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SECOND DIVISION

[G.R. No. 169191, June 01, 2011]

ROMEO VILLARUEL, PETITIONER, VS. YEO HAN GUAN, DOING BUSINESS UNDER THE NAME AND STYLE YUHANS ENTERPRISES, RESPONDENT.

D E C I S I O N

PERALTA, J.:

Assailed in the present petition are the Decision[1] and Resolution[2] of the Court of Appeals (CA) dated February 16, 2005 and August 2, 2005, respectively, in CA-G.R. SP No. 79105. The CA Decision modified the March 31, 2003 Decision of the National Labor Relations Commission (NLRC) in NLRC NCR CA 028050-01, while the CA Resolution denied petitioner's Motion for Reconsideration.

The antecedents of the case are as follows:

On February 15, 1999, herein petitioner filed with the NLRC, National Capital Region, Quezon City a Complaint[3] for payment of separation pay against Yuhans Enterprises.

Subsequently, in his Amended Complaint and Position Paper[4] dated December 6, 1999, petitioner alleged that in June 1963, he was employed as a machine operator by Ribonette Manufacturing Company, an enterprise engaged in the business of manufacturing and selling PVC pipes and is owned and managed by herein respondent Yeo Han Guan. Over a period of almost twenty (20) years, the company changed its name four times. Starting in 1993 up to the time of the filing of petitioner's complaint in 1999, the company was operating under the name of Yuhans Enterprises. Despite the changes in the company's name, petitioner remained in the employ of respondent. Petitioner further alleged that on October 5, 1998, he got sick and was confined in a hospital; on December 12, 1998, he reported for work but was no longer permitted to go back because of his illness; he asked that respondent allow him to continue working but be assigned a lighter kind of work but his request was denied; instead, he was offered a sum of P15,000.00 as his separation pay; however, the said amount corresponds only to the period between 1993 and 1999; petitioner prayed that he be granted separation pay computed from his first day of employment in June 1963, but respondent refused. Aside from separation pay, petitioner prayed for the payment of service incentive leave for three years as well as attorney's fees.

On the other hand, respondent averred in his Position Paper[5] that petitioner was hired as machine operator from March 1, 1993 until he stopped working sometime in February 1999 on the ground that he was suffering from illness; after his recovery, petitioner was directed to report for work, but he never showed up. Respondent was later caught by surprise when petitioner filed the instant case for

recovery of separation pay. Respondent claimed that he never terminated the services of petitioner and that during their mandatory conference, he even told the latter that he could go back to work anytime but petitioner clearly manifested that he was no longer interested in returning to work and instead asked for separation pay.

On November 27, 2000, the Labor Arbiter handling the case rendered judgment in favor of petitioner. The dispositive portion of the Labor Arbiter's Decision reads, thus:

> WHEREFORE, premises considered, judgment is hereby rendered in favor of the complainant and against herein respondent, as follows:
>
> 1. Ordering the respondents to pay separation benefits equivalent to one-half (½) month salary per year of service, a fraction of six months equivalent to one year to herein complainant based on the complainant's length of service reckoned from June 1963 up to October 1998 as provided under Article 284 of the Labor Code, the same computed by the Computation and Examination Unit which we hereby adopt and approved (sic) as our own in the amount of NINETY-ONE THOUSAND FOUR HUNDRED FORTY-FIVE PESOS (P91,445.00);
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> 2. Ordering the respondents to pay service incentive leave equivalent to fifteen days' salary in the amount of THREE THOUSAND FIFTEEN PESOS (P3,015.00).
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> All other claims are dismissed for lack of merit.
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> SO ORDERED.[6]

Aggrieved, respondent filed an appeal with the NLRC.

On March 31, 2003, the Third Division of the NLRC rendered its Decision[7] dismissing respondent's appeal and affirming the Labor Arbiter's Decision.

Respondent filed a Motion for Reconsideration,[8] but the same was denied by the NLRC in a Resolution[9] dated May 30, 2003.

Respondent then filed with the CA a petition for *certiorari* under Rule 65 of the Rules of Court.

