Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

RAMIL R. VALENZUELA, Petitioner, - versus - **ALEXANDRA MINING AND OIL VENTURES, INC. and CESAR E. DETERA,** Respondents.	**G.R. No. 222419** Present: VELASCO, JR., *J.*, *Chairperson*, PERALTA, PEREZ, REYES, and JARDELEZA, *JJ.* Promulgated: October 5, 2016

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DECISION

REYES, *J.*:

This is a Petition for Review on *Certiorari*[1] filed under Rule 45 of the Rules of Court, assailing the Decision[2] dated June 5, 2015 and Resolution[3] dated January 13, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 136037.

Factual Antecedents

The instant case stemmed from a complaint for illegal dismissal, non-payment of backwages, overtime pay, separation pay, moral and exemplary damages and attorney's fees filed by Ramil R. Valenzuela (Valenzuela) against Alexandra Mining and Oil Ventures, Inc. (AMOVI) and

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1 *Rollo*, pp. 13-27.

2 Penned by Associate Justice Agnes Reyes-Carpio, with Associate Justices Rosmari D. Carandang and Pedro B. Corales concurring; id. at 32-38.

3 Id. at 40-41.

its owner and president, Cesar E. Detera (Cesar) (collectively, the respondents).

In his Position Paper,[4] Valenzuela alleged that he was hired as a company driver of AMOVI on January 12, 2008, with an eight-hour work shift from 8:00 a.m. to 5:00 p.m. and with a monthly salary of ₱12,000.00. On June 15, 2013, after five years and five months of service, he was told that he can no longer continue to work as there were no forthcoming funds to pay for his salary.[5]

For their part, the respondents alleged that Valenzuela was actually hired as a family driver of the Deteras. They alleged, however, that the ₱12,000.00 monthly salary of Valenzuela was charged to AMOVI's account for convenience. They averred that on June 15, 2013, Valenzuela informed Cesar's wife, Annlynn, that he was going home to his province to visit his parents. Annlynn granted him leave but when she asked him whether he can return for work the following Monday, Valenzuela told her that he would give her a call. Come Monday, Valenzuela did not show up for work and did not also call to inform the Deteras of the reason behind his absence. This caused them inconvenience as their daughter's schooling has started and it was Valenzuela's responsibility to bring her to and from school.[6]

A week later, Valenzuela showed up at the Deteras' residence and informed them that he was resigning and asked for his separation pay. To obviate further verbal altercation, Annlynn agreed but asked him to submit a resignation letter. Ultimately, Annlynn told him to make up his mind but Valenzuela just walked out and never returned.[7]

In his Reply,[8] Valenzuela emphasized that he did not just suffer to work for the company but also drove for the members of the Detera family. He denied that he ever asked permission to visit his parents in Bicol, as the Deteras knew that his parents had long been dead. Moreover, the remains of his deceased parents were buried in Pateros. He alleged that he actually reported for work on June 17, 2013, but was prevented by Cesar who told him that his service is no longer needed as there were no funds forthcoming to pay for his salary.

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4 Id. at 76-87.
5 Id. at 77-78.
6 Id. at 72.
7 Id.
8 Id. at 109-119.

Ruling of the Labor Arbiter

On November 16, 2013, the Labor Arbiter (LA) rendered a Decision[9] holding that Valenzuela had been illegally dismissed, the dispositive portion of which reads, as follows:

> **WHEREFORE**, premises considered, judgment is hereby rendered finding [Valenzuela] to have been illegally dismissed. [The respondents] are hereby found jointly and severally liable and ordered to pay [Valenzuela] the amount of One Hundred Thirty[-]Two Thousand Pesos (P132,000.00) representing his full backwages and separation pay plus ten percent (10%) thereof as attorney's fees.
>
> **SO ORDERED.**[10]

The LA dismissed Cesar's claim that Valenzuela was a family driver and not an employee of AMOVI, as the evidence on record proved otherwise.[11] She likewise pointed out that the respondents failed to present any evidence to support their claim that Valenzuela abandoned his employment.[12]

Unyielding, the respondents interposed an appeal to the National Labor Relations Commission (NLRC),[13] and reiterated their claim that Valenzuela was the family driver of the Deteras and not an employee of AMOVI. They added that Valenzuela, being a member of the household service, may be terminated at will by his employer pursuant to Article 150 of the Labor Code.[14]

Ruling of the NLRC

On March 27, 2014, the NLRC Fourth Division (Formerly 7th Division) rendered a Decision[15] affirming the ruling of the LA, the pertinent portion of which reads, thus:

> Finally, resolving respondents' insistence that [Valenzuela] was hired as a Family Driver and not as Company Driver, we find the same untenable. The records of this case show that respondents failed to present evidence to dispute [Valenzuela's] allegations. Such allegation is unsupported. On the other hand, the appellant [sic] was able to present in [sic] identification card and payslips.

