

## SECOND DIVISION

[ G.R. No. 168654, March 25, 2009 ]

**ZAYBER JOHN B. PROTACIO, PETITIONER, VS. LAYA  
MANANGHAYA & CO. AND/OR MARIO T. MANANGHAYA,  
RESPONDENTS.**

### D E C I S I O N

**TINGA, J.:**

Before the Court is a petition for review on certiorari<sup>[1]</sup> under Rule 45 of the 1997 Rules of Civil Procedure, assailing the decision<sup>[2]</sup> and resolution<sup>[3]</sup> of the Court of Appeals in CA-G.R. SP No. 85038. The Court of Appeals' decision reduced the monetary award granted to petitioner by the National Labor Relations Commission (NLRC) while the resolution denied petitioner's motion for reconsideration for lack of merit.

The following factual antecedents are matters of record.

Respondent KPMG Laya Mananghaya & Co. (respondent firm) is a general professional partnership duly organized under the laws of the Philippines. Respondent firm hired petitioner Zayber John B. Protacio as Tax Manager on 01 April 1996. He was subsequently promoted to the position of Senior Tax Manager. On 01 October 1997, petitioner was again promoted to the position of Tax Principal.<sup>[4]</sup>

However, on 30 August 1999, petitioner tendered his resignation effective 30 September 1999. Then, on 01 December 1999, petitioner sent a letter to respondent firm demanding the immediate payment of his 13<sup>th</sup> month pay, the cash commutation of his leave credits and the issuance of his 1999 Certificate of Income Tax Withheld on Compensation. Petitioner sent to respondent firm two more demand letters for the payment of his reimbursement claims under pain of the legal action.<sup>[5]</sup>

Respondent firm failed to act upon the demand letters. Thus, on 15 December 1999, petitioner filed before the NLRC a complaint for the non-issuance of petitioner's W-2 tax form for 1999 and the non-payment of the following benefits: (1) cash equivalent of petitioner's leave credits in the amount of P55,467.60; (2) proportionate 13<sup>th</sup> month pay for the year 1999; (3) reimbursement claims in the amount of P19,012.00; and (4) lump sum pay for the fiscal year 1999 in the amount of P674,756.70. Petitioner also sought moral and exemplary damages and attorney's fees. Respondent Mario T. Mananghaya was also impleaded in his official capacity as respondent firm's managing partner.<sup>[6]</sup>

In his complaint,<sup>[7]</sup> petitioner averred, *inter alia*, that when he was promoted to the position of Tax Principal in October 1997, his compensation package had consisted

of a monthly gross compensation of P60,000.00, a 13<sup>th</sup> month pay and a lump sum payment for the year 1997 in the amount of P240,000.00 that was paid to him on 08 February 1998.

According to petitioner, beginning 01 October 1998, his compensation package was revised as follows: (a) monthly gross compensation of P95,000.00, inclusive of nontaxable allowance; (b) 13<sup>th</sup> month pay; and (c) a lump sum amount in addition to the aggregate monthly gross compensation. On 12 April 1999, petitioner received the lump sum amount of P573,000.00 for the fiscal year ending 1998.<sup>[8]</sup>

Respondent firm denied it had intentionally delayed the processing of petitioner's claims but alleged that the abrupt departure of petitioner and three other members of the firm's Tax Division had created problems in the determination of petitioner's various accountabilities, which could be finished only by going over voluminous documents. Respondents further averred that they had been taken aback upon learning about the labor case filed by petitioner when all along they had done their best to facilitate the processing of his claims.<sup>[9]</sup>

During the pendency of the case before the Labor Arbiter, respondent firm on three occasions sent check payments to petitioner in the following amounts: (1) P71,250.00, representing petitioner's 13<sup>th</sup> month pay; (2) P54,824.18, as payments for the cash equivalent of petitioner's leave credits and reimbursement claims; and (3) P10,762.57, for the refund of petitioner's taxes withheld on his vacation leave credits. Petitioner's copies of his withholding tax certificates were sent to him along with the check payments.<sup>[10]</sup> Petitioner acknowledged the receipt of the 13<sup>th</sup> month pay but disputed the computation of the cash value of his vacation leave credits and reimbursement claims.<sup>[11]</sup>

On 07 June 2002, Labor Arbiter Eduardo J. Carpio rendered a decision,<sup>[12]</sup> the dispositive portion of which reads:

**WHEREFORE**, judgment is hereby rendered ordering respondents to jointly and solidarily pay complainant the following:

P12,681.00 - representing the reimbursement claims of complainant;

P28,407.08 - representing the underpayment of the cash equivalent of the unused leave credits of complainant;

P573,000.00 - representing complainant's 1999 year-end lump sum payment; and  
10% of the total judgment awards way of attorney's fees.

