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FIRST DIVISION

[G.R. Nos. 164813 and 174590, August 14, 2009]

LOWE, INC., MARIA ELIZABETH ("MARILES") L. GUSTILO, AND RAUL M. CASTRO, PETITIONERS, VS. COURT OF APPEALS AND IRMA M. MUTUC, RESPONDENTS.

D E C I S I O N

CARPIO, J.:

The Case

Before the Court are the consolidated cases docketed as G.R. Nos. 174590 and 164813. Both cases stemmed from the 30 June 2003 Resolution[1] of the National Labor Relations Commission (NLRC), which declared that respondent Irma M. Mutuc (Mutuc) was illegally dismissed by petitioner Lowe, Inc. (Lowe).[2]

The first case, G.R. No. 164813, is a petition for review[3] of the 23 January 2004 Decision[4] and the 4 August 2004 Resolution[5] of the Court of Appeals in CA-G.R. SP No. 80531. In its 23 January 2004 Decision, the Court of Appeals affirmed the NLRC's 30 June 2003 Resolution. In its 4 August 2004 Resolution, the Court of Appeals denied Lowe's motion for reconsideration.

The second case, G.R. No. 174590, is a petition for review[6] of the 13 March 2006 Decision[7] and 5 September 2006 Resolution[8] of the Court of Appeals in CA-G.R. SP No. 80473. In its 13 March 2006 Decision, the Court of Appeals granted Mutuc's petition and partially modified the NLRC's 30 June 2003 Resolution by awarding Mutuc backwages computed from the time of her dismissal up to the finality of the decision of the Court of Appeals. In its 5 September 2006 Resolution, the Court of Appeals denied Lowe's motion for reconsideration.

The Facts

Lowe, an advertising agency, is a corporation duly organized and existing under the laws of the Philippines. Petitioner Maria Elizabeth "Mariles" L. Gustilo (Gustilo)[9] is the Chief Executive Officer and President of Lowe, while petitioner Raul M. Castro (Castro) is the Executive Creative Director of Lowe. Gustilo and Castro were included in the complaint for illegal dismissal in their capacity as officers of Lowe.

On 23 June 2000, at the height of the influx of advertising projects, Lowe hired Mutuc as a Creative Director to help out the four other Creative Directors of Lowe. Mutuc was given a salary of P100,000 a month. On 26 February 2001, Mutuc became a regular employee of Lowe.

However, in 2001, most of Lowe's clients reduced their advertising budget. In response to the situation, Lowe implemented cost-cutting measures including a redundancy program. On 31 October 2001, Lowe terminated Mutuc's services because her position was declared redundant.

Subsequently, Mutuc filed a complaint for illegal dismissal, nonpayment of 13th month pay with prayer for the award of moral and exemplary damages plus attorney's fees against Lowe.

On 15 August 2002, the Labor Arbiter dismissed Mutuc's complaint and ruled that Lowe validly dismissed Mutuc from the service. The 15 August 2002 Decision of the Labor Arbiter reads:

> WHEREFORE, all foregoing premises considered, judgment is hereby rendered finding complainant to have been validly dismissed from the service due to the redundancy of her position with respondent company. Accordingly, respondent Lowe Lintas & Partners is hereby ordered to pay complainant separation pay equivalent to one (1) month salary for every year of service amounting to **P100,000.00**. Additionally, same respondent is likewise ordered to pay complainant her proportionate 13th Month Pay for the period January 1 - September 28, 2001 in the amount of **P74,416.67**.
>
> Individual respondents Mariles Gustillo and Raul Castro are hereby ordered dropped as party-respondents in this case for reasons above-discussed.
>
> All other claims are dismissed for lack of factual and/or legal basis.
>
> SO ORDERED.[10]

Feeling aggrieved, Mutuc appealed to the NLRC.

In its 30 June 2003 Resolution, the NLRC set aside the Labor Arbiter's 15 August 2002 Decision and declared that Mutuc was illegally dismissed by Lowe. The 30 June 2003 Resolution of the NLRC reads:

> ACCORDINGLY, the decision appealed from is SET ASIDE. A new Decision is hereby rendered directing the respondents to pay [private respondent] separation pay equivalent to one (1) month pay for every year of service, a fraction of six (6) months shall be considered one (1) year and backwages computed from the time she was unlawfully dismissed up to the promulgation of this Decision. Moreover, respondents are hereby ordered to pay [private respondent] moral damages in the amount of PHP 10,000.00.
>
> SO ORDERED.[11]

Lowe filed a motion for reconsideration. Mutuc also filed a motion for partial reconsideration. In its 5 September 2003 Resolution,[12] the NLRC denied both motions.

Both Lowe and Mutuc filed petitions for certiorari before the Court of Appeals.

Lowe's petition was docketed as CA-G.R. SP No. 80531. Lowe alleged that the NLRC committed grave abuse of discretion in ruling that the selection of Mutuc for redundancy was done in bad faith and that Mutuc was dismissed because of professional jealousy. Lowe also questioned the NLRC's decision holding Gustilo and Castro liable for the monetary awards in favor of Mtutc, including the award of P10,000 as moral damages.

In its 23 January 2004 Decision, the Court of Appeals dismissed Lowe's petition and affirmed the NLRC's 30 June 2003 Resolution. Lowe filed a motion for reconsideration. In its 4 August 2004 Resolution, the Court of Appeals denied Lowe's motion.

Mutuc's petition was docketed as CA-G.R. SP No. 80473. Mutuc alleged that the NLRC committed grave abuse of discretion in awarding her backwages computed only from the time she was unlawfully dismissed up to the promulgation of the NLRC's decision. In its 13 March 2006 Decision, the Court of Appeals granted Mutuc's petition and modified the award of backwages. The 13 March 2006 Decision of the Court of Appeals reads:

> WHEREFORE, premises considered, the instant petition is GRANTED. The Resolution dated June 30, 2003 is hereby MODIFIED. The award of backwages shall be computed from the time the petitioner was unlawfully dismissed up to the finality of this decision.
>
> SO ORDERED.[13]

Lowe filed a motion for reconsideration. In its 5 September 2006 Resolution, the Court of Appeals denied Lowe's motion.

The 15 August 2002 Decision of the Labor Arbiter

The Labor Arbiter ruled that Lowe satisfied the requisites for a valid implementation of a redundancy program, namely: (1) there was notice to Mutuc and the Department of Labor and Employment (DOLE); (2) there was an offer to pay separation pay, which Mutuc refused to receive since she did not want to process her clearance; (3) that Lowe was motivated by good faith in declaring Mutuc's position redundant; and (4) that the criteria used by Lowe, which were seniority and efficiency, to determine which position was redundant, were fair and reasonable. The Labor Arbiter found self-serving Mutuc's allegation that she was terminated from service due to professional jealousy.

Since Mutuc was validly dismissed, the Labor Arbiter ruled that Mutuc was not entitled to backwages or reinstatement. However, in the absence of proof of payment of her proportionate 13th month pay for the period of 1 January to 28 September 2001, the Labor Arbiter ordered Lowe to pay Mutuc P74,416.67. The Labor Arbiter denied Mutuc's claim for moral damages and attorney's fees because there was no evidence of malice or bad faith on the part of Lowe in terminating her services.

Finally, the Labor Arbiter ruled that Gustilo and Castro could not be held liable for the monetary awards to Mutuc since they were merely acting in the performance of their duties and there was no showing that they acted deliberately or maliciously to evade any obligation to Mutuc.

The 30 June 2003 Resolution of the NLRC

The NLRC set aside the Labor Arbiter's 15 August 2002 Decision and declared that Lowe acted in bad faith in terminating Mutuc's services. The NLRC added that Lowe failed to adopt any fair and reasonable criteria in declaring Mutuc's position redundant. The NLRC said it appeared that Mutuc was singled out and only her position was declared redundant. The NLRC also noted that the other employees under Mutuc's supervision were reassigned to other projects and that Lowe could have also reassigned Mutuc to these projects. The NLRC added that Lowe should have dismissed Malou Dulce, the Creative Director in-charge of the Unilever account, Lowe's client which greatly reduced its advertising budget. The NLRC also gave credence to Mutuc's claim that she was removed because of professional jealousy. The NLRC concluded that Lowe used redundancy as a guise to get rid of Mutuc even if there was no basis to declare her position redundant.

