



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

MARLO A. DEOFERIO,
Petitioner,

G.R. No. 202996

Present:

BRION, J.,
Acting Chairperson,
DEL CASTILLO,
PEREZ,
MENDOZA,** and
PERLAS-BERNABE, JJ.

- versus -

INTEL TECHNOLOGY PHILIPPINES, Promulgated:
INC. and/or MIKE WENTLING,
Respondents.

JUN 18 2014 *HON. Cabalag Jr. J. J. J.*

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DECISION

BRION, J.:

We resolve the petition for review on *certiorari*¹ filed by petitioner Marlo A. Deoferio to challenge the February 24, 2012 decision² and the August 2, 2012 resolution³ of the Court of Appeals (CA) in CA-G.R. SP No. 115708.

* In lieu of Associate Justice Antonio T. Carpio per Special Order No. 1699 dated June 13, 2014.

** Designated as Acting Member in lieu of Associate Justice Antonio T. Carpio per Special Order No. 1696 dated June 13, 2014.

¹ Dated September 19, 2012 and filed under Rule 45 of the Rules of Court; *rollo*, pp. 8-27.

² Id. at 29-38; penned by Associate Justice Agnes Reyes-Carpio, and concurred in by Associate Justices Jose C. Reyes, Jr. and Priscilla J. Baltazar-Padilla.

³ Id. at 40-41.

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The Factual Antecedents

On February 1, 1996, respondent Intel Technology Philippines, Inc. (*Intel*) employed Deoferio as a product quality and reliability engineer with a monthly salary of ₱9,000.00. In July 2001, Intel assigned him to the United States as a validation engineer for an agreed period of two years and with a monthly salary of US\$3,000.00. On January 27, 2002, Deoferio was repatriated to the Philippines after being confined at Providence St. Vincent Medical Center for major depression with psychosis.⁴ In the Philippines, he worked as a product engineer with a monthly salary of ₱23,000.00.⁵

Deoferio underwent a series of medical and psychiatric treatment at Intel's expense after his confinement in the United States. In 2002, Dr. Elizabeth Rondain of Makati Medical Center diagnosed him to be suffering from mood disorder, major depression, and auditory hallucination.⁶ He was also referred to Dr. Norieta Balderrama, Intel's forensic psychologist, and to a certain Dr. Cynthia Leynes who both confirmed his mental condition.⁷ On August 8, 2005, Dr. Paul Lee, a consultant psychiatrist of the Philippine General Hospital, concluded that Deoferio was suffering from schizophrenia. After several consultations, Dr. Lee issued a psychiatric report dated January 17, 2006 concluding and stating that Deoferio's psychotic symptoms are not curable within a period of six months and "will negatively affect his work and social relation with his co-worker[s]."⁸ Pursuant to these findings, Intel issued Deoferio a notice of termination on March 10, 2006.⁹

Deoferio responded to his termination of employment by filing a complaint for illegal dismissal with prayer for money claims against respondents Intel and Mike Wentling (*respondents*). He denied that he ever had mental illness and insisted that he satisfactorily performed his duties as a product engineer. He argued that Intel violated his statutory right to procedural due process when it summarily issued a notice of termination. He further claimed that he was entitled to a salary differential equivalent to the pre-terminated period of his assignment in the United States minus the base pay that he had already received. Deoferio also prayed for backwages, separation pay, moral and exemplary damages, as well as attorney's fees.¹⁰

⁴ Id. at 57.

⁵ Id. at 10.

⁶ Id. at 350.

⁷ Id. at 351.

⁸ Id. at 62.

⁹ Id. at 352-354.

¹⁰ Id. at 47-51.

In defense, the respondents argued that Deoferio's dismissal was based on Dr. Lee's certification that: (1) his schizophrenia was not curable within a period of six months even with proper medical treatment; and (2) his continued employment would be prejudicial to his and to the other employees' health.¹¹ The respondents also insisted that Deoferio's presence at Intel's premises would pose an actual harm to his co-employees as shown by his previous acts. On May 8, 2003, Deoferio emailed an Intel employee with this message: "All soul's day back to work Monday WW45.1." On January 18, 2005, he cut the mouse cables, stepped on the keyboards, and disarranged the desks of his co-employees.¹² The respondents also highlighted that Deoferio incurred numerous absences from work due to his mental condition, specifically, from January 31, 2002 until February 28, 2002,¹³ from August 2002 until September 2002,¹⁴ and from May 2003 until July 2003.¹⁵ Deoferio also took an administrative leave with pay from January 2005 until December 2005.¹⁶

