



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 8, 2023 which reads as follows:

“G.R. No. 248765 (*Maria Gilda P. De Pio v. St. Benedict Childhood Education Centre, Inc.*). — Challenged in this Petition for Review (Petition)¹ on *Certiorari* (Petition) under Rule 45 of the Rules of Court (Rules) are the Decision² dated 29 June 2018 and Resolution³ dated 27 June 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 11198 which partly granted respondent St. Benedict Childhood Education Centre, Inc.’s (respondent) petition for *certiorari* under Rule 65 of the Rules and denied petitioner Maria Gilda P. De Pio’s (petitioner) motion for reconsideration, respectively.

Antecedents

Petitioner worked as a pre-school teacher of respondent for 30 years from May 1985 to October 2015.⁴

In two separate letters dated 31 March 2015 and 24 August 2015,⁵ petitioner made a request to respondent’s President, Rev. Fr. Ernesto O. Javier (Fr. Javier), for a partial withdrawal of her retirement benefit, or in the alternative, a loan payable in agreeable terms and deductible from her salary. Petitioner badly needed the money to settle her housing loan with Pag-IBIG, to help shoulder the medical expenses of her father who has cancer, and to secure a bank certification needed for her son’s trip abroad. She stated in her letters that an amount equivalent to one-half of her total retirement benefit or at least ₱200,000.00 would be sufficient for her financial problems.⁶

¹ *Rollo*, pp. 15-55.

² *Id.* at 88-103. Penned by Associate Justice Pamela Ann Abella Maxino and concurred in by Associate Justices Edward B. Contreras and Louis P. Acosta.

³ *Id.* at 105-107.

⁴ *Id.* at 89.

⁵ *Id.* at 127.

⁶ *Id.* at 89.

In a Letter⁷ dated 25 August 2015, respondent's President acknowledged receipt of petitioner's letter-requests and informed her of the procedure in the processing of her request.⁸

Acting on the letter-requests of petitioner, respondent made an offer of early separation from service package in the initial amount of ₱254,800.31, prepared by the school accountant and approved by the school officers.⁹ Although denominated as retirement offer, it was actually just an offer of early separation package. Petitioner was only 53 years old then and she is not yet qualified to avail of retirement benefit under the Retirement Pay Law. Subsequently, respondent recomputed its early separation package and came up with the amount of ₱404,538.47.¹⁰

On 15 October 2015, petitioner accepted the offered early separation package and received the amount of ₱404,538.47.¹¹ Petitioner expressed her gratitude to the school president for the financial assistance extended to her in the letter dated 22 October 2015.¹²

Barely two months after her receipt of the early separation package, petitioner sought an appointment with Fr. Javier to discuss her early separation package and her additional claim, believing that she was entitled to more than what she received. Having failed to obtain an appointment with Fr. Javier, she talked to respondent's legal counsel, Atty. Melanie Z. Tan (Atty. Tan), about the matter.

Fr. Javier was informed by Atty. Tan about petitioner's financial concerns. Fr. Javier wrote a letter to petitioner notifying her that should she find the offered early separation package unsatisfactory, petitioner may return the sum received and resume her duties at the preschool department.¹³ However, petitioner intimated that she was not returning back to work.¹⁴

On 06 April 2016, petitioner filed a request for assistance and conciliation under the Single Entry Approach (SEnA)¹⁵ with the Department of Labor and Employment (DOLE), for payment of salary and money claims and issuance of certificate of employment. The parties failed to settle; thus, the complaint¹⁶ for illegal (constructive) dismissal, non-payment of salaries, retirement benefits and non-issuance of employment certificate with claims for damages and attorney's fees was filed against respondent before the

⁷ Id. at 128.

⁸ Id.

⁹ Id. at 129.

¹⁰ Id. at 130.

¹¹ See Check Voucher, id. at 350.

¹² Id. at 352.

¹³ Id. at 133.

¹⁴ Id. at 90-91.

¹⁵ Id. at 310.

