

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PHILIPPINE NATIONAL BANK,
Petitioner,

G.R. No. 200972

Present:

PERLAS-BERNABE, J.,
Chairperson,
REYES, A. JR.,
HERNANDO,
LAZARO-JAVIER,* and
DELOS SANTOS, JJ.

versus

Promulgated:

MANUEL C. BULATAO,
Respondents.

11 DEC 2019

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DECISION

HERNANDO, J.:

This Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assails the July 29, 2011 Decision² and February 7, 2012 Resolution³ of the Court of Appeals (CA) in CA-G.R. CV No. 94046.

The Antecedents

Respondent Manuel C. Bulatao (Bulatao) was formerly the Senior Vice-President (SVP) of the Information Technology (IT) Group of petitioner Philippine National Bank (PNB). Bulatao's appointment as SVP was

* Designated additional member per Raffle dated November 20, 2019.

¹ *Rollo*, pp. 29-59.

² *Id.* at 9-23; penned by Associate Justice Magdangal M. de Leon and concurred in by Associate Justices Mario V. Lopez (now a member of this Court) and Socorro B. Inting.

³ *Id.* at 25-26.

evidenced by a letter⁴ dated October 3, 1996 which indicated that the Board of Directors (Board) of PNB approved his appointment by virtue of Board Resolution No. 27 dated September 4, 1996. The same letter specified that his appointment shall take effect on September 16, 1996. Bulatao averred that he accepted the said appointment as reflected in the *conforme* portion of the letter which he signed on October 7, 1996.⁵ Another appointment letter⁶ dated February 17, 1999 confirmed Bulatao's appointment as SVP of the IT Group pursuant to Board Resolution No. 04 dated January 18, 1999.

Bulatao alleged that on October 1, 1999, Mr. Benjamin Palma Gil (Mr. Palma Gil), then PNB's President, and a certain Mr. Samit Roy (Mr. Roy), an Indian national, hosted a dinner meeting for PNB's IT staff to announce the conclusion of a Joint Venture Agreement (JVA) between PNB and Mr. Roy. During dinner Mr. Roy announced that not all of the IT staff would be retained since everyone had to undergo an International Competitive Test as a prerequisite for absorption. Those who would not be absorbed would be offered retirement packages instead. Bulatao contended that the conduct of the International Competitive Test was a ploy to force IT personnel not supportive of the project to leave the bank. Notably, Bulatao was one of those who objected to the JVA because of the supposed huge capital exposure on PNB's end.⁷

Eventually, Bulatao manifested his intent to retire in a letter⁸ dated November 10, 1999 addressed to Mr. Palma Gil. The pertinent portions of the said letter are as follows:

This is to inform you that I am taking the Bank's offer to retire on 31 December 1999 as announced during your recent meeting with all the IT staff held at the Skyline Executive Lounge last October 20, 1999.

Kindly appoint my replacement effective today because I am going on an official leave of absence.

My continued stay is no longer tenable for the following reasons:

- The working environment brought about by the recent decisions by management makes it difficult for me to be productive.
- I cannot, in conscience, support the decision on the Joint Venture. Consequently, I cannot endorse this project to my staff for support and acceptance.

While I am responsible for introducing Mr. Umen Bewtra of FI of London, I had certain expectations which could have made the venture more acceptable. These are:

⁴ *Id.* at 81.

⁵ *Id.*

⁶ *Records*, p. 91.

⁷ *Rollo*, p. 62.

⁸ *Id.* at 97-99.

- That FI would be our partner in view of their track record of managing the venture at the Bank of Scotland rather than SciCom, which is based in India and is more of an IT consulting company.
- That due process would be followed wherein IT Mancom will collectively evaluate the proposal prior to any decision of higher management, which is what is currently done to procurement of IT resources or decisions requiring IT Steercom deliberation.

Further, on several occasions, I sought an appointment with Mr. Samit Roy to discuss sensitive issues that I verbally brought to his and his partners' attention. These were:

- 10% charge based on annual IT expenditure. This is a clear conflict of interest since there is no motivation for the Joint Venture to reduce PNB's annual costs.
- Elimination of the MIS plan since we already paid Kirchman Corporation for the Strategic Study.

Furthermore, in compliance to your instructions last September 21, 1999, we did seek for an appointment with Mr. Roy. However, VP Claro Fernandez and myself were not able to meet with him although he confirmed a meeting on two occasions.

