736 Phil. 625

SECOND DIVISION

[G.R. No. 202996, June 18, 2014]

MARLO A. DEOFERIO, PETITIONER, VS. INTEL TECHNOLOGY PHILIPPINES, INC. AND/OR MIKE WENTLING, RESPONDENTS.

DECISION

BRION, J.:

We resolve the petition for review on *certiorari*[1] filed by petitioner Marlo A. Deoferio to challenge the February 24, 2012 decision[2] and the August 2, 2012 resolution[3] of the Court of Appeals (*CA*) in CA-G.R. SP No. 115708.

The Factual Antecedents

On February 1, 1996, respondent Intel Technology Philippines, Inc. (*Intel*) employed Deoferio as a product quality and reliability engineer with a monthly salary of P9,000.00. In July 2001, Intel assigned him to the United States as a validation engineer for an agreed period of two years and with a monthly salary of US$3,000.00. On January 27, 2002, Deoferio was repatriated to the Philippines after being confined at Providence St. Vincent Medical Center for major depression with psychosis.[4] In the Philippines, he worked as a product engineer with a monthly salary of P23,000.00.[5]

Deoferio underwent a series of medical and psychiatric treatment at Intel's expense after his confinement in the United States. In 2002, Dr. Elizabeth Rondain of Makati Medical Center diagnosed him to be suffering from mood disorder, major depression, and auditory hallucination.[6] He was also referred to Dr. Norieta Balderrama, Intel's forensic psychologist, and to a certain Dr. Cynthia Leynes who both confirmed his mental condition.[7] On August 8, 2005, Dr. Paul Lee, a consultant psychiatrist of the Philippine General Hospital, concluded that Deoferio was suffering from schizophrenia. After several consultations, Dr. Lee issued a psychiatric report dated January 17, 2006 concluding and stating that Deoferio's psychotic symptoms are not curable within a period of six months and "will negatively affect his work and social relation with his co-worker[s]."[8] Pursuant to these findings, Intel issued Deoferio a notice of termination on March 10, 2006.[9]

Deoferio responded to his termination of employment by filing a complaint for illegal dismissal with prayer for money claims against respondents Intel and Mike Wentling (*respondents*). He denied that he ever had mental illness and insisted that he satisfactorily performed his duties as a product engineer. He argued that Intel violated his statutory right to procedural due process when it summarily issued a notice of termination. He further claimed that he was entitled to a salary differential equivalent to the pre-terminated period of his assignment in the United States minus the base pay that he had already received. Deoferio also prayed for

backwages, separation pay, moral and exemplary damages, as well as attorney's fees.[10]

In defense, the respondents argued that Deoferio's dismissal was based on Dr. Lee's certification that: (1) his schizophrenia was not curable within a period of six months even with proper medical treatment; and (2) his continued employment would be prejudicial to his and to the other employees' health.[11] The respondents also insisted that Deoferio's presence at Intel's premises would pose an actual harm to his co-employees as shown by his previous acts. On May 8, 2003, Deoferio emailed an Intel employee with this message: "All soul's day back to work Monday WW45.1." On January 18, 2005, he cut the mouse cables, stepped on the keyboards, and disarranged the desks of his co-employees.[12] The respondents also highlighted that Deoferio incurred numerous absences from work due to his mental condition, specifically, from January 31, 2002 until February 28, 2002,[13] from August 2002 until September 2002,[14] and from May 2003 until July 2003.[15] Deoferio also took an administrative leave with pay from January 2005 until December 2005.[16]

The respondents further asserted that the twin-notice requirement in dismissals does not apply to terminations under Article 284 of the Labor Code.[17] They emphasized that the Labor Code's implementing rules (*IRR*) only requires a competent public health authority's certification to effectively terminate the services of an employee.[18] They insisted that Deoferio's separation and retirement payments for P247,517.35 were offset by his company car loan which amounted to P448,132.43.[19] He was likewise not entitled to moral and exemplary damages, as well as attorney's fees, because the respondents faithfully relied on Dr. Lee's certification that he was not fit to work as a product engineer.[20]

