714 Phil. 401

FIRST DIVISION

[G.R. No. 157900, July 22, 2013]

ZUELLIG FREIGHT AND CARGO SYSTEMS, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND RONALDO V. SAN MIGUEL, RESPONDENTS.

D E C I S I O N

BERSAMIN, J.:

The mere change in the corporate name is not considered under the law as the creation of a new corporation; hence, the renamed corporation remains liable for the illegal dismissal of its employee separated under that guise.

The Case

Petitioner employer appeals the decision promulgated on November 6, 2002,[1] whereby the Court of Appeals (CA) dismissed its petition for *certiorari* and upheld the adverse decision of the National Labor Relations Commission (NLRC) finding respondent Ronaldo V. San Miguel to have been illegally dismissed.

Antecedents

San Miguel brought a complaint for unfair labor practice, illegal dismissal, non-payment of salaries and moral damages against petitioner, formerly known as Zeta Brokerage Corporation (Zeta).[2] He alleged that he had been a checker/customs representative of Zeta since December 16, 1985; that in January 1994, he and other employees of Zeta were informed that Zeta would cease operations, and that all affected employees, including him, would be separated; that by letter dated February 28, 1994, Zeta informed him of his termination effective March 31, 1994; that he reluctantly accepted his separation pay subject to the standing offer to be hired to his former position by petitioner; and that on April 15, 1994, he was summarily terminated, without any valid cause and due process.

San Miguel contended that the amendments of the articles of incorporation of Zeta were for the purpose of changing the corporate name, broadening the primary functions, and increasing the capital stock; and that such amendments could not mean that Zeta had been thereby dissolved.[3]

On its part, petitioner countered that San Miguel's termination from Zeta had been for a cause authorized by the *Labor Code*; that its non-acceptance of him had not been by any means irregular or discriminatory; that its predecessor-in-interest had complied with the requirements for termination due to the cessation of business operations; that it had no obligation to employ San Miguel in the exercise of its valid management prerogative; that all employees had been given sufficient time to make their decision whether to accept its offer of employment or not, but he had not

responded to its offer within the time set; that because of his failure to meet the deadline, the offer had expired; that he had nonetheless been hired on a temporary basis; and that when it decided to hire another employee instead of San Miguel, such decision was not arbitrary because of seniority considerations.[4]

Decision of the Labor Arbiter

On November 15, 1999, Labor Arbiter Francisco A. Robles rendered a decision holding that San Miguel had been illegally dismissed,[5] to wit:

> Contrary to respondents' claim that Zeta ceased operations and closed its business, we believe that there was merely a change of business name and primary purpose and upgrading of stocks of the corporation. Zuellig and Zeta are therefore legally the same person and entity and this was admitted by Zuellig's counsel in its letter to the VAT Department of the Bureau of Internal Revenue on 08 June 1994 (Reply, Annex "A"). As such, the termination of complainant's services allegedly due to cessation of business operations of Zeta is deemed illegal. Notwithstanding his receipt of separation benefits from respondents, complainant is not estopped from questioning the legality of his dismissal.[6]
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> WHEREFORE, in view of the foregoing, complainant is found to have been illegally dismissed. Respondent Zuellig Freight and Cargo Systems, Inc. is hereby ordered to pay complainant his backwages from April 1, 1994 up to November 15, 1999, in the amount of THREE HUNDRED TWENTY FOUR THOUSAND SIX HUNDRED FIFTEEN PESOS (P324,615.00).
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> The same respondent is ordered to pay the complainant Ronaldo San Miguel attorney's fees equivalent to ten percent (10%) of the total award.
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> All other claims are dismissed.
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> SO ORDERED.[7]

Decision of the NLRC

Petitioner appealed, but the NLRC issued a resolution on April 4, 2001,[8] affirming the decision of the Labor Arbiter.

The NLRC later on denied petitioner's motion for reconsideration via its resolution dated June 15, 2001.[9]

Decision of the CA

Petitioner then filed a petition for *certiorari* in the CA, imputing to the NLRC grave

abuse of discretion amounting to lack or excess of jurisdiction, as follows:

1. In failing to consider the circumstances attendant to the cessation of business of Zeta;
2. In failing to consider that San Miguel failed to meet the deadline Zeta fixed for its employees to accept the offer of petitioner for re-employment;
3. In failing to consider that San Miguel's employment with petitioner from April 1 to 15, 1994 could in no way be interpreted as a continuation of employment with Zeta;
4. In admitting in evidence the letter dated January 21, 1994 of petitioner's counsel to the Bureau of Internal Revenue; and
5. In awarding attorney's fees to San Miguel based on Article 2208 of the *Civil Code* and Article 111 of the *Labor Code*.