The aforementioned are the reasons for this decision and I hope they explain clearly why I cannot stay in the employ of the Bank.

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In closing, I would like to express my gratitude for the privilege of having worked with this fine banking institution.⁹

Conversely, PNB alleged that Bulatao felt pessimistic about its plan to outsource the services of the IT Group to an "Indian" group. Given that the deal with the "Indian" group did not materialize, Bulatao made a sudden turn-around.¹⁰ Meanwhile, Bulatao alleged that on December 26, 1999, he had a meeting with Mr. Lucio Tan (Mr. Tan), then a member of the Board, who asked him to reconsider his decision to retire and join Mr. Tan's management team. Because of this, Bulatao alleged that he went back to work on January 1, 2000.¹¹ Around that time, aware that the Board had not yet acted on his application for retirement, Bulatao withdrew the said application in a Memorandum¹² dated January 25, 2000 addressed to Feliciano L. Miranda, Jr., then Officer-in-Charge/Chief Executive Officer of PNB.

⁹ *Id.*

¹⁰ *Id.* at 35-36.

¹¹ *Id.* at 63.

¹² *Id.* at 105.

On January 29, 2000 or four days from the date of his Memorandum, Bulatao received a call from the SVP of Human Resource Division who informed him not to report for work in February 2000 as the Board already accepted his "resignation." For this reason, Bulatao stopped reporting for work. Subsequently, he filed a Complaint¹³ for illegal dismissal on February 27, 2000 with the National Labor Relations Commission (NLRC).

Thereafter, Bulatao received a letter¹⁴ dated March 23, 2000 from Manuel C. Mendoza, the Executive Vice-President of PNB, informing him that the Board, by virtue of Resolution No. 38 of January 28, 2000, approved and confirmed the acceptance of his resignation (given that the Board treated his application for retirement as a resignation).

Meanwhile, the Complaint filed by Bulatao with the NLRC was dismissed for lack of jurisdiction. The NLRC held that since Bulatao was an appointed officer of a corporation, it is the Regional Trial Court (RTC) which has jurisdiction over the case in accordance with Republic Act (RA) No. 8799 or the Securities Regulation Code. In view of this, Bulatao filed a suit for Illegal Termination of Appointment and Damages¹⁵ before the RTC of Parañaque City.

In his testimony, Bulatao averred that PNB erroneously considered his application for retirement as a resignation. He explained that he applied for retirement because he objected to a deal with the "Indian" group which he claimed will drain the bank in the amount of ₱970 Million.¹⁶ He added that Mr. Samit announced that the entire IT team will undergo a test in order to select the people who will be hired in view of the JVA. Furthermore, he stated that he feared a potential bank run may arise due to the JVA.¹⁷

Bulatao asserted that after he talked to Mr. Tan, he went back to work so that he would not be declared to be on Absence Without Official Leave (AWOL). Afterwards, he withdrew his application for retirement. However, he received a call from the SVP of Human Resource Division informing him not to report for work starting February 2000 because the Board has already accepted his "resignation."¹⁸

Claro Bernardino (Bernardino), the previous Records Custodian of the Records Division of the Human Resource Division and who also previously held a position with the Benefits Division of PNB, testified that at the time, he was in-charge of the processing of separation, retirement, and resignation of PNB personnel. He averred that PNB offered a Special Separation Incentive

¹³ *Id.* at 101.

¹⁴ *Id.* at 100.

¹⁵ *Id.* at 84-95.

¹⁶ TSN, April 27, 2006, p. 33.

¹⁷ *Id.* at 38-39.

¹⁸ *Id.* at 43-46.

Plan (SSIP) from July 13, 1998 until September 13, 1998 wherein employees have to apply by submitting forms to the Human Resource Division. Thereafter, PNB again offered a Special Separation Plan (SSP) from February 15, 2001 to April 10, 2001. Bernardino clarified that there was no other offer for retirement plans in between the periods covered by the SSIP and the SSP.¹⁹

On cross-examination, Bernardino stated that his office did not receive Bulatao's application for retirement dated November 10, 1999 but posited that it received a resignation letter.²⁰ He said that the letter was treated as one for resignation even if its introductory sentence indicated that it was an application for retirement. Nonetheless, he admitted that if an employee's application for retirement is denied, he or she would accordingly be informed of the said denial and would not be terminated. However, he clarified that if the retiring/resigning employees held the rank of Vice President or Senior Vice President, the Board was tasked to approve their respective resignations or retirement applications.²¹

