lack of merit. However, in view of their implied admission of complainants' entitlement thereto, respondent is hereby ordered to pay the corresponding 13th month pay and service incentive leave pay due the complainants herein.

SO ORDERED.^[9]

The Labor Arbiter declared that the complainants wrote their resignation letters in their own hand, and found no showing of force or intimidation in so doing. He declared that if there was, indeed, force or intimidation, the complainants ought to have made their real sentiments or opposition thereto on record by writing "under protest," "with reservations," or other words to that effect either below, beside, or somewhere near their signatures. Moreover, the fact that the contents of their resignation letters were dictated would not justify the conclusion that they had tendered their resignation against their will. On the contrary, the Labor Arbiter observed that this was more convenient on the part of the parties.

On May 31, 2002, the National Labor Relations Commission (NLRC) Third Division rendered its Decision^[10] affirming the Labor Arbiter's decision and dismissing the appeal for lack of merit:

WHEREFORE, premises considered, the appeal from the Decision dated September 28, 2001 is hereby DISMISSED for lack of merit and the Decision AFFIRMED.

SO ORDERED.^[11]

The NLRC declared that the complainants' act of submitting resignation letters and accomplishing their respective clearances from KPI negated involuntariness. The NLRC also noted some inconsistencies in the amended complaint and the position paper of the complainants, viz.:

Complainants alleged that they still worked for several months with respondent as regular employees thereof even after the execution of their resignation letter. This allegation of complainants deserves scant consideration. Records show that complainant[s] filed the instant case on August 25, 2000. It is worth stressing that complainants failed to indicate in their complaint the date they were allegedly dismissed. (Records, p. 1) [T]hen, in their amended complaint (Records, p. 12) and position paper (Records, p. 18), they claimed that they were dismissed on September 4, 2000. If it is really true that they were dismissed on September 4, 2000, how come they charged respondents of illegal dismissal on August 25, 2000? These apparent inconsistencies of complainants only goes (sic) to show the weakness of their allegations.^[12]

A motion for reconsideration was filed, which was denied for lack of merit.^[13]

Private respondents Myrna Abila, Flordeliza Morante and Fe Regidor, thereafter, filed a petition for certiorari with the CA, assailing the decision and resolution of the NLRC. The appellate court rendered judgment on December 16, 2003, reversing the decision of the NLRC. The fallo of the decision reads:

WHEREFORE, judgment is hereby rendered:

- (1) REVERSING the assailed resolutions of public respondent with respect to its findings that petitioners were not illegally dismissed; and
- (2) AFFIRMING the assailed resolutions of public respondent NLRC with respect to the petitioners' charge for unfair labor practices.

Without costs in this instance.

SO ORDERED.^[14]

The appellate court ruled that the private respondents were regular employees, since they were performing activities normally necessary

or desirable in the usual business or trade of KPI for more than a year until their severance from work on September 4, 2000. The CA declared that as regular employees, their services could only be terminated for just and authorized causes under the Labor Code, as amended. The employees' transfer to an employment agency put KPI's motive in question and gave credence to the allegation that the employees had been illegally terminated or dismissed.

Anent the charge of unfair labor practice, the CA absolved the respondent therein of said charge.

The KPI filed a motion for the reconsideration of the above decision, which the appellate court denied, as the arguments in support thereof had been duly addressed and resolved by it.^[15]

In the present recourse, petitioners ascribe to the CA the following as errors:

I

THE PUBLIC RESPONDENT COMMITTED A SERIOUS ERROR OF LAW IN HOLDING PRIVATE RESPONDENTS' RESIGNATIONS NOT VOLUNTARY DESPITE THEIR CONFIRMATION IN THEIR OWN HANDWRITING.

II

THE PUBLIC RESPONDENT COMMITTED A SERIOUS ERROR OF LAW IN DECLARING THAT PRIVATE RESPONDENTS' DISMISSAL WAS ILLEGAL.^[16]

The petitioners reiterated their claim that the private respondents were not coerced, threatened, or intimidated into filing their resignation letters. They claim that the CA erred in finding that the petitioners forced or intimidated the private respondents into signing blank sheets of paper which were used as their resignation letters. The petitioners contend that such finding is not supported by any evidence. They rely on the Labor Arbiter's conclusion that if the private respondents had really been forced to render their resignation, they should have written "under protest," "with

reservations” or other words to that effect near their signatures to show their real sentiments or opposition. Moreover, the fact that the private respondents waited for one (1) month and twelve (12) days, before filing their complaint with the DOLE, casts doubt on the integrity of their position.

