

THIRTEENTH DIVISION

[CA-G.R. SP No. 116937, November 17, 2014]

GERARDO V. DUMLAO, JR., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, HARI GARMENTS MANUFACTURING CORPORATION AND/OR HARBIE CHAN, RESPONDENTS.

DECISION

SADANG, J.:

This is a petition for certiorari under Rule 65 of the Rules of Court seeking to set aside the June 25, 2010 Decision^[1] of the National Labor Relations Commission (Fourth Division), in NLRC LAC No. 02-000368-10 (NLRC Case No. RAB IV-10-27623-08-C), and the September 13, 2010 Resolution^[2] denying the motion for reconsideration.

The Case

Records show that petitioner Gerardo V. Dumlao, Jr. (hereafter, petitioner) was employed by private respondent Hari Garments Manufacturing, Inc. (Hari Garments, for brevity) as a machine mechanic and welder/fabricator on June 23, 2003. In a letter, he tendered his resignation effective on January 31, 2008. On August 15, 2008, petitioner filed a complaint^[3] against Hari Garments and respondent Harbie Chan (Chan) before the Cavite Provincial Office, Region Office No. IV-A, Department of Labor and Employment (DOLE), Trece Martires City, docketed as Case No. RO400-CAV-SMC-0808-169) for constructive dismissal.

In an Indorsement,^[4] dated September 9, 2008, DOLE Regional Director Ricardo S. Martinez, Sr. (Region IV-A) referred the case to Executive Labor Arbiter Generoso Santos for appropriate action.

On October 17, 2008, petitioner again filed a complaint^[5] against Hari Garments with the Regional Arbitration Branch No. IV, National Labor Relations Commission (NLRC), Calamba City for illegal dismissal.

In his Position Paper,^[6] petitioner alleged that on June 23, 2003, he was hired by Hari Garments as sewing machine mechanic and welder/fabricator at P13,000.00^[7] a month or P500.00 per day. As welder/fabricator, he completed the required training in welding and steel fabrication.^[8] On January 26, 2008, he was told by Lito Hao, personnel-in-charge of Hari Garments, that he will be appointed as subcontractor of the company for which he would earn a higher income. He explained to Hao that he has no experience as a subcontractor but he was assured that the company would assist him in complying with the requirements, such as, certificate of registration of business,^[9] National Bureau of Investigation

clearance^[10] and police clearance.^[11] He agreed to the proposal but he was made to sign a resignation letter. However, he was never appointed as a subcontractor and his position was given to someone else.

Petitioner claimed that he was forced to prepare the resignation letter and was therefore illegally dismissed. He prayed for reinstatement with full backwages from the time of his dismissal on January 26, 2008 until his reinstatement, plus legal interest and other unpaid benefits, such as, sick leave, vacation leave, 13th month pay, with moral and exemplary damages and attorney's fees.

Hari Garments and Chan maintained in their Position Paper^[12] that the complaint, filed many months later, is a mere afterthought and that petitioner was not illegally dismissed but voluntarily resigned as shown by his Release and Quitclaim which was subscribed before a notary public.

In his Reply to Respondent's Position Paper,^[13] petitioner reiterated his arguments and claimed that through fraud and evil scheme perpetrated by respondents, he was made to sign the Release and Quitclaim.^[14] Respondents filed their Rejoinder^[15] reiterating the arguments in their Position Paper.

In a Decision^[16] dated September 30, 2009, the Labor Arbiter ruled that petitioner was illegally dismissed. The *fallo* reads:

WHEREFORE, premises considered, the complainant is declared to have been illegally dismissed by respondents. Consequently, respondents Hari Garments Manufacturing, Inc. and Harbie Chan are ordered to reinstate complainant to his former position without loss of seniority rights and to pay jointly and severally his full backwages in the total amount of Two Hundred Eighty Five Thousand Four Hundred Four Pesos and 59/100 (P285,404.59).

The reinstatement aspect of this decision is immediately executory and the respondents are directed to submit a report of compliance within ten (10) calendar days from receipt of this decision.

Respondents are also ordered to pay ten percent (10%) attorney's fees.

All other claims are dismissed for lack of merit.

SO ORDERED. ^[17]

Respondents filed a Memorandum of Appeal^[18] to which petitioner filed a Reply Memorandum.^[19]

Petitioner filed an Urgent Motion for Immediate Execution Pending Appeal and to Hold Respondents in Contempt of Court.^[20] Respondents filed their Comment^[21] thereto.

In a Decision,^[22] dated June 25, 2010, the NLRC granted respondents' appeal, disposing thus:

WHEREFORE, the appeal by respondent Hari Garments Manufacturing, Inc., is hereby GRANTED.

Accordingly, the Decision dated September 30, 2009 of Labor Arbiter Danna M. Castillon is SET ASIDE and a new one is entered DISMISSING the complaint for lack of merit.

SO ORDERED.^[23]

Petitioner's Motion for Reconsideration^[24] was denied in a Resolution^[25] dated September 13, 2010; hence, this present petition raising this issue:

WHETHER THE PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION IN FINDING THAT PETITIONER CHUA [*SHOULD BE* DUMLAO] (COMPLAINANT) WAS NOT ILLEGALLY DISMISSED BY THE PRIVATE RESPONDENTS.^[26]

Respondents filed their Comment^[27] to the petition, while petitioner filed a Reply^[28] thereto.

RULING

The sole issue for resolution is whether petitioner had voluntarily resigned from his employment.

