7

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

N O T I C E

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **February 15, 2022** *which reads as follows:*

"G.R. No. 216787 (*Ilaw at Buklod ng Manggagawa [IBM] sa General Milling Corporation v. General Milling Corporation*). – Before the Court is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court filed by Ilaw at Buklod ng Manggagawa sa General Milling Corporation (*IBM sa GMC*) against respondent General Milling Corporation (*GMC*) assailing the Decision[2] dated February 6, 2014 and the Resolution[3] dated January 14, 2015 rendered by the Court of Appeals (*CA*) in CA-G.R. SP No. 07065, which affirmed the Decision[4] dated August 30, 2012 of the National Conciliation and Mediation Board *(NCMB)*, Region VII, Cebu City.

The Antecedents

GMC is a corporation engaged in the manufacture, process by milling, packing, supply, sale, and delivery of human food products for domestic and international public consumption, while IBM sa GMC is the registered union of the employees of GMC.[5]

On May 24, 2012, GMC filed a written notice before the Department of Labor and Employment (*DOLE*) Regional Office No. VII of its intention to terminate the employment of 33 employees and

- over – ten (10) pages ...

113-B

---

1 *Rollo*, pp. 3-19.

2 Penned by Associate Justice Ma. Luisa C. Quijano-Padilla, with Associate Justices Ramon Paul L. Hernando (now a member of this Court) and Carmelita Salandanan-Manahan, concurring; *id.* at 216-224.

3 Penned by Associate Justice Ma. Luisa C. Quijano-Padilla, with Associate Justices Ramon Paul L. Hernando (now a member of this Court) and Marie Christine Azcarraga-Jacob, concurring; *id.* at 236-237.

4 Penned by Voluntary Arbitrator Manuel M. Monzon; *id.* at 26-30.

5 *Id.* at 80.

to transfer 18 employees to a different department as a consequence of the implementation of its business strategy. Specifically, GMC was going to outsource its bagging and loading departments where the affected employees and members of IBM sa GMC were assigned to an independent contractor, PertServe, Inc.[6] The notice also served as an invitational request for the DOLE to send its representative to witness the release of severance pay to the affected employees.[7]

On May 31, 2012, GMC sent notices of termination to the affected employees whose positions were to be declared redundant 30 days prior to the intended date of termination on July 1, 2012.[8]

On June 2, 2012, IBM sa GMC filed a Notice of Strike on the ground of unfair labor practice and union busting at the regional office of the NCMB and, thereafter, conducted the strike vote. After a series of conciliation conferences, the NCMB convinced the parties to have the dispute resolved through voluntary arbitration.[9]

In its position paper, IBM sa GMC claimed that GMC acted in bad faith in terminating the affected employees and that what transpired was a mass lay-off in the guise of redundancy. However, the positions of the affected employees were not, in fact, redundant considering that GMC availed of the services of agency-hired employees. Thus, the termination of said employees was illegal.[10]

GMC refuted the allegations claiming good faith as it was merely exercising its management prerogative to employ a policy to increase productivity in their bagging and loading sections without necessarily hiring new employees. According to GMC, after a careful study conducted by the management, it was proven that outsourcing resulted in an increase in the productivity rate of at least 40% and a decrease of labor cost of at least 64%. In the end, GMC maintained that it validly terminated the affected employees in compliance with the requirements prescribed by Article 283 of the Labor Code.[11]

On August 30, 2012, the Voluntary Arbitrator (*VA*) disposed of the case as follows:

- over -

113-B

---

6 *Id.* at 29; 217.
7 *Id.* at 81.
8 *Id.* at 217.
9 *Id.*
10 *Id.* at 218.
11 *Id.*

> WHEREFORE, it is hereby declared that the outsourcing to an independent legitimate contractor and the resulting termination of the 55 job / position for reason of redundancy undertaken by Respondent General Milling Corporation are valid and lawful exercise of management prerogative for being made in good faith, for having complied with the basic requirements of the law and the jurisprudence.
>
> The matter of whether the bagging section was necessary, usual and desirable to the business of respondent is of no moment as the law on legitimate contracting does not distinguish whether the contracted job is related or not related at all to the main business as discussed. The other peripheral issues of "reinstatement" and "union busting" must be set aside as they no longer present justiciable controversy by this declaration of validity (Funa vs. Ermita, 612 SCRA 308 (2010); Pormento vs. Estrada, 629 SCRA 530 (2010).
>
> SO ORDERED.[12]

In a Decision dated February 6, 2014, the CA affirmed the ruling of the VA. It held that GMC's streamlining scheme was a valid labor-saving device supported by jurisprudence. It also found that the requisites for a valid redundancy program are present in this case. Indeed, courts shall not interfere with the management's prerogative of contracting out in the absence of showing that it was done in a malicious or arbitrary manner.[13]

In its Resolution[14] dated January 14, 2015, the CA denied IBM sa GMC's motion for reconsideration for lack of merit.

