Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

RAFAEL B. QUILLOPA,
Petitioner,

- versus -

QUALITY GUARDS SERVICES AND INVESTIGATION AGENCY and ISMAEL BASABICA, JR.,
Respondents.

G.R. No. 213814

Present:

SERENO, *C.J.*, Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, *JJ.*

Promulgated:
DEC 02 2015

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DECISION

PERLAS-BERNABE, *J.*:

Assailed in this petition for review on *certiorari*[1] are the Decision[2] dated February 19, 2014 and the Resolution[3] dated July 25, 2014 of the Court of Appeals (CA) in CA-G.R. SP No. 127275, which reversed and set aside the Decision[4] dated May 31, 2012 and the Resolution[5] dated August 14, 2012 of the National Labor Relations Commission (NLRC) in NLRC LAC No. 02-000760-12 / NLRC RAB-CAR Case No. 09-0346-11, and accordingly, dismissed the complaint for illegal dismissal filed by petitioner Rafael B. Quillopa (petitioner) against respondents Quality Guards Services and Investigation Agency (QGSIA) and Ismael Basabica, Jr. (Ismael; collectively, respondents).

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1 *Rollo*, pp. 11-26.
2 Id. at 32-39. Penned by Associate Justice Danton Q. Bueser with Associate Justices Rebecca De Guia-Salvador and Ramon R. Garcia concurring.
3 Id. at 41-45.
4 Id. at 66-72. Penned by Commissioner Isabel G. Panganiban-Ortiguerra with Presiding Commissioner Joseph Gerard E. Mabilog and Commissioner Nieves E. Vivar-Castro concurring.
5 Id. at 86-87.

The Facts

On March 14, 2003, QGSIA hired petitioner as a security guard and gave him various assignments, the last of which was at the West Burnham Place Condominium in Baguio City. On September 28, 2010, the deputy manager of QGSIA, Rhegan Basabica, visited petitioner at his post and told the latter that he would be placed on a floating status, but was assured that he would be given a new assignment. At the same time, petitioner was ordered to report to the QGSIA Office the next day for further instructions. Despite such assurance and his repeated trips for follow up to the QGSIA Office, petitioner was not given any new assignment as there was allegedly no vacancy yet.[6] Hence, he remained on floating status.

On November 11, 2010, petitioner filed a complaint[7] for money claims such as wages, overtime pay, premium pay for holidays and rest days, night shift differentials, 13th month pay, and service incentive leave pay against respondents before the NLRC, docketed as NLRC RAB-CAR Case No. 11-0542-10 (First Complaint).[8] However, the parties were able to amicably settle the controversy, as evidenced by a Waiver/Quitclaim and Release[9] dated February 3, 2011, which provides, among others, that petitioner is withdrawing his complaint against respondents and that he received a total of ₱10,000.00 from respondents "for and [in] consideration of the settlement of all [petitioner's] claims which might have arisen as consequence of [petitioner's] employment."[10] On even date, the Labor Arbiter (LA) issued an Order[11] approving and granting the amicable settlement and ordering the dismissal of the First Complaint with prejudice.[12]

However, on September 14, 2011, petitioner filed another complaint,[13] this time, for illegal dismissal with prayer for payment of full backwages, separation pay, and attorney's fees, against respondents before the NLRC, docketed as NLRC RAB-CAR Case No. 09-0346-11 (Second Complaint).[14] In his Position Paper,[15] petitioner alleged that after the settlement of the First Complaint, he waited for a new posting or assignment, but to no avail. In this relation, petitioner contended that respondents' continued failure to reinstate him to his previous assignment or to give him a new one should be construed as a termination of his employment, considering that he had been on floating status for almost one (1) year.[16]

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6 See id. at 33.
7 Id. at 96.
8 Id. at 33.
9 Id. at 97.
10 Id.
11 Id. at 98. Penned by Executive Labor Arbiter Vito C. Bose.
12 See id. at 33-34.
13 Id. at 88.
14 Id. at 34 and 103.
15 Dated October 20, 2011. Id. at 99-104.
16 See id. at 100 and 111.