SO ORDERED.<sup>[13]</sup>

The Labor Arbiter awarded petitioner's reimbursement claims on the ground that respondent firm's refusal to grant the same was not so much because the claim was baseless but because petitioner had failed to file the requisite reimbursement forms. He held that the formal defect was cured when petitioner filed several demand

letters as well as the case before him.<sup>[14]</sup>

The Labor Arbiter held that petitioner was not fully paid of the cash equivalent of the leave credits due him because respondent firm had erroneously based the computation on a basic pay of P61,000.00. He held that the evidence showed that petitioner's monthly basic salary was P95,000.00 inclusive of the other benefits that were deemed included and integrated in the basic salary and that respondent firm had computed petitioner's 13<sup>th</sup> month pay based on a monthly basic pay of P95,000.00; thus, the cash commutation of the leave credits should also be based on this figure.<sup>[15]</sup>

The Labor Arbiter also ruled that petitioner was entitled to a year-end payment of P573,000.00 on the basis of the company policy of granting yearly lump sum payments to petitioner during all the years of service and that respondent firm had failed to give petitioner the same benefit for the year 1999 without any explanation.<sup>[16]</sup>

Aggrieved, respondent firm appealed to the NLRC. On 21 August 2003, the NLRC rendered a modified judgment,<sup>[17]</sup> the dispositive portion of which states:

WHEREFORE, the Decision dated June 7, 2002 is hereby Affirmed with the modification that the complainant is only entitled to receive P2,301.00 as reimbursement claims. The award of P12,681.00 representing the reimbursement claims of complainant is set aside for lack of basis.

SO ORDERED.<sup>[18]</sup>

From the amount of P12,681.00 awarded by the Labor Arbiter as payment for the reimbursement claims, the NLRC lowered the same to P2,301.00 representing the amount which remained unpaid.<sup>[19]</sup> As regards the issues on the lump sum payments and cash equivalent of the leave credits, the NLRC affirmed the findings of the Labor Arbiter.

Respondents filed a motion for reconsideration<sup>[20]</sup> but the NLRC denied the motion for lack of merit.<sup>[21]</sup> Hence, respondents elevated the matter to the Court of Appeals via a petition for certiorari.<sup>[22]</sup>

In the assailed Decision dated 19 April 2005, the Court of Appeals further reduced the total money award to petitioner, to wit:

**WHEREFORE**, in the light of the foregoing, the assailed resolution of public respondent NLRC dated August 21, 2003 in NLRC NCR Case No. 30-12-00927-99 (CA No. 032304-02) is hereby **MODIFIED**, ordering petitioner firm to pay private respondent the following:

- (1) P2,301.00 representing private respondent's reimbursement claims;
- (2) P9,802.83 representing the underpayment of the cash equivalent of private respondent's unused leave credits;

(3) P10,000.00 attorney's fees.

**SO ORDERED.**<sup>[23]</sup>

Petitioner sought reconsideration. In the assailed Resolution dated 27 June 2005, the Court of Appeals denied petitioner's motion for reconsideration for lack of merit.

Hence, the instant petition, raising the following issues:

I.

WHETHER PUBLIC RESPONDENT COURT OF APPEALS' SUMMARY DENIAL OF PETITIONER'S MOTION FOR RECONSIDERATION VIOLATES THE CONSTITUTIONAL REQUIREMENT THAT COURT DECISIONS MUST STATE THE LEGAL AND FACTUAL BASIS [THEREOF].

II

WHETHER PUBLIC RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AND ACTED IN WANTON EXCESS OF JURISDICTION IN TAKING COGNIZANCE OF [RESPONDENTS] PETITION FOR CERTIORARI WHEN THE RESOLUTION THEREOF HINGES ON MERE EVALUATION OF EVIDENCE.

