

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**ALLAN VILLAR, DANILO INDITA,
ARTURO MANIMTIM, GERSON
DATALIO, GERRY VILLARALBO,
ALFONSO PIPINO, NOEL ANGAY and
EXEQUIEL MANIMTIM,**

Petitioners,

-versus-

**G.R. No. 130935
May 11, 2000**

**NATIONAL LABOR RELATIONS
COMMISSION and HI-TECH
MANUFACTURING CORPORATION,**

Respondents.

X-----X

DECISION

BELLOSILLO, J.:

ALLAN VILLAR, DANILO INDITA, ARTURO MANIMTIM, GERSON DATALIO, GERRY VILLARALBO, ALFONSO PIPINO, NOEL ANGAY and EXEQUIEL MANIMTIM, in this petition for certiorari, assail for having been rendered with grave abuse of discretion the 30 May 1997 Decision of the National Labor Relations Commission (NLRC) vacating and setting aside the Decision of the Labor Arbiter, as well as its 31 July 1997 Resolution denying reconsideration.^[1]

HI-TECH MANUFACTURING CORPORATION (HI-TECH), a corporation duly organized and existing under Philippine laws, is engaged in the business of manufacturing cartons for commercial purposes. On different dates, HI-TECH hired petitioners to perform various jobs for the company such as slitter machine operator, inkman, silk screen printer, truck helper, rubber dye setter, forklift operator and stitching machine operator.

Sometime in March 1994 petitioners, who were members of the Federation of Free Workers Union, filed before the Department of Labor a petition for certification election among the rank-and-file employees of HI-TECH. The petition was granted and a certification election was conducted inside the company premises on 31 July 1994. However, petitioners lost in the election as the HI-TECH employees voted for “No Union.”

On 1 August 1994 and the succeeding days thereafter, petitioners failed to report for work. They alleged that they were barred from entering the premises of HI-TECH; hence, they immediately filed before the Labor Arbiter separate complaints for illegal dismissal and labor standards claims against HI-TECH, Herman T. Go, owner, and Carmen Belano, general manager.

Petitioners claimed that they were summarily dismissed from employment by the management of HI-TECH in retaliation for organizing a labor union in the work premises as well as in filing the petition for certification election before the Department of Labor. They further averred that they were paid daily wages ranging from P81.00 to P145.00 which were below the minimum fixed by law and that they were required to work six (6) days a week from 8 o'clock in the morning to 7 o'clock in the evening without being paid for the overtime. Neither were they paid their service incentive leave pay and 13th month pay.

Petitioners originally numbered twenty-three (23) but fifteen (15) of them desisted in the course of the proceedings thus leaving only the eight (8) petitioners who pursued their cause to the end.^[2]

On the other hand, HI-TECH denied having dismissed petitioners. It contended that petitioners were probably stung by their defeat in the certification election such that they refused to work thereafter; that the HI-TECH management called their attention concerning their unauthorized absences without leave but petitioners continued with their leave en masse with the sole intention of crippling the company operations; and, that petitioners could return to their jobs at HI-TECH any time at their discretion. In support of these allegations, private respondent presented in evidence the affidavits^[3] of employees who initially joined petitioners in filing their complaints but later desisted from pursuing their claims. The pertinent portions of the affidavits uniformly read —

2. That I hereby state that I was not dismissed by the company or its officials, the truth of the matter being that I did not report for work anymore after the certification election on July 31, 1994, when our Union lost in the said election; that I wanted to resign from the company, as I am hereby resigning voluntarily from my job with HI-TECH MANUFACTURING CORPORATION;
3. That it is not likewise true that I was underpaid, or that I was paid salary below the minimum fixed by law; that I was receiving my daily salary in accordance with law; and that I received all the benefits due me as employee like holiday pay, service incentive leave and 13th month pay for 1994 that I have no claims whatsoever against the company or its officials in connection with or arising from my employment with the company, and that the complaint I filed against the company was due to misunderstanding and misconception of what I perceived I am entitled to; that now I realize that I have nothing or I do not have any valid complaint or claim against the HI-TECH MANUFACTURING.

