

CHANROBLES PUBLISHING COMPANY

SUPREME COURT
FIRST DIVISION

ANTONINO PEDROSO and PELAGIA
PEDROSO,
Petitioners,

-versus-

G.R. No. 70361
January 30, 1986

HON. RICARDO CASTRO, HON.
FEDERICO BORROMEO, HON.
CECILIO SENO, MANHATTAN
MANUFACTURING AND MARKETING
CO. INC., and ANTONIO UY KIM,
Respondents.

x-----x

R E S O L U T I O N

MELENCIO-HERRERA, J.:

This is a Petition for *Certiorari* to set aside the Resolution of the National Labor Relations Commission upholding the legality of the dismissal of complainants-employees ANTONINO Pedroso and Nelio ASIAO but ordering the payment of their separation pay equivalent to one (1) month for every year of service, and further dismissing the complaint of PELAGIA Pedroso.

Petitioners ANTONINO and PELAGIA are husband and wife. They started working with the private respondent MANHATTAN Manufacturing and Marketing Co., Inc. in June, 1972 and May, 1973, respectively. ANTONINO was elected as President of the Manhattan Workers' Association (MWU), a union within MANHATTAN. PELAGIA became the Treasurer thereof.

In October, 1975, Nelio ASIAO was employed by MANHATTAN and likewise, became an officer of MWU.

On September 1, 1982, ANTONINO, PELAGIA, and ASIAO were arrested and detained by military authorities by virtue of a Presidential Commitment Order (PCO). They were charged with Conspiracy to Commit Rebellion under Article 136 of the Revised Penal Code before the then Court of First Instance of Quezon City and were detained at Camp Crame.

To avoid disruption of work and business operations, MANHATTAN hired substitute workers for the arrested employees.

On December 31, 1982, or approximately three (3) months after arrest, PELAGIA was released and immediately reported for work but was refused admission. MANHATTAN informed her that her work assignment was already being occupied by a substitute who was hired to avoid disruption of normal business operations and who became regular and cannot, therefore, be dismissed by MANHATTAN without incurring the risk of being sued for illegal transfer and/or dismissal. MANHATTAN's counsel advised the company to pay PELAGIA her separation pay.^[1]

On July 20, 1983, Consolacion ILAGAN, another MANHATTAN worker and an MWU officer, who was also detained and subsequently released, filed a Complaint for Illegal Dismissal against MANHATTAN with the Ministry of Labor and Employment (MOLE). In said Complaint, PELAGIA's name was included as ILAGAN's co-complainant but PELAGIA claims that such inclusion was without her consent. Said complaint does not bear PELAGIA's signature.^[2]

Eventually, ILAGAN's Complaint was dismissed with prejudice because she (ILAGAN) had signed a release and quitclaim and accepted separation pay from MANHATTAN.

ANTONINO was released by the military on September 1, 1983. ASIAO was released on January 1, 1984.

ANTONINO, PELAGIA and ASIAO then filed before the MOLE a Complaint for Illegal Dismissal and Unfair Labor Practice against MANHATTAN.

On August 2, 1984, the Labor Arbiter rendered a Decision with the following dispositive portion:

"WHEREFORE, consonant with the foregoing premises, judgment is hereby rendered declaring the dismissal of complainants Antonino Pedroso and Nelio Asiao as legal. However, in consonance with Art. 284 of the Labor Code, respondent is hereby ordered to pay said complainants a separation pay equivalent to one (1) month for every year of service."

Anent the complaint of Pelagia Pedroso, the same is hereby dismissed.

PELAGIA's complaint was dismissed on the ground of res judicata the Complaint she had supposedly filed jointly with Ilagan having been priorly dismissed.

ASIAO accepted his separation pay. ANTONINO and PELAGIA appealed to the NLRC.

The NLRC, on December 28, 1984, affirmed the Labor Arbiter's Decision in toto. Hence, this present recourse.

We hold that the Labor Arbiter and the NLRC committed grave abuse of discretion in declaring ANTONINO's dismissal by MANHATTAN as legal, and in dismissing PELAGIA's complaint.