The Ruling of the Regional Trial Court

In a May 19, 2009 Decision,²² Branch 196 of the RTC of Parañaque City found no proof that Bulatao returned to work. Additionally, there was no document showing that his absence was with prior leave, leading the trial court to conclude that Bulatao abandoned his employment when he went on voluntary leave for 81 days from November 11, 1999 to January 31, 2000 upon submission of a request to avail of an early retirement scheme. His intention to sever his employment with PNB was clearly reflected in his letter when he stated that he cannot stay in the employ of the bank and that PNB should find a replacement. It found that when Bulatao immediately went on leave and did not report without justifiable reason, this signified his intention to sever his relations with the bank which constituted as abandonment of work. Accordingly, the trial court held that Bulatao's application to retire was belied by his actions which actually demonstrated an intention to abandon work, much like a resignation letter which is effective immediately.

The RTC further held that Bulatao did not render service until after his request for retirement was properly screened which disrupted the operations of his division. Bulatao did not even inquire about the status of his request, except when he was informed not to report for work as his resignation had already been approved. The RTC opined that his actions in leaving the bank with haste and staying unaccounted for quite some time left much to be desired for a senior bank official like him.

Moreover, the trial court found that PNB cannot be faulted for considering that Bulatao has resigned from employment given that he has

¹⁹ TSN, August 14, 2008, pp. 5, 9-18.

²⁰ *Id.* at 24.

²¹ TSN, October 21, 2008, pp. 5-13.

²² *CA rollo*, pp. 11-19; penned by Judge Brigido Artemon M. Luna II.

already manifested his intention to leave the bank and in fact immediately left without any valid explanation. PNB was not precluded from accepting Bulatao's resignation as it was the only thing left to be done considering that his acts of abandonment were tantamount to a voluntary resignation. It interpreted Bulatao's memorandum withdrawing his application for retirement as an afterthought given his actuations before the filing thereof, especially when he did not return to work after filing a notice of retirement. Hence, the RTC dismissed Bulatao's Complaint for lack of merit.

Bulatao asked for a reconsideration²³ but it was denied by the RTC Order²⁴ dated August 25, 2009. Dismayed, Bulatao appealed²⁵ to the CA.

The Ruling of the Court of Appeals

The CA, in its assailed July 29, 2011 Decision,²⁶ held that PNB failed to present evidence to show that there was no announcement regarding the availability of a retirement scheme which encouraged Bulatao to apply for one. It ruled that the announcement made by the President of PNB is akin to the principle of promissory estoppel. It declared that Bulatao properly relied on the announcement made by Mr. Samit and Mr. Palma Gil. However, since there was no actual retirement plan or scheme which Bulatao could have availed of, he correctly withdrew his application for retirement, although it was done for a different reason (which was the supposed prodding of Mr. Tan for him to continue working for PNB).

In any case, the appellate court held that Bulatao's withdrawal of his application for retirement left PNB without any application to accept or deny. Thus, the issuance of Board Resolution No. 38 was flawed because the matter of Bulatao's application was already out of the Board's purview after Bulatao withdrew the same.

The CA noted that even if Bulatao's application for retirement is treated as a resignation letter, the circumstances under which he manifested his desire to leave work rendered the same involuntary. It ruled that Bulatao was prompted to apply for retirement due to unbearable conditions brought about by the employer and not due to his desire to sever his working relationship with PNB.

The appellate court found that Bulatao went on official leave immediately after filing his application for retirement but returned to work on January 1, 2000 until he was verbally informed on January 29, 2000 not to report for work starting February 2000. Bulatao went back to work even without any notice from PNB for him to return; hence, there was no basis for the charge of abandonment. It further found that: "Resolution No. [3]8 that

²³ *Records*, pp. 620-633.

²⁴ *CA rollo*, p. 25.

²⁵ *Id.* at 22-24.

²⁶ *Rollo*, pp. 9-23.