Aggrieved, IBM sa GMC filed the present petition on March 5, 2015 insisting that: (1) GMC failed to prove the requisites for a valid dismissal based on redundancy; (2) contracting out of jobs is prohibited when the same results in the termination of regular employees who perform functions necessary to the business; (3) the positions of the terminated employees cannot be considered redundant because they were replaced by third-party agency workers; and (4) GMC is guilty of unfair labor practice which is equivalent to union busting.[15]

---

12 *Id.* at 219.
13 *Id.* at 220-224.
14 *Supra* note 3.
15 *Rollo*, pp. 11-18.

Issue

Whether the CA erred in affirming the VA's ruling upholding the validity of respondent's redundancy program.

Our Ruling

Prefatorily, it must be remembered that factual findings of labor officials, who have acquired expertise in matters within their jurisdiction, are generally accorded not only respect but even finality by the courts especially when affirmed by the CA.[16] Indeed, in the absence of exceptional circumstances[17] to warrant a relaxation of this rule, the Court's review shall be limited only to questions of law and shall refrain from trying facts or examining testimonial or documentary evidence on record. The Court finds no such exceptional circumstance herein.

Under Article 298 (formerly Article 283)[18] of the Labor Code, redundancy is considered as an authorized cause for termination of employment. The article states:

> ARTICLE 298. [283] *Closure of Establishment and Reduction of Personnel.* - The employer may also terminate the employment of any employee due to the installation of labor-saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor-saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to

- over -

---

16 *Philippine National Bank v. Dalmacio*, 813 Phil. 127, 133 (2017); *Bankard, Inc. v. NLRC*, 705 Phil. 428, 436 (2013).

17 In certain exceptional cases, however, the Court may be urged to probe and resolve factual issues, *viz.*: (a) When the findings are grounded entirely on speculation, surmises, or conjectures; (b) When the inference made is manifestly mistaken, absurd, or impossible; (c) When there is grave abuse of discretion; (d) When the judgment is based on a misapprehension of facts; (e) When the findings of facts are conflicting; (f) When in making its findings the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (g) When the CA's findings are contrary to those by the trial court; (h) When the findings are conclusions without citation of specific evidence on which they are based; (i) When the facts set forth in the petition, as well as in the petitioner's main and reply briefs, are not disputed by the respondent; (j) When the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; or (k) When the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion. *Philippine National Bank v. Dalmacio*, *supra* at 132, citing *De Vera, et al. v. Spouses Santiago, Sr., et al.*, 761 Phil. 90, 105 (2015).

18 Department Advisory No. 1 series 2015, "Renumbering of the Labor Code of the Philippines, as Amended."

> at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year.[19]

Accordingly, redundancy exists when the service of an employee is in excess of what is reasonably demanded by the actual requirements of the business.[20] In *Coca-Cola Femsa Philippines v. Macapagal*,[21] the Court discussed that while the determination of whether the employees' services are no longer sustainable, and therefore, properly terminable for redundancy, is an exercise of business judgment, such decision must not be in violation of the law nor without sufficient basis.[22]

As such, case law ensures a reasonable balance between an employer's management prerogative and an employee's labor rights in requiring the following for a valid redundancy program: (1) written notice served on both the employees and the DOLE at least one month prior to the intended date of retrenchment; (2) payment of separation pay equivalent to at least one month pay or at least one month pay for every year of service, whichever is higher; (3) good faith in abolishing the redundant positions; and (4) fair and reasonable criteria in ascertaining what positions are to be declared redundant and accordingly abolished.[23] As duly found by the VA and the CA, the foregoing requirements are present in this case.

