

THIRD DIVISION

G.R. No. 273562 – SANTIAGO DJ. SILLANO, Petitioner, v. JGC PHILIPPINES INC. and/or VIRGILIO SAAVEDRA, ERIC TANJUTCO AND LOLITA FALLER, Respondents.

Promulgated:

FEB 24 2025

~~Misprocedural~~

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DISSENTING OPINION

DIMAAMPAO, J.:

In denying the present petition, the *ponente* affirms the rulings of the National Labor Relations Commission (NLRC) and the Court of Appeals (CA) which held that the preventive suspension imposed by respondent JGC Philippines Inc. (JGC) against petitioner Santiago dJ. Sillano (Sillano) was valid.

After careful consideration of the facts of the case, I must respectfully disagree.

Book V, Rule XXIII, Sections 8 and 9 of the Omnibus Rules Implementing the Labor Code (Rules) provide:

Section 8. Preventive suspension. — The employer may place the worker concerned under preventive suspension if his continued employment poses a **serious and imminent threat to the life or property of the employer or his co-workers**.

Section 9. Period of Suspension — **No preventive suspension shall last longer than thirty (30) days**. The employer shall thereafter reinstate the worker in his former or in a substantially equivalent position or the employer may extend the period of suspension provided that during the period of extension, he pays the wages and other benefits due to the worker. In such case, the worker shall not be bound to reimburse the amount paid to him during the extension if the employer decides, after completion of the hearing, to dismiss the worker. (Emphasis supplied)

The Rules are explicit that preventive suspension is justified only when the employee's continued employment poses a serious and imminent threat to the life or property of the employer or of the employee's co-workers. Without this kind of threat, preventive suspension is not proper.¹

¹ See *Maila v. Ximex Delivery Express, Inc.*, G.R. No. 207838, January 25, 2017 [Per C.J. Peralta, Second Division].



Here, JGC's basis for Sillano's preventive suspension was his purported withholding of access to the disputed computer software. The *ponente* holds that at the time of the preventive suspension, the Intellectual Property Office of the Philippines (IPOPHL) had not yet issued its ruling on the true owner of the disputed software. Consequently, JGC was merely acting as the owner of the software when it demanded for its turnover. When Sillano failed to heed this demand, he posed a serious and imminent threat against the property of JGC.

However, to my mind, given that Sillano was later confirmed to be the rightful owner of the copyright over the disputed computer programs, at no point did JGC hold title over the same. Hence, the company cannot "act" as its owner by demanding its turnover or being provided access thereto. Not being the owner of the computer programs, Sillano's acts could not have in any way constituted a serious and imminent threat against itself or its property.

Under Section 172 (n) of the Intellectual Property Code of the Philippines (IP Code), computer programs are considered original intellectual creations which are protected **from the moment of their creation**. Indeed, copyright is "the right granted by statute to the proprietor of an intellectual production to its exclusive use and enjoyment[.]"² It "create[s] a temporary monopoly on varying types of knowledge, allowing their owners to restrict and even prevent, other from using that knowledge."³ The copyright vests upon the sole fact of creation, without the need to register the original work.⁴

Applying the foregoing, Sillano's copyright over the computer software attached at the instant he created them. It is thus of no moment that the IPOPHL ruling only came out during the pendency of the case with the NLRC and after Sillano's preventive suspension. It bears stressing that such ruling did not operate to confer Sillano the ownership and copyright over the computer programs, but merely confirmed what was already true in fact.

In view of the foregoing, Sillano acted within his rights in implementing security features and excluding JGC from the use and access of the computer software program. Parenthetically, it is submitted that JGC could have altogether sidestepped this conflict had it entered into a contract clearly and expressly spelling out the extent of each party's rights over copyrighted material, or an assignment agreement during the pendency of the ownership dispute as the IP Code allows the transfer or assignment of the work and its copyright to other persons. Notably, Sillano offered to grant JGC limited access to the computer programs, subject to the implementation of security

² *Republic v. Heirs of Tupaz IV*, G.R. No. 197335, September 7, 2020 [Per J. Leonen, Third Division].

³ *Id.*

⁴ *See id.*



features. However, JGC opted to illegally suspend Sillano, resulting in the withholding of his rightful salaries and benefits, for simply enforcing his intellectual property rights.

As it stands, it is my humble view that aside from finding that Sillano's dismissal was illegal, there likewise existed no valid ground for the Sillano's preventive suspension. Accordingly, JGC must be directed to recompense Sillano for loss of salaries and benefits, if any, during the period of his preventive suspension.

No less than the Constitution expresses the policy of protecting and securing the exclusive rights of citizens to their intellectual property and creations. By eliminating fear of other's appropriation and exploitation of one's work, intellectual creation is incentivized; and it is in this manner by which the continued creation and dissemination of works for the benefit of the public is fostered. Therefore, when the circumstances call for the lawful enforcement of one's intellectual property rights, as in this case, the Court must not shy away from ensuring that such rights are meaningfully upheld.

ACCORDINGLY, I vote to **GRANT** the Petition in G.R. No. 273562 insofar as the legality of petitioner Santiago dJ. Sillano's preventive suspension is concerned.



JAPAR B. DIMAAMPAO
Associate Justice