SUPREME COURT
FIRST DIVISION

UNICORN SAFETY GLASS, INC., LILY YULO and HILARIO YULO,
***Petitioners*,**

-versus-

G.R. No. 154689
November 25, 2004

RODRIGO BASARTE, JAIMELITO FLORES, TEODOLFO LOR, RONNIE DECIO, ELMER SULTORA and JOSELITO DECIO,
***Respondents*.**
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D E C I S I O N

YNARES-SANTIAGO, *J.*:

This is a Petition for Review on Certiorari seeking to set aside the Decision[1] of the Court of Appeals dated October 18, 2001 and its subsequent Resolution dated August 7, 2002, which reversed the decisions of the Labor Arbiter and the National Labor Relations Commission (NLRC).

Respondents were regular employees of petitioner Unicorn Safety Glass Incorporated, a company engaged in the business of glass manufacturing. Respondents normally worked six (6) times a week,

from Monday to Saturday, and were paid on a weekly basis. They were likewise officers of the organized union in petitioner company, owned and managed by the Spouses Lily and Hilario Yulo.

On March 2, 1998, Hilario Yulo, as general manager of Unicorn, issued a Memorandum[2] informing respondents that effective April 13, 1998, their workdays shall be reduced due to economic considerations. Yulo cited several factors such as decrease in sales, increase in the cost of production, devaluation of the peso and increase in minimum wage, which contributed to the current economic state of the company. In a letter dated March 12, 1998, respondents registered their protest to the proposed reduction of working days and expressed doubts on the reasons offered by the company.[3] Respondents also surmised that the management was merely getting back at them for forming a union especially since only the union officers were affected by the work reduction.

On April 6, 1998, Hilario Yulo issued another Memorandum[4] announcing the implementation of a work rotation schedule to take effect from April 13, 1998 to April 30, 1998, which will effectively reduce respondents' workdays to merely three days a week. A copy of the planned rotation scheme was sent to the Department of Labor and Employment. Respondents wrote another letter of protest dated April 7, 1998[5] expressing their frustrations at the apparent lack of willingness on the part of petitioner company's management to address their concerns and objections. On the same day, respondents met with the Spouses Yulo and inquired as to the reasons for the imposition of the reduced workweek. They were told that it was management's prerogative to do so.[6]

On April 13, 1998, instead of reporting for work, respondents filed a complaint against petitioner company with the National Labor Relations Commission, docketed as NLRC Case No. NCR-00-04-03277-98, for constructive dismissal and unfair labor practice, i.e., union busting, non-payment of five days service incentive leave pay and payment of moral and exemplary damages as well as attorney's fees. Respondents prayed for reinstatement and payment of full backwages.

Meanwhile, since respondents failed to report for work, petitioners sent each of them a telegram directing them to do so. On April 18, 1998, respondents sent Yulo a letter informing him that, in view of the management's apparent indifference to their plight and blatant violation of their rights, a complaint was lodged against petitioner company for constructive dismissal. Moreover, given the working environment they were subjected to, they decided not to report for work at all.[7] Petitioner company replied by asking them to explain why they have not been reporting for work. However, respondents neither reported for work nor replied to petitioner company's telegrams.

On January 26, 1999, Labor Arbiter Felipe Pati rendered judgment finding that respondents were not constructively terminated by petitioner company. Thus:

> Complainants claim that they were constructively terminated. However, evidence extant do not support this contention. What we see on records are the telegrams, letters and memoranda sent by respondents to complainants ordering the latter to report for work. Despite due receipt by the complainants of these communications, they simply ignored respondents' plea. Complainants deliberate refusal to report for work is very much evident from the number of letters they received from respondents which were all ignored.
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> It is true that complainants have sent to respondent a joint letter-reply dated April 18, 1998 (Annexes 35, Respondents Position Paper). However, said joint letter reinforces the fact that complainants were not terminated by respondents. In fact complainants admitted in this joint letter-reply that they have decided not to report for work because they did not agree with the report rotation adopted by respondents. From this admission and statement of complainant, we feel that the charge of illegal dismissal they filed against respondents is misplaced. If complainants strongly opposed the rotation adopted by respondents, they could have initiated an illegal rotation and not illegal dismissal case against respondents. As "good soldiers" complainants could initiate this case while they are reporting for work based on the adopted work rotation and

> let the Court decides whether or not this rotation is valid and legal. Certainly refusal to report for work is not a proper remedy.[8]

The Labor Arbiter likewise dismissed the charge of unfair labor practice for lack of legal and factual basis. Nonetheless, the Labor Arbiter ordered petitioner company to pay the respondents' claim for unpaid service incentive leave pay. The Labor Arbiter disposed of the case, thus:

> WHEREFORE, the instant case is hereby dismissed for lack of merit. Respondents however, are ordered to pay complainants the total amount of P5,110.00 for unpaid service incentive leave pay as alluded in the above computation.
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> On the grounds of amicable settlement and subsequent withdrawals of their complaints, the cases of PAQUITO MANONGSONG and ELMER SULTORA are hereby dismissed with prejudice.
>
> SO ORDERED.[9]

The case was appealed to the NLRC. During the pendency of the appeal, however, petitioner company filed a Motion to Dismiss alleging that respondents Basarte, Flores, Decio and Lor entered into amicable settlements and executed a "Waiver, Release & Quitclaim."[10] Respondents' representative filed an Opposition thereto alleging that the "Waiver, Release & Quitclaim" executed by respondents were entered into without his knowledge and not in the presence of the Labor Arbiter; and that the amounts received by respondents were unconscionably inadequate.

In a decision dated October 31, 2000, the NLRC sustained the findings of the Labor Arbiter. On the issue of the amicable settlements, the NLRC stated:

> We are not convinced that the amicable settlement entered into by complainants were involuntary and that the consideration thereof are unconscionable.

> It is to be stressed that the complainants were the ones who went to the office of respondent for settlement. They acknowledged having signed the "Waiver, Release and Quitclaim" and brought the same before a Notary Public.... Given these factual circumstances, it is hard to believe that there was involuntariness on the part of the complainant when they settled their claims with respondent. In fact, almost a year have already lapsed since then. It is only now that complainants are claiming that their settlement was involuntary.
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> Anent complainants' claim that the consideration of settlement is unconscionable suffice it to state that the amount granted by way of settlement to complainants Rodrigo Basarte, Jaimelito Flores, Joselito Decio including that of complainant Teodolfo Lor (Records, p. 179) are more than the judgment award.[11]

The dispositive portion of the NLRC's decision states:

> PREMISES CONSIDERED, the appeal from the Decision dated January 26, 1999 is hereby DISMISSED for lack of merit and the Decision is AFFIRMED.
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> Further, the motions to dismiss filed by respondents with respect to complainants Rodrigo Basarte, Jaimelito Flores, Joselito Decio and Teodolfo Lor are hereby GRANTED. Thus, insofar as said complainants are concerned their cases are dismissed with prejudice, as prayed for by respondents.
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> SO ORDERED.[12]

Unrelenting, the respondents filed a petition for certiorari with the Court of Appeals, which found respondents' case partly meritorious.

However, it declined to make a contrary finding on the charge of unfair labor practice for lack of clear-cut and convincing evidence. The dispositive portion of the Court of Appeals' decision is as follows:

> UPON THE VIEW WE TAKE OF THIS CASE, THUS, the petition is substantially GRANTED. Private respondents are

> hereby ordered to reinstate to their former positions Rodrigo Basarte, Jaimelito Flores and Ronnie Decio, without loss of seniority rights and privileges, and to pay these three their full backwages from April 13, 1998 until their reinstatement. Or, to award them separation pay, in case reinstatement is no longer feasible or possible. Private respondents are further sentenced to pay the aforenamed petitioners ten per cent (10%) of the total awards by way of attorney's fees. Costs shall also be taxed against private respondents.
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> SO ORDERED.[13]

Its Motion for Reconsideration having been denied, petitioners are before us on Petition for Review on Certiorari, raising the following assignment of errors:

> I.
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> THE HONORABLE COURT OF APPEALS ERRED IN REVERSING THE RULING OF THE LABOR ARBITER A QUO WHICH WAS AFFIRMED BY THE NLRC HOLDING THAT PRIVATE RESPONDENTS WERE NOT ILLEGALLY DISMISSED FROM THEIR EMPLOYMENT.
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> II.
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> THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT THE RELEASE, WAIVER AND QUITCLAIMS EXECUTED BY PRIVATE RESPONDENTS RODRIGO BASARTE AND JAIMELITO FLORES NULL AND VOID.[14]

The petition lacks merit.

Constructive dismissal or a constructive discharge has been defined as quitting because continued employment is rendered impossible, unreasonable or unlikely, as an offer involving a demotion in rank and a diminution in pay.[15] Constructive dismissal, however, does not always take the form of a diminution. In several cases, we have ruled that an act of clear discrimination, insensibility, or disdain by an employer may become so unbearable on the part of the employee so

as to foreclose any choice on his part except to resign from such employment. This constitutes constructive dismissal.[16]

In the case at bar, we agree with the Court of Appeals that petitioners' bare assertions on the alleged reason for the rotation plan as well as its failure to refute respondents' contention that they were targeted due to their union activities, merit the reversal of the Labor Arbiter's decision. It was incumbent upon petitioners to prove that the rotation scheme was a genuine business necessity and not meant to subdue the organized union. The reasons enumerated by petitioners in their Memoranda dated March 2, 1998 were factors too general to actually substantiate the need for the scheme. Petitioners cite the reduction in their electric consumption as proof of an economic slump. This may be true to an extent. But it does not, by itself, prove that the rotation scheme was the most reasonable alternative to remedy the company's problems.

