

SECOND DIVISION

[G.R. No. 226369, July 17, 2019]

**ISABELA-I ELECTRIC COOP., INC., REPRESENTED BY ITS
GENERAL MANAGER, ENGR. VIRGILIO L. MONTANO,
PETITIONER, VS. VICENTE B. DEL ROSARIO, JR., RESPONDENT.**

DECISION

LAZARO-JAVIER, J.:

Prefatory

We have always recognized and respected certain rights and privileges of employers and would not, when law and judgment dictate, interfere with its business decisions. Management rights and prerogatives, however, are not absolute. On numerous occasions, We have come forward to temper the unbridled exercise of these rights and prerogatives.

The Case

This petition for review on certiorari^[1] assails the following dispositions, of the Court of Appeals in CA-G.R. SP No. 134712 entitled *Isabela-I Electric Coop., Inc. represented by its General Manager, Engr. Virgilio L. Montano v. National Labor Relations Commission and Vicente B. Del Rosario, Jr.*:

1. Decision dated December 21, 2015,^[2] affirming the finding of the National Labor Relation Commission (NLRC) that respondent Vicente B. Del Rosario, Jr. was constructively dismissed; and
2. Resolution dated July 7, 2016,^[3] denying the motion for reconsideration^[4] of petitioner Isabela-I Electric Coop., Inc..

The Undisputed Facts

On January 29, 1996, petitioner Isabela-I Electric Cooperative, Inc. hired respondent Vicente B. Del Rosario, Jr. as Financial Assistant. The latter quickly rose from the ranks. After just three (3) months, on April 26, 1996, he got promoted as Acting Management Internal Auditor and on October 26, 1996, as Management Internal Auditor at petitioner's main office.^[5]

As Management Internal Auditor, respondent was receiving a basic monthly salary of P30,979.00 exclusive of representation allowance and other emoluments and benefits.^[6] Petitioner never raised any issue regarding his performance and capacity to lead his department.^[7]

In January 2011, petitioner approved a reorganization plan declaring all positions in the company vacant. Respondent, along with other employees signed a Manifesto to oppose the reorganization. Despite this opposition, petitioner proceeded to implement the reorganization in June 2011.^[8] Additionally, petitioner informed its employees in writing, that they were on a "hold-over capacity."^[9]

Together with other employees, respondent was made to fill out a prescribed application form. There, respondent listed "Internal Auditor Manager A," his current position, as his first preference, and "Finance Services Department Manager A" as his second.^[10]

While on vacation leave in October 2012, respondent received two (2) letters from petitioner. The first referred to his appointment as probationary Area Operations Manager. The second contained four (4) office memoranda which (a) indicated his area of assignment; (b) ordered him to cease acting as petitioner's management internal auditor; (c) directed him to turn over his current post and pertinent documents to his successor; and (d) appointed his subordinate Arlene B. Boy as officer-in-charge of the Auditing Department.^[11] Although respondent had issues about this new appointment, including the fact that his successor was not even a Certified Public Accountant (CPA) as he was the only CPA among petitioner's employees, he begrudgingly accepted his appointment.^[12]

Three (3) months later, in January 2013, respondent sent a letter to petitioner's general manager Virgilio L. Montano, voicing out his concern that the new position given him was a demotion. In the same letter he requested to be reinstated to his former position, especially since he was the only CPA among petitioner's employees. Petitioner, however, did not act on his letter.^[13]

The Complaint

On January 30, 2013, respondent filed the complaint below for illegal dismissal and damages. He claimed he was unlawfully demoted and was therefore constructively dismissed. He essentially averred:

(a) His former position as Management Internal Auditor had Salary Rank 20 (Php33,038.05), while his new position as Area Operations Management Department Manager came with Salary Rank 19 (Php30,963.95).^[14]

(b) The job description contained in his undated appointment entailed lesser responsibilities than those pertaining to his former position. What he held before covered the entire province of Isabela while his new position was limited to Isabela South Sector.^[15]

(c) Although his former position was not abolished, an incumbent of lesser

qualifications than him was appointed thereto. Among all petitioner's employees, he is the only full-fledged CPA with a Master's Degree in Business Administration. He is the most qualified candidate for his former position.^[16]

Respondent likewise accused petitioner of violating its own guidelines on the reorganization allegedly because:

(a) Petitioner's implementing guidelines on reorganization required two (2) postings on the results of the placement. Petitioner did not comply with the second posting and opted to release all new appointments instead.^[17]

(b) Petitioner appointed him to a position with a salary rank lower than that attached to his former position. The guidelines specifically stated that employees who had been assigned lower ranks would not suffer diminution in salary.^[18]

In its position paper,^[19] petitioner explained that under Republic Act No. 9136 (RA 9136) or the Electric Power Industry Reform Act of 2001, (EPIRA) distribution utilities like itself were required to reengineer their existing organization to suit the demands of time. National Electrification Administration (NEA) Memorandum No. 2004-024 provided for the model organizational structure to be adopted by all electric cooperatives. Thus, it structured a reorganizational plan which the NEA approved.^[20]