III.

WHETHER PUBLIC RESPONDENT COURT OF APPEALS WANTONLY ABUSED ITS DISCRETION IN EMPLOYING A LARGER DIVISOR TO COMPUTE PETITIONER'S DAILY SALARY RATE THEREBY DIMINISHING HIS BENEFITS, IN [VIOLATION] OF THE LABOR CODE.

IV.

WHETHER PUBLIC RESPONDENT COURT OF APPEALS CAPRICIOUSLY ABUSED ITS DISCRETION IN REVERSING THE [CONCURRING] FINDINGS OF BOTH LABOR ARBITER AND NLRC ON THE COMPENSABLE NATURE OF PETITIONER'S YEAR END [LUMP] SUM PLAY [*sic*] CLAIM.<sup>[24]</sup>

Before delving into the merits of the petition, the issues raised by petitioner advertent to the Constitution must be addressed. Petitioner contends that the Court of Appeals' resolution which denied his motion for reconsideration violated Article VIII, Section 14 of the Constitution, which states:

Section 14. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.

No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor.

Obviously, the assailed resolution is not a "decision" within the meaning of the Constitutional requirement. This mandate is applicable only in cases "submitted for

decision," *i.e.*, given due course and after filing of briefs or memoranda and/or other pleadings, as the case may be.<sup>[25]</sup> The requirement is not applicable to a resolution denying a motion for reconsideration of the decision. What is applicable is the second paragraph of the above-quoted Constitutional provision referring to "motion for reconsideration of a decision of the court." The assailed resolution complied with the requirement therein that a resolution denying a motion for reconsideration should state the legal basis of the denial. It sufficiently explained that after reading the pleadings filed by the parties, the appellate court did not find any cogent reason to reverse itself.

Next, petitioner argues that the Court of Appeals erred in giving due course to the petition for certiorari when the resolution thereof hinged on mere evaluation of evidence. Petitioner opines that respondents failed to make its case in showing that the Labor Arbiter and the NLRC had exercised their discretion in an arbitrary and despotic manner.

As a general rule, in certiorari proceedings under Rule 65 of the Rules of Court, the appellate court does not assess and weigh the sufficiency of evidence upon which the Labor Arbiter and the NLRC based their conclusion. The query in this proceeding is limited to the determination of whether or not the NLRC acted without or in excess of its jurisdiction or with grave abuse of discretion in rendering its decision. However, as an exception, the appellate court may examine and measure the factual findings of the NLRC if the same are not supported by substantial evidence.<sup>[26]</sup> The Court has not hesitated to affirm the appellate court's reversals of the decisions of labor tribunals if they are not supported by substantial evidence.<sup>[27]</sup>

The Court is not unaware that the appellate court had reexamined and weighed the evidence on record in modifying the monetary award of the NLRC. The Court of Appeals held that the amount of the year-end lump sum compensation was not fully justified and supported by the evidence on record. The Court fully agrees that the lump sum award of P573,000.00 to petitioner seemed to have been plucked out of thin air. Noteworthy is the fact that in his position paper, petitioner claimed that he was entitled to the amount of P674,756.70.<sup>[28]</sup> The variance between the claim and the amount awarded, with the record bereft of any proof to support either amount only shows that the appellate court was correct in holding that the award was a mere speculation devoid of any factual basis. In the exceptional circumstance as in the instant case, the Court finds no error in the appellate court's review of the evidence on record.

After an assessment of the evidence on record, the Court of Appeals reversed the findings of the NLRC and the Labor Arbiter with respect to the award of the year-end lump sum pay and the cash value of petitioner's leave credits. The appellate court held that while the lump sum payment was in the nature of a proportionate share in the firm's annual income to which petitioner was entitled, the payment thereof was contingent upon the financial position of the firm. According to the Court of Appeals, since no evidence was adduced showing the net income of the firm for fiscal year ending 1999 as well as petitioner's corresponding share therein, the amount awarded by the labor tribunals was a baseless speculation and as such must be deleted.<sup>[29]</sup>

On the other hand, the NLRC affirmed the Labor Arbiter's award of the lump sum