On different dates, ANTONINO and PELAGIA were released from military custody showing that the charge against them had not been proven. Thus, the cause for their replacement and dismissal by MANHATTAN was proved to be nonexistent. In the case of Pepito vs. Secretary of Labor,^[3] a nonexistent or false cause for dismissal was made plain, to wit:

“A distinction, however, should be made between a dismissal without cause and a dismissal for a false or non-existent cause. In the former, it is the intention of the employer to dismiss his employee for no cause whatsoever, in which case the Termination Pay Law would apply. In the latter case, the employer does not intend to dismiss the employee but for a specific cause which turns out to be false or non-existent.”

Petitioners' separation from employment having been for a false or nonexistent cause is illegal. Their reinstatement to their former positions, therefore, would have been warranted.^[4] However, it is undisputed that MANHATTAN has already hired replacements. To reinstate petitioners now to their former position, therefore, would neither be fair nor just under the circumstances. MANHATTAN's remedy is to reinstate them to substantially equivalent positions pursuant to Section 4(a) of Rule I, Book VI of the Rules and Regulations Implementing the Labor Code hereunder quoted:

“Reinstatement to former position. —

(a) An employee who is separated from work without just cause shall be reinstated to his former position, unless such position no longer exists at the time of his reinstatement, in which case he shall be given a substantially equivalent position in the same establishment without loss of seniority rights.”

In so far as PELAGIA's case is concerned, it is erroneous to hold that it is barred by the prior judgment in the case brought by ILAGAN allegedly with her as co-complainant. PELAGIA herself vehemently denies her involvement in said prior case because she had never consented to the same. From the annexes to the instant petition, it is evident that PELAGIA never signed the Complaint.^[5] The Labor Arbiter herself admitted “it is true that the complaint was not signed

by complainant,”^[6] undoubtedly referring to PELAGIA. Besides, unlike ILAGAN, PELAGIA had not signed any Release or Quitclaim. The dismissal of the case below in her respect, therefore, by the NLRC and the Labor Arbiter was a reversible error.

On the matter of backwages, after ANTONINO and PELAGIA were released from detention and MANHATTAN refused, without legal basis, to re-admit them for work, their entitlement to backwages began.^[7] With respect to ANTONINO who was released by the military on September 1, 1983, we award him backwages from said date up to the date of his reinstatement but not to exceed three (33 years backwages.^[8] As to PELAGIA, she should be paid backwages from December 31, 1982, the date when she was released from military detention and reported for work but was refused readmission, up to the date of her reinstatement but not exceeding three years backwages.^[9] Said backwages should be based on their latest salary or compensation in MANHATTAN prior to their detention.^[10]

ACCORDINGLY, the Petition is hereby **GRANTED**. The questioned Resolution of the NLRC affirming the decision of the Labor Arbiter is REVERSED and SET ASIDE. Private respondent, Manhattan Manufacturing and Marketing Co., Inc. is directed to reinstate Antonino Pedroso and Pelagia Pedroso immediately to positions substantially equivalent to their former positions without loss of seniority rights, with backwages from September 1, 1983 and December 31, 1982, respectively, to the dates of actual reinstatement but not to exceed three years backwages. This Decision shall be immediately executory.

SO ORDERED.

**Teehankee, Plana, Gutierrez, Jr., De la Fuente and Patajo,
JJ., concur.**

[1] Annex “A” of Petition Rollo, p. 11.

[2] Annex “A-1” of Petition, ibid, p. 13.

[3] 96 SCRA 454 (1980).

- [4] Magtoto vs. NLRC & Wyeth-Suaco Laboratories, Inc., G.R. No. 63370, November 18, 1985.
 - [5] Annex "A-1", Petition.
 - [6] Decision of the Labor Arbiter, p. 3, Rollo, p. 16.
 - [7] Magtoto vs. NLRC, *supra*.
 - [8] Panay Railways, Inc. vs. National Labor Relations Commission, et al., G.R. No. 69416, July 11, 1985.
 - [9] *Ibid.*
 - [10] Magtoto vs. NLRC, *supra*, citing Capital Garment Corp. vs. Ople, 117 SCRA 473.
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