Anent the second issue, the petitioners argue that the CA erred in declaring that the private respondents had been illegally dismissed, and that there was nothing to support such conclusion. They contend that the appellate court disregarded the findings of the Labor Arbiter and the NLRC, and instead should have accorded respect and finality to such findings, supported as they were by substantial evidence. The petitioners cited the cases of *Pan Pacific Industrial Sales Co., Inc. vs. NLRC*,^[17] *Aboitiz Shipping Corporation vs. Dela Serna*^[18] and *Rabago vs. NLRC*,^[19] where this Court held that findings of administrative agencies are accorded respect and even finality if they are supported by substantial evidence. Thus, the petitioners pray that the CA decision be reversed and set aside, and the decisions of the Labor Arbiter and the NLRC reinstated.

On the other hand, the private respondents maintain that they were intimidated and coerced into signing their respective resignation letters and clearances, and that the findings of the Labor Arbiter and the NLRC were based on flimsy grounds. The private respondents claim that they had to secure clearances as they were needed for the release of whatever benefits due them. They maintain that the appellate court did not err in its finding that they were illegally dismissed.

The petition is bereft of merit.

Preliminarily, the remedy resorted to by the petitioners is a petition for review under Rule 45 of the Rules of Court, which allows only questions of law. Findings of fact of the lower courts are conclusive, except in the following instances: (1) when the findings are grounded entirely on speculation, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when in making its findings the CA went beyond the

issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record.^[20]

In the present case, the Labor Arbiter and the NLRC ruled that the private respondents voluntarily resigned their employment with petitioner KPI, in contrast to the appellate court's ruling that they did not. There is thus a need for the Court to ascertain which of the findings and conclusions are in accord with the evidence on record and the law.

On the first issue, we affirm the encompassing and perceptive ruling of the appellate court:

To be stressed in the fundamental premise that petitioners are regular employees of private respondents, having been performing activities which are normally necessary or desirable in the usual business or trade of the employer for more than a year already, until their severance from work on September 4, 2000. Undeniably, petitioners were regular employees at the time they allegedly voluntarily resigned on July 14, 2000. As such regular employees, the Labor Code grants petitioners security of tenure, which essentially means that their employer can not terminate their services except for just and authorized causes, as provided for under the Labor Code. Viewed in this light, private respondents' act or action in transferring petitioners to a manpower agency (Gerrico Resources then later on to RCVJ) with the promise that they would receive the same benefits as regular employees, puts in question private respondents' real motive. If anything, it gives currency to the belief that petitioners had been illegally terminated or dismissed from employment.

Turning now to the question of the “voluntariness” of the resignation letters: We are inclined to agree with the petitioners that they were coerced, threatened or intimidated into signing blank sheets of paper which materialized into resignation letters, the contents of which were dictated by the Director and Personnel Manager of the respondent company. For to us, it is inconceivable that a worker who has already attained a regular status in his employment would opt to be transferred to another employment agency, there to start work anew – work that would relegate him to a mere casual laborer or employee. Obviously, petitioners were not given any other choice by management, but to agree to their transfer to Gerrico Resources, lest they lose their only means of livelihood. Considering that petitioners are ordinary sewers of respondent company, the fear of losing their jobs cannot but be a serious, legitimate concern. In *Rance, et al. vs. NLRC*, it was held that when a person has no property, his job may possibly be his only possession or means of livelihood. Therefore, he should be protected against any arbitrary deprivation of his job. In the same spirit, Art. 280 of the Labor Code construes security of tenure as meaning that “the employer shall not terminate the services of an employee except for a just cause or when authorized by” the Code.^[21]

The fact that petitioners in this case failed to indicate in their resignation letters the phrase “under protest” or “with reservations” is of no moment. To be stressed anew is the fact that petitioners were ordinary factory workers who could not and should not be expected to know the legal import or significance of some such phrase as “under protest” or “with reservations.”

Additionally, private respondents’ claim that petitioners voluntarily resigned is belied by the fact that the latter immediately filed a complaint for regularization with the NLRC upon their supposed transfer to the Gerrico Resources. We note that while petitioners were allegedly employed with Gerrico Resources, they continued working with respondent company and within the premises of respondent company for that matter. Hence, it came as no surprise that when they were disallowed entry into the premises of respondent company on September 4, 2000, they amended their complaint to

one of illegal dismissal. Therefore, there is something askew in public respondent's ratiocination that –

“Complainants alleged that they still worked for several months with respondent as regular employees thereof even after the execution of their resignation letters. This allegation of complainants deserves scant consideration. Records show that complainant filed the instant case on August 25, 2000. It is worth stressing that complainant failed to indicate in their complaint the date they were allegedly dismissed. (Records, p. 1) Then, in their amended complaint (Records, p. 12) and position paper (Records, p. 18), they claimed that they were dismissed on September 4, 2000. If it is really true that they were dismissed on September 4, 2000, how come they charged respondents of illegal dismissal on August 25, 2000? These apparent inconsistencies of complainants only goes (sic) to show the weakness of their allegations.” (underscoring supplied)

For, stock can be taken of the fact that the complaint filed on August 25, 2000 was for “regularization,” while that of September 4, 2000 was for “illegal dismissal” and “reinstatement.” Notably, no date was indicated in the space provided for “Date Dismissed” in the complaint for August 25, 2000, precisely because petitioners were not yet dismissed then; rather, they were merely “transferred” to Gerrico Resources as contractual workers.