¹⁶ Id. at 311.

arbitration branch of the National Labor and Relations Commission (NLRC), Cebu City.¹⁷

Petitioner alleged that she was constructively dismissed when she was forced to sever her employment in exchange for the early separation package due to her financial crisis. She then asked for backwages, separation pay, damages, and attorney's fees. Further, petitioner averred that her separation package was insufficient, claiming she was entitled to ₱1,273,178.25 as per consultation with the DOLE.¹⁸

For its part, respondent countered that petitioner voluntarily severed her employment and accepted its offer of early separation package as she needed the money. After her receipt of the offered financial assistance, petitioner was even very grateful to Fr. Javier and was happily posting pictures on her Facebook account, contrary to her claimed depression and anxiety for her family's future. As regards the amount of her early separation package, respondent took into consideration petitioner's requested amount of ₱200,000.00, her advances and deductibles worth ₱29,495.82, and her withdrawn repurchase benefit under the Private Education Retirement Annuity Association (PERAA) which amounted to ₱194,034.40.¹⁹

Ruling of the LA

On 31 August 2016, the Labor Arbiter (LA) rendered a Decision²⁰ declaring that petitioner is not entitled to retirement benefits. All other claims were dismissed for lack of merit. The LA held that petitioner is not entitled to retirement benefits under the Labor Code, which fixed the legally mandated age for compulsory retirement at 65 years, while setting the minimum age for optional retirement at 60 years. Petitioner was just 53 years old at the time she applied for optional retirement. Petitioner's entitlement to retirement benefits under the law was contested by respondent claiming that petitioner was not yet 60 years old, respondent has no retirement plan, and it was never its practice or policy to provide early retirement benefits to its employees. Thus, petitioner cannot claim optional retirement benefits as a matter of right. The early separation package, although mistakenly indicated as retirement pay, was given to petitioner as a sign of liberality on the part of respondent.²¹

Petitioner appealed the case to the NLRC.²²

¹⁷ Id. at 91.

¹⁸ Id.

¹⁹ Id.

²⁰ Id. at 77-86. Penned by Labor Arbiter Bertino A. Ruaya, Jr.

²¹ Id. at 91-92.

²² Id. at 92.

Ruling of the NLRC

On 28 February 2017, the NLRC issued a Decision²³ setting aside the LA ruling, viz.:

WHEREFORE, premises considered, the decision of the Labor Arbiter is hereby **REVERSED AND SET ASIDE**. A new one is entered finding the constructive dismissal of complainant.

Respondent **ST. BENEDICT CHILDHOOD EDUCATION CENTRE** is hereby directed to pay complainant the aggregate amount of **One Million Seven Hundred Ninety One Thousand Twenty Four Pesos and 57/100 (Php1,791,025.57)** in concept of backwages, separation pay in lieu of reinstatement, and ten percent attorney's fees, subject to recomputation upon finality of decision.

SO ORDERED.²⁴

The NLRC declared that the letters of petitioner show that she is merely requesting for financial assistance, either in the form of a partial withdrawal of her retirement benefits, or a loan payable through salary deduction under a mutually agreeable term. Nowhere in the submitted pleadings was there any indication that petitioner has intended to avail of an early retirement. She never intended to completely sever her employment with respondent. Had it been her intention, she should have sought for the complete withdrawal of her retirement benefit.²⁵

According to the NLRC, there has to be a clear and unequivocal showing that petitioner has actually applied for early retirement. Lacking which, it cannot be assumed that petitioner really intended such early retirement. The NLRC pointed out that respondent took advantage of the grim situation of petitioner instead of commiserating with her financial problems when it came up with a "*Retirement Offer*" dated 31 August 2015. The NLRC is likewise convinced that the use of the words "*Retirement Offer*" and "*Retirement Pay*" instead of referring to it as "*Early Separation from Service Package*" was intentionally done to actually force petitioner to swallow the bitter pill of severance from employment.²⁶

The NLRC concluded that petitioner's retirement was involuntary on her part. As petitioner was in extreme need for money, respondent took advantage of her condition by giving her no other option but to receive the

²³ Id. at 63-76. Penned by Presiding Commissioner Violeta Ortiz-Bantug and concurred in by Commissioners Julie C. Rendoque and Jose G. Gutierrez.

²⁴ Id. at 75.

²⁵ Id. at 92-93.