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9 Rendered by LA Clarissa G. Beltran-Lerios; id. at 125-132.
10 Id. at 132.
11 Id. at 131.
12 Id. at 129.
13 Id. at 133-142.
14 Id. at 136.
15 Id. at 55-62.

> There being no showing of any error committed by the [LA] in the assailed Decision, we opt not to disturb the same.
>
> **WHEREFORE**, the Appeal filed by respondents is hereby DISMISSED. Assailed decision is AFFIRMED.
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> **SO ORDERED**.[16]

The respondents filed a Motion for Reconsideration[17] of the foregoing decision, but the NLRC denied the same in its Resolution[18] dated April 25, 2014.

Undeterred, the respondents filed a petition for *certiorari* with the CA imputing grave abuse of discretion on the part of the NLRC for holding that there was an employer-employee relationship between AMOVI and Valenzuela.

Ruling of the CA

On June 5, 2015, the CA rendered a Decision,[19] the dispositive portion of which reads, as follows:

> **WHEREFORE**, the Petition is **PARTLY GRANTED**. The Decision dated March 27, 2014 and Resolution dated April 25, 2014 of the National Labor Relations Commission are **AFFIRMED with MODIFICATION** in that the award of backwages is **DELETED**.
>
> **SO ORDERED**.[20]

The CA held that since there was no clear evidence that Valenzuela was dismissed by the respondents and, on the other hand, there was an equal lack of proof of abandonment of work on the part of Valenzuela. Following the ruling of the Court in *Exodus International Construction Corporation, et al. v. Biscocho, et al.*,[21] the remedy was to reinstate Valenzuela without backwages.[22]

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16 Id. at 60-61.
17 Id. at 66-70.
18 Id. at 64-65.
19 Id. at 32-38.
20 Id. at 37.
21 659 Phil. 142 (2011).
22 *Rollo*, pp. 35-36.

On July 21, 2015, Valenzuela filed a Motion for Partial Reconsideration,[23] but the same was denied by the CA in its Resolution[24] dated January 13, 2016.

On March 10, 2016, Valenzuela filed the instant petition questioning the Decision dated June 5, 2015 and Resolution dated January 13, 2016 of the CA. He contends that the fact of his dismissal was clearly established and this entitles him to the payment of both separation pay and full backwages.

Ruling of the Court

The Court holds that the instant case presents a clear case of illegal dismissal contrary to the ruling of the CA that there was none.

The ruling in *Exodus* is not applicable in the instant case

In its decision, the CA ruled that while it was established that Valenzuela was an employee of AMOVI, there was no proof that the company or its president dismissed him from service. It likewise affirmed that Valenzuela did not abandon his employment as the respondents failed to establish acts showing his intention to leave employment. Thus, it applied the ruling in *Exodus*, where it was held that when there is no evidence of the fact of dismissal on the part of the employer and, at the same time, no proof of abandonment on the part of the employee, the proper relief is reinstatement without backwages.[25]

A cursory reading of *Exodus*, however, will show that it is inapplicable in the instant case. It is well to remember that in *Exodus*, the resolution to reinstate the workers without any backwages was brought about by the finding that there was neither illegal dismissal nor abandonment of work. Thus, to be fair with both parties, the Court ordered the reinstatement of the workers without unduly burdening the employer with the payment of backwages since the fact of dismissal, much less illegal, was not established.

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23 Id. at 197-204.
24 Id. at 40-41.
25 Id. at 35-36.

The instant case does not share the same factual milieu with *Exodus*. It is noteworthy to emphasize that in all the pleadings submitted by Cesar before the LA, NLRC and CA, he vigorously refuted the existence of an employer-employee relationship between AMOVI and Valenzuela, and at the same time, presented himself as the real employer of the latter. His argument was that Valenzuela was not a company driver but a family driver of the Deteras.

