SUPREME COURT
FIRST DIVISION

LEONARDO D. SUARIO,
***Petitioner*,**

-versus-

G.R. No. L-50459
August 25, 1989

BANK OF THE PHILIPPINE ISLANDS, Davao Branch/or The Manager/Cashier and NATIONAL LABOR RELATIONS COMMISSION,
***Respondents*.**
x----------x

D E C I S I O N

GUTIERREZ, JR., *J.*:

The petitioner, with himself as his own counsel, filed this Petition for Review of the Decision of the National Labor Relations Commission (NLRC) which denied his claim for damages arising from an alleged illegal dismissal. In addition to the separation pay already awarded to

him, the petitioner asks for P9,995.00 actual damages, P300,000.00 moral damages, P200,000.00 exemplary damages, and attorney's fees to be determined by the Court.

On August 4, 1977, petitioner Leonardo D. Suario filed a complaint for separation pay, damages and attorney's fees against the Bank of the Philippine Islands, Davao Branch/or the Manager and Assistant Manager/Cashier alleging:

x x x

"2. That complainant has been a loyal employee of the respondent bank since March, 1969, first assigned as a saving clerk, then rose to become the head of the loan section in 1976 with an official designation as Credit Investigator-Appraiser-Credit Analyst;

3. That during the time of the complainant's employment with the respondent bank, he pursued his studies of law without criticism or adverse comments from the respondent bank but instead praises were showered and incentives and considerations were bestowed in view of the complainant's determination for intellectual advancement;

4. That sometime in March, 1976, the complainant verbally requested the then Asst. Vice-President and Branch Manager, Mr. Armando N. Guilatco, for a 6-month leave of absence without pay purposely to take the 1976 pre-bar review in Manila and that the said Mr. Guilatco informed the complainant that there would be no problem as regards the requested leave of absence;

5. That sometime in May, 1976, the complainant received a verbal notice from the new Branch Manager, Mr. Vicente Casino, that the respondent's Head Office approved only a 30-day leave of absence without pay but that Mr. Guilatco, then assigned in Head Office as Vice President, advised him (Casino) to inform the complainant to just avail of the 30-day leave of absence first and then proceed to Manila for the review since the request would be ultimately granted;

6. That complainant never suspected that his application would be disapproved, much less any bad faith on the part of the respondent bank to discriminate union member (sic), since it has been the policy of the respondent bank to grant request of this nature as shown in the case of four (4) former employees who were all granted leave of absence without pay. Copies of the affidavits of Judge Juan Montejo and Atty. Bienvenido Banez and xerox copies of the payroll of Jose Ledesma and Antonio Tan are hereto attached as ANNEXES 'A', 'B', 'C', and 'D' and made an integral part hereof;

7. That on May 10, 1976, the complainant wrote a formal letter to the President of the respondent bank, Mr. Alberto Villa Abrille, asking for a formal reconsideration and caused the same to be received by Mr. Vicente Casino but the latter advised instead the complainant to address to him (Casino) a letter of mild tenor since any reconsideration should be coursed through the proper channel; and that Mr. Casino advised the complainant to just file his 30-day leave of absence without pay as approved and then proceed to Manila since the request would ultimately be granted. A Xerox copy of the said letter is hereto attached as ANNEX 'E' to be made an integral part hereof;

8. That acting on the said advice of Vicente Casino, the complainant, with utmost good faith, wrote a letter addressed to Mr. Casino and at the same time, filed a 30-day leave of absence. Copies of the letter and Application for Leave of Absence are hereto attached as ANNEXES 'F' and 'G' to be made an integral part hereof;

9. That on May 17, 1976, the complainant proceeded to Manila for the pre-bar review and even went to the extent of going to the respondent's Head Office to seek an audience with the Personnel Manager with an alternative of working with any of the Metro-Manila Branches of the respondent bank if and when the request would not be granted and that the

Personnel Manager promised to take up the matter with Mr. Alberto Villa Abrille;

10. That during the first week of August, 1976, the complainant received a letter from the Asst. Manager/Cashier, Mr. Douglas E. Aurelio, ordering the complainant to report back for work since the complainant's request was allegedly disapproved and that failure to report back for work would be a conclusive proof that the complainant is no longer interested to continue working and therefore considered resigned.