The respondents further asserted that the twin-notice requirement in dismissals does not apply to terminations under Article 284 of the Labor Code.¹⁷ They emphasized that the Labor Code's implementing rules (*IRR*) only requires a competent public health authority's certification to effectively terminate the services of an employee.¹⁸ They insisted that Deoferio's separation and retirement payments for ₱247,517.35 were offset by his company car loan which amounted to ₱448,132.43.¹⁹ He was likewise not entitled to moral and exemplary damages, as well as attorney's fees, because the respondents faithfully relied on Dr. Lee's certification that he was not fit to work as a product engineer.²⁰

The Labor Arbitration Ruling

In a decision²¹ dated March 6, 2008, the Labor Arbiter (*LA*) ruled that Deoferio had been validly dismissed. The *LA* gave weight to Dr. Lee's certification that Deoferio had been suffering from schizophrenia and was not fit for employment. The evidence on record shows that Deoferio's continued employment at Intel would pose a threat to the health of his co-employees. The *LA* further held that the Labor Code and its *IRR* do not

¹¹ Id. at 61-62.

¹² Id. at 58-59.

¹³ Id. at 57.

¹⁴ Id. at 58.

¹⁵ Ibid.

¹⁶ Id. at 45.

¹⁷ Article 284 of the Labor Code is now renumbered as Article 298 of the Labor Code.

¹⁸ LABOR CODE IRR, Book 6, Rule 1, Section 8.

¹⁹ *Rollo*, p. 64.

²⁰ Id. at 65-67.

²¹ Id. at 151-155.

require the employer to comply with the twin-notice requirement in dismissals due to disease. The LA also found unmeritorious Deoferio's money claims against Intel.²²

On appeal by Deoferio, the National Labor Relations Commission (NLRC) wholly affirmed the LA's ruling.²³ The NLRC also denied²⁴ Deoferio's motion for reconsideration,²⁵ prompting him to seek relief from the CA through a petition for *certiorari* under Rule 65 of the Rules of Court.

The CA's Ruling

On February 24, 2012, the CA affirmed the NLRC decision. It agreed with the lower tribunals' findings that Deoferio was suffering from schizophrenia and that his continued employment at Intel would be prejudicial to his health and to those of his co-employees. It ruled that the only procedural requirement under the IRR is the certification by a competent public health authority on the non-curability of the disease within a period of six months even with proper medical treatment. It also concurred with the lower tribunals that Intel was justified in not paying Deoferio separation pay as required by Article 284 of the Labor Code because this obligation had already been offset by the matured car loan that Deoferio owed Intel.²⁶

Deoferio filed the present petition after the CA denied his motion for reconsideration.²⁷

The Petition

In the present petition before the Court, Deoferio argues that the uniform finding that he was suffering from schizophrenia is belied by his subsequent employment at Maxim Philippines Operating Corp. and Philips Semiconductors Corp., which both offered him higher compensations. He also asserts that the Labor Code does not exempt the employer from complying with the twin-notice requirement in terminations due to disease.²⁸

The Respondents' Position

²² Id. at 145-155.

²³ Id. at 188-192.

²⁴ Id. at 298-230.

²⁵ Id. at 200-204.

²⁶ *Supra* note 2.

²⁷ *Supra* note 3.

²⁸ *Supra* note 1.

In their Comment,²⁹ the respondents posit that the petition raises purely questions of fact which a petition for review on *certiorari* does not allow. They submit that Deoferio's arguments have been fully passed upon and found unmeritorious by the lower tribunals and by the CA. They additionally argue that Deoferio's subsequent employment in other corporations is irrelevant in determining the validity of his dismissal; the law merely requires the non-curability of the disease within a period of six months even with proper medical treatment.

The respondents also maintain that Deoferio's claim for salary differential is already barred by prescription under Article 291 of the Labor Code.³⁰ Even assuming that the claim for salary differential has been timely filed, the respondents assert that the parties expressly agreed in the International Assignment Relocation Agreement that "the assignment length is only an estimate and not a guarantee of employment for any particular length of time."³¹ Moreover, his assignment in the United States was merely temporary and did not change his salary base, an amount which he already received.

The Issues

This case presents to us the following issues:

- (1) Whether Deoferio was suffering from schizophrenia and whether his continued employment was prejudicial to his health, as well as to the health of his co-employees;
- (2) Whether the twin-notice requirement in dismissals applies to terminations due to disease; and

²⁹ *Rollo*, pp. 343-368.

³⁰ Article 291 of the Labor Code is now renumbered as Article 305 of the Labor Code.

³¹ *Rollo*, p. 364.