In *Molave Tours vs. NLRC*, resignation has been defined as “the voluntary act of an employee who finds himself in a situation where he believes that personal reasons cannot be sacrificed in favor of the exigency of the service, then he has no other choice but to disassociate himself from his employment.” In the context of Section II, Rule XIV, Book V of the Revised Rules Implementing the Labor Code, resignation is a formal pronouncement or relinquishment of an office. It must be made with the deliberate animus or intention of relinquishing the office accompanied by an act of relinquishment. In the same case, it was also held that the voluntariness of a resignation is negated by the filing of a complaint for illegal dismissal. Declared the Court:

“The fact that private respondent immediately filed a complaint for illegal dismissal against petitioner and repudiated his alleged resignation completely negated petitioner’s claim that respondent Bolocon voluntarily resigned. By vigorously pursuing the litigation of his action against petitioner, private respondent clearly manifested that he has no intention of relinquishing his employment, which act is wholly incompatible to petitioner’s assertion that he voluntarily resigned. Neither was petitioner able to discharge the burden of proving that respondent Bolocon’s employment was validly terminated. Other than the mute words of Bolocon’s alleged letter of resignation, the rest of petitioner’s evidence failed to establish that Bolocon, indeed, voluntarily resigned. Worse, petitioner failed to refute private respondent’s allegation of force and intimidation in the execution of the letter of resignation by opting not to present the testimony of its personnel manager who could have contradicted Bolocon’s version of what actually transpired.”^[22]

The CA was correct in declaring that the private respondents had attained the status of regular employees of petitioner KPI. It must be stressed that at the time of their dismissal, they had been working for the petitioners for more than one (1) year. However, the CA failed to rule on whether the private respondents should be reinstated and paid backwages and other monetary benefits.

While the actual regularization of these employees entails the mechanical act of issuing regular appointment papers and compliance with such other operating procedures as may be adopted by the employer, it is more in keeping with the intent and spirit of the law to rule that the status of regular employment attaches to the casual worker on the day immediately after the end of his first year of service. To rule otherwise, and to instead make their regularization dependent on the happening of some contingency or the fulfillment of certain requirements, is to impose a burden on the employee which is not sanctioned by law.^[23]

Article 280 of the Labor Code, as amended, provides as follows:

Art. 280. Regular and Casual Employment. – The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employee or where the work or services to be performed is seasonal in nature and the employment is for the duration of the season.

An employment shall be deemed to be casual if it is not covered by the preceding paragraph: Provided, That, any employee who has rendered at least one year of service, whether such service is continuous or broken, shall be considered a regular employee with respect to the activity in which he is employed and his employment shall continue while such activity exists.

As regular employees, the private respondents are entitled to security of tenure provided under the labor laws and may only be validly terminated from service upon compliance with the legal requisites for dismissal and considering that they were illegally dismissed, the private respondents should be reinstated, in accordance with the provision of the Labor Code, as amended, particularly Article 279, to wit:

Article 279. Security of Tenure. – In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.^[24]

Thus, the said provision provides that illegally dismissed employees are entitled to backwages plus other benefits computed from the time compensation was withheld up to the time of actual reinstatement.

An illegally dismissed employee who, in contemplation of the law, never left his office, should be granted the compensation which rightfully belongs to him from the moment he was unduly deprived of it up to the time it was restored to him;^[25] the backwages to be awarded should not be diminished or reduced by earnings derived by the illegally dismissed employee elsewhere during the term of his illegal dismissal.^[26]

In their amended complaint filed with the DOLE, the private respondents prayed for moral and exemplary damages, among others, but the CA failed to award the same. This Court has consistently accorded the working class a right to recover damages for dismissals tainted with bad faith. The award of such damages is based not on the Labor Code but on Article 220 of the Civil Code.^[27] Indeed, moral damages are recoverable when the dismissal of an employee is attended by bad faith or fraud or constitutes an act oppressive to labor, or is done in a manner contrary to good morals, good customs or public policy. Exemplary damages may be awarded if the dismissal is effected in a wanton, oppressive or malevolent manner.^[28] Bad faith on the part of petitioners may be gleaned from the fact that they transferred the private respondents to two (2) employment agencies just so they could evade their legal responsibility as employers to accord them the status and benefits of regular employees under the Labor Code. The dismissal, no doubt, was effected in a wanton, oppressive or malevolent manner as the private respondents were deprived of due process. Thus, the amount of P10,000.00 as moral damages and P5,000.00 as exemplary damages are hereby awarded to each private respondent.^[29]