Since Mutuc was illegally dismissed and strained relations made reinstatement impossible, the NLRC ordered Lowe, Gustilo, and Castro to pay Mutuc backwages and separation pay. The NLRC also awarded Mutuc P10,000 as moral damages because her dismissal was tainted with bad faith.

The 23 January 2004 Decision of the Court of Appeals

The Court of Appeals agreed with the NLRC that Lowe failed to prove two requisites of a valid redundancy program, namely: (1) good faith in abolishing the redundant position, and (2) fair and reasonable criteria in ascertaining which positions were to be declared redundant. While the Court of Appeals declared that Lowe had convincingly presented the alleged losses in its revenues and massive cutbacks in client spending, the Court of Appeals concluded that Lowe "just included" Mutuc's position in the redundancy program and that she was being dismissed without cause. The Court of Appeals also said that Lowe should not have made Mutuc a regular employee if she was incompetent and if her performance was below par.

The 13 March 2006 Decision of the Court of Appeals

The Court of Appeals modified the NLRC's 30 June 2003 Resolution and ruled that Mutuc's backwages should be computed from the time she was unlawfully dismissed until the decision of the Court of Appeals becomes final. According to the Court of Appeals, illegally dismissed employees are entitled to full backwages, computed from the time their compensation was withheld from them up to the time of their actual reinstatement. If, as in this case, reinstatement is no longer possible, backwages shall be computed from the time of their illegal termination up to the finality of the decision.

The Issues

In G.R. No. 164813, Lowe raises the following issues:

I.

> THE COURT OF APPEALS DECIDED A QUESTION OF SUBSTANCE IN A WAY NOT IN ACCORD WITH THE LAW WHEN IT RULED THAT THE PRIVATE RESPONDENT WAS ILLEGALLY DISMISSED FOR REDUNDANCY.
>
> A. THE COURT OF APPEALS DISREGARDED THE EVIDENCE ON RECORD WHEN IT RULED THAT THE SELECTION OF THE PRIVATE RESPONDENT FOR REDUNDANCY WAS TAINTED WITH BAD FAITH.
>
> B. THE COURT OF APPEALS DISREGARDED THE EVIDENCE ON RECORD WHEN IT RULED THAT THE SELECTION OF THE PRIVATE RESPONDENT WAS NOT DONE IN ACCORDANCE WITH ANY FAIR AND REASONABLE CRITERIA.

II.

> THE COURT OF APPEALS DECIDED A QUESTION OF SUBSTANCE IN A WAY NOT IN ACCORD WITH THE LAW IN AFFIRMING THE RULING OF THE NLRC HOLDING THE INDIVIDUAL PETITIONERS RAUL CASTRO AND MARILES GUSTILO LIABLE TO THE PRIVATE RESPONDENT WHEN THE SAID CORPORATE OFFICERS HAVE PERSONALITIES THAT ARE DISTINCT AND SEPARATE FROM LOWE, AND WHEN THERE IS EVEN NO EVIDENCE IN THE RECORDS SHOWING THAT THEY EFFECTED THE TERMINATION OF THE PRIVATE RESPONDENT WITH MALICE OR BAD FAITH.

III.

> THE COURT OF APPEALS DECIDED A QUESTION OF SUBSTANCE IN A WAY NOT IN ACCORD WITH THE LAW IN AFFIRMING THE RULING OF THE NLRC HOLDING THE PETITIONERS LIABLE TO THE PRIVATE RESPONDENT (FOR) MORAL DAMAGES.[14]

In G.R. No. 174590, Lowe raises the sole issue:

the Court of Appeals decided a question of substance in a way not in accord with law and the applicable decisions of the Supreme Court when it ruled that the private