Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ZUELLIG FREIGHT AND CARGO SYSTEMS, Petitioner,	**G.R. No. 157900**
	Present:
-versus-	SERENO, *C.J.*, LEONARDO-DE CASTRO, BERSAMIN, VILLARAMA, JR, and REYES, *JJ.*
NATIONAL LABOR RELATIONS COMMISSION AND RONALDO V. SAN MIGUEL, Respondents.	Promulgated: JUL 22 2013

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D E C I S I O N

BERSAMIN, *J.*:

The mere change in the corporate name is not considered under the law as the creation of a new corporation; hence, the renamed corporation remains liable for the illegal dismissal of its employee separated under that guise.

The Case

Petitioner employer appeals the decision promulgated on November 6, 2002,[1] whereby the Court of Appeals (CA) dismissed its petition for *certiorari* and upheld the adverse decision of the National Labor Relations Commission (NLRC) finding respondent Ronaldo V. San Miguel to have been illegally dismissed.

Antecedents

San Miguel brought a complaint for unfair labor practice, illegal dismissal, non-payment of salaries and moral damages against petitioner,

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[1] *Rollo*, p. 26-36; penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justice Ruben T. Reyes (later Presiding Justice and Member of the Court, since retired) and Associate Justice Edgardo F. Sundiam (retired/deceased) concurring.

formerly known as Zeta Brokerage Corporation (Zeta).[2] He alleged that he had been a checker/customs representative of Zeta since December 16, 1985; that in January 1994, he and other employees of Zeta were informed that Zeta would cease operations, and that all affected employees, including him, would be separated; that by letter dated February 28, 1994, Zeta informed him of his termination effective March 31, 1994; that he reluctantly accepted his separation pay subject to the standing offer to be hired to his former position by petitioner; and that on April 15, 1994, he was summarily terminated, without any valid cause and due process.

San Miguel contended that the amendments of the articles of incorporation of Zeta were for the purpose of changing the corporate name, broadening the primary functions, and increasing the capital stock; and that such amendments could not mean that Zeta had been thereby dissolved.[3]

On its part, petitioner countered that San Miguel's termination from Zeta had been for a cause authorized by the *Labor Code*; that its non-acceptance of him had not been by any means irregular or discriminatory; that its predecessor-in-interest had complied with the requirements for termination due to the cessation of business operations; that it had no obligation to employ San Miguel in the exercise of its valid management prerogative; that all employees had been given sufficient time to make their decision whether to accept its offer of employment or not, but he had not responded to its offer within the time set; that because of his failure to meet the deadline, the offer had expired; that he had nonetheless been hired on a temporary basis; and that when it decided to hire another employee instead of San Miguel, such decision was not arbitrary because of seniority considerations.[4]

Decision of the Labor Arbiter

On November 15, 1999, Labor Arbiter Francisco A. Robles rendered a decision holding that San Miguel had been illegally dismissed,[5] to wit:

> Contrary to respondents' claim that Zeta ceased operations and closed its business, we believe that there was merely a change of business name and primary purpose and upgrading of stocks of the corporation. Zuellig and Zeta are therefore legally the same person and entity and this was admitted by Zuellig's counsel in its letter to the VAT Department of the Bureau of Internal Revenue on 08 June 1994 (Reply, Annex "A"). As such, the termination of complainant's services allegedly due to cessation of business operations of Zeta is deemed illegal. Notwithstanding his

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2 Id. at 28.
3 Id. at 118-119.
4 Id. at 120-121.
5 Id. at 118-126.

> receipt of separation benefits from respondents, complainant is not estopped from questioning the legality of his dismissal.[6]
>
> x x x x
>
> WHEREFORE, in view of the foregoing, complainant is found to have been illegally dismissed. Respondent Zuellig Freight and Cargo Systems, Inc. is hereby ordered to pay complainant his backwages from April 1, 1994 up to November 15, 1999, in the amount of THREE HUNDRED TWENTY FOUR THOUSAND SIX HUNDRED FIFTEEN PESOS (₱324,615.00).
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> The same respondent is ordered to pay the complainant Ronaldo San Miguel attorney's fees equivalent to ten percent (10%) of the total award.
>
> All other claims are dismissed.
>
> SO ORDERED.[7]

Decision of the NLRC

Petitioner appealed, but the NLRC issued a resolution on April 4, 2001,[8] affirming the decision of the Labor Arbiter.

