

FIRST DIVISION

[G.R. No. 170464, July 12, 2010]

**LAMBERT PAWNBROKERS AND JEWELRY CORPORATION AND
LAMBERT LIM, PETITIONERS, VS. HELEN BINAMIRA,
RESPONDENT.**

D E C I S I O N

DEL CASTILLO, J.:

It is fundamental that an employer is liable for illegal dismissal when it terminates the services of the employee without just or authorized cause and without due process of law.

This Petition for Review on *Certiorari*^[1] assails the Decision^[2] dated August 4, 2005 of the Court of Appeals (CA) in CA-G.R. CEB SP No. 00010, which reversed and set aside the Resolutions dated July 30, 2003^[3] and May 31, 2004^[4] issued by the National Labor Relations Commission (NLRC) in NLRC Case No. V-000454-00 (RAB VII-01-0003-99-B).

Factual Antecedents

Petitioner Lambert Lim (Lim) is a Malaysian national operating various businesses in Cebu and Bohol one of which is Lambert Pawnbrokers and Jewelry Corporation. Lim is married to Rhodora Binamira, daughter of Atty. Boler Binamira, Sr., (Atty. Binamira), who is also the counsel and father-in-law of respondent Helen Binamira (Helen). Lambert Pawnbrokers and Jewelry Corporation - Tagbilaran Branch hired Helen as an appraiser in July 1995 and designated her as Vault Custodian in 1996.

On September 14, 1998, Helen received a letter^[5] from Lim terminating her employment effective that same day. Lim cited business losses necessitating retrenchment as the reason for the termination.

Helen thus filed a case for illegal dismissal against petitioners docketed as NLRC RAB-VII CASE NO. 01-0003-99-B.^[6] In her Position Paper^[7] Helen alleged that she was dismissed without cause and the benefit of due process. She claimed that she was a mere casualty of the war of attrition between Lim and the Binamira family. Moreover, she claimed that there was no proof that the company was suffering from business losses.

In their Position Paper,^[8] petitioners asserted that they had no choice but to retrench respondent due to economic reverses. The corporation suffered a marked decline in profits as well as substantial and persistent increase in losses. In its Statement of Income and Expenses, its gross income for 1998 dropped from P1million to P665,000.00.

Ruling of the Labor Arbiter

On November 26, 1999, Labor Arbiter Geoffrey P. Villahermosa rendered a Decision^[9] which held that Helen was not illegally dismissed but was validly retrenched. The dispositive portion of the Labor Arbiter's Decision reads:

WHEREFORE, all the foregoing premises being considered judgment is hereby rendered declaring the respondent not guilty of illegally terminating the complainant but is however directed to pay the complainant her retrenchment benefit in the amount of Seven Thousand Five Hundred Pesos (P7,500.00), considering that she was receiving a monthly salary of P5,000.00 and rendered service for three (3) years.

SO ORDERED.^[10]

Ruling of the NLRC

On appeal, the NLRC reversed and set aside the Decision of the Labor Arbiter. It observed that for retrenchment to be valid, a written notice shall be given to the employee and to the Department of Labor and Employment (DOLE) at least one month prior to the intended date thereof. Since none was given in this case, then the retrenchment of Helen was not valid. The dispositive portion of the Decision^[11] reads:

WHEREFORE, premises duly considered, the decision of the Labor Arbiter dated 26 November 1999 is hereby REVERSED and SET ASIDE and respondents are ordered to reinstate complainant Helen Binamira to her former position without loss of seniority rights and with full backwages from the time of her dismissal up to the promulgation of this decision.

Other claims are denied for lack of merit.

SO ORDERED.^[12]

Petitioners filed a Motion for Reconsideration.^[13] On July 30, 2003, the NLRC set aside its Decision dated September 27, 2002 and entered a new one, the dispositive portion of which reads:

WHEREFORE, the Decision of November [sic] 27, 2002 is hereby SET ASIDE and a New One Entered declaring as valid the redundancy of the position of the complainant. Accordingly respondent is hereby ordered to pay the complainant her redundancy pay of one month for every year of service and in lieu of notice, she should also be paid one (1) month salary as indemnity.

SO ORDERED.^[14]

In arriving at this conclusion, the NLRC opined that what was actually implemented by the petitioners was not retrenchment due to serious business losses but termination due to redundancy. The NLRC observed that the Tagbilaran operations was overstaffed thus necessitating the termination of some employees. Moreover, the redundancy program was not properly implemented because no written notices were furnished the employee and the DOLE one month before the intended date of termination.

The Motion for Reconsideration filed by Helen was denied by the NLRC through its Resolution^[15] dated May 31, 2004.

Ruling of the Court of Appeals

On petition for *certiorari*,^[16] the CA found that both the Labor Arbiter and the NLRC failed to consider substantial evidence showing that the exercise of management prerogative, in this instance, was done in bad faith and in violation of the employee's right to due process. The CA ruled that there was no redundancy because the position of vault custodian is a requisite, necessary and desirable position in the pawnshop business. There was likewise no retrenchment because none of the conditions for retrenchment is present in this case.