First, respondent served a written notice on the affected employees and the DOLE one month prior to the intended date of termination on July 1, 2012.[24]

Second, respondent paid the affected employees their separation pay in the amount stipulated in the collective bargaining agreement as shown by the quitclaims signed by the latter.[25]

- over -

---

19 Labor Code of the Philippines, Presidential Decree No. 442 (Amended & Renumbered), July 21, 2015.
20 *HCL Technologies Philippines, Inc. v. Guarin, Jr.*, G.R. No. 246793, March 18, 2021.
21 G.R. No. 232669, July 29, 2019.
22 *Id.*
23 *HCL Technologies Philippines, Inc. v. Guarin, Jr.*, *supra* note 20.
24 *Rollo*, p. 30; 217.
25 *Id.*

Third, as the CA observed, there is no showing of malice on the part of respondent in implementing its redundancy program. On the contrary, its scheme of realigning the bagging and loading section constitutes a valid introduction of a labor-saving device. Prior to the implementation of the program, respondent conducted a careful study of the effectiveness of such scheme to outsource its bagging and loading sections. It revealed that not only had respondent's productivity rate increased, its labor cost was also significantly reduced.[26]

Fourth, while the Court requires the redundancy program to impose fair and reasonable criteria in ascertaining what positions are to be declared redundant and accordingly abolished, there is no longer a need for this in the present case. As the CA observed, respondent outsourced the functions of the bagging and loading section in its entirety to PertServe, Inc. In *Coca-Cola Femsa Philippines v. Macapagal*,[27] citing *Asian Alcohol Corporation v. NLRC*,[28] it was held that there is no need to choose from the positions that will be declared as redundant since the entire department was abolished. Hence, the fair and reasonable criteria to determine which employees should be dismissed from service, no longer finds application.

In view of the foregoing, the Court finds no cogent reason to deviate from the findings of the VA and the CA. Records reveal that respondent was motivated by good faith in its exercise of management prerogative to achieve the optimum business strategy. In the absence of proof that a company's management prerogative was exercised in a malicious or arbitrary manner, the Court shall not disturb the dismissal of employees as a consequence of the survival of the business.

Indeed, the implementation of a redundancy program is not adversely affected by the employer availing itself of the services of an independent contractor to replace the services of the terminated employees.[29] Contrary to the claims of petitioner, the Court has had several occasions to rule that the reduction of the number of workers made necessary by the introduction of an independent contractor is justified when the latter is undertaken to effectuate more economic methods of production.[30]

- over -

113-B

---

26 *Id.* at 218-220.

27 *Coca-Cola Femsa Philippines v. Macapagal*, *supra* note 21.

28 364 Phil. 912 (1999).

29 *Coca-Cola Femsa Philippines v. Macapagal*, *supra* note 21.

30 *San Fernando Coca-Cola Rank-and-File Union v. Coca-Cola Bottlers Philippines, Inc.*, 819 Phil. 326, 336 (2017).

Accordingly, the Court cannot sustain petitioner's charges of unfair labor practice against respondent. Unfair labor practice refers to acts that violate the workers' right to organize. To hold an employer liable for the same, the alleging party has the burden to prove that the acts of the former negatively affects in whatever manner the right of his or her employees to self-organize.[31] Nonetheless, as found by the VA and the CA, petitioner failed to discharge its burden of proving that respondent violated the affected employee's right to organize.

In *San Fernando Coca-Cola Rank-and-File Union v. Coca-Cola Bottlers Philippines, Inc.*,[32] the Court held that the consequent dismissal of 27 union members due to redundancy is not *per se* an act of unfair labor practice amounting to union busting. While the number of union membership was diminished due to the termination of the members, the company had valid reason to terminate their services in furtherance of a legitimate business strategy.

Similarly, the Court ruled in *Bankard, Inc. v. National Labor Relations Commission*[33] that a redundancy program might have affected the number of union membership does not necessarily mean that the company purposely sought such result. Without proof that the company's program was aimed at interfering with the employee's right to organize, there can be no unfair labor practice.

The same conclusion can be drawn in this case. The VA and the CA are one in finding no indication that respondent deliberately terminated the services of the affected employees to restrict their freedoms as union members. To repeat, respondent closed its bagging and loading sections and hired an independent agency as a legitimate cost-cutting measure to meet business exigencies.[34] There is, therefore, no cogent reason for the Court to hold otherwise.

Notwithstanding the foregoing, petitioner insists that contracting out of jobs is prohibited when the same results in the termination of regular employees who perform functions necessary to the business. The contention lacks merit. In *BPI Employees Union-Davao City-FUBU v. Bank of the Philippine Islands*,[35] the Court held that it is the management prerogative to farm out any of its activities,

---

31 *Id.* at 337-338, citing *Zambrano v. Philippine Carpet Manufacturing Corp.*, 811 Phil. 569, 582 (2017); *Bankard, Inc. v. NLRC*, *supra* note 16, at 437-438.

32 *Supra* note 30.

