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[SYLLABUS]

[G.R. No. 114988, March 18, 1996]

CATALINO BONTIA, RESURRECION LOZADA AND DONATO DUTARO, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, CONSOLIDATED PLYWOOD INDUSTRIES, INC. AND HENRY WEE, RESPONDENTS.

D E C I S I O N

REGALADO, J.:

This petition for certiorari seeks the nullification of the resolutions of September 27, 1993 and December 2, 1993 promulgated by the National Labor Relations Commission (NLRC) in NLRC CA No. M-001476-93, entitled "Leopoldo Luayon, et al. v.s. Consolidated Plywood Industries, Inc./The Board of Directors, et al." which reversed and set aside the decision of the labor arbiter.

The records disclose that petitioner Catalino Bontia was employed as a truck driver by private respondents from June, 1987 to February 29, 1992 when he was asked to sign an application for forced leave without pay. His last daily rate of pay was P104.00. Petitioner Resurrecion Lozada worked with the private respondents as a logging foreman from September, 1990 to February 29, 1992 with a daily wage of P125.00, while petitioner Donato Dutaro was a welder from January, 1987 to January 4, 1992 receiving a daily wage of P106.00.[1]

Petitioner Dutaro alleged that on January 4, 1992, he was forced to sign an application for leave without pay wherein there was no date of expiration but with a provision that "failure on my part to report on the date of expiration of my leave as approved will be considered as my voluntary resignation from the company."[2] Thereafter, he continued to report to the office only to be told that there was no work.

With respect to petitioners Bontia and Lozada, it was on February 29, 1992 when they were likewise asked to sign the same applications for indefinite forced leave without pay, but they refused to sign the same. As a consequence, they were not allowed to work anymore or even to enter the company premises.

Petitioners were thus in a situation where they could not seek employment elsewhere because they had no clearance from respondent corporation, aside from the fact that if they worked with another employer they would be deemed to have abandoned their former positions where they were regular employees. They could not also determine when they would be recalled for work or when their so-called forced leave would expire, much less were they informed of the supposed six-month limit if it was truly contemplated by respondent company. Unlike their other companions who were given separation pay, they received nothing except a vague promise of reemployment. In short, they were left to their own devices to survive

and provide for their respective families during their so-called forced leave of indeterminable duration.

Private respondents, on the other hand, contend that they had to suspend operations and resort to retrenchment because they suffered business reverses due to the total log ban imposed by the Government. Private respondents likewise claim that petitioners were among those personnel who were temporarily laid off by them, to be reactivated once private respondents shall have resumed normal operations. [3] They allegedly submitted the necessary notice to the Department of Labor and Employment and posted said notices at different areas of the workplace[4] which fact, however, was denied by petitioners who pointed out that private respondents did not present any evidence of such posting.

Due to the uncertainty of their employment status, and since private respondents refused to afford them any relief from their plight, petitioners eventually filed a complaint for constructive dismissal, with money claims and prayer for reinstatement, before the National Labor Relations Commission, Regional Arbitration Branch No. XI, Davao City. Private respondents in their answer, contend that the filing of the complaint was premature because the law allows the employer to suspend operations for six months .[5]

On April 30, 1993, Labor Arbiter Antonio M. Villanueva rendered judgment finding the dismissal of petitioners to be illegal, awarding payment of their back wages, and ordering their reinstatement or, in the alternative, the payment of separation pay equivalent to one month for every year of service. The decretal portion of his decision is as follows:

> "**IN LIGHT OF ALL THE FOREGOING,** judgment is hereby rendered:
>
> 1. ordering respondents Consolidated Plywood Industries, Inc./The Board of Directors and Henry C. Wee to jointly and severally pay to complainants their six months back wages computed as follows:
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> | | |
> |---|---|
> | **a) Donato Dutaro(P106/day x 26 days x 6 mos.)** | = P16,536.00 |
> | **b) Resurrecion M. Lozada(P125/day x 26 days x 6 mos.)** | = P19,500.00 |
> | **c) Catalino Bontia (P104/day x 26 days x 6 mos.)** | =P16,224.00 |
> | | P52,260.00 |
>
> 2. reinstate complainants to their former position(s) without loss of seniority rights or if not feasible a separation pay of one (1) month for every year of service as follows:
>
> | | |
> |---|---|
> | **a) Donato Dutaro 1/87 to 5/20/93** | =P16,536.00 |

b) Resurrecion Lozada 9/90 to 5/20/93	=P 9,750.00
c) Catalino Bontia 10/18/86 to 5/30/93	=P18,928.00
	P45,2 14.00

Or a total of **NINETY SEVEN THOUSAND FOUR HUNDRED SEVENTY-FOUR** (P97,474.00) PESOS representing complainants' six (6) months backwages and separation pay.

3. all other money claims are hereby dismissed for lack of merit."[6]

Private respondents appealed to the National Labor Relations Commission (NLRC) which set aside the decision of the labor arbiter and entered a new one "dismissing the complaint for lack of merit," and forthwith declaring petitioners guilty of "quitting" under Article 285(a) of the Labor Code.[7]

Feeling aggrieved by that decision, petitioners filed the petition at bar, alleging that the NLRC rendered a decision with grave abuse of discretion tantamount to want of jurisdiction, and raising the sole issue of whether or not under the circumstances they were constructively discharged from their employment.

Petitioners contend that if indeed there was a need to suspend respondent corporation's operations due to lack of materials and other justifiable grounds, the law allows such suspension provided it does not exceed six months. It could have specifically so stated, and there was no sense whatsoever in compelling the workers to be on an ambiguous and unspecified period of "forced leave," as in the instant case. They stress that, in fact, there was actually no closing, cessation or suspension of respondent company's operations. The truth is that, thereafter, it was business as usual for the company.[8] The record does not disclose that these particular contentions were duly confuted by respondent company, nor did it prove that it really implemented such claimed suspension of operations.

Moreover, petitioners submit that their filing of the case for constructive dismissal with prayer for reinstatement is sufficient proof that they were never guilty of leaving their jobs. They stress that, similar to abandonment, to constitute "quitting" there must be a clear and deliberate intent to discontinue one's employment without any intention of returning.[9] Significantly, the Solicitor General's comment does not claim that by their filing of the aforesaid case, petitioners were thereby "quitting" or abandoning their employment.

As a rule, this Court has conventionally refrained from reviewing factual assessments of lower courts and agencies exercising adjudicative functions. Occasionally, however, the Court has been constrained to delve into such matters, generally, when there is insufficient or insubstantial evidence on record to support those factual findings. The same holds true when it is perceived that far too much is concluded, inferred or deduced from the bare or incomplete facts appearing of record.[10]