The question regarding who may be deemed the real employer of Valenzuela had been unanimously resolved and agreed by the LA, NLRC and the CA to be AMOVI. The labor tribunals and the CA were all in accord that Valenzuela was an employee of AMOVI as evidenced by the identification card and payslips stating the company as his employer. Moreover, the CA held that, utilizing the four-fold test of employer-employee relationship, the result would show that Valenzuela was under the control of AMOVI. It ruled thus:

> In determining the existence of an employer-employee relationship, jurisprudence spelled out the four-fold test, to wit: (1) the selection and engagement of the employee; (2) the payment of wages; (3) the power of dismissal; and (4) the employer's power to control the employee with respect to the means and methods by which the work is to be accomplished. x x x.
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> It was [AMOVI] which hired [Valenzuela] in January 2008, and which issued an identification card showing that [Valenzuela] was an employee. [Valenzuela] was likewise included in the payroll of [AMOVI], although it was claimed that it was merely "for convenience." We do not see what kind of convenience is afforded to [AMOVI].
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> The power to discipline and to dismiss is also present, and it was exercised by [Cesar] as President of [AMOVI] which incidentally is a family corporation.
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> Finally, the control test is likewise satisfied. [Valenzuela] had no choice as to who his passengers would be. He was a company driver who was required to render service to the President of the Corporation, including his nuclear family. It was them who controlled and dictated the manner by which he performed his job.[26] (Citation omitted)

The CA, however, erred in holding that there was no evidence of dismissal as it is clear from Cesar's own admission that Valenzuela was unceremoniously dismissed from service. In all his pleadings, while claiming to be the real employer of Valenzuela, Cesar impliedly admitted dismissing him from employment by repeatedly invoking Article 150 of the Labor Code to justify his action. The provision reads as follows:

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[26] Id. at 34-35.

> **Art. 150.** *Service of termination notice.* If the duration of the household service is not determined either in stipulation or by nature of the service, the employer or the househelper may give notice to put an end to the relationship five (5) days before the intended termination of the service.

On the basis of the foregoing provision, Cesar asseverated that as a family driver, Valenzuela's service may be terminated at will by his employer.[27] Thus, there is implied admission that he indeed terminated Valenzuela out of his own volition, without sufficient ground and notice. Unfortunately for Cesar, the labor tribunals and the CA all agreed that Valenzuela was a company employee and his admission on the fact of the latter's dismissal only established that it was done without regard to substantive and procedural due process.

The Court elucidated on the requisites of a valid dismissal in *Skippers United Pacific, Inc., et al. v. Doza, et al.*,[28] thus:

> For a worker's dismissal to be considered valid, it must comply with both procedural and substantive due process. The legality of the manner of dismissal constitutes procedural due process, while the legality of the act of dismissal constitutes substantive due process.
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> Procedural due process in dismissal cases consists of the twin requirements of notice and hearing. The employer must furnish the employee with two written notices before the termination of employment can be effected: (1) the first notice apprises the employee of the particular acts or omissions for which his dismissal is sought; and (2) the second notice informs the employee of the employer's decision to dismiss him. Before the issuance of the second notice, the requirement of a hearing must be complied with by giving the worker an opportunity to be heard. It is not necessary that an actual hearing be conducted.
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> Substantive due process, on the other hand, requires that dismissal by the employer be made under a just or authorized cause under Articles 282 to 284 of the Labor Code.[29] (Citations omitted)

Evidently, the respondents raised no valid ground to justify Valenzuela's dismissal. As admitted by Cesar, Valenzuela was terminated at will. This was corroborated by Valenzuela's claim that when he returned for work on June 17, 2013, he was simply told that he can no longer continue to work as there were no funds forthcoming to pay off his salary.

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27 Id. at 46, 73, 136.
28 681 Phil. 427 (2012).
29 Id. at 439-440.

Further, the twin requirement of notice and hearing for a valid termination was not observed by the respondents. Valenzuela was not at all informed of the ground of his dismissal and was deprived the opportunity to explain his side. He was rashly dismissed from service without a valid ground and the required notices.

Valenzuela is entitled to separation pay with full backwages.

Article 279[30] of the Labor Code, as amended, provides that an illegally dismissed employee shall be entitled to reinstatement, full backwages, 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.