Petitioner Kay Lee, as the president, actively managed the business of KPI. In fact, she was the one who decided the private respondents' transfer to the employment agencies, and signed the memoranda ordering such transfer, in bad faith, as earlier discussed. In labor cases, particularly, corporate directors and officers are solidarily liable with the corporation for the termination of employment of corporate employees done with malice or in bad faith.^[30] In fact, in *Naguiat vs. NLRC*,^[31] the Court held that the president of a corporation, who actively manages the business, falls within the meaning of an "employer" as contemplated by the Labor Code, and may be held jointly and severally liable for the obligations of the

corporation to its dismissed employees. Thus, in the present case, petitioners Kay Lee and KPI are jointly and severally liable for the latter's obligations to the private respondents.

IN VIEW OF THE FOREGOING DISQUISITIONS, the petition is hereby **DENIED**. The Court of Appeals' Decision and Resolution in CA-G.R. SP No. 73028 are hereby **AFFIRMED WITH MODIFICATION**. Petitioners Kay Products, Inc. and Kay Lee are **ORDERED** to reinstate private respondents Myrna Abila, Flordeliza Morante and Fe Regidor, and to pay, jointly and severally, their full backwages without deductions from the time of dismissal to actual reinstatement; if reinstatement is no longer practicable or feasible, in lieu thereof, to pay, jointly and severally, separation pay of one (1) month salary for every year of their employment, with a fraction of at least six (6) months being considered as one (1) year. In addition thereto, petitioners are also hereby ordered, jointly and severally, to pay the amount of Ten Thousand Pesos (P10,000.00) as moral damages and Five Thousand Pesos (P5,000.00) as exemplary damages to each of the private respondents.

SO ORDERED.

PUNO, J., (Chairman), AUSTRIA-MARTINEZ, TINGA, and CHICO-NAZARIO, JJ., concur.

[1] Penned by Associate Justice Renato C. Dacudao, with Presiding Justice Cancio C. Garcia (now an Associate Justice of the Supreme Court) and Associate Justice Danilo B. Pine, concurring.

[2] Rollo, p. 63.

[3] Id. at 64.

[4] CA Rollo, p. 46.

[5] Id. at 31.

[6] CA Rollo, p. 33.

[7] Rollo, p. 52.

[8] Labor Arbiter Waldo Emerson R. Gan.

[9] Rollo, pp. 78-79.

[10] Penned by Presiding Commissioner Lourdes C. Javier, with Commissioners Ireneo B. Bernardo and Tito F. Genilo, concurring; Rollo, pp. 89-95.

[11] Rollo, p. 94.

[12] Id. at 93.

[13] Id. at 96.

- [14] CA Rollo, pp. 147-148.
- [15] CA Rollo, p. 167.
- [16] Rollo, p. 10.
- [17] G.R. No. 96191, 4 March 1991, 194 SCRA 633.
- [18] G.R. No. 88538, 25 July 1991, 199 SCRA 568.
- [19] G.R. No. 82868, 5 August 1991, 200 SCRA 158.
- [20] Sta. Maria vs. Court of Appeals, G.R. No. 127549, 28 January 1998, 285 SCRA 351.
- [21] Rollo, pp. 32-33.
- [22] Rollo, pp. 34-35.
- [23] Kimberly Independent Labor Union for Solidarity, Activism And Nationalism-Organized Labor Association In Line Industries and Agriculture vs. Drilon, G.R. No. 77629, 9 May 1990, 185 SCRA 190.
- [24] Section 34 of Republic Act No. 6715. (Emphasis supplied)
- [25] Buhain vs. Court of Appeals, 433 Phil. 94 (2002).
- [26] Id. at 104, citing Bustamante vs. National Labor Relations Commission, 265 SCRA 61 (1996).
- [27] See Cruz vs. National Labor Relations Commission, G.R. No. 116384, 7 February 2000, 324 SCRA 770.
- [28] Lopez vs. National Labor Relations Commission, G.R. No. 124548, 8 October 1998, 297 SCRA 508.
- [29] Cruz vs. National Labor Relations Commission, supra.
- [30] Uichico vs. National Labor Relations Commission, G.R. No. 121434, 2 June 1997, 273 SCRA 35.
- [31] G.R. No. 116123, 13 March 1997, 269 SCRA 564.