As part of the second issue, the following issues are raised:

- (a) Whether Deoferio is entitled to nominal damages for violation of his right to statutory procedural due process; and
 - (b) Whether the respondents are solidarily liable to Deoferio for nominal damages.
- (3) Whether Deoferio is entitled to salary differential, backwages, separation pay, moral and exemplary damages, as well as attorney's fees.

The Court's Ruling

We find the petition partly meritorious.

Intel had an authorized cause to dismiss Deoferio from employment

Concomitant to the employer's right to freely select and engage an employee is the employer's right to discharge the employee for just and/or authorized causes. To validly effect terminations of employment, the discharge must be for a valid cause in the manner required by law. The purpose of these two-pronged qualifications is to protect the working class from the employer's arbitrary and unreasonable exercise of its right to dismiss. Thus, in termination cases, the law places the burden of proof upon the employer to show by substantial evidence that the termination was for a lawful cause and in the manner required by law.

In concrete terms, these qualifications embody the due process requirement in labor cases - **substantive and procedural due process**. Substantive due process means that the termination must be based on just and/or authorized causes of dismissal. On the other hand, procedural due process requires the employer to effect the dismissal in a manner specified in the Labor Code and its IRR.³²

³² *Agabon v. NLRC*, 485 Phil. 248, 284 (2004).

The present case involves termination due to disease – an authorized cause for dismissal under Article 284 of the Labor Code. As **substantive requirements**, the Labor Code and its IRR³³ require the presence of the following elements:

- (1) An employer has been found to be suffering from any disease.
- (2) His continued employment is prohibited by law or prejudicial to his health, as well as to the health of his co-employees.
- (3) A competent public health authority certifies that the disease is of such nature or at such a stage that it cannot be cured within a period of six months even with proper medical treatment.

With respect to the first and second elements, the Court liberally construed the phrase “prejudicial to his health *as well as* to the health of his co-employees” to mean “prejudicial to his health *or* to the health of his co-employees.” We did not limit the scope of this phrase to contagious diseases for the reason that this phrase is preceded by the phrase “**any** disease” under Article 284 of the Labor Code, to wit:

Art. 284. **Disease as ground for termination.** – An employer may terminate the services of an employee who has been found to be suffering from any disease and whose continued employment is prohibited by law or is *prejudicial to his health as well as to the health of his co-employees*: Provided, That he is paid separation pay equivalent to at least one (1) month salary or to one-half (1/2) month salary for every year of service, whichever is greater, a fraction of at least six (6) months being considered as one (1) whole year. [underscores, italics and emphases ours]

Consistent with this construction, we applied this provision in resolving illegal dismissal cases due to **non-contagious diseases** such as stroke, heart attack, osteoarthritis, and eye cataract, among others. In *Baby Bus, Inc. v. Minister of Labor*,³⁴ we upheld the labor arbitration’s finding that Jacinto Mangalino’s continued employment – after he suffered several strokes – would be prejudicial to his health. In *Duterte v. Kingswood Trading Co., Inc.*,³⁵ we recognized the applicability of Article 284 of the Labor Code to heart attacks. In that case, we held that the employer-

³³ *Supra* note 17.

³⁴ 241 Phil. 1017 (1988).

³⁵ 561 Phil. 11 (2007).

company's failure to present a certification from a public health authority rendered Roque Duterte's termination due to a heart attack illegal. We also applied this provision in *Sy v. Court of Appeals*³⁶ to determine whether Jaime Sahot was illegally dismissed due to various ailments such as presleyopia, hypertensive retinopathy, osteoarthritis, and heart enlargement, among others. In *Manly Express, Inc. v. Payong, Jr.*,³⁷ we ruled that the employer-company's non-presentment of a certification from a public health authority with respect to Romualdo Payong Jr.'s eye cataract was fatal to its defense.

The third element *substantiates* the contention that the employee has indeed been suffering from a disease that: (1) is prejudicial to his health as well as to the health of his co-employees; and (2) cannot be cured within a period of six months even with proper medical treatment. Without the medical certificate, there *can be no authorized cause* for the employee's dismissal. The absence of this element thus renders the dismissal *void* and *illegal*.

Simply stated, this requirement *is not merely a procedural requirement*, but a substantive one. The certification from a competent public health authority is precisely the **substantial evidence** required by law to prove the existence of the disease itself, its non-curability within a period of six months even with proper medical treatment, and the prejudice that it would cause to the health of the sick employee and to those of his co-employees.

In the current case, we agree with the CA that Dr. Lee's psychiatric report substantially proves that Deoferio was suffering from schizophrenia, that his disease was not curable within a period of six months even with proper medical treatment, and that his continued employment would be prejudicial to his mental health. This conclusion is further substantiated by the unusual and bizarre acts that Deoferio committed while at Intel's employ.

