469 Phil. 223

SECOND DIVISION

[G.R. No. 153021, March 10, 2004]

JOSEFINA A. CAMA,[*] JUVY S. LEQUIN, ALLAN L. BULAN, ELSA D. ALAMILLO, ZALDY C. ARABE, ROSARIO B. PADUA, PRUDENCIO R. BERCES, ASELA MONTEGREJO, NIMFA C. ABUDE AND PRIMA P. SANTIANO,[**] PETITIONERS, VS. JONI'S FOOD SERVICES, INC., AND/OR JOSE ANTONIO FELICIANO, RESPONDENTS.

DECISION

QUISUMBING, J.:

This is a petition for review of the decision[1] dated January 29, 2002, of the Court of Appeals, in CA-G.R. SP No. 65164. The decision reversed and set aside for having been issued with grave abuse of discretion the decision dated October 30, 2000, of the National Labor Relations Commission (NLRC), First Division, in NLRC NCR CA No. 022247-2000, which had affirmed with modification the decision dated October 25, 1999, of Labor Arbiter Manuel M. Manansala, in NLRC NCR Cases Nos. 00-04-04231-99 and 00-06-06983-99. Earlier, Labor Arbiter Manansala found respondent Joni's Food Services, Inc., not liable for illegal dismissal but directed it to pay the complainants therein separation pay, service incentive leave pay and attorney's fees. Also challenged by herein petitioners is the CA resolution[2] dated April 16, 2002, denying their motion for reconsideration.

The facts of this case, as found by the Labor Arbiter and adopted by both the NLRC and the Court of Appeals, are as follows:

Respondent Joni's Food Services, Inc., (hereafter JFSI) is a corporation duly organized and operated in accordance with Philippine laws. It is engaged in the coffee shop and restaurant business, with several branches or outlets. Co-respondent Jose Antonio Feliciano is its president and general manager.[3]

Petitioners were employees of JFSI having been hired on various dates during the 1970s to the 1990s.

In the 1990s, JFSI had eight (8) outlets for its coffee shop and restaurant business. In 1997, faced with dropping sales, however, it shut down three of these shops to avert serious business losses. The following year, 1998, saw JFSI operations in the red. The financial records of the company showed that JFSI incurred a total net loss of P2,541,537.70 as of December 31, 1998. As a result, JFSI shut down more outlets, leaving it with just three operating outlets at the end of 1998. Bleak business conditions continued to plague the company and by the end of the first quarter of 1999, the remaining branches were also closed. One month before the target closure date of its remaining outlets, JFSI sent notices of closure to the Department of Labor and Employment (DOLE) and to the complainants who were

then employed in the remaining branches or outlets.

On April 5, 1999, the petitioners, except Prima P. Santiano, filed a complaint docketed as NLRC-NCR Case No. 00-04-04231-99 for illegal dismissal, separation pay, service incentive leave pay, 13th month pay, attorney's fees, remittance of SSS and Pag-Ibig contributions, and refund of excess withholding taxes against JFSI.

On June 30, 1999, petitioner Santiano filed her separate complaint charging JFSI with violations similar to those aired by her co-petitioners. Santiano's separate complaint docketed as NLRC-NRC Case No. 00-06-06983-99 was consolidated with NLRC-NCR Case No. 00-04-04231-99. Following failed attempts to reach an amicable settlement between complainants and respondents, formal hearings ensued before the Labor Arbiter.

On October 25, 1999, the Labor Arbiter handed down the following decision in these consolidated cases:

> WHEREFORE, premises considered, judgment is hereby rendered:
>
> 1. Declaring respondent Joni's Food Services, Inc. (JFSI) not guilty of illegal dismissal as above-discussed. However, as complainants Josefina Cana, Juvy Lequin, Allan Bulan, Elsa Alamillo, Zaldy Arabe, Gregorio Equipaje, Ronnie Dimabayao, Ernesto Mariano, Carlito Dacanay, Maira Solis, Rosario Padua, Prudencio Berces, Federico Estoesta, Asela Montegrejo, Nimfa Abude, and Prima P. Santiano, were considered validly and legally retrenched to prevent losses and/or validly and legally separated due to closure or cessation of operations of the coffee shop business only (Underscoring in the original) of respondent JFSI as above-discussed, the latter (JFSI) is hereby directed to pay the former (complainants herein) separation pay at the rate of one-half (1/2) month pay for every year of service, a fraction of six (6) months shall be considered as one (1) whole year. The total amount of separation pay is Five Hundred Thirteen Thousand Six Hundred Eighty Five Pesos and Fifty Centavos (P513,685.50) as earlier computed and found on pages 6-7 of this Decision.
>
> 2. Directing respondent JFSI to pay the aforenamed complainants the total amount of Twenty Eight Thousand Seven Hundred Thirty Nine Pesos and Eighty Four Centavos (P28,739.84) representing the latter's service incentive leave pay and 13th Month Pay for 1999 as earlier computed and found on pages 9-11 of this Decision.
>
> 3. Directing the aforenamed respondent JFSI to pay ten (10%) percent attorney's fees based on the total monetary award for having been forced to prosecute and/or litigate the instant consolidated cases by hiring the services of legal counsel.
>
> 4. Dismissing the other money claims and/or charges of complainants herein for lack of factual and legal basis.