11. That upon receipt of the letter, complainant's review was unduly interrupted since sleepless nights were spent in order to arrive at the proper decision and that the complainant has decided not to report back because of the considerable expenses already incurred in Manila after he has been led to believe that the request would ultimately be granted;

12. That during the last week of August, 1976, the complainant received another letter from Douglas E. Aurelio, attaching a xerox copy of the application for a Clearance to terminate on the ground of resignation/or abandonment."

13. That the complainant failed to file his opposition since as above averred to, he was already in Manila taking up the review and was then very busy since the bar examination was only two months shy;

14. That sometime during the first week of December, 1976, the complainant went to the respondent bank but was verbally informed that he was already dismissed;

15. That on December 13, 1976, the complainant formally wrote a letter to the respondent bank requesting for a written and formal advise as to his real status and that on December 14, 1976, the respondent bank replied that the matter was still referred to the Personnel Department at

Head Office leading again the complainant to believe that his case was not yet hopeless.

16. That on December 21, 1976, the complainant wrote another letter pressing for a categorical answer and on December 23, 1976, the lawyers of the respondent bank replied that as far as the bank is concerned the services of the complainant was considered terminated effective July 19, 1976 contrary to the respondent bank's manifestation that his case was still pending before the Personnel Department.

17. That the dismissal of the complainant was clearly illegal and without just cause, being discriminatory in character he being an active union member and in fact the Vice President of the ALU-BPI Chapter until his dismissal in view of the uneven application of the respondent's policy; (Rollo, pp. 15-19).

The case was set for conciliation but since the parties could not agree on any settlement, the case was certified to the Labor Arbiter. Thereafter, the Executive Labor Arbiter required the parties to submit their position papers.

Based on the position papers submitted, a decision was rendered on December 7, 1977. The dispositive portion reads as follows:

> "WHEREFORE, premises considered, respondent is hereby ordered to pay complainant's claim for separation pay in the amount of P11,813.36. His claim for moral, actual, and exemplary damages and attorney s fees are hereby dismissed for lack of merit." (Rollo, p. 46).

The decision of the Executive Labor Arbiter was affirmed on appeal to the National Labor Relations Commission on October 9, 1978. A motion for reconsideration was likewise denied. Hence, this petition.

The petitioner alleges that the public respondent committed the following:

I

"THAT THE NATIONAL LABOR RELATIONS COMMISSION IN ITS DECISION DATED OCTOBER 9, 1978 (ANNEX F OF THE PETITION) ERRED IN NOT GRANTING THE CLAIM OF DAMAGES PRAYED FOR BY PETITIONER DESPITE FINDINGS THAT THE DISMISSAL WAS CLEARLY ILLEGAL; and

II

"THAT THE NATIONAL LABOR RELATIONS COMMISSION ERRED IN DISMISSING PETITIONER'S MOTION FOR RECONSIDERATION BASED MAINLY ON PD NOS. 1367 AND 1391 IN ITS DECISION DATED FEBRUARY 9, 1979. (Rollo, p. 139).

The main issue in this case is whether or not the NLRC committed grave abuse of discretion in denying the petitioner's claim for actual, moral and exemplary damages plus attorney's fees in addition to his separation pay.

On the matter of NLRC jurisdiction over claims for damages, it clearly appears that the complaint was filed on August 4, 1977 and decided by the Labor Arbiter on December 7,1977; hence, the applicable law is Article 217 of the Labor Code which took effect on October 1, 1974, and which provides:

x x x

"ART. 217. Jurisdiction of Labor Arbiters and the Commission. — (a) The Labor Arbiters shall have exclusive jurisdiction to hear and decide the following cases involving all workers, whether agricultural or non-agricultural:

'(1) Unfair labor practice cases;

'(2) Unresolved issues in collective bargaining including those which involve wages, hours of work, and other terms and conditions of employment duly indorsed

by the Bureau in accordance with the provisions of this Code;

'(3) All money claims of workers involving non-payment or underpayment of wages, overtime or premium compensation, maternity or service incentive leave, separation pay and other money claims arising from employer-employee relation, except claims for employee's compensation, social security and medicare benefits and as otherwise provided in Article 128 of this Code;

(4) Cases involving household services; and

(5) All other cases arising from employer-employee relation unless expressly excluded by this Code.