33 *Bankard, Inc. v. NLRC*, *supra* note 16.

34 *Rollo*, pp. 217-218.

35 715 Phil. 35 (2013), citing *Alviado, et al. v. Procter & Gamble Phils., Inc.*, 628 Phil. 469 (2010).

regardless of whether such activity is peripheral or core in nature. For as long as the contracting out is done in good faith without violating basic labor principles and that the contractor hired is legitimate, not merely a labor-only contractor, the Court shall uphold the management's decision to outsource.

As duly noted by the VA, PertServe, Inc., the contractor chosen by respondent to assume the functions of its bagging and loading sections, is a legitimate, independent job contractor, to wit:

> From the papers, secured in the office of the respondent during the ocular inspection and made in the presence of the responsible officials of the complainant, it is beyond cavil that this PertServe, Inc. is a legitimate independent contractor. It has its own business – identifiable services offered to the public with due compliance to government regulations such as its SEC registration, BIR, TIN, SSS, and Philhealth registration and, importantly, its DOLE Permit and DO 18-02 registration. It has its own office located at Don Sergio Suico St., Barangay Tingub, Mandaue City. From the brochures with colored pictures, it appears that it has substantial capital as shown in the numerous companies that it has served and its branches in Metro Manila, Davao, Cagayan de Oro City, Leyte and Panay. It also has subsidiaries nationwide, and was first established in the year 1988. It was noted in the contract of services with the respondent that there were provisions expressly made as to the exercise of supervision and control of PertServe, Inc. over its own personnel, and which provisions are one of the most important attributes of a contractor to be considered legitimate and independent. x x x.[36]

Hence, there is no reason to suspect the intentions of respondent in its reasonable exercise of judgment in the pursuit of the ideal business structure. Verily, management has the ultimate determination of whether company functions should be performed by its personnel or contracted to outside agencies.[37]

As for the payment of separation pay, the VA correctly found that respondent already paid the same to the affected employees as evidenced by the quitclaims they executed.[38] Settled is the rule that quitclaims are valid when: (1) there was no fraud or deceit on the part of any of the parties; (2) the consideration for the quitclaim is credible and reasonable; and (3) the contract is not contrary to law, public order, public policy, morals or good customs, or prejudicial to a third

---

36 *Rollo*, p. 29.
37 *Mejila v. Wrigley Philippines, Inc.*, G.R. Nos. 199469 & 199505, September 11, 2019.
38 *Rollo*, pp. 92-133.

person with a right recognized by law.[39] In this case, in the absence of any showing that the affected employees were tricked or coerced into signing the reasonable and lawful quitclaims, the admissions they made therein as to the full payment of their separation pay stand.

All told, the Court finds that respondent executed a valid redundancy program, having complied with the requisites for its validity. Indeed, contracting out of services is a valid exercise of business judgment or management prerogative.[40] In view of petitioner's failure to present any evidence to prove that respondent acted maliciously or arbitrarily, the Court shall refrain from interfering with the latter's business prerogative.

WHEREFORE, premises considered, the instant petition is **DENIED.** The Decision dated February 6, 2014 and the Resolution dated January 14, 2015 rendered by the Court of Appeals in CA-G.R. SP No. 07065, finding that respondent General Milling Corporation validly terminated the employment of the affected employees and members of petitioner Ilaw at Buklod ng Manggagawa sa General Milling Corporation on the basis of a valid redundancy program, are **AFFIRMED**.

SO ORDERED."

By authority of the Court:

LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
113-B

- over -

39 *HCL Technologies Philippines, Inc. v. Guarin, Jr.*, *supra* note 20.
40 *Bankard, Inc. v. NLRC*, *supra* note 16, at 440.

ORDINIZA & CUSAP LAW OFFICES
Counsel for Petitioner
Suite 101, A. Geson Building
D. Jakosalem Street, Brgy. Zapatera
6000 Cebu City

Court of Appeals
6000 Cebu City
(CA-G.R. SP No. 07065)

Atty. Ricardo R. Amores
Counsel for Respondent
Room 207, 2/F, AMCO Plaza
Quezon National Highway, Pajo
Lapu-Lapu City, 6015 Cebu

NATIONAL CONCILIATION
AND MEDIATION BOARD
Office of the Voluntary Arbitrator
Regional Branch VII, 6000 Cebu City
(VA Case No. AC248-06-06-2012C)

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M.
No. 12-7-1-SC)

Philippine Judicial Academy (x)
Supreme Court

Judgment Division (x)
Supreme Court

113-B

UR