5. Declaring that SSS contributions, Pag-Ibig contributions and excess withholdings of tax be addressed before the Social Security System, Pag-Ibig Funds, and Bureau of Internal Revenue, respectively.

6. Dismissing the charges against individual respondents Jose Antonio Feliciano, Feliciano Go and Luningning Go for lack of merit.

SO ORDERED.[4]

In holding that the petitioners were entitled to separation pay, the Labor Arbiter opined that petitioners were retrenched as a result of the closure of the respondent's coffee shop operations and/or to prevent losses, and hence, fell squarely within the coverage of Article 283[5] of the Labor Code. While the Labor Arbiter recognized that JFSI did suffer business losses, nonetheless, he did not consider these serious enough so as to warrant denial of the petitioners' separation pay.

Aggrieved, respondents appealed to the NLRC raising the issue of whether the complainants below were entitled to the monetary award decreed by the Labor Arbiter. In their appeal, docketed as NLRC NCR CA No. 022247-2000, the respondents averred that contrary to the finding of the Labor Arbiter that what occurred was a retrenchment to prevent losses, what actually took place was a complete cessation of operations of JFSI's coffee shop and restaurant business.

On October 30, 2000, the NLRC (First Division) decided the case, docketed as NLRC NCR CA No. 022247-2000, to wit:

> WHEREFORE, the decision appealed from is hereby AFFIRMED, with the modification deleting the award for attorney's fees.
>
> SO ORDERED.[6]

The NLRC struck out the award of attorney's fees on the finding that bad faith did not attend the closure or retrenchment.

Respondent company, JFSI, then moved for reconsideration, but this was denied by the NLRC in its resolution[7] dated February 28, 2001. Hence, it filed a special civil action for certiorari, docketed as CA-G.R. SP No. 65164, with the Court of Appeals, on the ground that the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction by incorrectly applying Article 283 of the Labor Code.

On January 29, 2002, the Court of Appeals granted the writ of certiorari prayed for by JFSI, thus:

> WHEREFORE, foregoing premises considered, the Petition having merit in fact and in law, is hereby GIVEN DUE COURSE. Resultantly, the challenged decision of the National Labor Relations Commission, First Division, as well as its order of February 28, 2001 are hereby declared null and void for having been issued with grave abuse of discretion. No costs.
>
> SO ORDERED.[8]

The appellate court ruled that JFSI was forced to close the business because of serious business losses and financial reverses and therefore it was grave abuse of discretion on the part of both the Labor Arbiter and the NLRC to hold that the parties fell under the ambit of Article 283 requiring payment of separation pay. The Court of Appeals stressed that to do so would only compound the financial misery of JFSI. It pointed out that the constitutional policy of providing full protection to labor is not intended to oppress capital, for capital is also entitled to be protected under a regime of justice and the rule of law.

The petitioners seasonably moved for reconsideration, but the appellate court denied the motion in its resolution[9] dated April 16, 2002.

Hence, the instant case where the petitioners seek that we resolve:

I

> WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN REVERSING THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION, WHICH AFFIRMED THE DECISION OF THE LABOR ARBITER.

II

> WHETHER OR NOT HEREIN PETITIONERS ARE ENTITLED TO SEPARATION PAY.[10]

Despite the foregoing formulation of issues by petitioners, only one core issue needs resolution: Did the Court of Appeals err in ruling that the termination of petitioners' employment due to serious business losses suffered by JFSI precluded payment of separation pay?

Petitioners argue that in terminating their employment on the ground of serious financial reverses, JFSI had the burden of proving that these losses were serious, grave, real, and imminent. They contend that a reading of the financial statements submitted by JFSI clearly disclose that the losses suffered by the latter were not due to serious financial losses brought about by deteriorating economic conditions, but due to an unexplained increase in salaries and wages in 1998. It was, therefore, a reversible error for the Court of Appeals to reverse the findings of the Labor Arbiter and the NLRC that while JFSI had suffered business losses, these were not serious enough as to warrant denial of their separation pay, for the appellate court's ruling went against the evidence on record.

Respondent company counters that an objective analysis of the financial statements it submitted in evidence during the proceedings below would clearly show that the business losses it suffered in 1998 alone constituted an impairment of 855.43%[11] of its paid-up capital. This was enough to seriously hamper its operations. Respondents submit that following prevailing jurisprudence, it is not necessary for a business to totally or permanently close shop due to losses for it to be exempt from paying separation pay to the workers terminated due to financial losses. All that is required is that the losses be serious. Where a company has to shut down its outlets due to its inability to pay its overhead expenses because of a slump in market conditions, according to respondents, then the losses must be deemed