

## SECOND DIVISION

**[ G.R. No. 150092, September 27, 2002 ]**

**GLOBE TELECOM, INC., DELFIN LAZARO, JR., AND ROBERTO GALANG, PETITIONERS, VS. JOAN FLORENDO-FLORES, RESPONDENT.**

### D E C I S I O N

**BELLOSILLO, J.:**

This is a petition for review under Rule 45 of the Rules of Court seeking to annul and set aside the Decision<sup>[1]</sup> of the Court of Appeals of 25 May 2001 in CA-G.R. SP No. 60284 which affirmed the Decision of the National Labor Relations Commission of 28 January 2000 in NLRC RAB-CAR 05-0170-98, NLRC NCR CA No. 020270-99.<sup>[2]</sup>

Petitioner GLOBE TELECOM, INC. (GLOBE) is a corporation duly organized and existing under the laws of the Philippines. Petitioners Delfin Lazaro Jr. was its President and Roberto Galang its former Director-Regional Sales. Respondent Joan Florendo-Flores was the Senior Account Manager for Northern Luzon.

On 1 July 1998 Joan Florendo-Flores filed with the Regional Arbitration Branch of the National Labor Relations Commission (NLRC) an amended complaint for constructive dismissal against GLOBE, Lazaro, Galang, and Cacholo M. Santos, her immediate superior, Luzon Head-Regional Sales. In her affidavit submitted as evidence during the arbitration proceedings, Florendo-Flores bared that Cacholo M. Santos never accomplished and submitted her performance evaluation report thereby depriving her of salary increases, bonuses and other incentives which other employees of the same rank had been receiving; reduced her to a house-to-house selling agent (person-to-person sales agent or direct sales agent) of company products ("handyphone") despite her rank as supervisor of company dealers and agents; never supported her in the sales programs and recommendations she presented; and, withheld all her other benefits, i.e., gasoline allowance, per diems, representation allowance, and car maintenance, to her extreme pain and humiliation.<sup>[3]</sup>

GLOBE and its co-petitioners claimed that after receiving her salary in the second week of May 1998 Florendo-Flores went AWOL (Absent Without Leave) without signifying through letter or any other means that she was resigning from her position; that notwithstanding her absence and the filing of her case, respondent Florendo-Flores' employment was not terminated as shown by the fact that salary was still provided her until July 1998 to be released upon her presentation of the attendance-record sheet indicating that she already returned and reported for work; that she continued to have the use of company car and company "handyphone" unit; that she was replaced only when her absence became indefinite and intolerable as the marketing operations in Northern Luzon began to suffer; that during the pre-trial conference it was learned that Florendo-Flores' complaint rested on her alleged personal and private disagreement with her immediate superior Cacholo M. Santos;

that there was no official act from GLOBE or from other officers of the company, including respondents Lazaro and Galang, which called for Florendo-Flores' termination, diminution in rank, seniority and benefits, or would imply, even remotely, any of the same; and, that Florendo-Flores filed the complaint without going through the grievance process of GLOBE's Human Resources Department and without informing its officers of her problems with Cacholo M. Santos.

Labor Arbiter Monroe C. Tabingan declared Florendo-Flores to have been illegally dismissed and ordered petitioners to reinstate her without loss of seniority rights and full benefits; and to pay full back wages, inclusive of basic pay, allowances and bonuses as prayed for in the complaint amounting to P307,625.00, exemplary damages in the sum of P200,000.00, and ten percent (10%) of the total monetary award as attorney's fees. However, the Labor Arbiter set aside the claim of abandonment as the company failed to send the requisite notice to Florendo-Flores, [4] hence, there was no adherence to procedural due process. Although he recognized that the problem brewed and eventually boiled over due to the acts of Cacholo M. Santos, GLOBE's former Head of Regional Sales, Luzon Area, the Labor Arbiter found the company negligent in monitoring all its key personnel, and thus assessed against it exemplary damages at the same time deleting actual and moral damages. [5]

Petitioners appealed the decision to the NLRC which modified the judgment of the Labor Arbiter. The NLRC ruled that petitioners did not dismiss Florendo-Flores but that the latter actually abandoned her employment because of a disagreement with her immediate superior which she failed to bring to the attention of GLOBE and its officers, particularly petitioners Lazaro and Galang. [6] However, the NLRC declared that if only as an *act of grace* for the latter's past services with the company, GLOBE, Lazaro and Galang should be held accountable for the back wages of Florendo-Flores amounting to P307,625.00 minus the amount of P63,000.00 for the value of the company car in Florendo-Flores' possession, or the net amount of P244,625.00. [7]

Both parties elevated the NLRC decision to the Court of Appeals, each side through a petition for certiorari. In its Resolution of 2 September 2000 the appellate court dismissed the petition of Florendo-Flores for failure to append the required verification and certification of non-forum shopping, [8] while it gave due course to the petition of GLOBE, Lazaro and Galang.

In their petition before the appellate court, GLOBE, Lazaro and Galang averred that the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it ordered them to pay Florendo-Flores full back wages and damages despite its express finding that they did not cause the dismissal of Florendo-Flores as the latter had actually abandoned her employment on account of her personal differences with her superior.

In its Decision of 25 May 2001 the Court of Appeals found that Florendo-Flores was constructively dismissed and that payment of back wages and damages was in order. On 21 June 2001 GLOBE, Lazaro and Galang filed a motion for reconsideration but the motion was denied in the appellate court's Resolution of 19 September 2001.