"(b) The Commission shall have exclusive appellate jurisdiction over all cases decided by Labor Arbiters, compulsory arbitrators, and voluntary arbitrators in appropriate cases provided in Article 263 of this Code."

x x x

The contention of private respondent that the NLRC is not clothed with authority to entertain claims for moral and other forms of damages is based on PD 1367 which took effect on May 1, 1979 and which amended Article 217 by specifically providing that "Regional Directors shall not indorse and Labor Arbiters shall not entertain claims for moral or other forms of damages."

This limitation on jurisdiction did not last long. This Court in the case of Ebon vs. De Guzman, (113 SCRA 52 [1982]) explained:

"Evidently, the lawmaking authority had second thoughts about depriving the Labor Arbiters and the NLRC of the jurisdiction to award damages in labor cases because that set up would mean duplicity of suits, splitting the cause of action and possible conflicting findings and conclusions by two tribunals on one and the same claim.

> "So, on May 1, 1980, Presidential Decree No. 1691 (which substantially reenacted Article 217 in its original form) nullified Presidential Decree No. 1367 and restored to the Labor Arbiters and the NLRC their jurisdiction to award all kinds of damages in cases arising from employer-employee relations (Pepsi-Cola Bottling Company of the Philippines vs. Martinez, G.R. No. 58877)."

It is now well settled that money claims of workers provided by law over which the labor arbiter has original and exclusive jurisdiction are comprehensive enough to include claims for moral damages of a dismissed employee against his employer. (Vargas vs. Akai Phil. Inc., 156 SCRA 531 [1987]).

On the issue whether or not the petitioner is entitled to his claim for moral damages, we are constrained to decide in the negative. The case of Primero vs. Intermediate Appellate Court, (156 SCRA 430 [1987]) expounded on this matter, to wit:

x x x

> "The legislative intent appears clear to allow recovery in proceedings before Labor Arbiters of moral and other forms of damages, in all cases or matters arising from employer-employee relations. This would no doubt include, particularly, instances where an employee has been unlawfully dismissed. In such a case the Labor Arbiter has jurisdiction to award to the dismissed employee not only the reliefs specifically provided by labor laws, but also moral and the forms of damages governed by the Civil Code. Moral damages would be recoverable, for example, where the dismissal of the employee was not only effected without authorized cause and/or due process — for which relief is granted by the Labor Code — but was attended by bad faith or fraud, or constituted an act oppressive to labor, or was done in a manner contrary to morals, good customs or public policy — for which the obtainable relief is determined by 'the Civil Code (not the Labor Code). Stated otherwise, if the evidence adduced by the employee before the Labor Arbiter should establish that the employer did indeed terminate the

> employee's services without just cause or without according him due process, the Labor Arbiter's judgment shall be for the employer to reinstate the employee and pay him his back wages, or exceptionally, for the employee simply to receive separation pay. These are reliefs explicitly prescribed by the Labor Code. But any award of moral damages by the Labor Arbiter obviously cannot be based on the Labor Code but should be grounded on the Civil Code. Such an award cannot be justified solely upon the premise (otherwise sufficient for redress under the Labor Code) that the employer fired his employee without just cause or due process. Additional facts must be pleaded and proven to warrant the grant of moral damages under the Civil Code, these being, to repeat, that the act of dismissal was attended by bad faith or fraud, or was oppressive to labor, or done in a manner contrary to morals, good customs, or public policy; and, of course, that social humiliation, wounded feelings, grave anxiety, etc., resulted therefrom. (pp. 443-444, Emphasis supplied).