The Labor Arbitration Ruling

In a decision[21] dated March 6, 2008, the Labor Arbiter (*LA*) ruled that Deoferio had been validly dismissed. The LA gave weight to Dr. Lee's certification that Deoferio had been suffering from schizophrenia and was not fit for employment. The evidence on record shows that Deoferio's continued employment at Intel would pose a threat to the health of his co-employees. The LA further held that the Labor Code and its IRR do not require the employer to comply with the twin-notice requirement in dismissals due to disease. The LA also found unmeritorious Deoferio's money claims against Intel.[22]

On appeal by Deoferio, the National Labor Relations Commission (*NLRC*) wholly affirmed the LA's ruling.[23] The NLRC also denied[24] Deoferio's motion for reconsideration,[25] prompting him to seek relief from the CA through a petition for *certiorari* under Rule 65 of the Rules of Court.

The CA's Ruling

On February 24, 2012, the CA affirmed the NLRC decision. It agreed with the lower tribunals' findings that Deoferio was suffering from schizophrenia and that his continued employment at Intel would be prejudicial to his health and to those of his

co-employees. It ruled that the only procedural requirement under the IRR is the certification by a competent public health authority on the non-curability of the disease within a period of six months even with proper medical treatment. It also concurred with the lower tribunals that Intel was justified in not paying Deoferio separation pay as required by Article 284 of the Labor Code because this obligation had already been offset by the matured car loan that Deoferio owed Intel.[26]

Deoferio filed the present petition after the CA denied his motion for reconsideration.[27]

The Petition

In the present petition before the Court, Deoferio argues that the uniform finding that he was suffering from schizophrenia is belied by his subsequent employment at Maxim Philippines Operating Corp. and Philips Semiconductors Corp., which both offered him higher compensations. He also asserts that the Labor Code does not exempt the employer from complying with the twin-notice requirement in terminations due to disease.[28]

The Respondents' Position

In their Comment,[29] the respondents posit that the petition raises purely questions of fact which a petition for review on *certiorari* does not allow. They submit that Deoferio's arguments have been fully passed upon and found unmeritorious by the lower tribunals and by the CA. They additionally argue that Deoferio's subsequent employment in other corporations is irrelevant in determining the validity of his dismissal; the law merely requires the non-curability of the disease within a period of six months even with proper medical treatment.

The respondents also maintain that Deoferio's claim for salary differential is already barred by prescription under Article 291 of the Labor Code.[30] Even assuming that the claim for salary differential has been timely filed, the respondents assert that the parties expressly agreed in the International Assignment Relocation Agreement that "the assignment length is only an estimate and not a guarantee of employment for any particular length of time."[31] Moreover, his assignment in the United States was merely temporary and did not change his salary base, an amount which he already received.

The Issues

This case presents to us the following issues:

(1) Whether Deoferio was suffering from schizophrenia and whether his continued employment was prejudicial to his health, as well as to the health of his co-employees;
(2) Whether the twin-notice requirement in dismissals applies to terminations due to disease; and

As part of the second issue, the following issues are raised:

(a) Whether Deoferio is entitled to nominal damages for violation of his

right to statutory procedural due process; and

(b) Whether the respondents are solidarily liable to Deoferio for nominal damages.

(3) Whether Deoferio is entitled to salary differential, backwages, separation pay, moral and exemplary damages, as well as attorney's fees.

The Court's Ruling

We find the petition partly meritorious.

Intel had an authorized cause to dismiss Deoferio from employment

Concomitant to the employer's right to freely select and engage an employee is the employer's right to discharge the employee for just and/or authorized causes. To validly effect terminations of employment, the discharge must be for a valid cause in the manner required by law. The purpose of these two-pronged qualifications is to protect the working class from the employer's arbitrary and unreasonable exercise of its right to dismiss. Thus, in termination cases, the law places the burden of proof upon the employer to show by substantial evidence that the termination was for a lawful cause and in the manner required by law.

In concrete terms, these qualifications embody the due process requirement in labor cases - **substantive and procedural due process**. Substantive due process means that the termination must be based on just and/or authorized causes of dismissal. On the other hand, procedural due process requires the employer to effect the dismissal in a manner specified in the Labor Code and its IRR.[32]

The present case involves termination due to disease – an authorized cause for dismissal under Article 284 of the Labor Code. As **substantive requirements**, the Labor Code and its IRR[33] require the presence of the following elements:

(1) An employer has been found to be suffering from any disease.
(2) His continued employment is prohibited by law or prejudicial to his health, as well as to the health of his co-employees.
(3) A competent public health authority certifies that the disease is of such nature or at such a stage that it cannot be cured within a period of six months even with proper medical treatment.

With respect to the first and second elements, the Court liberally construed the phrase "prejudicial to his health ***as well as*** to the health of his co-employees" to mean "prejudicial to his health ***or*** to the health of his co-employees." We did not limit the scope of this phrase to contagious diseases for the reason that this phrase is preceded by the phrase "**any** disease" under Article 284 of the Labor Code, to wit:

> Art. 284. **Disease as ground for termination.** – An employer may terminate the services of an employee who has been found to be suffering from ***any*** disease and whose continued employment is prohibited by law or is ***prejudicial to his health as well as to the health of his co-employees***: Provided, That he is paid separation pay equivalent to at least one (1) month salary or to one-half (1/2) month salary for every year of service, whichever is greater, a fraction of at

least six (6) months being considered as one (1) whole year. [underscores, italics and emphases ours]

Consistent with this construction, we applied this provision in resolving illegal dismissal cases due to **non-contagious diseases** such as stroke, heart attack, osteoarthritis, and eye cataract, among others. In *Baby Bus, Inc. v. Minister of Labor*,[34] we upheld the labor arbitration's finding that Jacinto Mangalino's continued employment – after he suffered several strokes – would be prejudicial to his health. In *Duterte v. Kingswood Trading Co., Inc.*,[35] we recognized the applicability of Article 284 of the Labor Code to heart attacks. In that case, we held that the employer-company's failure to present a certification from a public health authority rendered Roque Duterte's termination due to a heart attack illegal. We also applied this provision in *Sy v. Court of Appeals*[36] to determine whether Jaime Sahot was illegally dismissed due to various ailments such as presleyopia, hypertensive retinopathy, osteoarthritis, and heart enlargement, among others. In *Manly Express, Inc. v. Payong, Jr.*,[37] we ruled that the employer-company's non-presentment of a certification from a public health authority with respect to Romualdo Payong Jr.'s eye cataract was fatal to its defense.

The third element ***substantiates*** the contention that the employee has indeed been suffering from a disease that: (1) is prejudicial to his health as well as to the health of his co-employees; and (2) cannot be cured within a period of six months even with proper medical treatment. Without the medical certificate, there ***can be no authorized cause*** for the employee's dismissal. The absence of this element thus renders the dismissal ***void*** and ***illegal***.

Simply stated, this requirement **is not merely a procedural requirement**, but a substantive one. The certification from a competent public health authority is precisely the **substantial evidence** required by law to prove the existence of the disease itself, its non-curability within a period of six months even with proper medical treatment, and the prejudice that it would cause to the health of the sick employee and to those of his co-employees.

In the current case, we agree with the CA that Dr. Lee's psychiatric report substantially proves that Deoferio was suffering from schizophrenia, that his disease was not curable within a period of six months even with proper medical treatment, and that his continued employment would be prejudicial to his mental health. This conclusion is further substantiated by the unusual and bizarre acts that Deoferio committed while at Intel's employ.

The twin-notice requirement applies to terminations under Article 284 of the Labor Code

The Labor Code and its IRR are silent on the **procedural due process** required in terminations due to disease. Despite the seeming gap in the law, Section 2, Rule 1, Book VI of the IRR expressly states that the employee should be afforded procedural due process in **all** cases of dismissals.[38]

In *Sy v. Court of Appeals*[39] and *Manly Express, Inc. v. Payong, Jr.*,[40] promulgated in 2003 and 2005, respectively, the Court finally pronounced the rule that the employer must furnish the employee two written notices in terminations