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treated [Bulatao's] application for retirement as a resignation letter is silent on this point nor did it mention anything about the lack of a valid leave form to cover the period that Bulatao was supposed to be on leave. Worse, said resolution came three (3) days after [Bulatao] withdrew his application for retirement. To hold [Bulatao] guilty of abandonment when [PNB] had the opportunity to charge him for the same will be violative of [Bulatao's] right to due process and an evasion of PNB's duty to observe the two (2) notice rule."²⁷

In view of foregoing findings, the CA declared that Bulatao was illegally dismissed and entitled to reinstatement and backwages as well as damages. The dispositive portion of the appellate court's assailed Decision reads:

WHEREFORE, the appeal is **GRANTED** and the Decision dated May 19, 2009 is **REVERSED and SET ASIDE**. Appellant is hereby found to have been illegally dismissed and is hereby ordered **REINSTATED** to his former or equivalent position without loss of seniority rights. Accordingly he is entitled to recover:

1. Backwages, inclusive of allowances, and benefits or their monetary equivalent, computed from the time the same were withheld up to the time of appellant's actual reinstatement;
2. Moral damages in the amount of ONE HUNDRED THOUSAND (PHP100,000.00) PESOS;
3. Exemplary damages in the amount of ONE HUNDRED THOUSAND (PHP100,000.00) PESOS;
4. TEN (10%) PERCENT attorney's fees.

This case is remanded to the court of origin for computation of backwages and other monetary awards due appellant.

SO ORDERED.²⁸

PNB filed a motion for reconsideration which was denied by the CA in a Resolution²⁹ dated February 7, 2012. Discontented, PNB elevated³⁰ this case before Us and raised the following errors:

A.

THE [CA] GRAVELY ERRED IN GIVING CREDENCE TO RESPONDENT'S UNNATURAL CREDULITY IN OVER-RELYING ON A SUPPOSED ANNOUNCEMENT OF AN EARLY RETIREMENT PLAN, WITHOUT EXPECTING FROM HIM, A SENIOR VICE PRESIDENT AT THAT, TO AT LEAST CHECK OR VERIFY, EVEN PERFUNCTORILY, A DEFINITIVE COMPANY POLICY OR BASIS TO CONFIRM SUCH ANNOUNCEMENT.

²⁷ *Id.* at 20.

²⁸ *Id.* at 21-22.

²⁹ *Id.* at 25-26.

³⁰ *Id.* at 29-59.

B.

THE [CA] GRAVELY ERRED WHEN IT MANIFESTLY OVERLOOKED THE EVIDENCE ON RECORD OF RESPONDENT'S CLEAR INTENTION AND DEMAND TO SEVER HIS EMPLOYMENT TIES WITH PNB, COUPLED WITH HIS ACTUAL ACT OF ABANDONMENT.

C.

THE [CA] GRAVELY ERRED WHEN IT GRATUITOUSLY CONCLUDED THAT THE WORKING CONDITIONS RESPONDENT FOUND HIMSELF INTO, AND WHICH HE FOUND DISAGREEABLE, PER SE, MADE HIS DECISION TO SEVER HIS TIES [WITH] PNB INVOLUNTARILY.

D.

THE [CA] GRAVELY ERRED IN AWARDING RESPONDENT MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES.³¹

Thus, the main issue in this Petition is whether or not Bulatao was illegally dismissed.

The Ruling of the Court

The Petition is unmeritorious.

PNB argues that the appellate court erred in giving credence to Bulatao's reliance on a supposed announcement of an early retirement plan and faulted PNB for its failure to show proof that no such announcement was made. It asserts that considering Bulatao's position, he should have not merely relied on a verbal announcement and instead confirmed whether there was indeed such company policy and its basis, including the necessary formality and documentation for the processing of the supposed application for retirement. It contends that Bulatao has the burden of proof to show that he applied for inclusion in the alleged early retirement plan.³²

Furthermore, the bank points out that Bulatao's demand to sever his employment ties was immediate and categorical as indicated in his letter. While he intended to go on terminal leave, he never filed and presented evidence that he actually filed any application to go on such leave. Instead, he went on "voluntary leave" for 81 days without permission or justifiable reason, except for his demand to retire early. It argues that PNB should not be faulted for accepting Bulatao's voluntary act of resignation and should not be expected to accommodate his sudden change of heart, especially since he manifested his intention to leave at once.³³

³¹ *Id.* at 41-42.

³² *Id.* at 43-44.

³³ *Id.* at 45-46.