On February 16, 2005, the CA promulgated its presently assailed Decision disposing as follows:

> WHEREFORE, premises considered, the petition is partially GRANTED. The award of separation pay is hereby DELETED, but the Decision insofar as it awards private respondent [herein petitioner] service incentive leave pay of three thousand and fifteen pesos (P3,015.00) stands. The NLRC is permanently ENJOINED from partially executing its Decision dated

> November 27, 2000 insofar as the award of separation pay is concerned; or if it has already effected execution, it should order the private respondent to forthwith restitute the same.
>
> SO ORDERED.[10]

Herein petitioner filed his Motion for Reconsideration[11] of the CA Decision, but it was denied by the CA *via* a Resolution[12] dated August 2, 2005.

Hence, the instant petition based on the following assignment of errors:

> I
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> THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN ITS FAILURE TO APPRECIATE THE ADMISSION BY [PETITIONER] OF THE FACT AND VALIDITY OF HIS TERMINATION BY THE [RESPONDENT].
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> II
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> [THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED] IN DENYING [PETITIONER'S] ENTITLEMENT TO SEPARATION PAY UNDER ARTICLE 284 OF THE LABOR CODE AND UNDER THE OMNIBUS RULES IMPLEMENTING THE LABOR CODE.
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> III
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> THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN ITS FINDING THAT THE BURDEN OF PROOF THAT AN EMPLOYEE IS SUFFERING FROM DISEASE THAT HAS TO BE TERMINATED REST[S] UPON THE EMPLOYER IN ORDER FOR THE EMPLOYEE TO BE ENTITLED TO SEPARATION PAY.
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> IV
>
> THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN ORDERING THE DELETION OF THE AWARD OF SEPARATION PAY TO THE [PETITIONER].[13]

The Court finds the petition without merit.

The assigned errors in the instant petition essentially boil down to the question of whether petitioner is entitled to separation pay under the provisions of the Labor Code, particularly Article 284 thereof, which reads as follows:

> 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 (½) month salary for every year of service whichever is greater, a fraction of at least six months being considered as one (1) whole year.

A plain reading of the abovequoted provision clearly presupposes that it is the employer who terminates the services of the employee 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. It does not contemplate a situation where it is the employee who severs his or her employment ties. This is precisely the reason why Section 8,[14] Rule 1, Book VI of the Omnibus Rules Implementing the Labor Code, directs that an employer shall not terminate the services of the employee unless there is a certification by a competent public health authority that the disease is of such nature or at such a stage that it cannot be cured within a period of six (6) months even with proper medical treatment.

Hence, the pivotal question that should be settled in the present case is whether respondent, in fact, dismissed petitioner from his employment.

A perusal of the Decisions of the Labor Arbiter and the NLRC would show, however, that there was no discussion with respect to the abovementioned issue. Both lower tribunals merely concluded that petitioner is entitled to separation pay under Article 284 of the Labor Code without any explanation. The Court finds no convincing justification, in the Decision of the Labor Arbiter on why petitioner is entitled to such pay. In the same manner, the NLRC Decision did not give any rationalization as the gist thereof simply consisted of a quoted portion of the appealed Decision of the Labor Arbiter.

On the other hand, the Court agrees with the CA in its observation of the following circumstances as proof that respondent did not terminate petitioner's employment: *first*, the only cause of action in petitioner's original complaint is that he was "offered a very low separation pay"; *second*, there was no allegation of illegal dismissal, both in petitioner's original and amended complaints and position paper; and, *third*, there was no prayer for reinstatement.

In consonance with the above findings, the Court finds that petitioner was the one who initiated the severance of his employment relations with respondent. It is evident from the various pleadings filed by petitioner that he never intended to return to his employment with respondent on the ground that his health is failing. Indeed, petitioner did not ask for reinstatement. In fact, he rejected respondent's offer for him to return to work. This is tantamount to resignation.

Resignation is defined as the voluntary act of an employee who finds himself in a situation where he believes that personal reasons cannot be sacrificed in favor of the exigency of the service and he has no other choice but to disassociate himself from his employment.[15]

It may not be amiss to point out at this juncture that aside from Article 284 of the Labor Code, the award of separation pay is also authorized in the situations dealt with in Article 283[16] of the same Code and under Section 4 (b), Rule I, Book VI of the Implementing Rules and Regulations of the said Code[17] where there is illegal