The NLRC later on denied petitioner's motion for reconsideration *via* its resolution dated June 15, 2001.[9]

Decision of the CA

Petitioner then filed a petition for *certiorari* in the CA, imputing to the NLRC grave abuse of discretion amounting to lack or excess of jurisdiction, as follows:

1. In failing to consider the circumstances attendant to the cessation of business of Zeta;

2. In failing to consider that San Miguel failed to meet the deadline Zeta fixed for its employees to accept the offer of petitioner for re-employment;

3. In failing to consider that San Miguel's employment with petitioner from April 1 to 15, 1994 could in no way be interpreted as a continuation of employment with Zeta;

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6 Id. at 122.
7 Id. at 125-126.
8 Id. at 157-168.
9 Id. at 180.

4. In admitting in evidence the letter dated January 21, 1994 of petitioner's counsel to the Bureau of Internal Revenue; and

5. In awarding attorney's fees to San Miguel based on Article 2208 of the *Civil Code* and Article 111 of the *Labor Code*.

On November 6, 2002, the CA promulgated its assailed decision dismissing the petition for *certiorari*,[10] *viz*:

> A careful perusal of the records shows that the closure of business operation was not validly made. Consider the Certificate of Filing of the Amended Articles of Incorporation which clearly shows that petitioner Zuellig is actually the former Zeta as per amendment dated January 21, 1994. The same observation can be deduced with respect to the Certificate of Filing of Amended By-Laws dated May 10, 1994. As aptly pointed out by private respondent San Miguel, the amendment of the articles of incorporation merely changed its corporate name, broadened its primary purpose and increased its authorized capital stocks. The requirements contemplated in Article 283 were not satisfied in this case. Good faith was not established by mere registration with the Securities and Exchange Commission (SEC) of the Amended Articles of Incorporation and By-Laws. The factual milleu of the case, considered in its totality, shows that there was no closure to speak of. The termination of services allegedly due to cessation of business operations of Zeta was illegal. Notwithstanding private respondent San Miguel's receipt of separation benefits from petitioner Zuellig, the former is not estopped from questioning the legality of his dismissal.
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> Petitioner Zuellig's allegation that the five employees who refused to receive the termination letters were **verbally informed** that they had until **6:00 p.m. of March 1, 1994** to receive the termination letters and sign the employment contracts, otherwise the former would be constrained to withdraw its offer of employment and seek for replacements in order to ensure the smooth operations of the new company from its opening date, is of no moment in view of the foregoing circumstances. There being no valid closure of business operations, the dismissal of private respondent San Miguel on alleged authorized cause of cessation of business pursuant to Article 283 of the Labor Code, was utterly illegal. Despite verbal notice that the employees had until **6:00 p.m. of March 1, 1994** to receive the termination letters and sign the employment contracts, the dismissal was still illegal for the said condition is null and void. In point of facts and law, private respondent San Miguel remained an employee of petitioner Zuellig. If at all, the alleged closure of business operations merely operates to suspend employment relation since it is not permanent in character.
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> Where there is no showing of a clear, valid, and legal cause for the termination of employment, the law considers the matter a case of illegal dismissal and the burden is on the employer to prove that the termination was for a valid or authorized cause.

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[10] Supra note 1.