Moreover, PNB asserts that “[g]iven the nature and position of [Bulatao’s] appointment, **coupled with his expressed sentiments, overt acts, and omissions (e.g., failure to file an application for 81-day leave or inclusion in any form of retirement plan), all of which evinced his desire to leave the Bank, the conclusion is inevitable. His separation from the Bank was voluntary.**”³⁴ Furthermore, it questions why the CA did not consider the trial court’s findings on the matter.³⁵

Bulatao counters that his testimony and PNB’s admissions prove that there was an offer for early retirement to PNB’s IT staff. He emphasizes that PNB admitted the existence of the retirement offer during the pre-trial conference before the trial court since it admitted Bulatao’s letter dated November 10, 1999 in its entirety. He adds that PNB did not present any evidence to counter his claim that an offer for early retirement was made.³⁶

He avers that Resolution No. 38 was invalid and insists that his letter dated November 10, 1999 was not a resignation letter but an application for early retirement, as he believed in good faith that PNB’s offer was valid. He adds that PNB’s witness, Bernardino, admitted during trial that it was not the practice of PNB to automatically terminate the employee in the event that his/her application for retirement is denied. In spite of this, his letter was deemed as a resignation which was wrong and unfair. Moreover, he states that Resolution No. 38 was issued on January 28, 2000, or three days after the withdrawal of his application for retirement through a Memorandum dated January 25, 2000.³⁷

Bulatao insists that he did not abandon his work and that PNB failed to show proof that he did so or that he intended to resign, or that his official leave was not granted. This was even demonstrated by his filing of cases for illegal dismissal which were inconsistent with abandonment.³⁸

PNB rebuts that Bulatao failed to prove the existence of the offer of an early retirement plan. It argues that Bulatao did nothing more to formalize or follow-up his supposed application for retirement. It maintains that given the position and nature of Bulatao’s appointment, coupled with his sentiments, actuations and omissions, he demonstrated his desire to leave PNB. His acts amounted to abandonment since he went on voluntary leave without justifiable explanation and asked that his replacement be appointed effective November 10, 1999, which were indicative of his intention to sever the employer-employee relationship.³⁹

³⁴ *Id.* at 48.

³⁵ *Id.* at 50-51.

³⁶ *Id.* at 66-69.

³⁷ *Id.* at 70-71.

³⁸ *Id.* at 71-73.

³⁹ *Id.* at 232-237.

At the outset, it should be noted that during the period when Bulatao opted to avail of the supposed offer for an early retirement, there was no existing documented retirement offers from PNB. Apparently, PNB only offered an SSIP⁴⁰ from July 13, 1998 to September 13, 1998 and an SSP⁴¹ from February 15, 2001 to April 10, 2001. These offers were evidenced by circulars and other documentation, which required an employee to fill out an application form and to comply with the conditions for eligibility. Notably, there was no documented offer for a retirement plan from September 14, 1998 to February 14, 2001,⁴² the period covering Bulatao's application for early retirement.

However, as the appellate court found, PNB did not present any proof to counter Bulatao's positive assertion that there was a verbal announcement about an option for early retirement for those who attended the meeting. In fact, PNB admitted that there was a meeting at that time.⁴³ Believing in good faith that there was a valid offer as the same came from a top official of the bank, Bulatao deemed it best to avail of it since he also believed that the future working conditions would not be comfortable for him due to the entry of the "Indian" group. As the CA ruled, the circumstances in which the bank expected Bulatao to work impelled him to apply for retirement, and not because he actually wished to sever his employment ties with PNB.

As declared by the appellate court, the situation calls for the application of the doctrine of promissory estoppel, which is "an exception to the general rule that a promise of future conduct does not constitute an estoppel. In some jurisdictions, in order to make out a claim of promissory estoppel, a party bears the burden of establishing the following elements: (1) a promise reasonably expected to induce action or forbearance; (2) such promise did in fact induce such action or forbearance[;] and (3) the party suffered detriment as a result."⁴⁴ In the case at bench, Bulatao was constrained to apply for early retirement due to the announcement of its availability and because of the unfavorable future working conditions he would face after the supposed JVA with the "Indian" group and the conduct of the International Competitive Test. Consequently, Bulatao suffered detriment as his application for early retirement was unexpectedly interpreted as a resignation by the Board and he was subsequently advised not to report for work anymore notwithstanding the withdrawal of his application for early retirement.