On November 6, 2002, the CA promulgated its assailed decision dismissing the petition for *certiorari*,[10] *viz*:

> A careful perusal of the records shows that the closure of business operation was not validly made. Consider the Certificate of Filing of the Amended Articles of Incorporation which clearly shows that petitioner Zuellig is actually the former Zeta as per amendment dated January 21, 1994. The same observation can be deduced with respect to the Certificate of Filing of Amended By-Laws dated May 10, 1994. As aptly pointed out by private respondent San Miguel, the amendment of the articles of incorporation merely changed its corporate name, broadened its primary purpose and increased its authorized capital stocks. The requirements contemplated in Article 283 were not satisfied in this case. Good faith was not established by mere registration with the Securities and Exchange Commission (SEC) of the Amended Articles of Incorporation and By-Laws. The factual milleu of the case, considered in its totality, shows that there was no closure to speak of. The termination of services allegedly due to cessation of business operations of Zeta was illegal. Notwithstanding private respondent San Miguel's receipt of separation benefits from petitioner Zuellig, the former is not estopped from questioning the legality of his dismissal.
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> Petitioner Zuellig's allegation that the five employees who refused to receive the termination letters were **verbally informed** that they had until **6:00 p.m. of March 1, 1994** to receive the termination letters and sign the employment contracts, otherwise the former would be constrained to withdraw its offer of employment and seek for replacements in order to ensure the smooth operations of the new company from its opening date, is of no moment in view of the foregoing circumstances. There being no valid closure of business operations, the dismissal of private respondent San Miguel on alleged authorized cause of cessation of business pursuant to Article 283 of the Labor Code, was utterly illegal. Despite verbal notice that the employees had until **6:00 p.m. of March 1, 1994** to receive the termination letters and sign the

employment contracts, the dismissal was still illegal for the said condition is null and void. In point of facts and law, private respondent San Miguel remained an employee of petitioner Zuellig. If at all, the alleged closure of business operations merely operates to suspend employment relation since it is not permanent in character.

Where there is no showing of a clear, valid, and legal cause for the termination of employment, the law considers the matter a case of illegal dismissal and the burden is on the employer to prove that the termination was for a valid or authorized cause.

Findings of facts of the NLRC, particularly when both the NLRC and Labor Arbiter are in agreement, are deemed binding and conclusive upon the Supreme Court.

As regards the second and last argument advanced by petitioner Zuellig that private respondent San Miguel is not entitled to attorney's fees, this Court finds no reason to disturb the ruling of the public respondent NLRC. Petitioner Zuellig maintains that the factual backdraft (*sic*) of this petition does not call for the application of Article 2208 of the Civil Code and Article 111 of the Labor Code as private respondent's wages were not withheld. On the other hand, public respondent NLRC argues that paragraphs 2 and 3, Article 2208 of the Civil Code and paragraph (a), Article 111 of the Labor Code justify the award of attorney's fees. NLRC was saying to the effect that by petitioner Zuellig's act of illegally dismissing private respondent San Miguel, the latter was compelled to litigate and thus incurred expenses to protect his interest. In the same passion, private respondent San Miguel contends that petitioner Zuellig acted in gross and evident bad faith in refusing to satisfy his plainly valid, just and demandable claim.

After careful and judicious evaluation of the arguments advanced to support the propriety or impropriety of the award of attorney's fees to private respondent San Miguel, this Court finds the resolutions of public respondent NLRC supported by laws and jurisprudence. It does not need much imagination to see that by reason of petitioner Zuellig's feigned closure of business operations, private respondent San Miguel incurred expenses to protect his rights and interests. Therefore, the award of attorney's fees is in order.

WHEREFORE, in view of the foregoing, the resolutions dated April 4, 2001 and June 15, 2001 of the National Labor Relations Commission affirming the November 15, 1999 decision of the Labor Arbiter in NLRC NCR 05-03639-94 (CA No. 022861-00) are hereby **AFFIRMED** and the instant petition for certiorari is hereby **DENIED** and ordered **DISMISSED**.

SO ORDERED.

Hence, petitioner appeals.