Petitioners pose the following questions in this petition: In a special civil action for certiorari where factual findings are deemed to be final and conclusive, can the Court of Appeals alter or substitute the findings of fact of the lower court/tribunal? In the face of the finding of the NLRC that respondent abandoned her employment because of a personal squabble with her immediate superior, and that petitioners had nothing to do with the severance of Flores' employment, can petitioners be held legally liable for back wages while the guilty party Cacholo M. Santos is legally absolved of liability?

Petitioners submit that the answers to both questions must be in the negative. They argue that the appellate court can neither alter nor substitute the factual findings of the NLRC as they are legally deemed to be final and conclusive in a certiorari proceeding. They contend that a special civil action for certiorari is an extraordinary remedy created not to correct mistakes in the factual findings or conclusions of the lower court or tribunal, but a remedy intended to rectify jurisdictional errors and grave abuse of discretion. Thus, the Court of Appeals cannot make its own factual findings and substitute them for the factual findings of the NLRC, and on such basis render a decision.

Petitioners further note that the appellate court failed to address the issues raised in their petition. They reiterate their position that they cannot be held liable for payment of back wages as an *act of grace* in view of the express finding by the NLRC that respondent abandoned her employment because of a personal rift with her immediate superior and not due to any act attributable to them. They stress that there can be no liability in the absence of any wrongful act.

Invoking the principle of *res inter alios acta* declaring that the rights of a party cannot be prejudiced by the act, declaration or omission of another, petitioners insist that since the NLRC found that respondent's problems arose from the acts and deeds of Santos, he alone should be held liable. Petitioners find special exception to the NLRC's application of the concept of "*act of grace*" to justify the award since an "*act of grace*" is not a source of demandable obligation. They argue that it is not within the power of any judicial or administrative agency to compel an employer to be liberal.

In the review of an NLRC decision through a special civil action for certiorari, resolution is confined only to issues of jurisdiction and grave abuse of discretion on the part of the labor tribunal.<sup>[9]</sup> Hence, the Court refrains from reviewing factual assessments of lower courts and agencies exercising adjudicative functions, such as the NLRC. Occasionally, however, the Court is constrained to delve into factual matters where, as in the instant case, the findings of the NLRC contradict those of the Labor Arbiter.

In this instance, the Court in the exercise of its equity jurisdiction may look into the records of the case and re-examine the questioned findings.<sup>[10]</sup> As a corollary, this Court is clothed with ample authority to review matters, even if they are not assigned as errors in their appeal, if it finds that their consideration is necessary to arrive at a just decision of the case.<sup>[11]</sup> The same principles are now necessarily adhered to and are applied by the Court of Appeals in its expanded jurisdiction over labor cases elevated through a petition for certiorari; thus, we see no error on its part when it made anew a factual determination of the matters and on that basis reversed the ruling of the NLRC.

Glaring however is the discrepancy between the text of the decision of the appellate court which declares that respondent Florendo-Flores "was unlawfully constructively dismissed" from employment,<sup>[12]</sup> and its dispositive portion which declares that "the assailed judgment is affirmed."<sup>[13]</sup> It should be noted that the "assailed judgment" referred to the NLRC Decision which declared that respondent was not illegally dismissed but that she abandoned her employment. Even in the award of back wages and exemplary damages the two (2) decisions are at odds: The award of back wages made by the NLRC was a gratuity or an *act of grace* from petitioners while the award made by the Court of Appeals could be assumed to be anchored on its finding of illegal dismissal. How should the inconsistency be reconciled?

Where there is conflict between the dispositive portion of the decision and the body thereof, the dispositive portion controls irrespective of what appears in the body.<sup>[14]</sup> While the body of the decision, order or resolution might create some ambiguity in the manner the court's reasoning preponderates, it is the dispositive portion thereof that finally invests rights upon the parties, sets conditions for the exercise of those rights, and imposes the corresponding duties or obligations.<sup>[15]</sup> Hence, for the Court of Appeals to have affirmed the assailed judgment is to adopt and uphold the NLRC finding of abandonment and its award of full back wages to respondent as an "act of grace" from petitioners.

However, we believe this is not the proper view as the records reveal that respondent was constructively dismissed from service.

Constructive dismissal exists where there is cessation of work because "continued employment is rendered impossible, unreasonable or unlikely, as an offer involving a demotion in rank and a diminution in pay."<sup>[16]</sup> All these are discernible in respondent's situation. She was singularly edged out of employment by the unbearable or undesirable treatment she received from her immediate superior Cacholo M. Santos who discriminated against her without reason - not preparing and submitting her performance evaluation report that would have been the basis for her increased salary; not forwarding her project proposals to management that would have been the source of commendation; diminishing her supervisor stature by assigning her to house-to-house sales or direct sales; and withholding from her the enjoyment of bonuses, allowances and other similar benefits that were necessary for her efficient sales performance. Although respondent continued to have the rank of a supervisor, her functions were reduced to a mere house-to-house sales agent or direct sales agent. This was tantamount to a demotion. She might not have suffered any diminution in her basic salary but petitioners did not dispute her allegation that she was deprived of all benefits due to another of her rank and position, benefits which she apparently used to receive.

Far from pointing to Santos alone as the source of her woes, respondent attributes her degraded state to petitioners as well. Florendo-Flores cited petitioners' apathy or indifference to her plight as she was twice left out in a salary increase in August 1987 and May 1998, without petitioners giving her any reason.<sup>[17]</sup> It eludes belief that petitioners were entirely in the dark as the salary increases were granted to all employees across-the-board but respondent was the only one left receiving a P19,100.00 per month basic salary while the rest received a basic salary of almost P35,000.00 per month.<sup>[18]</sup> It is highly improbable that the exclusion of respondent had escaped petitioners' notice. The absence of an evaluation report from Santos should have been noted by petitioners and looked into for proper action to have