²⁶ Id. at 93-94.

retirement pay offered, in return for her separation from service. Such is tantamount to constructive dismissal. The NLRC awarded backwages, and separation pay in lieu of reinstatement deducting therefrom the retirement pay already received by petitioner. The NLRC also awarded moral and exemplary damages of ₱50,000.00 each.²⁷

Respondent moved for reconsideration but it was denied in the Resolution²⁸ dated 30 June 2017. Hence, it filed a petition for *certiorari* before the CA.²⁹

Ruling of the CA

In the Decision dated 29 June 2018, the CA partly granted respondent's petition for *certiorari*, the dispositive portion reads:

IN LIGHT OF ALL THE FOREGOING, the petition for *certiorari* is PARTLY GRANTED. The Decision dated February 28, 2017 and the Resolution dated June 30, 2017 of the National Labor Relations Commission, Seventh Division, in NLRC Case No. VAC-01-000029-2017, are AFFIRMED with MODIFICATIONS as follows:

1. The factual finding that private respondent Maria Gilda P. De Pio complied with the requirements for the perfection of appeal is affirmed;
2. Private respondent is declared to have voluntarily severed her employment ties with petitioner St. Benedict Childhood Education Centre, Inc.;
3. Private respondent is not entitled to the supposed balance of her retirement pay; and
4. The monetary awards of backwages, separation pay, damages and attorney's fees granted to private respondent are deleted for lack of factual basis.

SO ORDERED.³⁰

The CA held that the circumstances surrounding petitioner's acceptance of the offered early separation package were more consistent with voluntary relinquishment of position, rather than involuntary severance of employment amounting to constructive dismissal. It must be noted that at the time petitioner accepted the offered financial assistance, she certainly made no

²⁷ Id. at 94.

²⁸ Id. at 214-216.

²⁹ Id. at 214.

³⁰ Id. at 102-103.

objection as to the amount thereof. The CA found that petitioner's claim of constructive dismissal was only an afterthought.³¹

Further, the CA was not convinced that petitioner did not freely assent to the offered financial assistance. As observed by the CA, the supposed financial crisis is not respondent's making nor did it take advantage of petitioner's situation. Respondent offered the early retirement package as a way of helping petitioner out of her predicament. The CA saw no reason why respondent would dismiss petitioner, whether actually or constructively, considering that there were no employment issues between them. Petitioner is an educated person and thus, presumed to have understood the terms of the early separation package.³²

Finally, the CA held that petitioner is not entitled to the supposed balance of her retirement pay. She cannot as yet avail of retirement pay or benefit because she has not reached the retirement age for compulsory or optional retirement, and respondent has no retirement plan or other applicable agreement providing for retirement pay to its separated employees. Respondent merely erred in labeling the document as retirement pay as it was actually an early separation package which respondent was not obliged to give. For lack of factual and legal bases, the monetary awards of backwages, separation pay, damages, and attorney's fees were deleted.³³

Petitioner moved for reconsideration but it was denied in the Resolution³⁴ dated 27 June 2019.

Hence, the instant Petition filed by petitioner.³⁵

Issue

The sole issue in this case is whether petitioner was constructively dismissed from employment by respondent.

Ruling of the Court

The Petition is DENIED.

³¹ Id. at 96-102.

³² Id.

³³ Id.

³⁴ Id. at 105-107.

³⁵ Id. at 15-55.

Preliminarily, the Court notes that the CA made an error when it declared in the dispositive portion of its Decision that the NLRC Decision is “AFFIRMED with MODIFICATION” when the body of its Decision and even the subsequent paragraphs in the dispositive portion show that the NLRC Decision is being reversed and set aside. It is to be noted that the NLRC found petitioner constructively dismissed from employment. On the contrary, the CA ruled that no constructive dismissal happened in this case since petitioner voluntarily severed her employment with respondent; thus, petitioner is not entitled to backwages, separation pay, damages, and attorney’s fees. The CA should have, instead, granted the petition for *certiorari*, and reversed and set aside the NLRC Decision.

Despite said oversight, this Court affirms the CA’s findings and observations that petitioner voluntarily relinquished her position. The claim of constructive dismissal was merely an afterthought.