The Court sums up petitioner's submissions, *viz*:

Pursuant to the reorganization plan, it declared all positions vacant and subjected all employees to evaluation. The reorganization went smoothly although there was hesitation from some of its employees. Its accredited union did not consider any aspect of the reorganization as a violation of the Collective Bargaining Agreement (CBA).^[21]

Respondent was appointed in October 2012 as South Area Operation Management Department Manager, a position different from the one he held before the reorganization. Although respondent was appointed to another position, he suffered no diminution in compensation. In fact, respondent immediately assumed his new position as South Area Operations Manager.^[22]

It was true respondent requested to be reappointed to his former position. But it was also equally true that respondent was given a fresh appointment since all positions in the company were declared vacant as a result of the reorganization.^[23]

Respondent's new appointment was based on a valid reorganization. The position given him was the result of the company's assessment of his qualifications, aptitude, and competence. He was appointed Area Operations Management Department Manager because the company had ascertained that his assignment would produce maximum benefit to the operations of the company.^[24]

An employee did not have a vested right in his or her position, otherwise, the employer would be deprived of its prerogative to move an employee to another assignment where he would be most useful.^[25] If the purpose of reorganization

were to be achieved, changes in the positions and rankings of the employees should be expected. To insist on one's old position and ranking after the reorganization would render such endeavor ineffectual.^[26]

Respondent failed to appeal his new appointment as Area Operations Management Department Manager. The truth is he had no reason to complain because he continued to enjoy the same salary, rank, benefits, and privileges he had prior to the reorganization.^[27]

The Labor Arbiter's Ruling

By Decision dated August 29, 2013,^[28] Labor Arbiter Ma. Lourdes R. Baricaua dismissed the complaint. She found no concrete evidence on record showing that petitioner undertook the process of reorganization for purposes other than its declared objective: to save cost and maximize productivity and in compliance with the NEA policy as mandated by RA 9136.^[29]

The NLRC Ruling

On appeal, the NLRC reversed through its Decision dated November 20, 2013.^[30] It held that petitioner did not present any justifiable reason for not reappointing respondent to his former position, nor did it deny that respondent was the only licensed CPA among its employees. Too, the NLRC noted that respondent's new position carried a lower salary grade than that attached to his former position. The NLRC thus ruled:

WHEREFORE, the Appeal is GRANTED and the Labor Arbiter's Decision dated 29 August 2013 is SET ASIDE and a new one is issued declaring Complainant-Vicente B. Del Rosario, Jr. to have been illegally transferred and/or demoted resulting to his unlawful constructive dismissal and hereby ordering Respondent-Isabela-1 Electric Cooperative to immediately reinstate and/or restore the Complainant to his former position as Management Internal Auditor and to pay the Complainant the following:

1. Salary differential at the rate of Two Thousand Seventy Four Pesos and Ten Centavos [Php2,074.10] per month starting on October 2012, which to date amounted to Twenty Six Thousand Nine Hundred Sixty Three and Thirty Centavos [Php26,963.30];
2. Moral and exemplary damages of Twenty Five Thousand Pesos [Php25,000.00] each or a total amount of Fifty Thousand Pesos [Php50,000.00];
3. Attorney's fees often percent [10%] of the total award. Other claims are dismissed for lack of merit.

SO ORDERED.^[31]

Under Resolution dated January 21, 2014,^[32] the NLRC denied petitioner's motion for reconsideration.

The Court of Appeals' Ruling

Petitioner brought the case to the Court of Appeals which, by Decision dated December 21, 2015, affirmed but deleted the award of salary differential, viz:

WHEREFORE, in view of the foregoing premises, the instant petition is hereby **DISMISSED** for lack of merit. The assailed Decision and Resolution of the NLRC are hereby **AFFIRMED with MODIFICATION** in that the award representing the salary differential rate amounting to Twenty Six Thousand Nine Hundred Sixty Three Pesos and Thirty Centavos (Php26,963.30) is hereby **DELETED**.

SO ORDERED.^[33]

The Court of Appeals further denied petitioner's motion for reconsideration^[34] under its Resolution dated July 7, 2016.^[35]

The Present Petition

Petitioner now seeks this Court's discretionary appellate jurisdiction to review and reverse the assailed dispositions of the Court of Appeals. In support hereof, petitioner basically repeats the arguments presented and passed upon by the three (3) tribunals below.

In his Comment dated December 11, 2016, respondent similarly repleads his submissions below against petitioner's plea for affirmative relief.

Issue

Was respondent constructively dismissed when he got appointed to the new position of Area Operations Management Department Manager in lieu of his former position as Management Internal Auditor?

Ruling

The Court has been faced with charges of constructive dismissal. In several occasions, We have recognized management prerogative to effect the transfer of its employees. At other times, though, We have succored the worker's rights against arbitrary transfers which amount to constructive dismissal.