The twin-notice requirement applies to terminations under Article 284 of the Labor Code

The Labor Code and its IRR are silent on the **procedural due process** required in terminations due to disease. Despite the seeming gap in the law,

³⁶ 446 Phil. 404 (2003).

³⁷ 510 Phil. 818 (2005).

Section 2, Rule 1, Book VI of the IRR expressly states that the employee should be afforded procedural due process in **all** cases of dismissals.³⁸

In *Sy v. Court of Appeals*³⁹ and *Manly Express, Inc. v. Payong, Jr.*,⁴⁰ promulgated in 2003 and 2005, respectively, the Court finally pronounced the rule that the employer must furnish the employee two written notices in terminations due to disease, namely: (1) the notice to apprise the employee of the ground for which his dismissal is sought; and (2) the notice informing the employee of his dismissal, to be issued after the employee has been given reasonable opportunity to answer and to be heard on his defense. These rulings reinforce the State policy of protecting the workers from being terminated without cause and without affording them the opportunity to explain their side of the controversy.

³⁸ Section 2. *Security of tenure.* (a) **In cases of regular employment, the employer shall not terminate the services of an employee except for just or authorized causes as provided by law, and subject to the requirements of due process.**

(b) The foregoing shall also apply in cases of probationary employment; provided, however, that in such cases, termination of employment due to failure of the employee to qualify in accordance with the standards of the employer made known to the former at the time of engagement may also be a ground for termination of employment.

(c) In cases of employment covered by contracting or subcontracting arrangement, no employee shall be dismissed prior to the expiration of the contract between the principal and contract or subcontractor as defined in Rule VIII-A, Book III of these Rules, unless the dismissal is for just or authorized cause, or is brought about by the completion of the phase of the contract for which the employee was engaged, but in any case, subject to the requirements of due process or prior notice.

(d) **In all cases of termination of employment, the following standards of due process shall be substantially observed:**

For termination of employment based on just causes as defined in Article 282 of the Labor Code:

- (i) A written notice served on the employee specifying the ground or grounds for termination, and giving said employee reasonable opportunity within which to explain his side.
- (ii) A hearing or conference during which the employee concerned, with the assistance of counsel if he so desires, is given opportunity to respond to the charge, present his evidence, or rebut the evidence presented against him.
- (iii) A written notice of termination served on the employee, indicating that upon due consideration of all the circumstances, grounds have been established to justify his termination.

For termination of employment as defined in Article 283 of the Labor Code, the requirement of due process shall be deemed complied with upon service of a written notice to the employee and the appropriate Regional Office of the Department of Labor and Employment at least thirty days before effectivity of the termination, specifying the ground or grounds for termination.

If the termination is brought about by the completion of a contract or phase thereof, or by failure of an employee to meet the standards of the employer in the case of probationary employment, it shall be sufficient that a written notice is served the employee within a reasonable time from the effective date of termination. [emphases and underscores ours; italics supplied]

³⁹ *Supra* note 36, at 419.

⁴⁰ *Supra* note 37, at 825.

From these perspectives, the CA erred in not finding that the NLRC gravely abused its discretion when it ruled that the twin-notice requirement does not apply to Article 284 of the Labor Code. This conclusion is totally devoid of any legal basis; its ruling is wholly unsupported by law and jurisprudence. In other words, the NLRC's unprecedented, whimsical and arbitrary ruling, which the CA erroneously affirmed, amounted to a jurisdictional error.

Deoferio is entitled to nominal damages for violation of his right to statutory procedural due process

Intel's violation of Deoferio's right to statutory procedural due process warrants the payment of indemnity in the form of nominal damages. In *Jaka Food Processing Corp. v. Pacot*,⁴¹ we distinguished between terminations based on Article 282 of the Labor Code⁴² and dismissals under Article 283 of the Labor Code.⁴³ We then pegged the nominal damages at ₱30,000.00 if the dismissal is based on a just cause but the employer failed to comply with the twin-notice requirement. On the other hand, we fixed the nominal damages at ₱50,000.00 if the dismissal is due to an authorized cause under Article 283 of the Labor Code but the employer failed to comply with the notice requirement. The reason is that dismissals for just cause imply that the employee has committed a violation against the employer, while terminations under Article 283 of the Labor Code are initiated by the employer in the exercise of his management prerogative.