The petitioners' unbending stance on the implementation of the rotation scheme was an indication that the rotation plan was being implemented for reasons other than business necessity. It appears that respondents attempted on more than one occasion to have a dialogue with petitioner Hilario Yulo to discuss the work reduction. Good faith should have prompted Yulo to hear the side of the respondents, to come up with a scheme amenable to both parties or attempt to convince the employees concerned that there was no other viable option. However, petitioners ignored the letters sent by respondents, which compelled the latter to seek redress with the Labor Arbiter.

We are mindful that every business strives to keep afloat during these times when prevailing economic situations turns such endeavor into a near struggle. With as much latitude as our laws would allow, the Court has always respected a company's exercise of its prerogative to devise means to improve its operations. Thus, we have held that management is free to regulate, according to its own discretion and judgment, all aspects of employment, including hiring, work assignments, working methods, time, place and manner of work, processes to be followed, supervision of workers, working regulations, transfer of employees, work supervision, lay off of workers and discipline, dismissal and recall of workers.[17] Further, management

retains the prerogative, whenever exigencies of the service so require, to change the working hours of its employees.[18]

However, the exercise of management prerogative is not absolute. By its very nature, encompassing as it could be, management prerogative must be exercised in good faith and with due regard to the rights of labor—verily, with the principles of fair play at heart and justice in mind. While we concede that management would best know its operational needs, the exercise of management prerogative cannot be utilized as an implement to circumvent our laws and oppress employees. The prerogative accorded management cannot defeat the very purpose for which our labor laws exist: to balance the conflicting interests of labor and management, not to tilt the scale in favor of one over the other, but to guaranty that labor and management stand on equal footing when bargaining in good faith with each other.[19]

In the case at bar, the manner by which petitioners exercised their management prerogative appears to be an underhanded circumvention of the law. Petitioners were keen on summarily implementing the rotation plan, obviously singling out respondents who were all union officers. The management's apparent lack of interest to hear what the respondents had to say, created an uncertain situation where reporting for work was tantamount to an acquiescence in an unjust situation.

Petitioners argued that they "exerted diligent and massive efforts" to make respondents return to work, highlighting the telegrams and memoranda sent to respondents.[20] It is well established that to constitute abandonment, two elements must concur: (1) the failure to report for work or absence without valid or justifiable reason, and (2) a clear intention to sever the employer-employee relationship, with the second element as the more determinative factor and being manifested by some overt acts. Abandoning one's job means the deliberate, unjustified refusal of the employee to resume his employment and the burden of proof is on the employer to show a clear and deliberate intent on the part of the employee to discontinue employment.[21]

However, petitioners' charge of abandonment of work by respondents does not hold water when taken in light of the complaint for

constructive dismissal. We have held that a charge of abandonment is totally inconsistent with the filing of a complaint for constructive dismissal— and with reason.[22] Respondents cannot be said to have abandoned their jobs when precisely, the root cause of their protest is their demand to maintain their regular work hours. What is more, respondents even prayed for reinstatement and backwages. Clearly, these are incompatible with the proposition that respondents sought to abandon their work.

Anent the issue of the validity of the waivers and quitclaims executed by some of the respondents, petitioners argue that while admittedly, the amounts indicated therein were not substantial, it does not necessarily follow that these were executed under duress. Moreover, the waivers and quitclaims were executed when the complaint for illegal dismissal was already dismissed by the Labor Arbiter. Thus, the waivers and quitclaims were executed under valid circumstances.

We do not agree. To be sure, the law looks with disfavor upon quitclaims and releases by employees who are inveigled or pressured into signing them by unscrupulous employers seeking to evade their legal responsibilities. We have clarified the standards for determining the validity of quitclaim or waiver in the case of Periquet vs. National Labor Relations Commission,[23] to wit:

> If the agreement was voluntarily entered into and represents a reasonable settlement, it is binding on the parties and may not later be disowned simply because of a change of mind. It is only where there is clear proof that the waiver was wangled from an unsuspecting or gullible person, or the terms of settlement are unconscionable on its face, that the law will step in to annul the questionable transaction. But where it is shown that the person making the waiver did so voluntarily, with full understanding of what he was doing, and the consideration for the quitclaim is credible and reasonable, the transaction must be recognized as a valid and binding undertaking.

In the instant case, while it is true that the complaint for illegal dismissal filed by respondents with the Labor Arbiter has been dismissed, their appeal before the NLRC was still pending. In fact, petitioners even filed a Motion to Dismiss with the NLRC on the very

ground that the respondents, or at least most of them, have executed said "Waivers, Releases and Quitclaims." Petitioners cannot therefore deny that it was in their interest to have respondents execute the quitclaims.