Bulatao withdrew his application for early retirement since Mr. Tan purportedly asked him to work in a different capacity in the bank. Hence, he manifested such withdrawal through a Memorandum three days before PNB's Board released Resolution No. 38 accepting his supposed resignation. In effect, the Board did not have any basis for its resolution since Bulatao already withdrew his application.

⁴⁰ Records, pp. 445-462.

⁴¹ *Id.* at 463-494.

⁴² CA *rollo*, pp. 81-82.

⁴³ Records, p. 83.

⁴⁴ *Mendoza v. Court of Appeals*, 412 Phil. 14, 29 (2001), citing 28 Am Jur 2d 481.

In his letter dated November 10, 1999, Bulatao also mentioned that he was taking an official leave of absence immediately after filing the said letter. Notably, he failed to submit proof that he filled out an official leave form and filed the same with PNB's Human Resource Division. Curiously, though, even with the receipt of Bulatao's letter dated November 10, 1999, the bank did not require him to file the corresponding leave form. Additionally, PNB did not order him to return to work lest he be deemed to be on AWOL given that his official leave was supposedly not approved. In fact, PNB did not charge him with abandonment in spite of its allegation that he did not report for work for around 81 days. PNB failed to issue any notice to explain or a notice of hearing, or even to conduct a clarificatory meeting to shed light on Bulatao's supposed case of abandonment. There was a significant **inaction** on the part of PNB which suggested that although not the norm, Bulatao's acts, as a senior official, were not considered as highly irregular especially with regard to his taking an official leave of absence. PNB's inaction could be deemed that it has accepted Bulatao's application for leave, even though it was not in the standard form or strictly in accordance with the bank's practices.

In view of the attendant circumstances, Bulatao could not be considered as having abandoned his employment. To establish abandonment, the employer must prove that "*first*, the employee must have failed to report for work or must have been absent without valid or justifiable reason; and *second*, [that] there must have been a clear intention on the part of the employee to sever the employer-employee relationship manifested by some overt act."⁴⁵

In this case, it was clear in Bulatao's letter dated November 10, 1999 that he was taking an official leave of absence following his statement that he was taking the bank's offer to retire. Thus, there was reason for Bulatao's absence at the time, which We already noted to be accepted and approved due to PNB's undeniable inaction. Moreover, while Bulatao intended to take up the offer to retire which would have led to the severance of the employer-employee relationship, it should be considered that the circumstances surrounding such decision was influenced by the JVA with the "Indian" group which Bulatao did not agree with. As held by the CA, such instance did not stem from Bulatao's desire to willingly and unconditionally cut ties with PNB but because of the JVA which he believed to be disadvantageous to the bank.

In addition, Bulatao categorically withdrew his application to retire as mentioned in his memorandum which he submitted before the Board "approved" his application to "resign." Indeed, "[t]here must be a positive and overt act signifying an employee's deliberate intent to sever his or her employment,"⁴⁶ which is wanting in this case. There are doubts surrounding

⁴⁵ *Hubilla v. HSY Marketing Ltd., Co.*, G.R. No. 207354, January 10, 2018, 850 SCRA 372, 399, citing *MZR Industries v. Colambot*, 716 Phil. 617, 627 (2013); *Samarca v. Arc-Men Industries, Inc.*, 459 Phil. 506, 515 (2003); *MSMG-UWP v. Ramos*, 383 Phil. 329, 371-371 (2000); *Icawat v. National Labor Relations Commission*, 389 Phil. 441, 445 (2000); and *Seven Star Textile Company v. Dy*, 541 Phil. 468, 481 (2007).

⁴⁶ *Hubilla v. HSY Marketing Ltd., Co., id.*, citing *Samarca v. Arc-Men Industries, id.*

his intent to retire coupled with the fact that he specifically desisted from doing so. Jurisprudence pronounced that “mere absence from work, even after a notice to return, is insufficient to prove abandonment.”⁴⁷ In Bulatao’s case, there was not even any notice to return to work. Simply put, the totality of Bulatao’s acts, coupled with PNB’s inaction, led to the conclusion that he did not intend to summarily cut his ties with PNB.

Even if Bulatao’s application for retirement were to be considered premature, he contended that his employment should not have been terminated and that PNB should have just denied his application and ordered him to report back to work,⁴⁸ as Bernardino testified during the trial. Unfortunately, Bulatao was not informed whether he committed lapses with regard to his applications for official leave and early retirement. He was left under the impression that everything was in order when in fact his letter dated November 10, 1999 was already being treated as a resignation letter for consideration of the Board.