They further submitted the handwritten notes of petitioners Arturo Manimtim and Exequiel Manimtim addressed to the management of HI-TECH. The letter of Arturo Manimtim, the contents of which were substantially the same as those of Exequiel Manimtim, read —

Ako po si Mr. Arturo Manimtim ay kusang loob na pumunta at lumapit sa pamunuan upang humingi nang anumang financial assistance o tulong na inyong maibibigay sa akin lalung-lalo na po para sa aking pamilya, at kabilang na rin po ang aking tuwirang pag-amin sa kasalanang aming ginawa laban sa management na kami po ang nagdulot ng malaking kasiraan at perwisyo sa inyong kumpanya noong nakaraan dahil sa aming ginawang pagtigil sa aming trabaho ng sabay-sabay ng walang paalam o pahintulot sa management at naging sanhi ng malaking pagkalugi ng kumpanya.

Ako po ay kusang loob na humihingi ng inyong kapatawaran sa pagkakataong ito bilang inyong dating manggagawa at sa tagal po rin ng aking serbisyo sa inyong kumpanya na sana'y malugod po ninyong pagbigyan ang aking kahilingan.

Ako po ay humihingi ng kapatawaran sa management sa aming maling pamamaraan o pagturing sa management.

Ang inyong lingkod,

(Sgd.)
Arturo Manimtim

On 15 August 1996 a consolidated decision was rendered by Labor Arbiter Emerson C. Tumanon in favor of petitioners ordering HI-TECH to reinstate petitioners to their former positions without loss of seniority rights and with full back wages, and to pay their mandated monetary benefits computed as follows —

| <u>NAME</u> | <u>BACKWAGES</u> | <u>UNDER PAYMENT</u> | <u>13TH Mo. Pay</u> | <u>SILP</u> |
|---------------|------------------|----------------------|--------------------------------|-------------|
| A. VILLAR | P100,062.05 | P24,026.00 | P2,002.10 | P1,855.00 |
| D. INDITA | 100,062.05 | 12,913.00 | 1,076.05 | 675.00 |
| G. DATALIO | 100,062.05 | 10,734.00 | 895.00 | 675.00 |
| G. VILLARALBO | 100,062.00 | 16,163.00 | 1,347.35 | 1,855.00 |
| A. PIPINO | 100,062.05 | 520.00 | 430.00 | 2,145.00 |
| A. MANIMTIM | 100,062.05 | 5,930.90 | 495.90 | 1,855.00 |
| N. ANGAY | 115,456.25 | 944.00 | 78.65 | 1,855.00 |

E. MANIMTIM 122,091.65 5,938.00 494.90 1,855.00

On appeal by HI-TECH, the NLRC in its Decision of 30 May 1997 vacated and set aside the Labor Arbiter's Decision and ordered petitioners to report back to work, or if no longer feasible, directed HI-TECH to pay petitioners their separation benefits. The NLRC ruled —

We have pored (over) the records and we find no proof to support the [labor arbiter's] contention that soon after the union to which complainants belong lost in the certification election, said complainants were summarily dismissed without even the benefit of due process. There was no record that the complainants were terminated from their employment. What is very revealing is that the day after they lost in the certification election, they refused to report to work for no justifiable reason which makes us believe that they voluntarily resigned the finding of the Labor Arbiter that the mere fact that they (complainants) filed the complaint for illegal dismissal negates a notion of abandonment is so speculative and conjectural to be sustained. The filing of their complaint for illegal dismissal indicates that it was nothing but an attempt on their part to give verisimilitude to their desire to get even with respondents.

In view of all the foregoing, the finding of the Labor Arbiter for illegal dismissal against respondents, the award of backwages in favor of complainants is without any factual or legal basis. However, complainants in their own free will and volition may return to work with respondents who are directed to accept them without loss of seniority rights and benefits but without backwages based on the principle of a fair day's work for a fair day's pay . . . the allegation of complainants that they were underpaid without stating their respective specific basic pay and the basis of their claim that they were underpaid cannot be given credence. Mere allegations without supporting proofs are not evidence in themselves.

Their motion for reconsideration having been denied by the NLRC in its Resolution dated 31 July 1997, petitioners are now before us imputing grave abuse of discretion to the NLRC: (a) in ruling that petitioners voluntarily resigned from their jobs and were not illegally

dismissed; (b) in refusing to correctly apply the law and jurisprudence relative to burden of proof in termination cases and money claims of workers, abandonment of work and offers made by a party in the course of litigation; and, (c) in ruling that petitioners did not state their respective specific basic pay and the basis of their claim that they were underpaid.

