



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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FLORENCIO B. NEDIRA,*
substituted by his wife **EMMA G. NEDIRA,**

Petitioner,

G.R. No. 240005

Present:

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,**
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, JJ.

- versus -

NJ WORLD CORPORATION,
represented by **MICHELLE Y. BUALAT,**

Respondent.

Promulgated:

December 6, 2022

X -----  ----- X

DECISION

GESMUNDO, C.J.:

The civil procedure classification of causes of action into either personal or real may not be applied to a complaint for illegal dismissal because

* Also referred to as "Florencio B. Nedera" in some parts of the *rollo* (see *rollo*, p. 103).

** No part due to prior participation in the proceedings before the Court of Appeals.

(1) an employment contract is one imbued with public interest, and (2) a complaint for illegal dismissal is not merely for redress of a private right but a command for the employer to make public reparation for his violation of the Labor Code.¹

This is an Appeal by *Certiorari*² seeking to reverse and set aside the December 6, 2017 Decision³ and the June 6, 2018 Resolution⁴ of the Court of Appeals (CA) in CA-G.R. SP No. 142044. The CA annulled and set aside the May 29, 2015⁵ and July 30, 2015⁶ Resolutions of the National Labor Relations Commission (NLRC) in NLRC LAC No. 01-000095-15, and reinstated the November 17, 2014 Decision⁷ of the Labor Arbiter (LA) in NLRC Case No. NCR 10-14386-13.⁸ The LA dismissed for lack of merit the complaint for illegal dismissal filed by Florencio B. Nedira (*Florencio*), substituted by his wife Emma G. Nedira (*Emma*), against NJ World Corporation (*respondent*).

The Antecedents

Respondent, a taxi company, hired Florencio as a taxi driver on September 2, 2010. On October 29, 2013, Florencio filed a complaint for constructive dismissal before the NLRC, but died during the pendency of the proceedings. His wife, Emma, filed an Omnibus Motion (For Substitution and Extension of Time to File Position Paper).⁹ Subsequently, Emma filed a position paper alleging that Florencio was illegally suspended on July 16, 2013 and August 6, 2013 for infractions that were either untrue or did not deserve “a length of suspension as what was imposed” on him. Allegedly, when Florencio reported back to work after serving his suspension, respondent’s manager, Carlos M. Almarines III (*Carlos*), told him that he would be placed on floating status until he pays the penalty of ₱6,000.00. Florencio allegedly asked that the bond imposed upon him for every tour of duty be applied to the penalty but Carlos refused, reasoning that the bond would not be enough. Emma further claimed that Florencio was indefinitely placed on floating status conditioned upon the payment of an amount he could not raise “precisely because he was denied of [sic] the opportunity to report

¹ *Callanta v. Carnation Phils., Inc.*, 229 Phil. 279, 287 (1986).

² *Rollo*, pp. 11-28.

³ *Id.* at 30-43; penned by Associate Justice Pedro B. Corales and concurred in by Associate Justices Danton Q. Bueser and Ramon Paul L. Hernando (now a Member of the Court).

⁴ *Id.* at 45-45-A.

⁵ *Id.* at 64-70; penned by Commissioner Pablo C. Espiritu, Jr. and concurred in by Presiding Commissioner Alex A. Lopez.

⁶ *Id.* at 72-74.

⁷ *Id.* at 103-107; penned by Labor Arbiter Fe S. Cellan.

⁸ Inadvertently stated as NCR 01-00759-14 in the header of the Decision.

⁹ *CA rollo*, pp. 44-50.

for work.” Lastly, she alleged that Florencio was never paid the value of his unused service incentive leaves (*SIL*) and his 13th month pay, and she asserted the bond he gave to respondent must be returned.¹⁰

Citing *Cruz v. Cruz*,¹¹ respondent countered that the complaint for constructive dismissal does not involve property or property rights. Thus, it did not survive the death of Florencio, and Emma can no longer pursue it. Respondent also denied that Florencio was constructively dismissed, and instead averred that Florencio was an on-call taxi driver who stopped driving after failing to remit boundary payments in 2013. Lastly, respondent asserted that there is no documentary evidence supporting the allegations in the complaint.¹²

The LA Ruling

In its November 17, 2014 Decision, the LA dismissed the complaint for illegal dismissal. The *fallo* reads:

WHEREFORE, premises considered, this case should be, as it is hereby **DISMISSED** for lack of merit.

SO ORDERED.¹³

The LA held that Emma, widow of the deceased Florencio, may pursue the complaint since it had already been filed by the late complainant. However, the LA found that Emma could not testify on the facts of the case as she is without personal knowledge thereof. The LA stated that the claims of constructive dismissal and illegal suspension, and the facts leading to the same, are personal to Florencio. It observed that Emma could not even state the exact dates when Florencio was supposedly suspended, when Florencio returned to work, and why he was fined in the amount of ₱6,000.00. Thus, the RTC declared that the claims of constructive dismissal and illegal suspension were not substantiated.¹⁴

¹⁰ *Rollo*, pp. 31-32.

¹¹ 644 Phil. 67 (2010).

¹² *Rollo*, p. 32.

¹³ *Id.* at 107.

¹⁴ *Id.* at 106.