Constructive dismissal has been defined as the “cessation of work because ‘continued employment is rendered impossible, unreasonable or unlikely, as an offer involving a demotion in rank or a diminution in pay’ and other benefits.” It may exist “if an act of clear discrimination, insensibility, or disdain by an employer becomes so unbearable on the part of the employee that it could foreclose any choice by him except to forego his continued employment.”³⁶

In *Rodriguez v. Park N Ride, Inc.*,³⁷ the Court defined constructive dismissal and discussed its nature:

There is constructive dismissal when an employer’s act of clear discrimination, insensibility or disdain becomes so unbearable on the part of the employee so as to foreclose any choice on his part except to resign from such employment. It exists where there is involuntary resignation because of the harsh, hostile and unfavorable conditions set by the employer. We have held that the standard for constructive dismissal is “whether a reasonable person in the employee’s position would have felt compelled to give up his employment under the circumstances.”³⁸

Petitioner argues that there was no indication in her letters that she had any plan of terminating her employment. Being in dire need of money, petitioner was forced to accept the check representing the proceeds of the retirement offer with the hope that the amount given be considered as advance or partial payment of her retirement benefits. Petitioner avers that after she sought clarification from the DOLE as to the amount she would be legally

³⁶ *Que v. Asia Brewery, Inc.*, G.R. No. 202388, 10 April 2019.

³⁷ 807 Phil. 747 (2017)

³⁸ *Bayview Management Consultants, Inc. v. Pre*, G.R. No. 220170, 19 August 2020, citing *Rodriguez v. Park N Ride*, supra

entitled to, she requested a meeting with respondent to clarify the amount she received. However, petitioner was challenged to return the amount she previously received after which she may return her duties at the preschool department. The return of the money, according to petitioner, is next to impossible considering her financial situation – an indication of constructive dismissal. The totality of circumstances show that petitioner did not intend to sever her employment with respondent; thus, she is deemed constructively terminated from employment entitling her to all the benefits under Article 279 of the Labor Code.³⁹

The arguments do not persuade.

As correctly pointed out by the CA, it was petitioner who approached respondent asking for a loan or the advance of her retirement pay. Respondent cannot grant petitioner's request for an advance of her retirement pay because petitioner, who was then 53 years old, cannot qualify yet for early retirement. Respondent had been kind and generous enough when it offered the early separation package as a way of helping petitioner out of her predicament. Be it noted that the negotiations took more than a month before petitioner accepted the offer and received the check. Some of petitioner's loans were allowed to be written off by respondent. Petitioner duly received the amount of ₱404,538.47 without any objection. She even expressed her gratitude for the financial assistance given by respondent.⁴⁰

It appears that petitioner was not questioning respondent on the legality or illegality of her dismissal from employment. In fact, she never wanted to return back to work. **What she wanted was her additional claims**, in addition to the amount she received as early separation package. Her requests for meetings with respondent, after two months from receiving the check, was to sort out or clarify on the amount she received and it was never on the alleged constructive dismissal. When her request for additional sum was not granted, she filed the complaint in April 2016 or six months after her receipt of the early separation package. This was the time that she claimed that she was forced to relinquish her job.⁴¹

Contrary to petitioner's insistence, the totality of the circumstances point to no other than the voluntariness of her severance from employment. Petitioner is an educated person and she clearly knew the import of her actuations. Her letters contained words of gratitude and appreciation to respondent. Such kind expressions can hardly come from a teacher forced to resign.⁴²

³⁹ *Rollo*, p. 53.

⁴⁰ *Id.* at 95.

⁴¹ *Id.* at 96.

⁴² See *St. Michael Academy vs. NLRC*, 354 Phil. 491, 503-502 (1998).

Further, it can be observed that in her letter dated 22 October 2015, petitioner made another request that she be allowed to continue her membership in Asianlife, the school's healthcare provider. The tenor of the letter implies that petitioner understood perfectly well that she had voluntarily separated from employment. Thus, even if separated from employment, she wished to continue her membership in Asianlife.

Petitioner cannot claim that she was constructively dismissed for she was given an option next to impossible, *i.e.*, the return of the money she previously received after which she may return to her duties at the preschool department. It is to be emphasized that this was **after the fact** of the voluntary relinquishment of her position, and after her receipt of the early separation from service package. Petitioner already willingly and freely severed her employment with respondent. The issue as to her claim for an additional amount, allegedly of the balance of her retirement benefits, is a distinct and separate circumstance which this Court cannot consider in determining the illegality of her dismissal. As the Court mentioned, petitioner's claim of constructive dismissal is merely an afterthought.