> Findings of facts of the NLRC, particularly when both the NLRC and Labor Arbiter are in agreement, are deemed binding and conclusive upon the Supreme Court.
>
> As regards the second and last argument advanced by petitioner Zuellig that private respondent San Miguel is not entitled to attorney's fees, this Court finds no reason to disturb the ruling of the public respondent NLRC. Petitioner Zuellig maintains that the factual backdraft (*sic*) of this petition does not call for the application of Article 2208 of the Civil Code and Article 111 of the Labor Code as private respondent's wages were not withheld. On the other hand, public respondent NLRC argues that paragraphs 2 and 3, Article 2208 of the Civil Code and paragraph (a), Article 111 of the Labor Code justify the award of attorney's fees. NLRC was saying to the effect that by petitioner Zuellig's act of illegally dismissing private respondent San Miguel, the latter was compelled to litigate and thus incurred expenses to protect his interest. In the same passion, private respondent San Miguel contends that petitioner Zuellig acted in gross and evident bad faith in refusing to satisfy his plainly valid, just and demandable claim.
>
> After careful and judicious evaluation of the arguments advanced to support the propriety or impropriety of the award of attorney's fees to private respondent San Miguel, this Court finds the resolutions of public respondent NLRC supported by laws and jurisprudence. It does not need much imagination to see that by reason of petitioner Zuellig's feigned closure of business operations, private respondent San Miguel incurred expenses to protect his rights and interests. Therefore, the award of attorney's fees is in order.
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> **WHEREFORE**, in view of the foregoing, the resolutions dated April 4, 2001 and June 15, 2001 of the National Labor Relations Commission affirming the November 15, 1999 decision of the Labor Arbiter in NLRC NCR 05-03639-94 (CA No. 022861-00) are hereby **AFFIRMED** and the instant petition for certiorari is hereby **DENIED** and ordered **DISMISSED**.
>
> **SO ORDERED**.

Hence, petitioner appeals.

Issues

Petitioner asserts that the CA erred in holding that the NLRC did not act with grave abuse of discretion in ruling that the closure of the business operation of Zeta had not been *bona fide*, thereby resulting in the illegal dismissal of San Miguel; and in holding that the NLRC did not act with grave abuse of discretion in ordering it to pay San Miguel attorney's fees.[11]

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[11] Id. at 9.

In his comment,[12] San Miguel counters that the CA correctly found no grave abuse of discretion on the part of the NLRC because the ample evidence on record showed that he had been illegally terminated; that such finding accorded with applicable laws and jurisprudence; and that he was entitled to back wages and attorney's fees.

In its reply,[13] petitioner reiterates that the cessation of Zeta's business, which resulted in the severance of San Miguel from his employment, was valid; that the CA erred in upholding the NLRC's finding that San Miguel had been illegally terminated; that his acknowledgment of the validity of his separation from Zeta by signing a quitclaim and waiver estopped him from claiming that it had subsequently employed him; and that the award of attorney's fees had no basis in fact and in law.

Ruling

The petition for review on *certiorari* is denied for its lack of merit.

First of all, the outcome reached by the CA that the NLRC did not commit any grave abuse of discretion was borne out by the records of the case. We cannot undo such finding without petitioner making a clear demonstration to the Court now that the CA gravely erred in passing upon the petition for *certiorari* of petitioner.

Indeed, in a special civil action for *certiorari* brought against a court or quasi-judicial body with jurisdiction over a case, petitioner carries the burden of proving that the court or quasi-judicial body committed not a merely reversible error but a grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the impugned order.[14] Showing mere abuse of discretion is not enough, for it is necessary to demonstrate that the abuse of discretion was grave. Grave abuse of discretion means either that the judicial or quasi-judicial power was exercised in an arbitrary or despotic manner by reason of passion or personal hostility, or that the respondent judge, tribunal or board evaded a positive duty, or virtually refused to perform the duty enjoined or to act in contemplation of law, such as when such judge, tribunal or board exercising judicial or quasi-judicial powers acted in a capricious or whimsical manner as to be equivalent to lack of jurisdiction.[15] Under the circumstances, the CA committed no abuse of discretion, least of all grave, because its justifications were supported by the records and by the applicable laws and jurisprudence.

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12 Id. at 230-234.
13 Id. at 539-543.
14 *Tan v. Antazo*, G.R. No. 187208, February 23, 2011, 644 SCRA 337, 342.
15 *Delos Santos v. Metropolitan Bank and Trust Company, Inc.*, G.R. No. 153852, October 24, 2012, 684 SCRA 410, 422-423.