Also, it was likely that PNB might have interpreted his application for official leave as terminal leave prior to his “resignation.” If this was the case, PNB should have required Bulatao to properly fill out a leave form for his terminal leave or official leave of absence. To stress, however, the bank did not send any notice to Bulatao to explain his absence, considering his position as SVP.

Bulatao even alleged that he returned to work on January 1, 2000. But then on January 29, 2000, he was suddenly verbally informed not to report for work starting February 2000. Around that time, apparently, the Board released Resolution No. 38 on January 28, 2000 which “approved and confirmed” the acceptance of his “resignation.” Yet, it still took more than a month, specifically on March 23, 2000, for Bulatao to be informed in writing about the said decision by the Board. The Court finds without justification PNB’s treatment of Bulatao’s letter as one for resignation and its subsequent “acceptance” of the same to ultimately terminate his employment. Neither was there any basis to charge him with abandonment for his failure to report for work.

It is also important to note that filing an illegal dismissal case is inconsistent with abandonment, as in fact, in his complaint with the RTC, Bulatao prayed for reinstatement.⁴⁹ Indeed, “[a]n employee who loses no time in protesting his layoff cannot by any reasoning be said to have abandoned his work, for it is already a well-settled doctrine that the filing by an employee of a complaint for illegal dismissal with a prayer for reinstatement is proof enough of his desire to return to work, thus negating the employer’s charge of abandonment.”⁵⁰ PNB failed to show that Bulatao had a clear and deliberate

⁴⁷ *Hubilla v. HSY Marketing Ltd., Co., id.*, citing *Insular Life Assurance Co., Ltd. Employees Association-NATU v. Insular Life Assurance Co., Ltd.*, 147 Phil. 194, 217 (1971).

⁴⁸ *CA rollo*, p. 85.

⁴⁹ *Rollo*, p. 94.

⁵⁰ *Hantex Trading Co., Inc. v. Court of Appeals*, 438 Phil. 737, 744 (2002).

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intent to sever his employment without any intention of returning, as it was not able to rebut with sufficient evidence Bulatao's withdrawal of his application for retirement. Additionally, PNB did not convincingly disprove Bulatao's claim that the real reason behind his filing for early retirement was his dissatisfaction with the agreement with the "Indian" group, even if the said agreement did not materialize.

In light of these observations and findings, PNB failed to prove by convincing evidence that there was just or authorized cause for terminating Bulatao from employment.⁵¹ Moreover, jurisprudence states that "[w]hen the evidence of the employer and the employee are in equipoise, doubts are resolved in favor of labor. This is in line with the policy of the State to afford greater protection to labor."⁵²

We note that the CA ordered the reinstatement of Bulatao. It should be emphasized, however, that although reinstatement is a matter of right, the award of separation pay is an exception to such rule, as it is awarded in lieu of reinstatement in the following circumstances: "(a) when reinstatement can no longer be effected in view of the passage of a long period of time or because of the realities of the situation; (b) reinstatement is inimical to the employer's interest; (c) reinstatement is no longer feasible; (d) reinstatement does not serve the best interests of the parties involved; (e) the employer is prejudiced by the workers' continued employment; (f) facts that make execution unjust or inequitable have supervened; or (g) strained relations between the employer and employee."⁵³

Taking into account the lapse of time as well as the age and capacity to work of Bulatao, reinstatement is no longer feasible. In fact, Bulatao revealed that he has suffered and is still suffering from various medical ailments such as stroke, arthritis, gout, cervical spondylosis, and even had to undergo cancer treatments and heart surgery during the pendency of this case.⁵⁴ Thus, the grant of separation pay in lieu of reinstatement is more appropriate under the circumstances.

Likewise, as ruled by the CA, Bulatao is entitled to damages and attorney's fees⁵⁵ since "the proper action on [Bulatao's] application for retirement should have been to deny the same instead of immediately terminating [Bulatao] and treating the same as a resignation letter. Worse, the actual notice of Resolution No. [3]8 dated March 3, 2000 was received by [Bulatao] months after he was told not to report for work anymore."⁵⁶ It is

⁵¹ See LABOR CODE, Articles 296 and 300; *Aldovino v. Gold and Green Manpower Management and Development Services, Inc.*, G.R. No. 200811, June 19, 2019.

