

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**MASTER SHIRT CO., INC. and LILY
ENG YAO,**

Petitioners,

-versus-

**G.R. No. 124957
December 29, 1998**

**NLRC and MASTER SHIRT
EMPLOYEES UNION-ANGLO AND ITS
MEMBERS,**

Respondents.

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DECISION

PARDO, J.:

The Petition at bench is a Special Civil Action for *Certiorari* with Prayer for Preliminary Injunction or Temporary Restraining Order filed by Master Shirt Co., Inc. and Lily Eng Yao, seeking to annul and set aside the Resolution of the National Labor Relations Commission^[1] which affirmed the award of separation pay and attorney's fees to employees of petitioners when the Master Shirt Co. Inc. failed to reopen after it was razed by fire.

The facts are as follows:

On July 17, 1993, the factory and offices of Master Shirt Co. Inc. in Panay Avenue, Quezon City, was totally razed by fire, for which reason, the company had to cease operations.

On August 19, 1993 petitioner Master Shirt Co. and respondent union held a conference before the National Conciliation Mediation Board (NCMB), National Capital Region, Manila. Petitioners and respondents reached an agreement as follows:

- “1. The company will endeavor to resume operations as soon as possible;
- “2. If after six (6) months, (there is) no operations can be had (sic), the workers should be paid the corresponding separation benefits;
- “3. In the meantime, the Union will furnish the management through Atty. Candoy an estimate of separation pay to be used as the basis for the (sic) determining the amount.

“Parties signed this Agreement this 19th day of August 1993, this Office.”^[2]

On March 7, 1994, after six months, the company failed to resume operations as a consequence of which the union demanded payment of separation pay for its workers. The petitioners countered that they can not pay separation benefits to the employees because petitioners had not recovered on their claim for damages from the insurance company. For failure of the parties to reach a settlement, the NCMB-NCR, Manila, endorsed the case to the NLRC Arbitration Branch, Manila.

On November 4, 1994, the union and its members filed with the Labor Arbiter, NCR Manila, a complaint for illegal dismissal, payment of separation pay and damages against petitioners.

On July 25, 1995, the acting chief of research and information unit submitted a computation of the respondent workers' separation pay at one-half (1/2) month for every year of service.^[3]

On July 28, 1995, Labor Arbiter Fatima Jambaro-Franco issued a Decision^[4] dismissing the complaint for illegal dismissal but ordering the payment of separation pay amounting to P1,881,988.70 and P94,099.43, as attorney's fees, there being an agreement reached by the parties that in case the company failed to reopen after six months they would grant separation pay to the employees. The claim for damages was dismissed in the absence of malice or bad faith.

On January 30, 1996, NLRC 5 affirmed the appealed decision in toto. In due time, petitioners filed a motion for reconsideration, but this was likewise denied by the NLRC in its Order^[6] dated March 28, 1996.

On August 26, 1997, Western Guaranty Corporation made an affidavit^[7] of undertaking guaranteeing the satisfaction of the decision of the NLRC in the event that the said judgment be affirmed in whole or in part or until the final disposition of the case, and assured that the bond is genuine.

On February 13, 1998, respondent union filed a motion for the issuance of writ of execution with the Department of Labor and Employment.

On August 3, 1998, the labor arbiter issued a writ of execution and a notice of garnishment against Western Guaranty Corporation as Surety Bond.

On August 24, 1998, petitioners filed a motion to recall writ of execution and to lift notice of garnishment.

On September 18, 1998, the labor arbiter granted the motion to recall the writ of execution but did not lift the notice of garnishment.

On October 6, 1998, petitioners filed a motion to lift the notice of garnishment served on Western Guaranty Corporation, as it is deemed voided in view of the recall of the writ of execution.

On October 20, 1998, the labor arbiter ordered Western Guaranty Corporation to release the sum of one million eight hundred eighty one thousand nine hundred eighty-eight pesos and seventy centavos

(P1,881,988.70) to NLRC cashier and/or Sheriff Rene Masilungan.^[8] On October 28, 1998, the labor arbiter denied petitioner's Motion for Reconsideration.^[9]

Hence, this petition.

The only issue to be resolved is whether respondent NLRC acted with grave abuse of discretion in affirming the decision of the labor arbiter awarding separation pay to members of the union after the employer failed to resume operations due to the fire that razed its factory and offices.

The petition is devoid of merit.

It is a well-entrenched rule in this jurisdiction that findings of facts of the NLRC are accorded respect and due consideration. In the instant case, we have no reason to deviate from this policy as petitioner failed to convince us that the findings of the labor arbiter as affirmed by the NLRC are without basis or are otherwise capricious or arbitrary. The parties had agreed on the payment of separation benefits to the union members if the company did not resume operations after six (6) months from the date of the agreement.

Separation pay is paid to an employee whose services are validly terminated as a result of retrenchment, suspension, closure of business or disease.^[10]

It does not necessarily follow that if there is no illegal dismissal, no award of separation pay may be made.^[11]

In the case before us, the basis for the award of separation pay is the agreement which was entered into by Master Shirt Co., Inc. and its union employees. The agreement is the law between the parties and must be enforced.

IN VIEW WHEREOF, the Court hereby **DISMISSES** the Petition for lack of merit. No costs.

SO ORDERED.

Romero, Kapunan and Purisima, *JJ.*, concur.

- [1] NLRC NCR CA No. 009503-95, dated January 30, 1996.
- [2] Rollo, page 21.
- [3] Rollo, pp. 41-44.
- [4] NLRC NCR Case No. 08-06059-94; Rollo, pp. 31-40.
- [5] *Id.*, pp. 19-28; Penned by Commissioner Vicente S.E. Veloso and concurred in by Commissioner Bartolome S. Carale and Alberto R. Quimpo.
- [6] Rollo, pp. 29-30.
- [7] Rollo, pp. 97-98.
- [8] *Id.*, pp. 169-170.
- [9] Rollo, pp. 174-175.
- [10] *Bontia vs. NLRC*, 255 SCRA 167 (1996) citing *A 'Prime Security Services, Inc. vs. NLRC, et al.*, 220 SCRA 142 (1993); *Development Bank of the Philippines vs. NLRC, et al.*, 218 SCRA 183 (1993).
- [11] *Anita Salavarria vs. NLRC*, G.R. No. 110396, September 25, 1998 citing *Cruz vs. Medina*, 177 SCRA 565 (1989).