

THIRD DIVISION

[G.R. No. 168324, October 12, 2009]

**METRO CONSTRUCTION, INC. AND DR. JOHN LAI, PETITIONERS,
VS. ROGELIO AMAN, RESPONDENT.**

DECISION

CARPIO, J.:

The Case

This is a petition for review^[1] assailing the Decision^[2] promulgated on 24 November 2004 of the Court of Appeals (appellate court) in CA-G.R. SP No. 80440 as well as the Resolution^[3] promulgated on 1 June 2005. The appellate court granted the petition filed by Rogelio Aman (Aman) and ordered Metro Construction, Inc. (Metro) to pay Aman his backwages from the time of his illegal dismissal on 15 May 2001 up to the time of the finality of its decision, as well as separation pay in lieu of reinstatement computed at one month for every year of service, with a fraction of at least six months computed as one whole year. The appellate court remanded the case to the National Labor Relations Commission (NLRC) for proper computation of Aman's backwages and separation pay.

The Facts

Petitioners Metro and Dr. John Lai (Dr. Lai) filed the present petition against Aman. The appellate court narrated the facts as follows:

On 6 July 2001, [Aman] filed a case of illegal dismissal against [Metro] and/or [Dr. Lai] and the case was docketed as NLRC NCR Case No. 07-03521-2001 and was assigned to Labor Arbiter Manuel P. Asuncion.

For failure to convince the parties to enter into settlement, Labor Arbiter Asuncion directed [Aman] and [petitioners] to file their respective pleadings and documentary evidence.

On 2 October 2001, [petitioners] filed their position paper, alleging the following:

"Complainant ROGELIO AMAN was hired by [Metro] as one of it's (sic) foreman.

On July 19, 2001, a letter was sent by [Metro] to [Aman] informing him that [Metro] will be temporarily terminating his services because of completed projects, lack of work and continuous financial losses. But with an assurance that [Metro] will be contracting him if ever there will be new projects. xxx

On July 24, 2001, five (5) days after the receipt of temporary termination, [Metro] sent a letter to [Aman] informing him of the prospective project that [Metro] would undertake in a few months time.
xxx

On July 6, 2001, [Aman] filed a complaint before the National Labor Relations Commission."

On 20 November 2001, [Aman] filed his position paper where he alleged that:

"In January 1975, [Metro] employed [Aman] as a laborer in its construction projects. Even if he is not an elementary graduate, [Aman] quickly learned carpentry through perseverance and was promoted as carpenter after a few years. [Aman] observed full dedication and loyalty to the company and in the process, gained the confidence of his immediate superiors. Subsequently, he was promoted as a lead man for all the carpenters of [Metro] in the various projects of [Metro]. Continuously rising in his career, [Aman] finally became a foreman. Indeed, [Aman] continuously served his employer well.

Early this year, or after the lapse of almost TWENTY SIX (26) YEARS, more specifically upon completion of another [Metro] project in Banawe Street (right beside the PPSTA Building, presently occupied by Rustan's Supermarket), [Aman] was forced by [Dr. Lai] to have an official leave for a period of two (2) weeks. However, while it is termed as an official leave with pay, [Aman] curiously received only half (1/2) of the supposed salary. [Aman] kept his silence. However, when he reported for work on May 15, 2001, Dr. Lai summoned him to his office where the former unceremoniously, nay illegally dismissed [Aman] from his employment by asserting that the company no longer needed his services. Right there and then, the hapless [Aman] pleaded for the retention of his post as a project foreman having in mind the welfare of his family. Unfortunately, his plea fell on deaf ears. For four (4) consecutive days, [Aman] reported for work and sought an audience with Dr. Lai, but was turned away by [Dr. Lai].

On May 21, 2001, [Dr. Lai] gave [Aman] an audience, but during the said meeting, [Dr. Lai] offered him the measly amount of Twenty Thousand Pesos (20,000.00) as "financial assistance" for his twenty six (26) years of service, but [Aman] refused. He needed the job to support his family. With his back against the wall, [Aman] countered by seeking at least a full-month separation pay for every year of service, but the cold and ruthless [Dr. Lai] cursed him and retorted: "*Gago ka ba?! Ang dami-dami ko pa tatanggalin, tapos hihingi ka ng separation pay?! Lumayas ka nga sa harap ko baka sipain kita dyan! Ayoko makita ang pagmumukha mo dito!*" Helpless, [Aman] left.