⁵² *Hubilla v. HSY Marketing, Ltd., Co.*, supra note 45 at 397.

⁵³ *Fernandez, Jr. v. Manila Electric Co.*, G.R. No. 226002, June 25, 2018, citing *Ergonomic Systems, Philippines, Inc. v. Enaje*, G.R. No. 195163, December 13, 2017, 848 SCRA 503; *Holcim Phils., Inc. v. Obra*, 792 Phil. 594, 609 (2016); and *Balais, Jr. v. Se'Lon by Aimee*, 787 Phil. 287 (2016)

⁵⁴ *Rollo*, pp. 344-345, 352.

⁵⁵ CIVIL CODE, Article 2208; *Aldovino v. Gold and Green Manpower Management and Development Services, Inc.*, supra note 51.

⁵⁶ *Rollo*, p. 21.

settled that “moral damages are recoverable where the dismissal of the employee 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, while exemplary damages may be awarded if the dismissal was effected in a wanton, oppressive or malevolent manner.”⁵⁷ Moreover, attorney’s fees may be awarded since there is a factual, legal, or equitable basis for doing so in light of the circumstances surrounding the case.⁵⁸ Bulatao was compelled to engage the services of counsel in order to protect his rights after he was unjustly dismissed.

Lastly, the backwages including allowances and benefits or their monetary equivalent which were granted in favor of Bulatao shall, in accordance with Our ruling in *Nacar v. Gallery Frames*,⁵⁹ earn legal interest of twelve (12%) percent per *annum* from the time these were withheld until June 30, 2013 and six percent (6%) per *annum* from July 1, 2013 until fully paid.

WHEREFORE, the Petition for Review on *Certiorari* is hereby **DENIED**. The assailed July 29, 2011 Decision and February 7, 2012 Resolution of the Court of Appeals in CA-G.R. CV No. 94046 are hereby **AFFIRMED with MODIFICATIONS** in that respondent Manuel C. Bulatao is **AWARDED**:

1. **FULL BACKWAGES**, inclusive of allowances and other benefits or their monetary equivalent from the time these were withheld until finality of this judgment;
2. **SEPARATION PAY IN LIEU OF REINSTATEMENT** computed at one month salary for every year of service, with a fraction of at least six (6) months considered as one whole year computed from the date of his appointment as Senior Vice-President of the Information Technology Group until finality of judgment.

Moreover, the total monetary award shall **EARN** legal interest at twelve percent (12%) per *annum* from the time his salary and other benefits were withheld until June 30, 2013 and at the rate of six percent (6%) per *annum* from July 1, 2013 until full satisfaction of the same.

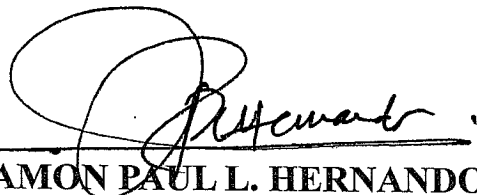
The case is **REMANDED** to the court of origin for the proper computation of separation pay and backwages, other allowances and benefits or their monetary equivalent, and for the execution of the award.

⁵⁷ *Freyssinet Filipinas Corp. v. Lapuz*, G.R. No. 226722, March 18, 2019, citing *Pasos v. Philippine National Construction Corporation*, 713 Phil. 416, 437 (2013).

⁵⁸ See *Pardillo v. Bandojo*, G.R. No. 224854, March 27, 2019.


⁵⁹ *Nacar v. Gallery Frames*, 716 Phil. 267, 280-283 (2013); see Bangko Sentral ng Pilipinas Monetary Board Circular No. 799, Series of 2013.

SO ORDERED.



RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:



ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson



ANDRES B. REYES, JR.
Associate Justice




AMY C. LAZARO-JAVIER
Associate Justice



EDGARDO L. DELOS SANTOS
Associate Justice

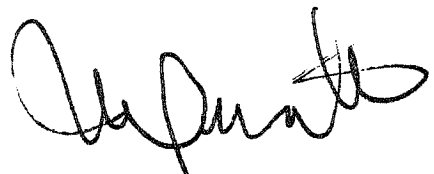
ATTESTATION

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.


ESTELA M. PERLAS-BERNABE
Senior 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.


DIOSDADO M. PERALTA
Chief Justice