In *Macasero v. Southern Industrial Gases Philippines and/or Lindsay*,[31] the Court deliberated on the reliefs available to an illegally dismissed employee. It held:

> [A]n illegally dismissed employee is entitled to two reliefs: *backwages and reinstatement*. The two reliefs provided are separate and distinct. In instances where reinstatement is no longer feasible because of strained relations between the employee and the employer, *separation pay* is granted. In effect, an illegally dismissed employee is entitled to either reinstatement, if viable, or separation pay if reinstatement is no longer viable, and backwages.
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> x x x x
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> And in *Velasco v. National Labor Relations Commission*:
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> The accepted doctrine is that separation pay may avail in lieu of reinstatement if reinstatement is no longer practical or in the best interest of the parties. Separation pay in lieu of reinstatement may likewise be awarded if the employee decides not to be reinstated.[32] (Citations omitted, italics ours, and emphasis and underscoring deleted)

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30 Art. 279. *Security of Tenure.* - In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, 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.

31 597 Phil. 494 (2009).

32 Id. at 501.

Consistent with the finding that Valenzuela had been illegally dismissed, he is, therefore, entitled to reinstatement and full backwages. In view, however, of the strained relations between the parties, the award of separation pay in lieu of reinstatement is a more feasible alternative.

In *CRC Agricultural Trading, et al. v. NLRC, et al.*,[33] the Court explained the rationale behind the allowance for the award of separation pay in lieu of reinstatement. It emphasized that under the *doctrine of strained relations*, the payment of separation pay is considered an acceptable alternative to reinstatement when the latter option is no longer desirable or viable. On one hand, such payment liberates the employee from what could be a highly oppressive work environment. On the other hand, it releases the employer from the grossly unpalatable obligation of maintaining in its employ a worker it could no longer trust.[34]

Considering the antagonistic stance of the parties with each other, compelling Valenzuela's reinstatement might do more harm on their already strained relationship. It is worth mentioning that Valenzuela acted not only as a company driver, he was also being tasked to render personal errands for the Deteras, like bringing the daughter of the Deteras to and from school, which meant that the element of trust is essential. The antagonism created by the institution of the instant case is enough to conclude that the parties are no longer willing to work with each other.

The Court takes note that there was an allegation that AMOVI had ceased operation or that it was on the verge of collapse while the proceedings in this case are being conducted.[35] However, the fact of actual closure of business was not clearly established in the records nor was the Court informed by any of the parties that AMOVI had in fact ceased operations. Therefore, this allegation will not be considered in the period for the computation of the monetary awards due the dismissed employee, as the company is still reasonably presumed to be in full operation. The computation of the separation pay will still be one (1) month salary for every year of service plus backwages from the time of their illegal termination up to the finality of this Decision.[36]

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33 623 Phil. 789 (2009).
34 Id. at 802.
35 *Rollo*, p. 36.
36 *Bank of Lubao, Inc. v. Manabat, et al.*, 680 Phil. 792, 803 (2012).

Finally, the CA correctly ruled on the solidary liability of the respondents to pay the monetary awards due the dismissed employee. As a rule, "[a] corporate officer is not personally liable for the money claims of discharged corporate employees unless he acted with evident malice and bad faith in terminating their employment."[37] Here, Cesar's bad faith was manifested by his persistent assertion that Valenzuela was merely a family driver in order to justify his unceremonious dismissal. He repeatedly insisted that as a family driver or member of the household service, Valenzuela may be terminated at will, which was exactly what he did. He unreasonably sent Valenzuela home when the latter reported for work, the latter unaware of what he had done to merit such an abrupt termination. Cesar's admission on the reckless manner of Valenzuela's dismissal justifies holding him solidarily liable with AMOVI.

WHEREFORE, the Decision dated June 5, 2015 and Resolution dated January 13, 2016 of the Court of Appeals in CA-G.R. SP No. 136037 are **AFFIRMED with the following MODIFICATIONS:** (1) Alexandra Mining and Oil Ventures, Inc. and Cesar Detera are hereby held liable for illegal dismissal; and (2) the award of full backwages by the National Labor Relations Commission (Fourth Division) in its Decision promulgated on March 27, 2014 is hereby **RESTORED**. The respondents are solidarily held liable for the payment of the monetary awards, subject to a recomputation of separation pay which shall be one (1) month for every year of service and full backwages from the time of illegal dismissal up to the finality of this Decision.

SO ORDERED.

BIENVENIDO L. REYES
Associate Justice

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[37] *Businessday Information Systems and Services, Inc. v. NLRC*, G.R. No. 103575, April 5, 1993, 221 SCRA 9, 14.

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

DIOSDADO M. PERALTA
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

I attest 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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.

ANTONIO T. CARPIO
Acting Chief Justice