The NLRC Ruling

Emma appealed to the NLRC, which granted the same in its May 29, 2015 Resolution. It ordered respondent to pay Florencio's heirs backwages, separation pay, and attorney's fees. The dispositive portion of the resolution provides:

WHEREFORE, premises considered, Complainant-Appellant's appeal is hereby **GRANTED**. The 17 November 2014 Decision of Labor Arbiter Fe S. Cellan is hereby **VACATED** and **SET ASIDE**.

Respondents-appellees are hereby ordered to pay complainant-appellant's heirs substituted [sic] by his wife Emma G. Nedira, backwages and separation pay in the amounts of Php58,043.70 and Php17,589.00. Further, complainant-appellant's heirs [are] entitled to 10% attorney's fees.

All other claims are hereby **DISMISSED**.

SO ORDERED.¹⁵

The NLRC found that the LA erred in finding that Florencio was not illegally dismissed by respondent. It declared that Florencio was an employee of respondent. He was an on-call taxi driver paying boundary fees for the use of the taxi on a per day basis. He was also subject to the control of respondent, and as such he was suspended and fined by the latter for alleged violations. His functions were necessary and desirable in the usual business or trade of respondent as a taxi company. It thus declared that respondent had the burden of proof and failed to substantiate its claim that it did not dismiss Florencio.¹⁶

Respondent filed a motion for reconsideration, which the NLRC denied on July 30, 2015.¹⁷

The CA Ruling

Respondent filed a petition for *certiorari* before the CA, challenging the resolutions of the NLRC. The CA granted the petition in its December 6, 2017 Decision, the dispositive portion of which reads:

¹⁵ Id. at 69-70.

¹⁶ Id. at 67-69.

¹⁷ Id. at 72-74.

WHEREFORE, the petition for *certiorari* is **GRANTED**. The May 29, 2015 and July 30, 2015 Resolutions of the National Labor Relations Commission, Third Division in NLRC LAC No. 01-000095-15 are hereby **ANNULLED** and **SET ASIDE**. The November 17, 2014 Decision of the Labor Arbiter is **REINSTATED**.

SO ORDERED.¹⁸

The CA found merit in respondent's imputation of grave abuse of discretion on the part of the NLRC in ruling that there was constructive dismissal despite Emma's failure to substantiate her claims.¹⁹

First, the CA found that Florencio was properly substituted by his surviving spouse, Emma, as the substitution was done during the pendency of the case. Further, it held that the complaint for illegal dismissal survived the death of Florencio because the right of a person to his labor is "property." Florencio's death did not extinguish the alleged monetary claims arising from his employment with respondent.²⁰

Second, the CA declared that while an employer-employee relationship existed between Florencio and respondent, there is, however, no evidence of constructive dismissal. It found that Emma failed to show that Florencio's continuous employment with respondent was rendered impossible, unreasonable, or unlikely due to respondent's act of clear discrimination, insensibility, or disdain. It also stated that Emma's allegations were not supported by substantial evidence. On the other hand, it found that respondent proved Florencio's failure to remit boundary payments in 2013. Citing *Caong, Jr. v. Regualos*,²¹ the CA held that the suspension of drivers who failed to remit the full amount of the boundary is a fair and reasonable exercise of management prerogative, and therefore, it was within respondent's management prerogative to suspend Florencio. This suspension cannot be categorized as constructive or illegal dismissal.²²

Emma filed a motion for reconsideration, which the CA denied in its June 6, 2018 Resolution. Hence, this appeal.

¹⁸ Id. at 42.

¹⁹ Id. at 40.

²⁰ Id. at 38.

²¹ 655 Phil. 595 (2011).

²² *Rollo*, pp. 39-41.

The Petition

Emma assails the CA decision, alleging that Florencio was suspended without any explanation. Thus, he was left with no choice but to file a complaint for constructive dismissal. Florencio was placed on floating status indefinitely, which would only be lifted once he paid the penalty of ₱6,000.00. This, Emma argues, amounted to constructive dismissal. She also claims that respondent's assertion that Florencio merely stopped driving after he failed to remit some boundary payments is antithetical to Florencio's immediate filing of the instant complaint. Accordingly, she pleads that the heirs of Florencio be entitled to the payment of backwages as a consequence of Florencio's illegal dismissal. Payment of separation pay and attorney's fees is also proper.²³

The Court's Resolution²⁴ requiring respondent to comment on the petition was sent to its counsel, who manifested that respondent moved out of its office and closed its business without notice, and, thus, sought her withdrawal as counsel for respondent.²⁵ On August 24, 2022, the Court deemed respondent's right to file a comment as having been waived.

The Issue

Emma raises the following singular issue:

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN ANNULLING AND SETTING ASIDE THE NLRC'S RESOLUTIONS WHERE IT WAS HELD THAT THE DECEASED FLORENCIO NEDIRA WAS ILLEGALLY DISMISSED AND HIS HEIRS ARE ENTITLED TO BACKWAGES AND SEPARATION PAY.²⁶

The Court's Ruling

The appeal lacks merit and must be denied. The CA did not commit any serious error in finding that Emma failed to prove that Florencio was illegally dismissed.

²³ Id. at 19-22.

²⁴ Id. at 149-150.

²⁵ Id. at 168-169.

²⁶ Id. at 18.