The pivotal issues to be resolved are: first, whether petitioners deliberately and unjustifiably abandoned their employment, or were illegally dismissed by the management of HI-TECH; and second, whether petitioners are entitled to back wages and other monetary benefits.

The first issue involves a question of fact. It is well-settled that factual findings of quasi-judicial agencies such as the NLRC are generally accorded not only respect but, at times, even finality. However, the rule is not absolute and admits of certain well-recognized exceptions. Thus, when the findings of fact of the NLRC are not supported by substantial evidence,^[4] capricious or arbitrary, and directly at variance with those of the Labor Arbiter,^[5] this Court may make an independent evaluation of the facts of the case.

We find sufficient cause to deviate from the findings of the NLRC. It is clear from the records that sometime in August 1994, immediately after petitioners supposedly “refused to work” having lost earlier in the certification election, several complaints for illegal dismissal against HI-TECH were filed by petitioners. These are sufficient proofs that they were never guilty of leaving their jobs. The concept of abandonment of work is inconsistent with the immediate filing of complaints for illegal dismissal. An employee who took steps to protest his layoff could not by any logic be said to have abandoned his work.^[6]

Abandonment is a matter of intention and cannot lightly be presumed from certain equivocal acts. To constitute abandonment, there must be clear proof of deliberate and unjustified intent to sever the employer-employee relationship.^[7] Mere absence of the employee is not sufficient. The burden of proof to show a deliberate and unjustified refusal of an employee to resume his employment without any intention of returning rests on the employer.^[8]

HI-TECH failed to discharge its burden. We find its evidence — consisting mainly of the affidavit of employees and the handwritten notes of Arturo Manimtim and Exequiel Manimtim — not enough to establish that petitioners indeed deliberately and unjustifiably abandoned their jobs. The statements of the employees in these documents, readily acknowledging their guilt and absolutely exonerating their employer from any liability, were rigidly and uniformly stated, and appeared too good to be true. We are not unaware of the schemes employed by management to extract favorable statements from their employees and entice them to desist from pursuing their claims in exchange for some financial considerations or promise of immediate employment or at some future time.

The handwritten letters of Arturo Manimtim and Exequiel Manimtim spoke of their financial plight. Without work they found it difficult to know how their basic needs could be met. They are likely to be family men, horrified by the thought that they could not even provide sufficiently for their young ones. It is precisely this situation that must have compelled them to surrender to HI-TECH and seek financial assistance.

Neither do we subscribe to HI-TECH's argument that petitioners were highly skilled workers, and that to abruptly terminate their services would have a debilitating effect on the company. In this country, labor supply far exceeds the demand. Sooner or later, equally skilled workers would be lining up to fill the job vacancies. HI-TECH apparently adopted a rather unsound business policy in terminating petitioners' employment, preferring to bear the immediate and inconsequential losses in profit which, it hoped, would prove to be temporary and minimal in the long run, as compared to the long-term company losses that would result if they complied with union demands. Unfortunately, they miscalculated its repercussions.

HI-TECH next avers that it had expressed willingness to reinstate petitioners to their former positions in the company, but the latter adamantly refused. Suffice it to say that such refusal is understandable and should not be taken against petitioners. Yielding

to the company offer would deprive them of back wages to which they are entitled thus effectively negating their cause.

We conclude that petitioners did not abandon their jobs but were illegally dismissed therefrom by private respondent. As a consequence, they are entitled to reinstatement with full back wages, undiminished by earnings elsewhere, to be computed from their illegal dismissal to their actual reinstatement.^[9]

On the second issue, the NLRC held that petitioners' claims for underpayment of wages, 13th month pay and service incentive leave pay are without basis.

We disagree. First, petitioners executed a JOINT AFFIDAVIT^[10] specifying their daily wages, positions and periods of employment, which was made the basis of the Labor Arbiter's computation of the monetary awards. Second, all that the NLRC needed to do was to refer to the prevailing minimum wage to ascertain the correctness of petitioners' claims. Third, and most importantly, the burden of proving payment of monetary claims rests on the employer.^[11] In — Jimenez vs. National Labor Relations Commission^[12] we held:

As a general rule, one who pleads payment has the burden of proving it. Even where the plaintiff must allege non-payment, the general rule is that the burden rests on the defendant to prove payment, rather than on the plaintiff to prove non-payment. The debtor has the burden of showing with legal certainty that the obligation has been discharged with payment.