Well-settled is the rule that the factual findings of administrative bodies are entitled to great weight and these findings are accorded not only respect but even finality when supported by substantial evidence. Stated differently, the truth or the falsehood of alleged facts is not for the appellate court to re-examine. The probative value of the evidence presented by the litigants or any of them may no longer be inquired into. However, when the inference made or the conclusion arrived at on the basis of a certain state of facts is manifestly mistaken, this Court definitely should step in and exercise its power of review.^[29]

Petitioner contends that the NLRC erred in ruling that he voluntarily resigned and that his resignation was not qualified by the condition that he would be appointed as respondent's sub-contractor. On the other hand, respondents harp on the theory that petitioner's resignation letter coupled with his Release and Quitclaim subscribed before a notary public, showed his deliberate intent to voluntarily sever his employment, hence, there was no illegal dismissal.

Resignation is the voluntary act of an employee who finds himself in a situation where he believes that personal reason cannot be sacrificed in favor of the exigency of the service, then he has no other choice but to dissociate himself from his

employment.^[30] It is a formal pronouncement or relinquishment of an office, with the intention of relinquishing the office accompanied by the act of relinquishment. As the intent to relinquish must concur with the overt act of relinquishment, the acts of the employee before and after the alleged resignation must be considered in determining whether, he or she, in fact, intended to sever his or her employment.^[31]

An employer who interposes the defense of voluntary resignation of the employee in an illegal dismissal case must prove by clear, positive and convincing evidence that the resignation was voluntary; and that the employer cannot rely on the weakness of the defense of the employee. The requirement rests on the need to resolve any doubt in favor of the working man.^[32] It is a basic rule in evidence that the burden of proof is on the part of the party who makes the allegations, in this case, the respondents.^[33] We are not convinced that respondents successfully discharged that burden.

Petitioner's letter,^[34] in his own handwriting, is quoted hereunder:

Jan. 31, 2008

Sir Harbie Chan,

Ako po ay nagpapasalamat sa pagkakataong ito, na ako ay binigyan mo ng pagkakataon at tiwala para maging subcontractor ng inyong kompanya (Hari Garments).

Ako ay taos pusong nagbibitaw [sic] sa aking trabaho simula sa araw na ito. (Underscoring supplied)

*Lubos na gumagalang,
(Signed) Gerardo V. Dumlao, Jr.*

The NLRC ruled that the resignation was clear and unequivocal rationalizing thus: "The letter of resignation expressly declared that: '*Ako po ay taos pusong nagbibitiw sa aking trabaho simula sa araw na ito.*' This declaration was never qualified by any condition for its effectivity. The complainant merely expressed a statement of gratitude for his appointment as a sub-contractor." The NLRC also stated that the quitclaim confirmed his resignation.^[35]

We find that the ruling of the NLRC is manifestly mistaken. The conclusion of the NLRC that the resignation was not unqualified is clearly belied by the tenor of the resignation letter as well as subsequent events borne out by the records. A reading of the letter shows that petitioner resigned on the understanding that he would become a sub-contractor of Hari Garments and he expressed his gratitude for said opportunity. Petitioner resigned from his work in anticipation of the business opportunity promised to him by Hari Gaments which could give him more income. In fact, it appears that petitioner had expected that he would immediately become a sub-contractor upon his resignation because it was effective on the day that he signed the letter, which, it must be noted, was without regard to the 30-day notice

requirement. As correctly ruled by the Labor Arbiter, petitioner would not have resigned were it not for the promise made by Hari Garments. As it turned out, the promise was just a ruse because Hari Garments did not make petitioner a subcontractor and this compelled petitioner to file his complaint and seek reinstatement.

That Hari Garments had made the promise of sub-contractorship to petitioner is further buttressed by the fact that during the proceedings before hearing officer Edwin Hernandez on September 5, 2008, its representative, Lito Hao, offered a settlement whereby petitioner would get "continuous salary from September 6, 2008 until a panty line is provided to complainant [petitioner] expectedly at the end of October 2008" and a subsidy of P400.00 per day.^[36] This shows that Hari Garments was aware of the promise made to petitioner. Indeed, if there were no promises made to petitioner as a consideration for his resignation, Hari Garments should have insisted thereon.

That the Release and Quitclaim^[37] is notarized does not preclude petitioner from asserting that his resignation was involuntary. Notarization merely does away with the requirement of preliminary proof as to authenticity and due execution and raises the presumption of regularity but such presumption may be contradicted by clear and convincing evidence.^[38] On this point, the Court notes that the quitclaim does not state an amount received by petitioner as the consideration thereof. It merely states that petitioner had resigned from the company. To the mind of the Court, this bolsters petitioner's claim that Hari Garments had promised him an alternative source of income. The only reason that petitioner quit his job is the promise of Hari Garments. There is nothing in the evidence to show that he had personal reasons that "cannot be sacrificed in favor of the exigency of the service" that he had "no other choice but to dissociate himself from his employment." The Court also notes that the quitclaim was signed on February 1, 2008 but was notarized only on October 29, 2008. Clearly, the petitioner could not have affirmed the voluntariness of his quitclaim before the notary public on October 29, 2008 because he had filed his complaint alleging involuntary resignation on August 15, 2008 before the Cavite Provincial Office of DOLE and on October 17, 2008 before the Regional Office of the DOLE.

It must be stated that quitclaims, waivers and/or complete releases executed by employees do not stop them from pursuing their claim if there is a showing of undue pressure or duress. The basic reason for this is that such quitclaim, waiver and/or complete release, being figuratively exacted through the barrel of a gun, is against public policy and, therefore, null and void *ab initio*.^[39]

The Court shall now address the issue of whether petitioner should be reinstated and the benefits he is entitled to by virtue of his illegal dismissal.

Article 279 of the Labor Code mandates the reinstatement of an illegally dismissed employee, without loss of seniority rights and other privileges and to his full back wages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. Reinstatement and backwages are two separate and distinct reliefs available to an illegally dismissed employee. The normal consequences of a finding that an employee has been illegally dismissed are: *first*,