With respect to Article 284 of the Labor Code, terminations due to disease do not entail any wrongdoing on the part of the employee. It also does not purely involve the employer's willful and voluntary exercise of management prerogative – a function associated with the employer's inherent right to control and effectively manage its enterprise.⁴⁴ Rather, terminations due to disease are occasioned by matters generally beyond the worker and the employer's control.

In fixing the amount of nominal damages whose determination is addressed to our sound discretion, the Court should take into account several factors surrounding the case, such as: (1) the employer's financial, medical, and/or moral assistance to the sick employee; (2) the flexibility and leeway that the employer allowed the sick employee in performing his duties while

⁴¹ 494 Phil. 114 (2005).

⁴² Article 282 of the Labor Code is now re-numbered as Article 296 of the Labor Code.

⁴³ Article 283 of the Labor Code is now re-numbered as Article 297 of the Labor Code.

⁴⁴ *Abbott Laboratories (Phils.), Inc. v. NLRC*, 238 Phil. 699, 703 (1987).

attending to his medical needs; (3) the employer's grant of other termination benefits in favor of the employee; and (4) whether there was a *bona fide* attempt on the part of the employer to comply with the twin-notice requirement as opposed to giving no notice at all.

We award Deoferio the sum of ₱30,000.00 as nominal damages for violation of his statutory right to procedural due process. In so ruling, we take into account Intel's faithful compliance with Article 284 of the Labor Code and Section 8, Rule 1, Book 6 of the IRR. We also note that Deoferio's separation pay equivalent to one-half month salary for every year of service⁴⁵ was validly offset by his matured car loan. Under Article 1278 of the Civil Code, in relation to Article 1706 of the Civil Code⁴⁶ and Article 113(c) of the Labor Code,⁴⁷ compensation shall take place when two persons are creditors and debtors of each other in their own right. We likewise consider the fact that Intel exhibited real concern to Deoferio when it financed his medical expenses for more than four years. Furthermore, prior to his termination, Intel liberally allowed Deoferio to take lengthy leave of absences to allow him to attend to his medical needs.

Wentling is not personally liable for the satisfaction of nominal damages in favor of Deoferio

Intel shall be solely liable to Deoferio for the satisfaction of nominal damages. Wentling, as a corporate officer, cannot be held liable for acts done in his official capacity because a corporation, by legal fiction, has a personality separate and distinct from its officers, stockholders, and members. There is also no ground for piercing the veil of corporate fiction because Wentling acted in good faith and merely relied on Dr. Lee's psychiatric report in carrying out the dismissal.⁴⁸

⁴⁵ *Rollo*, p. 64.

⁴⁶ Art. 1706 of the Civil Code provides:

Withholding of the wages, **except for a debt due**, shall not be made by the employer. [emphasis and underscore ours]

⁴⁷ Article 113 of the Labor Code provides:

Wage Deduction. No employer, in his own behalf or in behalf of any person, shall make any deduction from the wages of his employees, except:

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(c) In cases where the employer is **authorized by law** or regulations issued by the Secretary of Labor. [emphasis and underscore ours, italics supplied]

⁴⁸ *Culili v. Eastern Telecommunications Philippines, Inc.*, G.R. No. 165381, February 9, 2011, 642 SCRA 338, 365; and *Businessday Information Systems and Services, Inc. v. NLRC*, G.R. No. 103575, April 5, 1993, 221 SCRA 9, 14.

Deoferio is not entitled to salary differential, backwages, separation pay, moral and exemplary damages, as well as attorney's fees

Deoferio's claim for salary differential is already barred by prescription. Under Article 291 of the Labor Code, all money claims arising from employer-employee relations shall be filed within three years from the time the cause of action accrued. In the current case, more than four years have elapsed from the pre-termination of his assignment to the United States until the filing of his complaint against the respondents. We thus see no point in further discussing this matter. His claim for backwages, separation pay, moral and exemplary damages, as well as attorney's fees must also necessarily fail as a consequence of our finding that his dismissal was for an authorized cause and that the respondents acted in good faith when they terminated his services.

WHEREFORE, premises considered, we partially grant the petition; the assailed February 24, 2012 decision and the August 2, 2012 resolution of the Court of Appeals stand but respondent Intel Technology Philippines, Inc. is ordered to pay petitioner Marlo A. Deoferio nominal damages in the amount of ₱30,000.00. We totally deny the petition with respect to respondent Mike Wentling.

SO ORDERED.



ARTURO D. BRION
Associate Justice

WE CONCUR:


MARIANO C. DEL CASTILLO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


A T T E S T A T I O N

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.


ARTURO D. BRION
Associate Justice
Acting Chairperson, Second Division

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting 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.


MARIA LOURDES P. A. SERENO
Chief Justice