*Florencio, through Emma,
failed to prove the fact of his
illegal dismissal.*

The fact of dismissal was not established in the instant case.

It is well-established that the employee must first prove the fact of dismissal before the burden shifts to the employer to prove that the dismissal was legal:

Ei incumbit probatio qui dicit, non qui negat. The burden of proof is on the one who declares, not on one who denies. A party alleging a critical fact must support his allegation with substantial evidence, for any decision based on unsubstantiated allegation cannot stand without offending due process. And in illegal termination cases, jurisprudence had underscored that the fact of dismissal must be established by positive and overt acts of an employer indicating the intention to dismiss before the burden is shifted to the employer that the dismissal was legal.²⁷

It is regrettable that there is a dearth of proof about the fact of dismissal of Florencio. The records are absent of any evidence as to the nature of the supposed suspension, as well as the circumstances of the alleged constructive dismissal. No documentary proof was presented to substantiate the claim that respondent required Florencio to pay ₱6,000.00, and that, due to his alleged nonpayment, he was not permitted to work. Thus, as a result of the lack of evidence to substantiate this claim, the charge of constructive dismissal was not established.

It must also be emphasized that Florencio passed away before the position paper was filed before the LA. Thus, apart from his complaint, which merely stated as causes of action the constructive dismissal and nonpayment of monetary amounts, there is nothing from Florencio himself to establish the fact of his dismissal. The lack of specificities in Emma's narration of events simply does not establish the purported constructive dismissal.

For this reason, the Court cannot grant the relief prayed for.

Nonetheless, the Court finds that this case presents an opportunity to clarify the effect of the death of a complainant to a pending suit for illegal dismissal. The Court deems it proper to address the pertinent portion of the CA ruling, despite the fact that it was not assailed in the instant petition. In

²⁷ *Mehitabel, Inc. v. Alcuizar*, 822 Phil. 863, 873 (2017).

any case, the Court notes that respondent consistently raised before the lower tribunals the issue of the propriety of Emma's substitution for Florencio.

A complaint for illegal dismissal may not be classified, like an ordinary civil action, as to cause or foundation for purposes of determining the effect of death of any of the parties to the case.

To recall, Florencio filed the instant Complaint²⁸ for illegal dismissal on October 29, 2013. He passed away on June 3, 2014.²⁹ Subsequently, Emma filed an omnibus motion for substitution and extension of time to file position paper, after which Emma filed the Position Paper.³⁰

The CA held that the substitution of Emma for Florencio was proper. While this conclusion is correct, the CA was mistaken on its basis for arriving at such determination.

First, the CA erred in applying to a complaint for illegal dismissal the civil procedure rule on survival of actions. It inappropriately relied on jurisprudence interpreting Section 16, Rule 3 of the Rules of Court on the death of a party and the corresponding duty of counsel arising from such death.

Second, even if the Court were to consider such application to be proper, the CA erroneously concluded that a complaint for illegal dismissal is one that involves property rights and is, accordingly, one that survives the death of complainant.

Labor cases are governed by the NLRC Rules of Procedure. Here, the 2011 NLRC Rules of Procedure, as amended³¹ (*2011 NLRC Rules of Procedure*), is controlling since the complaint was filed in the year 2013. Scrutiny of the 2011 NLRC Rules of Procedure readily reveals that it is silent on what happens when one of the parties to the action dies.

This silence may have caused the parties, as well as the CA, to rely on the Rules of Court. After all, the Rules of Court apply in a suppletory character

²⁸ *Rollo*, p. 85.

²⁹ *CA rollo*, p. 49.

³⁰ *Id.* at 51-55.

³¹ Approved: May 31, 2011.

to cases governed by the NLRC Rules of Procedure. This is in accordance with Sec. 3, Rule 1 of the 2011 NLRC Rules of Procedure, viz.:

Section 3. *Suppletory Application of the Rules of Court.* — In the absence of any applicable provision in these Rules, and in order to effectuate the objectives of the Labor Code, as amended, **the pertinent provisions of the Rules of Court of the Philippines, as amended, may, in the interest of expeditious dispensation of labor justice and whenever practicable and convenient, be applied by analogy or in a suppletory character and effect.** (Emphasis supplied)

The Rules of Court itself echoes the 2011 NLRC Rules of Procedure in providing for such suppletory effect. Sec. 4, Rule 1 of the Rules of Court reads:

Section 4. *In what cases not applicable.* — **These Rules shall not apply to election cases, land registration, cadastral, naturalization and insolvency proceedings, and other cases not herein provided for, except by analogy or in a suppletory character and whenever practicable and convenient.** (Emphases supplied)

Sec. 16, Rule 3 of the Rules of Court governs situations where a party to a pending action dies during such pendency. It reads as follows:

Section 16. *Death of party; duty of counsel.* — **Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives.** Failure of counsel to comply with this duty shall be a ground for disciplinary action.

The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint a guardian *ad litem* for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.

If no legal representative is named by the counsel for the deceased party, or if the one so named shall fail to appear within the specified period, the court may order the opposing party, within a specified time, to procure the appointment of an executor or administrator for the estate of the deceased and the latter shall immediately appear for and on behalf of the deceased. The court charges in procuring such appointment, if defrayed by the opposing party, may be recovered as costs. (Emphases supplied)

Thus, in civil actions, the heirs of a deceased may substitute the deceased in a pending action if such action survives the death of the deceased. The survival of the action is the determinative factor.

