

VILMA B. BARZ, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (NLRC), 7TH DIVISION, UNIVERSITY OF CEBU, ATTY. AUGUSTO W. GO AND YVETTE CANDICE GOTIANUY, RESPONDENTS.

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

This is a Petition for Certiorari under Rule 65 of the 1997 Rules of Civil Procedure seeking to reverse and set aside the Decision[1] dated 31 May 2012 rendered by the National Labor Relations Commission Seventh Division and its subsequent Resolution[2] dated 31 July 2012 denying petitioner's Motion for Reconsideration.

The facts, as culled from the records, are as follows:

Petitioner Vilma B. Barz was employed by private respondent University of Cebu (UC) wherein private respondent Atty. Augusto W. Go is its President and private respondent Yvette Candice Gotianuy is its Chancellor. Petitioner was first hired as a General Accounting Clerk/Cashier on April 24, 1995. She rose up the ranks and became the Head of the Purchasing Department on February 9, 2009.

On May 14, 2011, petitioner was issued a Notice[3] informing her that after audit and review of the records of her department, it was observed that almost all transactions involving one particular supplier – Cebu Star Sales Marketing (“Cebu Star”) – had corrections and changes to allow the transaction to be awarded to said supplier.

In her reply letters[4], petitioner explained that the corrections and changes on the Requisition Forms (RF) happened when she would ask Cebu Star to equal or lower its bid price which the latter agreed to. She could ask for discount from Cebu Star because she deals with the proprietor directly, unlike the other suppliers. The altered/corrected RF would then be used as basis for the issuance of a Purchase Order (P.O.) to Cebu Star. Petitioner also said there are other reasons for the alterations - wrong entry of prices, quotations are given but suppliers do not have the items on hand, wrong supplies are quoted and the supply needed is only available at Cebu Star.

Petitioner pointed out that it was her new assistant, Lilianie L. Villamor who made the corrections by erasing the errors using correction tapes or by superimposing the original figures with the correct figures and amounts. Lilianie Villamor even sent a letter[5] to private respondent stating that she committed mistakes in canvassing and the preparation of the payables. Lilianie Villamor also executed a notarized[6] Affidavit[7] dated July 26, 2011.

The proprietor of Cebu Star Sales Marketing also executed an Affidavit[8] stating that petitioner never asked for a commission from Cebu Star; neither did petitioner demand anything from Cebu Star.

On the other hand, private respondents alleged that an audit was conducted because they had observed that one particular supplier, Cebu Star, stood out because too many P.O.'s were issued to it. They found too many erasures and corrections in the RFs. It appeared that petitioner was favoring Cebu Star by altering the prices - lowering Cebu Star's prices or raising the prices of Cebu Star's competitors. This prompted the private respondents to conduct an investigation against the petitioner.

Private respondents gave petitioner a Notice[9] to explain the erasures and corrections on the RFs. The latter wrote a letter[10] dated May 16, 2011 explaining that 1) stocks were available in Cebu Star while the other supplier has incomplete stocks or cannot deliver right away; 2) wrong entry or price; and 3) petitioner asked Cebu Star to “equate or give a lesser price to the items”. Petitioner also claims that Cebu Star delivers promptly, sometimes even without P.O.; that it has products of quality and could change defective items right away; and that it is easy to negotiate and could give considerable discounts since the owners personally handle the transactions.

Another Notice was sent because private respondents discovered alterations in the price quotations of Cebu Star's competitors to make it appear that Cebu Star had the lower quotation. Petitioner sent another letter[11] dated May 29, 2011, explaining mostly that she had asked the supplier “to equate or lesser the price to make one P.O.” and that the wrong amount was given or entered.

After conducting the investigation, a Resolution[12] dated June 10, 2011 was issued by the investigating officer, Atty. Christie Anne S. Conales calling for the immediate termination of petitioner. Private respondents alleged that the basic responsibility of petitioner, as Purchasing Officer, is to make sure that the transactions made by private respondent UC involving purchases of supplies and other materials are transparent. The system of canvassing was instituted for private respondent to be able to buy supplies and materials at the lowest cost. Private respondent found petitioner had favored Cebu Star Sales by manipulating the price quotations to ensure that said supplier was awarded the transaction. Not only were Cebu Star's prices lowered; but other alterations showed that Cebu Star's competitor's price quotations were increased. The investigating officer found that the actions of the petitioner is unbecoming of a purchasing officer, irresponsible and detrimental to private respondent UC's interest. Private respondent has the right to sever its relationship with the petitioner at it has lost its trust and confidence in the petitioner whose nature of work is sensitive and requires utmost diligence in its performance.

On the basis of the Resolution, private respondent terminated petitioner on the grounds of “Neglect of Duties and Responsibilities as a Purchasing Head of the University of Cebu in a letter[13] dated June 15, 2011. Hence, on June 24, 2011, petitioner filed a Complaint[14] against private respondents for illegal dismissal, separation pay, retirement benefits, backwages, and actual, nominal, moral and exemplary damages in the Regional Arbitration Branch No. VII docketed as NLRC RAB-VII Case No. 06-1035-11.

On December 19, 2009, the Labor Arbiter rendered a Decision[15] ruling that there was a valid cause to dismiss petitioner. Petitioner was guilty of dishonesty and private respondents lost trust and confidence in her ability to perform her functions diligently. However, the Labor Arbiter found procedural infirmities in petitioner's dismissal, thus:

“WHEREFORE, premises considered, the complaint is hereby DISMISSED for lack of merit. However, respondents are hereby ordered to pay complainant indemnity of P30,000.00, by way of nominal damages.

SO ORDERED.”

Thereafter, both petitioner and private respondents filed their appeals to the NLRC docketed as NLRC Case No. VAC-02-000163-2012. Petitioner argued that dishonesty was not the ground used by private respondents to dismiss petitioner, but neglect of duties and responsibilities. She maintained that the alterations was committed by another employee, not the petitioner. She also alleged that the Labor Arbiter erred in not awarding her backwages, damages and other money claims. For their part, private respondents claimed that they had observed procedural due process in terminating petitioner.

On May 31, 2012, the NLRC rendered the assailed Decision[16] which affirmed with modification the Decision of the Labor Arbiter, in that, the award of nominal damages was deleted. Private respondents had sufficiently complied with procedural due process as the petitioner was afforded the opportunity to defend herself and explain

her side. Petitioner was found guilty of gross and habitual negligence and was validly dismissed on the ground of dishonesty constituting loss of trust and confidence. The NLRC also stated that an employer may not be compelled to continue to employ a person whose continuance in the service would be patently inimical to the employer's interest. The dispositive of the Decision provides:

“WHEREFORE, premises considered, the decision appealed from is hereby AFFIRMED WITH MODIFICATION reiterating the valid dismissal of complainant but deleting the grant of the amount of P30,000.00 as indemnity in the form of nominal damages.

SO ORDERED.”

Thereafter, petitioner filed a Motion for Reconsideration[17], but this was denied by the NLRC in the Resolution[18] dated July 31, 2012.

Aggrieved, petitioners filed this instant petition[19] raising the following issues:

I

WHETHER OR NOT THE NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO EXCESS OR LACK OF JURISDICTION IN SUSTAINING THE DISMISSAL OF THE PETITIONER ON THE GROUND THAT THE ALTERATIONS ON THE REQUISITION FORMS ALLEGEDLY TANTAMOUNT TO GROSS AND HABITUAL NEGLECT OF DUTIES.

II

WHETHER OR NOT THE NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO EXCESS OR LACK OF JURISDICTION IN SUSTAINING THE DISMISSAL OF THE PETITIONER ON THE GROUND OF DISHONESTY DESPITE THE FACT THAT THE RESPONDENTS DID NOT DISMISS THE PETITIONER ON SUCH GROUND OF DISHONESTY OR ACCUSE HER REGARDING THE SAME.

III

WHETHER OR NOT THE NLRC COMMITTED GRAVE ABUSE OF DISCRETION IN HOLDING THAT THE RESPONDENTS OBSERVED PROCEDURAL DUE PROCESS IN DISMISSING THE PETITIONER.[20]

The Ruling of the Court

This petition must be dismissed.

A petition for certiorari under Rule 65 of the Rules of Court is a pleading limited to correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction.[21] It is intended to correct only errors of jurisdiction where the court or tribunal has acted with grave abuse of discretion.[22] The burden is on the part of the petitioner to prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent issuing the impugned order. Mere abuse of discretion is not enough; it must be grave.[23]

An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility. Furthermore, the use of a petition for certiorari is restricted only to truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void. From the

foregoing definition, it is clear that the special civil action of certiorari under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross.[24] It is regrettable that in this case, the petitioner failed to substantiate the allegation of grave abuse of discretion against public respondent National Labor Relations Commission.

Petitioner continues to refute the findings of fact of the Labor Arbiter which was upheld by the NLRC. She reiterates her position that she was illegally dismissed on the ground of neglect of duties and responsibilities; instead, the Labor Arbiter found her guilty of dishonesty. However, it must be remembered that the Resolution of Atty. Conales was attached to the letter of termination. In the Resolution, petitioner was found to have practiced price manipulation to favor Cebu Star, which is detrimental to private respondents' interests. Petitioner was also found to have failed to perform her functions with utmost diligence. Such acts of petitioner constitute dishonesty, as well as neglect of her duties and responsibilities.

It must be stressed that petitioner Barz was not an ordinary rank-and-file employee. She was holding a supervisory rank being the Head of the Purchasing Department. The position, naturally one of trust, required of her abiding honesty as compared to ordinary rank-and-file employees. When she allowed for the alterations in the price quotations to favor Cebu Star, she breached the trust and confidence reposed upon her by private respondents.

Employers have a right to impose a penalty of dismissal on employees by reason of loss of trust and confidence. More so, in the case of supervisors or personnel occupying positions of responsibility, does loss of trust justify termination. Loss of confidence as a just cause for termination of employment is premised on the fact that an employee concerned holds a position of trust and confidence.[25] But, in order to constitute a just cause for dismissal, the act complained of must be "work-related" such as would show the employee concerned to be unfit to continue working for the employer.[26] Hence, the Labor Arbiter's finding that the dismissal was valid on the grounds of dishonesty, as well as the NLRC's ruling that petitioner was guilty of gross and habitual neglect of duties and dishonesty, were proper and justified.

As for deleting the award of nominal damages, We agree with the NLRC that private respondents had sufficiently complied with procedural due process. Procedural due process requires that the employee be given a notice of the charge against her, an ample opportunity to be heard, and a notice of termination,[27] as was given to petitioner in this case. As aptly found by the NLRC:

“.. [Petitioner] was afforded the opportunity to defend herself through the show-cause notices served upon her. An administrative hearing was also accordingly conducted to afford [petitioner] the avenue to explain her side. The claim that the notice did not seek her dismissal if the accusations were found to be true becomes inconsequential. The essence of due process in administrative proceedings is an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling complained of. Before an employee can be dismissed, the Labor Code requires the employer to furnish the employee a written notice containing a statement of the causes for termination and to afford said employee ample opportunity to be heard and to defend himself/herself with the assistance of his/her representative if he/she so desires. If, after investigation, the employer decides to terminate the services of the employee, the employer must notify the worker in writing of the decision to dismiss him/her, stating clearly the reasons therefor. Respondents have complied with all the procedural requirements for the dismissal of complainant.”

We reiterate that petitioner has failed to overcome the burden of proving how public respondent may be faulted with having acted with grave abuse of discretion in rendering the assailed orders. It has long been settled that abuse of discretion does not simply arise because the administrative agency ruled in favor of private respondents and against petitioner. The factual findings by quasi-judicial agencies, such as the National Labor Relations

Commission, when supported by substantial evidence, are entitled to great respect in view of their expertise in their respective field.[28] Not only are they accorded great respect, but even finality, and are binding upon this Court, unless the petitioner is able to clearly demonstrate that respondent NLRC had arbitrarily disregarded evidence before it or had misapprehended evidence to such an extent as to compel a contrary conclusion if such evidence had been properly appreciated, or if the findings of the Labor Arbiter and the NLRC are contrary to each other. None of these have been shown in this case.

WHEREFORE, premises considered, the instant Petition for Certiorari is DISMISSED. The Decision dated 31 May 2012 and the Resolution dated 31 July 2012 rendered by the National Labor Relations Commission in NLRC Case No. VAC-02-000163-2012 STAND.

SO ORDERED.

Delos Santos, and Lopez, JJ., concur.

[1] Rollo, pp. 37-49.

[2] Rollo, pp. 66-67.

[3] Rollo, p. 109.

[4] Rollo, pp. 110-115 (Letters dated May 16, 2011 and May 29, 2011).

[5] Rollo, p. 116.

[6] The notary public who notarized the document is also petitioner's counsel.

[7] Rollo, pp. 144-145.

[8] Rollo, p. 146.

[9] Rollo, p. 109.

[10] Rollo, pp. 110-111.

[11] Rollo, pp. 112-115.

[12] Rollo, pp. 119-123.

[13] Rollo, p. 118.

[14] Rollo, p. 125.

[15] Rollo, pp. 69-79 (penned by Labor Arbiter Vitto A. Kintanar).

[16] Rollo, pp. 37-49.

[17] Rollo, pp. 50-64.

[18] Rollo, pp. 66-67.

[19] Rollo, pp. 3-31.

[20] Rollo, p. 16.

[21] Tan vs. Antazo, G.R. No. 187208, February 23, 2011.

[22] Goco vs. CA, G.R. No. 157449, April 6, 2010.

[23] Tan vs. Antazo, G.R. No. 187208, February 23, 2011.

[24] Malayang Manggagawa ng Stayfast Phils., Inc. vs. NLRC, G.R. No. 155306, August 28, 2013.

[25] Moya vs. First Solid Rubber Industries, Inc., G.R. No. 184011, September 18, 2013.

[26] Yabut vs. Manila Electric Company, G.R. No. 190436, January 16, 2012.

[27] New Puerto Commercial vs. Lopez, G.R. No. 169999, July 26, 2010.

[28] Lepanto Consolidated Mining Company vs. The Lepanto Capataz Union, G.R. No. 157086, February 18, 2013.

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