It can be seen in petitioner's complaint⁴³ and in her Position Paper⁴⁴ that while she bewailed that she was constructively dismissed, she also demanded for the balance of her retirement pay. **Claims for constructive dismissal and additional retirement benefits are obviously contradictory and conflicting.** Constructive dismissal pertains to the illegality of one's termination from employment. While claims for retirement benefits indicate voluntary severance from work. Petitioner apparently got confused as to her cause of action.

Additionally, the CA's observations are worthy to quote:

The circumstances surrounding private respondent De Pio's acceptance of the offered early separation package were more consistent with voluntary relinquishment of position, rather than involuntary severance of employment amounting to constructive dismissal.

It bears to stress that Fr. Javier discussed the terms of the early separation from service package with private respondent De Pio and thereafter, have her enough time to weigh and ponder on the consequences, and to decide whether to accept petitioner SBCEC's offer of early separation package. Private respondent De Pio freely and contentedly accepted the offered financial assistance with no hint of disapproval, with a full understanding of its consequent severance from employment. She is a well-educated person who logically cannot be inveigled into accepting the early separation package against her will.

⁴³ *Rollo*, p. 310.

⁴⁴ *Id.* at 116-124.

Thereafter, private respondent De Pio expressed her gratitude for the assistance extended by petitioner SBCEC. Certainly, her words of appreciation and gratitude negate the notion that she was forced to accept the generous offer and sever her employment. Finally, private respondent De Pio did not immediately deny or repudiate her act of relinquishment after she was allegedly forced to sever her employment.

What private respondent De Pio questioned almost two months after her severance was the amount of the separation package. Private respondent De Pio persistently sought an appointment with Fr. Javier to discuss the amount of her separation package and her additional claim. It was only after her request for additional sum was denied that she claimed to have been forced to relinquish her job. Therefore, private respondent De Pio cannot now be allowed to disown her free and voluntary act and be heard to complain the amount of her separation package after she accepted petitioner SBCEC's magnanimous offer of financial assistance at the time she experienced financial crisis. It must be noted that at the time she accepted the offered financial assistance, private respondent De Pio certainly made no objection as to the amount thereof. Indeed, We find that private respondent De Pio's claim of constructive dismissal was only an afterthought.

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On the matter of whether private respondent De Pio is entitled to the supposed balance of her retirement pay, We rule in the negative. Private respondent De Pio cannot as yet avail of retirement pay or benefit because she not reached the retirable [sic] age for compulsory or optional retirement under Article 301 (formerly Article 287) of the Labor Code, as amended, and petitioner SBCEC has no retirement plan or other applicable agreement providing for retirement pay to its separated employees.

[W]hat private respondent De Pio received was the early separation package which she voluntarily accepted, and not retirement pay as stated in the document containing the computation of such financial assistance. Petitioner SBCEC merely erred in labeling the document as retirement pay as it was actually an early separation package which petitioner SBCEC was not obliged to give. It was in response to private respondent De Pio's request for an advance of her retirement pay or a loan that petitioner SBCEC earnestly sought any viable financial assistance it could give to somehow help private respondent De Pio in her financial dilemma."⁴⁵


⁴⁵ Id. at 97-100.

Verily, considering that she was not constructively dismissed, petitioner's claims for backwages, separation pay in lieu of reinstatement, moral and exemplary damages, and attorney's fees are denied for lack of factual and legal bases.

WHEREFORE, the instant Petition is **DENIED**. The assailed Decision dated 29 June 2018 and Resolution dated 27 June 2019 of the Court of Appeals in CA-G.R. SP No. 11198 finding no constructive dismissal on the part of petitioner Maria Gilda P. De Pio are hereby **AFFIRMED**. The complaint for illegal (constructive) dismissal and damages, docketed as NLRC RAB VII No. 04-0860-16, is **DISMISSED**.

SO ORDERED.” *Rosario, J., on official leave.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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[RAB Case No. VII-04-0860-2016]

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