[Aman] wandered aimlessly. Shattered with worries on how to support his family, [Aman] decided to swallow his pride by

once again approaching Metro to secure the necessary documents and signature to apply for a salary loan with the Social Security System (SSS). But surprise of all surprises, the Administrative Officer of Metro (Ms. Josephine Ong) turned down his request by asserting that [Aman's] employment was already terminated."^[4]

The Labor Arbiter's Ruling

In his Decision dated 29 January 2002, the Labor Arbiter dismissed Aman's case for lack of merit. The Labor Arbiter found that Metro did not dismiss Aman, but only laid him off temporarily. The Labor Arbiter further stated that:

[Aman's] work stoppage was brought about by a cause which was not of [petitioners'] own making. [Metro] ran out of project after the one where [Aman] was last assigned. The economic climate has affected [Metro]. [Aman] was verbally notified of the situation sometime in May 2001. On 19 July 2001, [petitioners] sent a letter to [Aman] formally notifying the latter of his temporary lay-off. Management assured [Aman] though of reinstatement should there be a new project or if there be none in 6 months [sic] he will be given his corresponding separation pay. On 24 July 2001, another letter was sent to [Aman] requiring him to report to [Metro] upon receipt for assignment to a new big project or to the smaller ones which are available at that time.

The separate letters issued by [petitioners] to [Aman] have legal implications specially the latter one. When [petitioners] gave the instruction to [Aman] to report for duty assignment the latter should have complied, otherwise he loses [sic] the right to reinstatement.

Evidently, [Aman] did not have the intention to return to his job with [petitioners]. His counsel manifested this in the latter dated 7 September 2001 in reply to the two previous letters of [petitioners] and understandably so because [Aman] has already acquired [a] job in another company.

There is no dismissal by [petitioners] of [Aman] in the case but only temporary lay-off because it so happened that there was no existing project where [Aman] could be assigned after his stint at the last project undertaken by management. The company considered [Aman] though for duty assignment in forthcoming big project or in the small one should he wish to accept any of the offers. [Aman] refused both offers in the letter of his counsel dated 7 September 2001.

This is not to say that [petitioners] are totally absolved from liability. It is important to consider that [Aman] has rendered service quite sometime for [Metro]. Equity dictates that such past service should not go for naught even though he has manifested his dislike to go back to his former job. It would be fair and justified to grant him financial assistance. The claims for overtime compensation, premium pay for holidays and rest days were not particularized leaving this Office with no basis to make

an outright award.

WHEREFORE, the complaint is hereby dismissed for lack of merit. For reason of equity, however, [petitioners] are hereby ordered to pay [Aman] the sum of P30,000.00 as financial assistance.

SO ORDERED.^[5]

The Ruling of the NLRC

Aman filed an appeal before the NLRC. In its Decision^[6] promulgated on 12 September 2002, the NLRC affirmed the ruling of the Labor Arbiter and dismissed Aman's appeal for lack of merit. The NLRC reiterated the Labor Arbiter's finding that petitioners temporarily terminated Aman for lack of work, completed projects, and financial losses. The NLRC believed that Aman left Metro, and that the P30,000 awarded by the Labor Arbiter as financial assistance is commensurate to whatever damage that Aman may have suffered.

On 30 June 2003, the NLRC resolved to deny Aman's Motion for Reconsideration for lack of merit.^[7]

The Decision of the Appellate Court

Aman assailed the NLRC's decision and resolution before the appellate court. Aman imputed grave abuse of discretion upon the NLRC in sustaining the Labor Arbiter's ruling that there was no illegal dismissal but only a case of temporary lay-off.

The appellate court ruled that petitioners illegally dismissed Aman. Upon a perusal of the letters sent by petitioners to Aman, the appellate court concluded that the letters were vain attempts of petitioners to hide the illegality of Aman's termination from employment. The finding by the NLRC of Aman's temporary termination was not supported by substantial evidence. Moreover, the appellate court declared that Aman's dismissal was illegal because of the lack of observance of both procedural and substantive due process. The dispositive portion of the appellate court's decision reads as follows:

WHEREFORE, the instant petition is hereby GRANTED and the Resolution dated 12 September 2002 of the NLRC as well as its Order dated 30 June 2003 are hereby REVERSED and SET ASIDE. Private respondent Metro Construction, Inc. is hereby ordered to pay [Aman] his backwages from the time of his illegal dismissal on 15 May 2001 up to the time of the finality of this decision, as well as separation pay, in lieu of reinstatement, computed at one month for every year of service, with a fraction of at least six (6) months computed as one whole year.

Let this case be remanded to the NLRC for proper computation of [Aman's] backwages and separation pay.

SO ORDERED.^[8]