Furthermore, the considerations received by respondents Basarte and Flores were grossly inadequate considering the length of time that they were employed in petitioner company. As correctly pointed out by the Court of Appeals, Basarte worked for petitioner company for 21 years, that is, from 1976 to 1998, while Flores worked from 1991 to 1998. Basarte and Flores only received P10,000.00 and P3,000.00, respectively. In contrast, Manongsong and Soltura, two workers who opted to settle their respective cases earlier on, both started in 1993 only, but were able to take home P16,434.00 each after executing their waivers.

Article 279 of the Labor Code provides that an employee who is unjustly dismissed from work is entitled to reinstatement without loss of seniority rights and other privileges, and to his full backwages, inclusive of allowances, and to the other benefits or their monetary equivalent computed from the time of his actual reinstatement. However, if reinstatement is no longer possible, the employer has the alternative of paying the employee his separation pay in lieu of reinstatement.

WHEREFORE, the instant petition is **DENIED**, and the decision of the Court of Appeals of October 18, 2001 in CA-G.R. SP No. 63577 is **AFFIRMED** in toto. Costs against petitioners.

SO ORDERED.

Quisumbing, Carpio, and Azcuna, *JJ.*, concur.
Davide, Jr., *C.J. (Chairman)*, on official leave.

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[1] Penned by Associate Justice Renato C. Dacudao of the Thirteenth Division with the concurrence of then Associate Justice of the Court of Appeals, now Associate Justice of the Supreme Court, Romeo J. Callejo, Sr. and Associate Justice Mariano C. Del Castillo.
[2] Court of Appeals Decision, Rollo, p. 35.

[3] Annex D, Court of Appeals Rollo, p. 132.
[4] Annex F, Court of Appeals Rollo, p. 43.
[5] Annex A, Court of Appeals Rollo, p. 59.
[6] Court of Appeals Rollo, p. 47.
[7] Annex B, Court of Appeals Rollo, p. 61.
[8] Court of Appeals Rollo, pp. 30-31.
[9] Id., pp. 32-33.
[10] NLRC Decision, Court of Appeals Rollo, p. 20.
[11] Id., p. 22.
[12] Id., p. 23.
[13] Rollo, p. 43.
[14] Id., pp. 19-20.
[15] Philippine Industrial Security Agency Corporation vs. Virgilio Dapiton, G.R. No. 127421, 8 December 1999, 320 SCRA 124; see also Delfin Garcia vs. National Labor Relations Commission, G.R. No. 116568, 3 September 1999, 313 SCRA 597; Mark Roche International vs. National Labor Relations Commission, G.R. No. 123825, 31 August 1999, 313 SCRA 356.
[16] Soliman Security Services, Inc. vs. Court of Appeals, G.R. No. 143215, 11 July 2002, 384 SCRA 514; see also Ala Mode Garments, Inc. vs. National Labor Relations Commission, G.R. No. 122165, 17 February 1997, 268 SCRA 497; Philippine Advertising Counselors, Inc. vs. National Labor Relations Commission, G.R. No. 120008, 18 October 1996, 263 SCRA 395; Philippine Japan Active Carbon Corporation vs. National Labor Relations Commission, G.R. No. 83239, 8 March 1989, 171 SCRA 164.
[17] Philippine-Singapore Transport Services, Inc. vs. National Labor Relations Commission, G.R. No. 95449, 18 August 1997, 277 SCRA 506; San Miguel Brewery Sales vs. Ople, G.R. No. 53615, 8 February 1989, 170 SCRA 25; Caltex Refinery Employees Association vs. NLRC, et al., G.R. No. 102993, 14 July 1995, 246 SCRA 271; Businessday Information Systems and Services, Inc. vs. NLRC, et al., G.R. No. 103575, 5 April 1993, 221 SCRA 9.
[18] Sime Darby Pilipinas, Inc. vs. National Labor Relations Commission, G.R. No. 119205, 15 April 1998, 289 SCRA 86.
[19] Philippine Airlines, Inc. vs. Joselito Pascua, G.R. No. 143258, 15 August 2003, 409 SCRA 195.
[20] Rollo, p. 23.
[21] Premiere Development Bank vs. National Labor Relations Commission, G.R. No. 114695, 23 July 1998, 293 SCRA 49.
[22] Globe Telecom, Inc. vs. Florendo-Flores, G.R. No. 150092, 27 September 2002, 390 SCRA 201; see also Philippine Industrial Security Agency Corporation vs. Virgilio Dapiton, supra; Delfin Garcia vs. National Labor Relations Commission, supra.
[23] G.R. No. 91298, 22 June 1990, 186 SCRA 724, 730-731.