The case of Primero vs. IAC states the distinction between the two seemingly disparate causes of action, to wit:

> "It is clear that the question of the legality of the act of dismissal is intimately related to the issue of the legality of the manner by which that act of dismissal was performed. But while the Labor Code treats of the nature of, and the remedy available as regards the first — the employee's separation from employment — it does not at all deal with the second - the manner of that separation - which is governed exclusively by the Civil Code. In addressing the first issue, the Labor Arbiter applies the Labor Code; in addressing the second, the Civil Code. And this appears to be the plain and patent intendment of the law. For apart from the reliefs expressly set out in the Labor Code flowing from illegal dismissal from employment, no other damages may be awarded to an illegally dismissed employee other than those specified by the Civil Code. Hence, the fact that the issue of whether or not moral or other damages were suffered by an employee and in the affirmative, the amount that should properly be awarded to him in the circumstances — is determined under the provisions of the Civil Code and not the Labor Code." (p. 445).

In the case of Guita vs. Court of Appeals (139 SCRA 576 [1985]), we stated that:

> "Moral damages may be awarded to compensate one for diverse injuries such as mental anguish, besmirched reputation, wounded feelings and social humiliation. It is however not enough that such injuries have arisen; it is essential that they have sprung from a wrongful act or omission of the defendant which was the proximate cause thereof.
>
> > 'Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission.' (Civil Code, Article 2217).
> >
> > 'In a long line of cases, we have consistently ruled that in the absence of a wrongful act or omission or of fraud or bad faith, moral damages cannot be awarded.' (R & B Surety and Insurance Co., Inc. vs. IAC, 129 SCRA 736, 743.)" (p. 580).

We do not find any bad faith or fraud on the part of the bank officials who denied the petitioner's request for a six months' leave of absence without pay. If the petitioner was made to believe that his request would be granted, we can not fault the branch manager or his subsequent replacement for giving their assurances. They were merely personal assurances which could be reconsidered on the basis of later developments or upon consultation with higher authorities and which are not binding. Certainly, the bank officials who gave their verbal assurances had only the petitioner's paramount welfare in their minds. There is no evidence to show that they meant to deceive the petitioner. They themselves thought that such a request would be granted. Unfortunately, company policy had to be followed. The fact that the petitioner's request for six months' leave of absence was denied does not ipso facto entitle him to damages.

As held in the case of Rubio vs. Court of Appeals (141 SCRA 488 [1986]):

x x x

> "In a long line of cases, we have consistently ruled that in the absence of a wrongful act or omission or of fraud or bad faith, moral damages cannot be awarded and that the adverse result of an action does not per se make the action wrongful and subject the actor to have payment of damages, for the law could not have meant to impose a penalty on the right to litigate. x x x." (p. 516).

It is incumbent upon the petitioner to prove that there was malice or bad faith on the part of the private respondents in terminating him. On the contrary, the records of this petition show that the private respondent acted in accordance with law before effecting the dismissal. The records also show that there was a prior application with the Ministry of Labor to terminate the petitioner's employment. A copy of said application was furnished to the petitioner. The petitioner, however, did not oppose such application nor did he do anything to preserve his right.

More pertinent is the fact that the petitioner knew as early as May 6, 1976 that he was granted only a one month study leave (Rollo, p. 98). He may have asked for a reconsideration but notwithstanding its denial, the petitioner proceeded with his review. Whether or not his request for six months' leave without pay would be granted, the petitioner was set on continuing with his review.

Neither can we consider the private respondents' response to the petitioner's query regarding his status as having given him false hopes. The referral to the personnel department was merely a part of the formal procedure undertaken by the bank. Such referral does not show that the bank acted in a wanton or willful manner.

In the light of the foregoing, we sustain the Labor Arbiter's finding that the petitioner's claim for damages must be dismissed for lack of sufficient basis.

WHEREFORE, the Petition is hereby **DISMISSED** for lack of merit.

SO ORDERED.

Feliciano, Bidin and Cortes, *JJ.*, concur.
Fernan, *C.J.*, took no part.