Secondly, it is worthy to point out that the Labor Arbiter, the NLRC, and the CA were united in concluding that the cessation of business by Zeta was not a *bona fide* closure to be regarded as a valid ground for the termination of employment of San Miguel within the ambit of Article 283 of the *Labor Code*. The provision pertinently reads:

> Article 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 Department of Labor and Employment at least one (1) month before the intended date thereof.** x x x.

The unanimous conclusions of the CA, the NLRC and the Labor Arbiter, being in accord with law, were not tainted with any abuse of discretion, least of all grave, on the part of the NLRC. Verily, the amendments of the articles of incorporation of Zeta to change the corporate name to Zuellig Freight and Cargo Systems, Inc. did not produce the dissolution of the former as a corporation. For sure, the *Corporation Code* defined and delineated the different modes of dissolving a corporation, and amendment of the articles of incorporation was not one of such modes. The effect of the change of name was not a change of the corporate being, for, as well stated in *Philippine First Insurance Co., Inc. v. Hartigan*:[16] "The changing of the name of a corporation is no more the creation of a corporation than the changing of the name of a natural person is begetting of a natural person. The act, in both cases, would seem to be what the language which we use to designate it imports – a change of *name*, and not a change of *being*."

The consequences, legal and otherwise, of the change of name were similarly dealt with in *P.C. Javier & Sons, Inc. v. Court of Appeals*,[17] with the Court holding thusly:

> From the foregoing documents, it cannot be denied that petitioner corporation was aware of First Summa Savings and Mortgage Bank's change of corporate name to PAIC Savings and Mortgage Bank, Inc. Knowing fully well of such change, petitioner corporation has no valid reason not to pay because the IGLF loans were applied with and obtained from First Summa Savings and Mortgage Bank. First Summa Savings and Mortgage Bank and PAIC Savings and Mortgage Bank, Inc., are one and the same bank to which petitioner corporation is indebted. **A change in the corporate name does not make a new corporation, whether effected by a special act or under a general law. It has no effect on the identity of the corporation, or on its property, rights, or liabilities.**

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[16] No. L-86370, July 31, 1970, 34 SCRA 252, 266, citing *Pacific Bank v. De Ro*, 37 Cal. 538.

[17] G.R. No. 129552, June 29, 2005, 462 SCRA 36, 44-45. See also *Avon Dale Garments, Inc. v. National Labor Relations Commission*, G.R. No. 117932, July 20, 1995, 246 SCRA 733, 737.

> **The corporation, upon such change in its name, is in no sense a new corporation, nor the successor of the original corporation. It is the same corporation with a different name, and its character is in no respect changed.** (Bold underscoring supplied for emphasis)

In short, Zeta and petitioner remained one and the same corporation. The change of name did not give petitioner the license to terminate employees of Zeta like San Miguel without just or authorized cause. The situation was not similar to that of an enterprise buying the business of another company where the purchasing company had no obligation to rehire terminated employees of the latter.[18] Petitioner, despite its new name, was the mere continuation of Zeta's corporate being, and still held the obligation to honor all of Zeta's obligations, one of which was to respect San Miguel's security of tenure. The dismissal of San Miguel from employment on the pretext that petitioner, being a different corporation, had no obligation to accept him as its employee, was illegal and ineffectual.

And, lastly, the CA rightfully upheld the NLRC's affirmance of the grant of attorney's fees to San Miguel. Thereby, the NLRC did not commit any grave abuse of its discretion, considering that San Miguel had been compelled to litigate and to incur expenses to protect his rights and interest. In *Producers Bank of the Philippines v. Court of Appeals,*[19] the Court ruled that attorney's fees could be awarded to a party whom an unjustified act of the other party compelled to litigate or to incur expenses to protect his interest. It was plain that petitioner's refusal to reinstate San Miguel with backwages and other benefits to which he had been legally entitled was unjustified, thereby entitling him to recover attorney's fees.

WHEREFORE, the Court **AFFIRMS** the decision of the Court of Appeals promulgated on November 6, 2002; and **ORDERS** petitioner to pay the costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

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[18] *Manlimos v. National Labor Relations Commission*, G.R. No. 113337, March 2, 1995, 242 SCRA 145, 155.

[19] G.R. No. 111584, September 17, 2001, 365 SCRA 326, 339.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice