

MANILA TRADING & SUPPLY COMPANY, PETITIONER, VS. MANILA TRADING LABORERS’ ASSOCIATION, RESPONDENT.

G.R. No. L-2179. April 12, 1949

Ponente: FERIA, J.

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FERIA, J.:

This is an appeal by certiorari from the decision of the Court of Industrial Relations, on the ground that the latter committed an error of law in ordering the reinstatement of the appellee Vicente Fortich.

The conclusions or findings of fact of the lower court are as follows:

"The following facts are undisputed: Fortich was the branch manager of petitioner in San Pablo City, and the territory covered by said branch comprises the provinces of Laguna, Batangas and Tayabas. Beside being a branch manager, he was also a salesman of petitioner. A truck was assigned to the branch for demonstration purposes. On April 16, 1947, Fortich used the truck in going to Manila to attend a meeting of respondent union. On that date, the union declared a strike, and on the following day, Fortich telegraphed from Manila to M.P. Agarao, an employee of the San Pablo Branch, ordering the latter to close the branch office, but to have the doors and windows of the building secured, Fortich kept the truck until May 9, 1947 when he returned it to the San Pablo office. During the period from April 17 to May 9, 1947, he used the truck for demonstration to several prospective buyers in Laguna and Manila. He brought the truck to Manila at least five times during this period. It was found that the truck was so used that it could not be sold anymore as a first hand truck and respondent had to convert it into a service truck.

x x x x x

"As regards the first point, Fortich maintains, that as branch manager, he had the authority to close or order the closing of his branch office whose employees were all members of the union which voted to strike. It may easily be conceded that he had that authority insofar as his subordinate employees in the branch are concerned, but certainly not insofar as his employer or the main office is concerned unless such authority had been previously granted him. Not only did he order the closing without securing authority or permission to do so, but he did not even notify his superiors in the main office.

"Fortich also maintains that there was no need for him to secure permission or authority before taking the truck outside of his territory for the purpose of showing it to customers because he had been doing it before. Petitioner maintains the contrary and insists that Fortich was supposed to demonstrate the truck only within the territory assigned to him. We are inclined to accept the contention of petitioner because otherwise, there would be no meaning to the delimitation of the field of operation of the branch in question if its manager or any of its personnel could go freely outside their territory to transact business. * * *

"* * * The position of Fortich is not that of an ordinary employee or laborer. As a matter of fact, he belongs more to the managerial staff than to the rank and file of petitioner's employees and laborers. * * *

"In connection with, the retention of the demonstration truck in his possession when he was already on strike, there can be no doubt that it was highly improper. It was clearly his duty, upon joining the strike, to return to

petitioning company whatever properties belonging to it were in his possession. If he cannot properly continue holding such properties, much less could he use them even for the purposes of the business of the company. *
* *

"The record discloses that Fortich is a mechanical engineer and he was petitioner's branch manager in San Pablo even before the war. Although in the instant case, he actually violated his trust as branch manager, having been influenced undoubtedly by his loyalty to respondent union, the court is of the opinion and so holds that the offenses he committed, as above explained, can hardly justify his complete dismissal from the service. He has been laid-off for almost 9 months now and that must be considered a sufficient punishment for him."

It is well settled that an employer or principal may discharge or dismiss his employee or agent for just cause or for malfeasance or misfeasance in the performance of his duties.

When the law does not, directly or inferentially, define the kind of misfeasance or malfeasance for which an employee or laborer may be dismissed or discharged, but the law leaves it to the court to determine whether or not an act or omission on the part of the employee may be considered as a just cause for his dismissal in view of the facts and circumstances of each case question for the Court of Industrial Relations to determine is one of fact. It is a question of fact because there is no law or rule which serves as guide to the Court in deciding it, and the Court of Industrial Relations may decide it in a way or another without violating any law, but it may gravely abuse its discretion if its decision is arbitrary or whimsical, that is, contrary to reason, logic or equity. The court's decision in such case is final and can not be appealed to this Supreme Court by certiorari, because only questions of law may be raised in the appeal or petition for certiorari according to section 2, rule 44. And if the Court decides the question of fact with grave abuse of discretion, a special civil action of certiorari filed with the Supreme Court would be the proper remedy.

But where the law provides or defines what acts or omission, misfeasance or malfeasance, constitute a just cause for which an employee or agent may be discharged by his employer or principal, and those acts or omissions are found by the court to have been established or proven, the question whether or not the former has been legally and properly dismissed by the latter is a question of law, and the decision of the Court of Industrial Relations on that question is appealable to this Supreme Court by certiorari.

In the present case the Court of Industrial Relations, according to the above quoted conclusions of fact, has found that the relationship between the petitioner and the respondent Fortich was that of agency or of principal and agent, because the respondent was a manager of the branch office of the petitioner in San Pablo, Laguna; and that the respondent Fortich "has actually violated his trust as branch manager" of the petitioner's office in San Pablo, Laguna, for the sale of automobiles and trucks. The relationship between them being of trust, based on the confidence of the principal in the agent, article 300 of the Code of Commerce is applicable.

Said article 300 provides:

"Art. 300. The following shall be special causes for which merchants may discharge their employees, even though the term of the contract has not expired:

"1. Fraud or breach of trust in the transactions entrusted to them.

"2. Engaging in any commercial transaction for their own account, without the express knowledge and permission of the principal. * * *"

In the case of Barretto vs. Santa Marina, (26 Phil., 440), this Supreme Court held that "even though a period is stipulated during which the agent or employee is to hold his position in the service of the owner or head of a mercantile establishment, yet the latter may, for any of the special reasons specified in article 300 of the Code of

Commerce, dismiss such agent or employee even before the termination of the period." The provision of said article 300 of the Code of Commerce as well as the above quoted decision of this Court rendered before the promulgation of Act No. 103 as amended, are still applicable although the respondent was a member of the Manila Trading Laborers' Association, a labor union, because there is nothing in said Act which is in conflict with said article 300.

To order the petitioner as principal to reinstate the respondent Fortich would be to order the former to continue with the employment of the latter as its agent, in whom the petitioner has lost its confidence and whose continuance in the service is patently inimical to its interest.

The fact that the respondent Fortich had been laid off for almost nine (9) months without pay during the pendency of this case in the Court of Industrial Relations, can not be considered, as the lower court does, as a sufficient punishment for said respondent's breach of trust and a justification for his reinstatement in the service of the petitioner. As the respondent Fortich has violated his trust as branch manager, and the petitioner was justified, under article 300 of the Code of Commerce, in dismissing and discharging him, the former has no right whatsoever to receive any salaries or compensation from the latter for services he had not rendered during the time he has been laid off, and consequently his having been laid off or discharged not only during said period but definitely cannot be considered as a punishment in lieu of his discharge or dismissal.

In view of the foregoing, the decision of the lower court ordering the reinstatement of the respondent Vicente Fortich in the service of the petitioner is hereby reversed. So ordered.

Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

DISIDENTE

BRIONES, M.:

Siento no estar conforme con la decisión de la mayoría, sobre todo al aplicar al presente caso el art. 300 del Código de Comercio. Este artículo, en lo tocante a las disputas entre el trabajo y el capital, entre los obreros y la gerencia ("management" como se dice actualmente), ha sido prácticamente derogado por las leyes del Commonwealth Nos. 103 y 313 que vienen a ser cartas orgánicas de la Corte de Relaciones Industriales. La regla ahora en esta jurisdicción es que el derecho del patrono o principal de escoger o destituir libremente a sus empleados y obreros es básicamente susceptible de ser reglamentado por el Estado en el ejercicio del supremo poder de policía, y a este efecto se aprobaron las referidas leyes del Commonwealth. Nos. 103 y 213. Así lo declaramos en el asunto de Manila Trading Co. v. Zulueta and Phil. Labor Union, 40 O.G. supp. No. 10, pp. 183, 184 y 185, y así también lo hemos declarado en el asunto más reciente de Manila Hotel Company y_. Court of Ind. Relations and the Manila Hotel Employees' Association, G.R. No. L-1557 (Enero 29, 1948), del cual tomo los siguientes pronunciamientos:

"Puede decirse que en este asunto no se discute prácticamente ninguna cuestión fundamental de derecho. Parece que ambas partes reconocen y admiten la certeza de las siguientes proposiciones, a saber: a) que el derecho del patrono o principal de escoger o destituir libremente a sus empleados y obreros es básicamente susceptible de ser reglamentado por el Estado en el ejercicio del supremo poder de policía; b) que si bien es cierto que un patrono o principal no puede ser compelido legalmente a continuar empleando a una persona que es culpable de mala conducta hacia dicho principal y cuya continuación en el servicio de este último resulta perjudicial a sus intereses, pues la ley, al proteger los derechos del obrero, no autoriza la opresión ni la destrucción del principal, es, sin embargo, también cierto que hay casos en que la destitución o suspensión de un empleado resulta caprichosa, o injustificada, o de otro modo ilegal, en cuyo caso el obrero debe ser

protegido por el Estado mediante la agencia o instrumento que tenga para ello que en nuestro caso es la Corte de Relaciones Industriales (Leyes del Commonwealth Nos. 103 y 213; Manila Trading Co. v. Zulueta and Philippine Labor Union, 40 O.G., Supplement No. 10, pp. 183, 184,185). (Underlining supplied) .

"La cuestion que plantea ante Nos la recurrente es mas bien una de hecho, a saber: ¿justifican los hechos probados en autos la decisión de la Corte de Relaciones Industriales, revocando la destitución decretada por la recurrente y ordenando la reposición del empleado destituido? La recurrente dice que no; que su acción expulsando a Francisco David se ejecutó en el curso normal de los negocios, para eliminar a un elemento subversivo y perjudicial a sus intereses. Por otro lado, la Corte de Relaciones Industriales dice que, aun admitiendo que la conducta del empleado David antes de la guerra justificaba una acción disciplinaria en contra suya, su prolongada suspensión o cese es un adecuado castigo.

"La corte a quo arriba a todas estas conclusiones de luego de haber celebrado audiencias en que oyó a los testigos de una y otra parte. Después de revisar los autos no hemos hallado ningún motivo para alterar o revocar tales conclusiones, formadas por el tribunal inferior con mejores elementos e ingredientes que nosotros para enjuiciar los hechos. Solamente nos sentiríamos autorizados a sustituir nuestro juicio al de la Corte de Relaciones Industriales en caso de abuso o de ausencia evidentes de pruebas que apoyaran la sentencia objeto de alzada. No es este el caso (underlining supplied)

El caso que nos ocupa es enteramente idéntico al del Manila Hotel últimamente citado. Allí la Corte de Relaciones Industriales, en vista de los hechos que allí probados, revocó la destitución proveída por la gerencia del Manila Hotel y ordenó la reposición del empleado afectado. Sostuvimos entonces que la Corte Industrial no abusó de su discreción al apreciar los hechos; así que rehusamos abrogar o de cualquier modo alterar la orden apelada, diciendo que el tribunal inferior había formulado su conclusión "con mejores elementos e ingredientes que nosotros para enjuiciar los hechos" y que "Solamente nos sentiríamos autorizados a sustituir nuestro juicio al de la Corte de Relaciones Industriales en un caso evidente de abuso o de ausencia evidente de pruebas que apoyaran la sentencia objeto de alzada".

Aquí la mayoría revoca la resolución de la Corte de Relaciones Industriales no porque ésta haya abusado, o de alguna discreción en la apreciación de los hechos, sino por una razón puramente legal la de que el art. 300 del Código de Comercio autoriza al patrono o principal para expulsar al empleado en un caso de fraude o abuso de confianza en las condiciones que aquel le hubiere confiado; pero ya hemos demostrado que en relación con las disputas industriales este artículo ha quedado prácticamente derogado por las leyes citadas del Commonwealth Nos. 105 y 213.

Es lamentable que ahora que estamos sentando las bases de una jurisprudencia progresiva en lo que se refiere a las leyes que regulan las relaciones entre el capital y el trabajo, venga esta decisión de la mayoría que implica una radical desviación de una doctrina muy reciente. No obstruye ello el principio tradicional sobre stare decisis, sino que retarda el expedito y pie no de desenvolvimiento de nuestra jurisprudencia en cuestiones sociales, obreras e industriales.

Por tanto, en favor de la confirmación de la resolución apelada de la Corte de Relaciones Industriales.

Moran, Pres., Concurro con esta opinión disidente.

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