In their defense,[17] respondents essentially countered that the Waiver/Quitclaim and Release already terminated the employer-employee relationship between them and petitioner, and thus, the latter had no more ground to file the Second Complaint.[18]

The LA Ruling

In a Decision[19] dated January 30, 2012, the LA ruled in petitioner's favor, and accordingly, ordered respondents to pay the aggregate sum of ₱205,436.00 broken down as follows: (*a*) ₱63,648.00 as separation pay; (*b*) ₱123,112.00 as backwages; and (*c*) ₱18,676.00 as attorney's fees.[20]

The LA found that the settlement of the First Complaint through the execution of a Waiver/Quitclaim and Release dated February 3, 2011 cannot bar petitioner from filing the Second Complaint against respondents, since such settlement referred only to petitioner's money claims reflected in the First Complaint, and does not cover the complaint for illegal dismissal which is the crux of the Second Complaint.[21] In this relation, the LA added that the issues in the Second Complaint cannot be subsumed under the First Complaint given that the facts which gave rise to the former only occurred after the settlement of the latter. Further, the LA ruled that while security guards, such as petitioner, may be placed in an "off-detail" or "floating status," such status should not exceed a period of six (6) months; otherwise, he is deemed to be constructively dismissed without just cause and without due process.[22]

Dissatisfied, respondents appealed[23] to the NLRC, docketed as NLRC LAC No. 02-000760-12.

The NLRC Ruling

In a Decision[24] dated May 31, 2012, the NLRC affirmed the LA ruling. It held that since illegal dismissal was not included as a cause of action in the First Complaint, the execution of the Waiver/Quitclaim and Release did not preclude petitioner from filing the Second Complaint for illegal dismissal.[25] It further held that petitioner was indeed constructively

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17 See Respondents' Position Paper dated October 14, 2011; id. at 89-95.
18 Id. at 34-35. See also id. at 111-112.
19 Id. at 110-115. Penned by Labor Arbiter Monroe C. Tabingan.
20 Id. at 115.
21 Id. at 114.
22 See id. at 113-115.
23 See Notice of Appeal with Incorporated Memorandum of Appeal dated February 13, 2012; id. at 116-129.
24 Id. at 66-72.
25 Id. at 69.

dismissed from service given that he was placed on floating status beyond the allowable period under the law.[26]

Respondents moved for reconsideration[27] which was, however, denied in a Resolution[28] dated August 14, 2012. Undaunted, they filed a petition for *certiorari*[29] before the CA.

The CA Ruling

In a Decision[30] dated February 19, 2014, the CA reversed and set aside the NLRC ruling, and accordingly, dismissed the Second Complaint.[31] Contrary to the findings of the LA and the NLRC, the CA held that the Waiver/Quitclaim and Release operated to sever the employer-employee relationship between respondents and petitioner. As such, petitioner had no more cause of action against respondents when he filed the Second Complaint more than seven (7) months later, or on September 14, 2011.[32]

Aggrieved, petitioner moved for reconsideration,[33] but was denied in a Resolution[34] dated July 25, 2014; hence, this petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly ruled that the Waiver/Quitclaim and Release precluded petitioner from filing the Second Complaint for illegal dismissal against respondents.

The Court's Ruling

The petition is meritorious.