The survival of the action depends on its classification as to cause or foundation.

Then Chief Justice Manuel V. Moran elucidated that ordinary civil actions “may be classified, as to their cause or foundation, into *real* and *personal*.”³²

Ordinary civil actions may be classified, as to their cause or foundation, into *real* and *personal*. Real action is that founded on privity of real estate. Personal action is that founded on privity of contract. In other words, in a real action, one seeks to recover a specific real property or its possession; while in a personal action, one seeks the enforcement of a contract or the recovery of personal property or damages.³³

Concomitantly, the Court explained in *Bonilla v. Barcena*³⁴ that causes of action involving injury to the person do not survive death, while those that involve property and property rights do:

The question as to whether an action survives or not depends on the nature of the action and the damage sued for. In the causes of action which survive the wrong complained affects primarily and principally property and property rights, the injuries to the person being merely incidental, while in the causes of action which do not survive the injury complained of is to the person, the property and rights of property affected being incidental.³⁵

The Court further elaborated in *Jardeleza v. Spouses Jardeleza*³⁶ that “[t]his rule is applicable regardless of whether it is the plaintiff or the defendant who dies, or whether the case is in the trial or in the appellate courts.”³⁷

The CA, in the instant case, inaccurately held that a complaint for illegal dismissal is one that principally involves property rights. It stated that, “[a]s aptly argued by Emma, the right of a person to his labor is deemed to be ‘property’ within the meaning of constitutional guarantees. One’s

³² Moran, M.V., *Comments on the Rules of Court*, 1979 ed., Vol. I, Manila: N.G.M. Publishing Co., 1979, p. 121.

³³ *Id.*

³⁴ 163 Phil. 516 (1976).

³⁵ *Id.* at 521.

³⁶ 760 Phil. 625 (2015).

³⁷ *Id.* at 630.

employment, profession, trade or calling is a property right and the wrongful interference therewith is an actionable wrong.”³⁸

Article 414 of the Civil Code defines property as “all things which are or may be the object of appropriation” and it may be classified as either (1) immovable or real property;³⁹ or (2) movable or personal property.⁴⁰

Certainly, the CA’s conclusion that a complaint for illegal dismissal involves property rights would make sense only if the Civil Code definition of property is solely considered. However, the distinction between an action involving injury to the person and one involving property rights is rooted in the very nature of the civil action involved, not on the object of such action.

In *Ruiz v. Court of Appeals*,⁴¹ the Court firmly rejected the proposition that the inclusion of real properties as the subject of a complaint for collection of sum of money converted the action to one that survives the death of the party. The Court resolutely held that *it is the nature of the action, not the object or kind of property sought to be recovered, which determines the survival of the action.*

³⁸ *Rollo*, p. 38.

³⁹ Article 415. The following are immovable property:

- (1) Land, buildings, roads and constructions of all kinds adhered to the soil;
- (2) Trees, plants, and growing fruits, while they are attached to the land or form an integral part of an immovable;
- (3) Everything attached to an immovable in a fixed manner, in such a way that it cannot be separated therefrom without breaking the material or deterioration of the object;
- (4) Statues, reliefs, paintings or other objects for use or ornamentation, placed in buildings or on lands by the owner of the immovable in such a manner that it reveals the intention to attach them permanently to the tenements;
- (5) Machinery, receptacles, instruments or implements intended by the owner of the tenement for an industry or works which may be carried on in a building or on a piece of land, and which tend directly to meet the needs of the said industry or works;
- (6) Animal houses, pigeon-houses, beehives, fish ponds or breeding places of similar nature, in case their owner has placed them or preserves them with the intention to have them permanently attached to the land, and forming a permanent part of it; the animals in these places are included;
- (7) Fertilizer actually used on a piece of land;
- (8) Mines, quarries, and slag dumps, while the matter thereof forms part of the bed, and waters either running or stagnant;
- (9) Docks and structures which, though floating, are intended by their nature and object to remain at a fixed place on a river, lake, or coast; [and]
- (10) Contracts for public works, and servitudes and other real rights over immovable property.

⁴⁰ Article 416. The following things are deemed to be personal property:

- (1) Those movables susceptible of appropriation which are not included in the preceding article;
- (2) Real property which by any special provision of law is considered as personalty;
- (3) Forces of nature which are brought under control by science; and
- (4) In general, all things which can be transported from place to place without impairment of the real property to which they are fixed.

Article 417. The following are also considered as personal property:

- (1) Obligations and actions which have for their object movables or demandable sums; and
- (2) Shares of stock of agricultural, commercial and industrial entities, although they may have real estate.

⁴¹ 363 Phil. 263 (1999).

The core of petitioners' argument is that action should not be dismissed since their complaint involves not just monetary claim but also real properties, as well.

Petitioners' contention is untenable. While they maintain that what they are claiming include real properties, their Complaint is captioned as "For Collection of Money and for Specific Performance." Obviously, the petitioners themselves, who are lawyers, believed that the cause of action against the private respondent was in the nature of *actio in personam*.

