

SECOND DIVISION

[G.R. No. 122481, March 05, 1998]

**ERNESTO L. MENDOZA, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION AND BALIWAG TRANSIT INC.,
RESPONDENTS.**

D E C I S I O N

MARTINEZ, J.:

This petition for certiorari seeks to annul the Resolution^[1] of the National Labor Relations Commission (NLRC) dated June 21, 1995 and the Order^[2] dated August 28, 1995 dismissing petitioner's complaint for illegal dismissal on the ground of prescription and laches.

Petitioner was employed by respondent Baliwag Transit, Inc. as a passenger bus driver. He is paid compensation by way of commission at the rate of 11.5% of the daily gross earnings of the bus.

On May 20, 1983, the bus driven by petitioner was heavily damaged in an accident with two other vehicles, a Ford Farm Tractor towing a trailer loaded with sacks of palay and a Toyota gasoline tanker. As a result of the accident, six passengers of the bus, a driver and a passenger of one of the two other vehicles were seriously injured. Petitioner was "grounded" and advised by respondent Baliwag to wait for the result of the police investigation and the actions that might be taken by the owners of the other vehicles. Petitioner patiently waited. Realizing that he has waited too long, petitioner on December 11, 1986 requested respondent Baliwag to reinstate him as he needed money to support his family. But, private respondent formally informed him to look for another job because the management has terminated his services on account of the May 20, 1983 vehicular accident.

On November 15, 1990, petitioner filed a complaint against respondent Baliwag for illegal dismissal, damages and attorney's fees before the Arbitration Branch of the NLRC.

In answer, respondent Baliwag denied petitioner's allegation contending that petitioner was not dismissed but abandoned his job after the incident of May 30, 1983. Respondent likewise asserted that petitioner's cause of action had long prescribed and that he is guilty of laches in not asserting his right sooner.

On November 20, 1991, Labor Arbiter Donato Quinto, Jr. rendered a decision^[3] in favor of respondent Baliwag ruling in this wise:

"A scrutiny of the record indubitably shows that the last day that complainant worked was on May 20, 1983 when that vehicular accident occurred. This fact was admitted to by the parties, the complainant as asserted to by him in his position paper as well as in his Supplemental position paper and/or Reply to position paper of

respondents, and the respondent as asserted by it in its position paper and as categorically testified to by its witness, respondent's Assistant Personnel Manager, Ricardo Toledo, in latter's affidavit (par. 4 Annex "1", respondent's position paper). With this admitted fact, it is safe to say that this complaint principally for illegal dismissal, was filed more than seven (7) years after the last day that complainant had worked or given/allowed to work by the respondent.

A complaint for illegal dismissal constitute an action predicated upon an injury to the rights of the complainant. It being a violation of one's right, it prescribes in four (4) years from the time of its accrual.

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In the instant case, the complaint of complainant was filed on November 15, 1990, or more than four (4) years from the accrual of the cause of action on May 20, 1983, which is complainant's last working day.

Moreover, even if we consider complainant's allegation that he was not allowed to work since December 1986 (paragraph 4, complaint) still, it is believed, his claims for reinstatement with backwages and damages are still barred by laches. It took him almost four (4) years to file his complaint on said date (November 15, 1990) when according to him his cause of action accrued in December 1986. The doctrine of laches or stale demand is based on public policy "which requires, for the peace of society, the discouragement of stale claims", x x x

In the case at bar, assuming it to be true that it was only sometime in December 1986 where complainant was told that he was already dismissed, still laches would lie as it took him almost four (4) years before he instituted the instant complaint. Complainant never tells us what he did between December 1986 and November 1990, whether he constantly made follow-ups with respondent for him to be allowed to work. All that he tells us is that it was sometime in December 1986 that he was told that he is dismissed. By such, we cannot believe him that he was ever vigilant in the enforcement of his right. x x x x

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With this finding and with our ruling that complainant's cause of action is barred by prescription, if not by laches, it is believed that there would be no necessity to discuss the merits of the case, i.e. whether or not complainant's dismissal was illegal. x x x

WHEREFORE, judgment is hereby rendered ordering, as it is hereby ordered, the DISMISSAL of the instant complaint for having been barred by prescription and/or laches.

SO ORDERED."

The said decision was affirmed by the NLRC in its Resolution of June 21, 1995.

Aggrieved by the said decision, petitioner now comes to us contending that the NLRC gravely erred in affirming the Labor Arbiter's decision dismissing the complaint on the ground of prescription and laches. He argues that the four (4) year prescriptive period should be counted from the time he was informed of his dismissal and not from the time of the occurrence of the vehicular accident.

We agree.

In *Baliwag Transit, Inc. vs. Ople and Hughes*,^[4] a case involving the same respondent and one of its employees who similarly figured in a road mishap, we ruled:

"Whatever prescriptive period is applicable, the antecedent question that has to be settled is the date when the cause of action accrued and from which the period shall commence to run. The parties disagree on this date. The contention of the petitioner is that it should be August 10, 1974, when the collision occurred. The private respondent insists it is May 10, 1980, when his demand for reinstatement was rejected by the petitioner.

It is settled jurisprudence that a cause of action has three elements, to wit: (1) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (2) an obligation on the part of the named defendant to respect or not to violate such right; and (3) an act or omission on the part of such defendant violative of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff.

The problem in the case at bar is with the third element as the first two are deemed established.

We hold that the private respondent's right of action could not have accrued from the mere fact of the occurrence of the mishap on August 10, 1974, as he was not considered automatically dismissed on that date. At best, he was deemed suspended from his work, and not even by positive act of the petitioner but as a result of the suspension of his driver's license because of the accident. There was no apparent disagreement then between Hughes and his employer. As the private respondent was the petitioner's principal witness in its complaint for damages against the Philippine National Railways, we may assume that Baliwag Transit and Hughes were on the best of terms when the case was being tried. Hence, there existed no justification at that time for private respondent to demand reinstatement and no opportunity warrant either for the petitioner to reject that demand.

We agree with the private respondent that May 10, 1980, is the date when his cause of action accrued, for it was then that the petitioner denied his demand for reinstatement and so committed the act of omission 'constituting a breach of the obligation of the defendant to the plaintiff.' The earlier requests made by him having been warded off with indefinite promises, and the private respondent not yet having decided to assert his right, his cause of action could not be said to have then already accrued. The issues had not yet been joined, so to speak. This happened only when the private respondent finally demanded his reinstatement on May 2, 1980, and his demand was categorically rejected by the petitioner on May 10, 1980."

Applying the aforesaid ruling, petitioner's cause of action accrued only in December 1986 when respondent Baliwag formally dismissed him from the service. The four-year period should not be reckoned from the time of the accident on May 20, 1983 because petitioner was not yet considered terminated. Note that petitioner was merely "grounded" and advised to wait for the result of the investigation and the possible legal actions which may be taken against him. Hence, there existed at that time no cogent reason for petitioner to demand reinstatement and no opportunity for respondent Baliwag to warrant the rejection of such demand.