The reason for the rule is that the pertinent personnel files, payrolls, records, remittances and other similar documents — which will show that overtime, differentials, service incentive leave and other claims of workers have been paid — are not in the possession of the worker but in the custody and absolute control of the employer. Thus, in choosing not to present evidence to prove that it had paid all the monetary claims of petitioners, HI-TECH failed once again to discharge the onus probandi. Consequently, we have no choice but to award those claims to petitioners.

Finally, we note that the handwritten letters and affidavits executed by Arturo Manimtim and Exequiel Manimtim partake of the nature of quitclaims. Nevertheless, a deed of release or quitclaim cannot bar employees from demanding benefits to which they are legally entitled, or stop them from contesting the legality of their dismissal. The acceptance of these benefits does not amount to an estoppel.¹³ However, it is but just that the amounts received by Arturo and Exequiel Manimtim as consideration for the quitclaims be deducted from their respective monetary awards.

WHEREFORE, the petition is **GRANTED**. The assailed Decision dated 30 May 1997 and Resolution dated 31 July 1997 of the National Labor Relations Commission are **SET ASIDE**, and the Labor Arbiter's Decision of 15 August 1996 is **REINSTATED**. Private respondent is directed to reinstate petitioners to their former positions without loss of seniority rights and with full back wages, as well as to pay their monetary benefits in accordance with the computation made by Labor Arbiter Emerson C. Tumanon in his Decision of 15 August 1996. However, insofar as Arturo Manimtim and Exequiel Manimtim are concerned, this case is remanded to the Labor Arbiter for purposes of determining the amounts they received as consideration for their quitclaims and thereafter deducting these amounts from their monetary awards. No costs.

SO ORDERED.

Mendoza, Quisumbing and Buena, JJ., concur.
De Leon, Jr., J., is on leave.

[1] Mario G. Frondoza, et al. vs. Hi-Tech Manufacturing Corp., et al., NLRC NCR CA No. 011793-93, NLRC NCR 00-08-05864-94, and Allan S. Villar, et al. vs. Hi-Tech Manufacturing Corp., et al., NLRC NCR CA No. 00-08-06381-94; Decision penned by Commissioner Victoriano R. Calaycay, concurred in by Presiding Commissioner Raul T. Aquino and Commissioner Rogelio I. Rayala.

[2] Petitioners Arturo Manimtim and Exequiel Manimtim later executed affidavits of desistance during the pendency of this case with the NLRC. However, when the case was elevated to us on certiorari, they continued to be active parties thereto.

[3] Rollo, pp. 39-40, 43-44.

- [4] Pepsi-Cola Distributors of the Philippines, Inc. vs. National Labor Relations Commission, G.R. No. 106831, 6 May 1997, 272 SCRA 267.
- [5] Industrial Timber Corporation vs. National Labor Relations Commission, G.R. Nos. 107302 and 107306, 108559-60, 10 June 1997, 273 SCRA 200; Atlas Fertilizer Corporation vs. National Labor Relations Commission, G.R. No. 120030, 17 June 1997, 273 SCRA 549.
- [6] See Jones vs. National Labor Relations Commission, et al., G.R. No. 107729, 6 December 1995, 250 SCRA 668.
- [7] Shin I Industrial Philippines vs. National Labor Relations Commission, G.R. No. 74489, 3 August 1988, 164 SCRA 8; Asphalt and Cement Pavers, Inc. vs. Leogardo, Jr., G.R. No. 74563, 20 June 1988, 162 SCRA 312.
- [8] Labor, et al. vs. National Labor Relations Commission, G.R. No. 110388, 14 September 1995, 248 SCRA 183, 198.
- [9] Tomas Lao Construction vs. National Labor Relations Commission, G.R. No. 116781, 5 September 1997, 278 SCRA 716.
- [10] Rollo, p. 88; Annex "A."
- [11] See National Semiconductor (HK) Distribution, Ltd. vs. National Labor Relations Commission, G.R. No. 123520, 26 June 1998, 291 SCRA 348.
- [12] G.R. No. 116960, 2 April 1996, 256 SCRA 84.
- [13] Olacao vs. National Labor Relations Commission, G.R. No. 81390, 29 August 1989.