"To justify the grant of the extraordinary remedy of *certiorari*, petitioners must satisfactorily show that the court or quasi-judicial authority gravely abused the discretion conferred upon it. Grave abuse of discretion connotes judgment exercised in a capricious and whimsical manner that is tantamount to lack of jurisdiction. To be considered 'grave,' discretion must be exercised in a despotic manner by reason of passion or personal hostility, and must be so patent and gross as to amount to an evasion of positive duty

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26 Id. at 69-70.
27 See motion for reconsideration dated June 29, 2012; id. at 73-84.
28 Id. at 86-87.
29 Dated October 24, 2012; id. at 46-64.
30 Id. at 32-39.
31 Id. at 38.
32 Id. at 36-38.
33 See motion for reconsideration dated March 25, 2014; id. at 169-176.
34 Id. at 41-45.

or a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law."[35]

"In labor disputes, grave abuse of discretion may be ascribed to the NLRC when, *inter alia,* its findings and the conclusions reached thereby are not supported by substantial evidence. This requirement of substantial evidence is clearly expressed in Section 5, Rule 133 of the Rules of Court which provides that '[i]n cases filed before administrative or quasi-judicial bodies, a fact may be deemed established if it is supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.'"[36]

Guided by the foregoing considerations, the Court finds that the CA erred in ascribing grave abuse of discretion on the part of the NLRC when it ruled that petitioner was constructively dismissed by respondents, considering that the same is supported by substantial evidence and in accord with prevailing law and jurisprudence, as will be explained hereunder.

A judicious review of the records reveals the following timeline: (*a*) on September 28, 2010, petitioner was placed on floating status by respondents; (*b*) on November 11, 2010, petitioner filed the First Complaint for money claims such as wages, overtime pay, premium pay for holidays and rest days, night shift differentials, 13th month pay, and service incentive leave pay, against respondents; (*c*) on February 3, 2011, petitioner executed a Waiver/Quitclaim and Release in settlement of the First Complaint; and (*d*) on September 14, 2011, or more than 11 months from the time petitioner was placed on floating status, he filed the Second Complaint, this time for illegal dismissal, against respondents. Pertinent portions of the Waiver/Quitclaim and Release read:

> a) I withdraw my complaint against above-named respondent/s;
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> b) I received the amount of cash - ₱5,000.00 and Industry Bank Check No. 1074928 dtd. 2/15/ (*sic*) - ₱5,000.00 in the total amount of Ten Thousand Pesos (₱10,000.00) for and [in] consideration of the settlement of all my claims, which might have arisen as consequence of my employment;
>
> c) I am aware of the effects and consequences of this instrument;
>
> d) I was not forced, threatened, intimidated, coerced nor was I subjected to undue influence or violence to agree to an amicable settlement of this case;
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> e) I am freely and voluntarily signing this document.[37]

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35 *Omni Hauling Services, Inc. v. Bon*, G.R. No. 199388, September 3, 2014, 734 SCRA 270, 277, citing *Ramos v. BPI Family Savings Bank, Inc.*, G.R. No. 203186, December 4, 2013, 711 SCRA 598, 596-597.

36 Id. at 277-278.

37 See *rollo*, p. 97.

It cannot be pretended that the foregoing Waiver/Quitclaim and Release only pertained to the First Complaint, which had for its causes of action the following: (*a*) underpayment of wages; (*b*) non-payment of overtime pay, holiday pay, rest day pay, night shift differentials, 13th month pay, and service incentive leave pay; and (*c*) refund of cash bond.[38] Hence, the *res judicata* effect[39] of this settlement agreement should only pertain to the aforementioned causes of action and not to any other unrelated cause/s of action accruing in petitioner's favor after the execution of such settlement, *i.e.*, illegal dismissal. Further, the Waiver/Quitclaim and Release cannot be construed to sever the employer-employee relationship between respondents and petitioner, as the CA would put it, simply because there is nothing therein that would operate as such. Perforce, the CA erred in dismissing the Second Complaint on the ground that there is no more employer-employee relationship between respondents and petitioner upon the filing of the same.

On the issue of constructive dismissal, the LA and the NLRC correctly ruled in favor of the petitioner.