On August 4, 2005, the CA issued its Decision which provides:

WHEREFORE, the Resolution dated July 30, 2003 and May 31, 2004 issued by the National Labor Relations Commission in NLRC Case No. V-000454-00 (RAB VII-01-0003-99-B), is hereby REVERSED and SET ASIDE.

A new Decision is hereby entered declaring the dismissal of petitioner, Helen B. Binamira, as illegal and directing the private respondents, Lambert's Pawnbroker and Jewelry Corporation and Lambert Lim, jointly and solidarily, to pay to the petitioner, the following monetary awards:

1. Backwages from the date of her illegal suspension and dismissal until she is reinstated;
2. Considering that reinstatement is not feasible in view of the strained relations between the employer and the employee, separation pay is hereby decreed at the rate of one (1) month's pay for every year of service;
3. Moral damages in the amount of Twenty Five Thousand Pesos (P25,000.00);
4. Exemplary damages in the amount of Twenty Five Thousand Pesos (P25,000.00);
5. Attorney's fees in the amount equivalent to Ten Percent (10%) of the monetary awards herein above enumerated; and

6. Costs.

SO ORDERED.^[17]

The Motion for Reconsideration filed by petitioners was denied by the CA through its Resolution^[18] dated November 7, 2005.

Issues

Hence, this petition raising the following issues:

I.

Whether the CA gravely erred in reversing, through the extra-ordinary remedy of certiorari, the findings of facts of both the Labor Arbiter and the NLRC that the dismissal of respondent was with valid and legal basis.

II.

Whether the CA gravely erred in reversing, through the extra-ordinary remedy of certiorari, the unanimous findings of fact of both the Labor Arbiter and the NLRC that the dismissal of respondent was not attended by bad faith or fraud.

III.

Whether the CA erred in reversing, through the extra-ordinary remedy of certiorari, the findings of facts of both the Labor Arbiter and the NLRC based merely on the allegations and evidences made and submitted by the former counsel, adviser and business partner of petitioners.^[19]

Petitioners' Arguments

Petitioners assail the propriety of the reversal by the CA of the factual findings of both the Labor Arbiter and the NLRC on a Petition for *Certiorari* under Rule 65. Petitioners posit that a writ of *certiorari* is proper only to correct errors of jurisdiction or when there is grave abuse of discretion tantamount to lack or excess of jurisdiction committed by the labor tribunals. They asserted that where the issue or question involved affects the wisdom or legal soundness of a decision, the same is beyond the province of a special civil action for *certiorari*.

Petitioners further contend that the CA erred in ruling that the dismissal was not valid and that it was done in bad faith.

Respondent's Arguments

On the other hand, Helen avers that the contradictory findings of fact of the Labor Arbiter and the NLRC justifies the CA to review the findings of fact of the labor tribunals. She further submits that both labor tribunals failed to consider substantial

evidence showing that petitioners' exercise of management prerogative was done in utter bad faith and in violation of her right to due process.

Our Ruling

The petition is without merit.

The CA correctly reviewed the factual findings of the labor tribunals.

As a rule, a petition for *certiorari* under Rule 65 is valid only when the question involved is an error of jurisdiction, or when there is grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the court or tribunals exercising quasi-judicial functions. Hence, courts exercising *certiorari* jurisdiction should refrain from reviewing factual assessments of the respondent court or agency. Occasionally, however, they are constrained to wade into factual matters when the evidence on record does not support those factual findings; or when too much is concluded, inferred or deduced from the bare or incomplete facts appearing on record,^[20] as in the present case.

We find that the CA rightfully reviewed the correctness of the labor tribunals' factual findings not only because of the foregoing inadequacies, but also because the NLRC and the Labor Arbiter came up with conflicting findings. The Labor Arbiter found that Helen's dismissal was valid on account of retrenchment due to economic reverses. On the other hand, the NLRC originally ruled that Helen's dismissal was illegal as none of the requisites of a valid retrenchment was present. However, upon motion for reconsideration, the NLRC changed its posture and ruled that the dismissal was valid on the ground of redundancy due to over-hiring. Considering the diverse findings of the Labor Arbiter and the NLRC, it behooved upon the CA in the exercise of its *certiorari* jurisdiction to determine which findings are more in conformity with the evidentiary facts.

There was no valid dismissal based on retrenchment.

Retrenchment is the termination of employment initiated by the employer through no fault of and without prejudice to the employees. It is resorted to during periods of business recession, industrial depression, seasonal fluctuations, or during lulls occasioned by lack of orders, shortage of materials, conversion of the plant to a new production program, or automation.^[21] It is a management prerogative resorted to avoid or minimize business losses, and is recognized by Article 283 of the Labor Code, which reads:

Art. 283. *Closure of establishment and reduction of personnel.*- The employer may also terminate the employment of any employee due to x x x retrenchment **to prevent losses** or the closing or cessation of operations of the establishment x x x by serving a written notice on the worker and the DOLE at least one month before the intended date thereof. x x x In case of retrenchment to prevent losses, the separation pay shall be equivalent to one (1) month pay or at least one-half month for every year of service whichever is higher. x x x (Emphasis ours)