"*Actio in personam* is a personal action seeking redress against a particular person. Personal actions are such whereby a man claims a debt, or personal duty, or damages in lieu thereof." In the present case, petitioners seek to recover attorney's fees from private respondent for the professional services they rendered to the latter. Attorney's fee is basically a compensation. In its ordinary sense, "the term (compensation) applies not only to salaries, but to compensation by fees for specific service."

Viewed in proper perspective, an action to recover attorney's fees is basically a monetary claim, which under Section 21, Rule 3 of B.P. 129 is an action that does not survive. Such is the fate of Civil Case No. 6465.

Petitioners theorize that the inclusion of real properties as part of the attorney's fees private respondent owes them, converted the action into one that survives or at the very least, split the action into one that did not survive, with respect to the monetary obligation, and which survived, with respect to the real properties of the deceased.

In *Harden vs. Harden*, x x x the Court ruled that an action for the satisfaction of attorney's fees is founded on a personal obligation which does not survive the death of the defendant before adjudication.

As enunciated in *Bonilla*, **the litmus test in determining what action survives and what does not depends on the nature of the action and not on the object or kind of property sought to be recovered.**⁴² (Emphases supplied; citations omitted)

Jurisprudence⁴³ has consistently applied such rule, basing its determination on the nature of the action and not on the object thereof.

This very analysis led the Court to its ruling in *Fontana Development Corp. v. Vukasinovic*⁴⁴ (*Fontana Development*). Therein, the Court

⁴² Id. at 270-271.

⁴³ See *Pacific Rehouse Corp. v. Ngo*, 784 Phil. 488 (2016); *Spouses Tabalno v. Spouses Dingal*, 770 Phil. 556 (2015); *Jardeleza v. Spouses Jardeleza*, supra note 36; *Cruz v. Cruz*, supra note 11; *Sumaljag v. Spouses Literato*, 578 Phil. 48 (2008); *Spouses Suria v. Heirs of Tomolin*, 552 Phil. 354 (2007); *Brioso v. Rili-Mariano*, 444 Phil. 625 (2003); *Ruiz v. Court of Appeals*, supra note 41; *Vda. de Salazar v. Court of Appeals*, 320 Phil. 373 (1995); and *Bonilla v. Barcena*, supra note 34.

⁴⁴ 795 Phil. 913 (2016).

characterized a complaint for illegal dismissal as one that involves injury to the person and, thus, does not survive the death of the employee:

The instant case involves an illegal dismissal which is an action that does not survive the death of the accused [sic]. The Court ruled in *Bonilla v. Barcena*, to wit:

The question as to whether an action survives or not depends on the nature of the action and the damage sued for. In the causes of action which survive, the wrong complained [of] affects primarily and principally property and property rights, the injuries to the person being merely incidental, while in the causes of action which do not survive, the injury complained of is to the person, the property and rights of property affected being incidental.

Since the property and property rights of the respondent is only incidental to his complaint for illegal dismissal, the same does not survive his death. Nonetheless, considering the foregoing disposition dismissing respondent's petition before the CA and ergo his complaint for illegal dismissal, the Court can proceed with the resolution of the petition even without the need for substitution of the heirs of respondent.⁴⁵ (Citation omitted)

Truly, if the traditional classification of an ordinary civil action as to cause or foundation is applied, a complaint for illegal dismissal, contrary to the CA's pronouncement, is one that involves injury to the person – the alleged illegal dismissal from employment of the employee by the employer. Any award of backwages and separation pay would only be incidental to the injury to the person complained of in such complaints.

Nonetheless, there is a plethora of cases⁴⁶ where the Court allowed the substitution of the heirs for the deceased complainant in a complaint for illegal dismissal.

The application or use of the classification of ordinary civil actions as to cause or foundation on the effect of death of any of the parties to a pending action, as done by the CA and by this Court in *Fontana Development*, involves

⁴⁵ Id. at 926.

⁴⁶ See *Spouses Maynes v. Oreiro*, G.R. No. 206109, November 25, 2020; *ABS-CBN Broadcasting Corp. v. Hilario*, G.R. No. 193136, July 10, 2019, 908 SCRA 203; *Divine Word College of Laoag v. Mina*, 784 Phil. 546 (2016); *University of Pangasinan, Inc. v. Fernandez*, 746 Phil. 1019 (2014); *Alvarez v. Golden Tri Bloc, Inc.*, 718 Phil. 415 (2013); *Salvalosa v. National Labor Relations Commission*, 650 Phil. 543 (2010); *Intercontinental Broadcasting Corp. v. Benedicto*, 528 Phil. 148 (2006); *Sy v. Court of Appeals*, 446 Phil. 404 (2003); *Skippers Pacific, Inc. v. Mira*, 440 Phil. 906 (2002); *C & A Construction Co., Inc. v. National Labor Relations Commission*, 376 Phil. 901 (1999); *National Sugar Refineries Corp. v. National Labor Relations Commission*, 368 Phil. 77 (1999); and *Pan Pacific Industrial Sales, Co., Inc. v. National Labor Relations Commission*, 272 Phil. 467 (1991).

an inherent acknowledgment that such classification properly applies to labor complaints for illegal dismissal.

However, it would be remiss to accept this proposition as gospel truth without scrutinizing the propriety of applying such classification to a labor complaint.

Stated otherwise: should a complaint for illegal dismissal be analyzed through the lense that one views an ordinary civil action – classified as either one that involves injury to the person or one that primarily affects property or property rights?

The Court answers in the negative.

We rule that an illegal dismissal complaint cannot be classified as to cause or foundation like an ordinary civil action insofar as the effect of death of any of the parties is concerned. To do so would be to oversimplify the nature of a complaint for illegal dismissal and, in the process, ignore certain characteristics of illegal dismissal complaints which distinguish and prevent them from fitting said mold of ordinary civil actions. The abundance of cases where substitution was allowed demonstrate and reflect this view.

The Court begins its analysis with the following considerations.

First, an employment contract is one imbued with public interest.

The Civil Code is firm in its declaration that the relations between capital and labor are not merely contractual. It is, in fact, one impressed with public interest. Art. 1700 of the Civil Code expressly provides:

Article 1700. **The relations between capital and labor are not merely contractual. They are so impressed with public interest that labor contracts must yield to the common good.** Therefore, such contracts are subject to the special laws on labor unions, collective bargaining, strikes and lockouts, closed shop, wages, working conditions, hours of labor and similar subjects. (Emphasis supplied)

Accordingly, the interest involved in an employment contract is not merely private and individual, but also public.



Considering that such contractual relations are imbued with public interest, the enforcement of rights and obligations under such employment contract is also of public interest. Concomitantly, any violation of the employment contract would necessarily be of public interest.

Second, an illegal dismissal is a violation of the Labor Code and its implementing rules and regulations.

At first blush, it is easy to mistake a complaint for illegal dismissal as one that is personal to the complainant, the alleged illegally dismissed employee. However, such characterization fails to take into consideration an important matter.

The Labor Code expressly upholds the constitutionally guaranteed right to security of tenure by ordaining that a regular employee may not be terminated from service except for just or authorized cause:

Article 294. [279] *Security of Tenure*.⁴⁷ — **In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title.** An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. (Emphasis supplied)

Thus, an illegal dismissal – a dismissal without just or authorized cause – is not only a violation of the contractual relations between the employer and the employee but is, in fact, a violation of the Labor Code and its implementing rules and regulations. In short, when an employer illegally dismisses an employee, said employer is essentially violating a statute.

These two important considerations, which affect the very nature of a complaint for illegal dismissal, separate and distinguish it from the realm of mere contractual obligations normally implicated in a civil complaint. These considerations are of such character and weight that a complaint for illegal dismissal should not and cannot be classified in the same manner as ordinary civil actions.

While it is easy to pare down an ordinary civil action into either an action that involves injury to the person or one that involves property or

⁴⁷ As amended by Republic Act No. 6715, Sec. 34. Approved: March 2, 1989.

property rights, a complaint for illegal dismissal cannot be treated in the same manner due to the public policy concerns involved. Further, aside from the public interest in the contractual relations of an employer and an employee, the State itself has an interest in ensuring that employers do not illegally dismiss their employees owing to the fact that such illegal dismissal constitutes a violation of labor laws.

The Court's disquisition in *Callanta v. Carnation Phils., Inc.*⁴⁸ is illuminating. The case, admittedly, revolved around the prescriptive period of complaints for illegal dismissal, with the Court eventually ruling that the four-year prescriptive period under Art. 1146 of the Civil Code applies to illegal dismissal cases instead of the three-year prescriptive period for money claims or offenses provided for in the Labor Code. To arrive at this conclusion, the Court delved into an analysis of the nature of a complaint for illegal dismissal:

Verily, the dismissal without just cause of an employee from his employment constitutes a violation of the Labor Code and its implementing rules and regulations. Such violation, however, does not amount to an "offense" as understood under Article 291 of the Labor Code. In its broad sense, an offense is an illegal act which does not amount to a crime as defined in the penal law, but which by statute carries with it a penalty similar to those imposed by law for the punishment of a crime. It is in this sense that a general penalty clause is provided under Article 289 of the Labor Code which provides that "x x x any violation of the provisions of this code *declared to be unlawful or penal in nature* shall be punished with a *fine* of not less than One Thousand Pesos [P1,000.00] nor more than Ten Thousand Pesos [10,000.00], or *imprisonment* of not less than three [3] months nor more than three [3] years, or both such fine and imprisonment at the discretion of the court." x x x

The confusion arises over the use of the term "illegal dismissal" which creates the impression that termination of an employment without just cause constitutes an offense. It must be noted, however[,] that unlike in cases of commission of any of the prohibited activities during strikes or lockouts under Article 265, unfair labor practices under Articles 248, 249 and 250 and illegal recruitment activities under Article 38, among others, which the Code itself declares to be unlawful, termination of an employment without just or valid cause is not categorized as an unlawful practice.

Besides, the reliefs principally sought by an employee who was illegally dismissed from his employment are reinstatement to his former position without loss of seniority rights and privileges, if any, backwages and damages, in case there is bad faith in his dismissal. As an affirmative relief, reinstatement may be ordered, with or without backwages. While ordinarily, reinstatement is a concomitant of backwages, the two are not necessarily complements, nor is the award of one a condition precedent to

⁴⁸ Supra note 1.

an award of the other. And, in proper cases, backwages may be awarded without ordering reinstatement. In either case, no penalty of fine nor imprisonment is imposed on the employer upon a finding of illegality in the dismissal. By the very nature of the reliefs sought, therefore, an action for illegal dismissal cannot be generally categorized as an "offense" as used under Article 291 of the Labor Code, which according to public respondent, must be brought within the period of three [3] years from the time the cause of action accrued, otherwise, the same is forever barred.

It is true that the "backwages" sought by an illegally dismissed employee may be considered, by reason of its practical effect, as a "money claim." However, **it is not the principal cause of action in an illegal dismissal case but the unlawful deprivation of one's employment committed by the employer in violation of the right of an employee.** Backwages is merely one of the reliefs which an illegally dismissed employee prays the labor arbiter and the NLRC to render in his favor as a consequence of the unlawful act committed by the employer. **The award thereof is not private compensation or damages but is in furtherance and effectuation of the public objectives of the Labor Code. Even though the practical effect is the enrichment of the individual, the award of backwages is not in redress of a private right, but, rather, is in the nature of a command upon the employer to make public reparation for his violation of the Labor Code.**

X X X X

Indeed there is, merit in the contention of petitioner that the four [4]-year prescriptive period under Article 1146 of the New Civil Code, applies by way of supplement, in the instant case, to wit:

Art 1146. The following actions must be instituted within four years.

[1] Upon an injury to the rights of the plaintiff.

X X X X

As this Court stated in *Bondoc vs. People's Bank and Trust Co.*, **when a person has no property, his job may possibly be his only possession or means of livelihood, hence, he should be protected against any arbitrary and unjust deprivation of his job.** Unemployment, said the Court in *Almira vs. B.F. Goodrich Philippines*, brings "untold hardships and sorrows on those dependent on the wage earners. The misery and pain attendant on the loss of jobs thus could be avoided if there be acceptance of the view that under all the circumstances of this case, petitioners should not be deprived of their means of livelihood."

It is a principle in American jurisprudence which, undoubtedly, is well-recognized in this jurisdiction that **one's employment, profession, trade or calling is a "property right," and the wrongful interference**

therewith is an actionable wrong. The right is considered to be property within the protection of a constitutional guaranty of due process of law. Clearly then, when one is arbitrarily and unjustly deprived of his job or means of livelihood, **the action instituted to contest the legality of one's dismissal from employment constitutes, in essence, an action predicated "upon an injury to the rights of the plaintiff,"** as contemplated under Art. 1146 of the New Civil Code, which must be brought within four [4] years.⁴⁹ (Emphases supplied; citations omitted)

This analysis reveals the dual character of a complaint for illegal dismissal. It is an action predicated upon an injury to the rights of the plaintiff, the purportedly illegally dismissed employee. As the Court previously noted, one's employment is a right and its violation is an injury. At the same time, the award arising from the finding of illegal dismissal – the payment of backwages – is not merely for redress of a private right, but a command for the employer to make public reparation for his or her violation of the Labor Code.

Couple this dual character with the public interest imbued in labor contractual relations and it is evident that complaints for illegal dismissal cannot be classified as to cause or foundation in the same manner as ordinary civil actions insofar as the death of any of the parties and its effects are concerned.

Substitution by the heirs of the deceased complainant in a pending complaint for illegal dismissal should be allowed. This approach respects and breathes life to the public interest imbued in contractual relations between the employer and the employee. Further, it allows for public reparation by the employer in case he or she is found to have violated the Labor Code.

Accordingly, the statement in *Fontana Development* that a complaint for illegal dismissal is one that involves injury to the person and does not survive the death of the employee loses its efficacy. One cannot simply classify a complaint for illegal dismissal as either personal or real, like an ordinary civil action, in order to invoke the rules on the death of parties and its effects.

In keeping with the peculiar nature of a complaint for illegal dismissal, the rule is that in case any of the parties to a complaint for illegal dismissal dies during the pendency of such proceedings, he or she may be substituted by his or her heirs.

⁴⁹ *Callanta v. Carnation Phils., Inc.*, supra note 1, at 285-289.

This perspective is embodied in the present NLRC Rules of Procedure.

In 2017, the 2011 NLRC Rules of Procedure was revised to allow substitution where any of the parties die during the pendency of the proceedings:

RULE V
PROCEEDINGS BEFORE LABOR ARBITERS

Section 20. *Death of Parties.* – In case any of the parties dies during the pendency of the proceedings, he/she may be substituted by his/her heirs. In the event a favorable judgment is obtained by the complainants, the same shall be enforced in accordance with Section 11, Rule XI of this Rules. (As amended by *En Banc* Resolution No. 14-17, Series of 2017)

This revision reflects and solidifies the prevailing rule on the death of any of the parties in a complaint for illegal dismissal. It must be emphasized that, while the revision to the 2011 NLRC Rules of Procedure was introduced only in 2017, substitution has repeatedly been allowed in complaints for illegal dismissal filed even before such revision.⁵⁰

Aside from the rationale behind the allowance of substitution, another important consideration is that the 2011 NLRC Rules of Procedure is a remedial device. The Court has previously held in *Zulueta v. Asia Brewery, Inc.*⁵¹ that procedural or remedial laws may be given retroactive effect, to wit:

As a general rule, laws have no retroactive effect. But there are certain recognized exceptions, such as when they are remedial or procedural in nature. This Court explained this exception in the following language:

It is true that under the Civil Code of the Philippines, “(l)aws shall have no retroactive effect, unless the contrary is provided.” *But there are settled exceptions to this general rule*, such as when the statute is CURATIVE or REMEDIAL in nature or when it CREATES NEW RIGHTS.

[x x x x]

On the other hand, *remedial or procedural laws, i.e.*, those statutes relating to remedies or modes of procedure, which do not create new or take away vested rights, but only operate in furtherance of the remedy or confirmation of such rights, ordinarily *do not come within the legal meaning of a*

⁵⁰ Supra note 46.

⁵¹ 406 Phil. 543 (2001).

retrospective law, nor within the general rule against the retrospective operation of statutes.

Thus, procedural laws may operate retroactively as to pending proceedings even without express provision to that effect. Accordingly, rules of procedure can apply to cases pending at the time of their enactment. In fact, statutes regulating the procedure of the courts will be applied on actions undetermined at the time of their effectivity. Procedural laws are retrospective in that sense and to that extent.⁵²

The instant complaint for illegal dismissal was filed on October 29, 2013, and was pending when the 2011 NLRC Rules of Procedure, particularly Sec. 20 of Rule V, was revised. Thus, Sec. 20, being a procedural rule, may be given retroactive effect to cases such as this, pending at the time of its enactment.

In light of the foregoing considerations, the Court holds that the CA's reliance on the Rules of Civil Procedure was unnecessary and, in fact, improper.


WHEREFORE, the appeal is **DENIED**. The December 6, 2017 Decision and the June 6, 2018 Resolution of the Court of Appeals in CA-G.R. SP No. 142044 are **AFFIRMED**.

SO ORDERED.

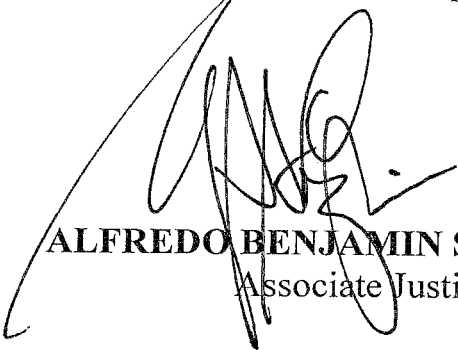

ALEXANDER G. GESMUNDO
Chief Justice

⁵² Id. at 551-552.

WE CONCUR:




MARVIC M.V.F. LEONEN
Senior Associate Justice

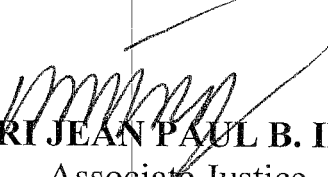


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

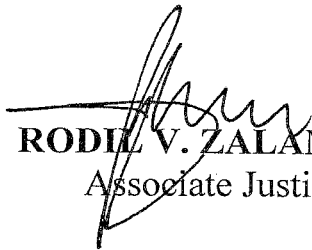
(No Part)
RAMON PAUL L. HERNANDO
Associate Justice



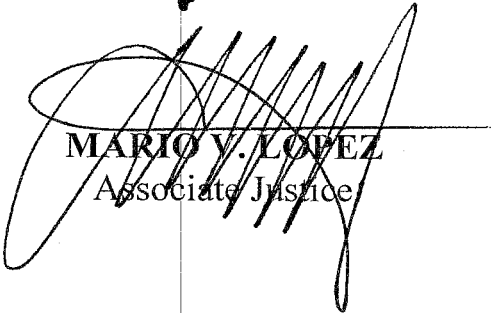
AMY C. LAZARO-JAVIER
Associate Justice



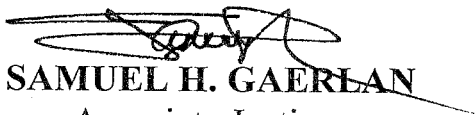
HENRI JEAN PAUL B. INTING
Associate Justice



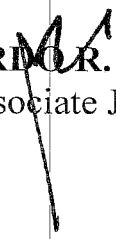
RODIL V. ZALAMEDA
Associate Justice




MARIO V. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
Associate Justice



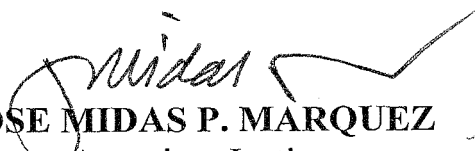
RICARDO R. ROSARIO
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

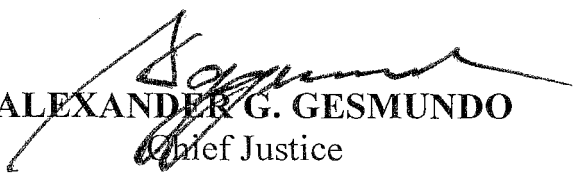

JOSE MIDAS P. MARQUEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

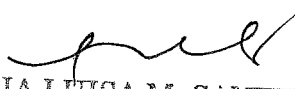

MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I hereby 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.


ALEXANDER G. GESMUNDO
Chief Justice

CERTIFIED TRUE COPY


MARIA LUISA M. SANTILLA
Deputy Clerk of Court and
Executive Officer
OCC-En Banc, Supreme Court