Case law provides that the concept of temporary "off-detail" or "floating status" of security guards employed by private security agencies – a form of a temporary retrenchment or lay-off – relates to the period of time when security guards are in between assignments or when they are made to wait after being relieved from a previous post until they are transferred to a new one. This takes place when the security agency's clients decide not to renew their contracts with the agency, resulting in a situation where the available posts under its existing contracts are less than the number of guards in its roster. It also happens in instances where contracts for security services stipulate that the client may request the agency for the replacement of the guards assigned to it, even for want of cause, such that the replaced security guard may be placed on temporary "off-detail" if there are no available posts under the agency's existing contracts. As the circumstance is generally outside the control of the security agency or employer, the Court has ruled that when a security guard is placed on a "floating status," he or she does not receive any salary or financial benefit provided by law. [40]

To clarify, placing a security guard in temporary "off-detail" or "floating status" is part of management prerogative of the employer-security agency and does not, *per se*, constitute a severance of the employer-employee relationship. However, being an exercise of management prerogative, it must be exercised in good faith – that is, one which is intended for the advancement of the employer's interest and not for the purpose of defeating or circumventing the rights of the employees under

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38 Id. at 113.

39 A compromise agreement, once entered into, has the effect and the authority of *res judicata* upon the parties. (See *Magbanua v. Uy*, 497 Phil. 511, 518-519 [2005].)

40 See *Exocet Security and Allied Services Corporation v. Serrano*, G.R. No. 198538, September 29, 2014, 737 SCRA 40, 50; citations omitted.

special laws or under valid agreements.[41] Moreover, due to the grim economic consequences to the security guard in which he does not receive any salary while in temporary "off-detail" or "floating status," the employer-security agency should bear the burden of proving that there are no posts available to which the security guard temporarily out of work can be assigned.[42] Furthermore, the security guard must not remain in such status for a period of more than six (6) months; otherwise, he is deemed terminated. The Court's ruling in *Nationwide Security and Allied Services, Inc. v. Valderama*[43] is instructive on this matter, to wit:

> In cases involving security guards, a relief and transfer order in itself does not sever employment relationship between a security guard and his agency. An employee has the right to security of tenure, but this does not give him a vested right to his position as would deprive the company of its prerogative to change his assignment or transfer him where his service, as security guard, will be most beneficial to the client. **Temporary off-detail or the period of time security guards are made to wait until they are transferred or assigned to a new post or client does not constitute constructive dismissal, so long as such status does not continue beyond six months.**
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> **The *onus* of proving that there is no post available to which the security guard can be assigned rests on the employer** x x x.[44] (Emphases and underscoring supplied)

In the case at bar, it is undisputed that from September 28, 2010 until he filed the Second Complaint on September 14, 2011, or a total of more than 11 months, petitioner was placed on a temporary "off-detail" or "floating status" without any salary or benefits whatsoever. In fact, despite repeated follow-ups at the QGSIA Office, he failed to get a new post or assignment from respondents purportedly for lack of vacancy. However, records are bereft of any indication or proof that there was indeed no posts available to which petitioner may be assigned. Therefore, in view of their unjustified failure to place petitioner back in active duty within the allowable six (6)-month period and to discharge the burden placed upon it by prevailing jurisprudence, the Court is constrained to hold respondents liable for petitioner's constructive dismissal.

WHEREFORE, the petition is **GRANTED**. The Decision dated February 19, 2014 and the Resolution dated July 25, 2014 of the Court of Appeals in CA-G.R. SP No. 127275 are hereby **REVERSED** and **SET ASIDE**. Accordingly, the Decision dated May 31, 2012 and the Resolution dated August 14, 2012 of the National Labor Relations Commission in NLRC LAC No. 02-000760-12/ NLRC RAB-CAR Case No. 09-0346-11 are **REINSTATED**.

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41 See *Lopez v. Irvine Construction Corp.*, G.R. No. 207253, August 20, 2014, 733 SCRA 589, 602.
42 See *Pido v. NLRC*, 545 Phil. 507, 516 (2007).
43 659 Phil. 362 (2011).
44 Id. at 369-370.

SO ORDERED.

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice