

**JEAN ANNE P. MONGE, Petitioner, vs. NESTLE PHILIPPINES, INC.,
JENNIFER M. ANTONIO, RICHEL A. BATISLA-ON, MARIE CHRISTINE
MAURICIO AND SEBASTIAN ALFONSO “Chino” COSCOLLUELA, Resp...**

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

The present petition seeks to nullify the August 27, 2009 Decision[1] and the January 15, 2010 Resolution,[2] both issued by public respondent National Labor Relations Commission, Seventh Division (NLRC) in NLRC VAC-03-000440-09 for illegal dismissal and payment of monetary benefits.

THE FACTS

According to Petitioner

Petitioner started working for respondent company Nestle on November 5, 2006, as nutrition representative and then as nutrition specialist.

On June 23, 2008, respondent Antonio called petitioner over the phone asking her about her relations with a certain Alan Inumerables (Alan).[3] Apparently, Jing Inumerables (Jing) who claims to be Alan’s wife, sent an email accusing petitioner of having an illicit relationship with her husband. Jing threatened to file a case of adultery against petitioner.

Petitioner denied the accusation.

On June 24, 2008, at about 9:00 AM, respondent Batisla-on texted petitioner to report for a meeting at 2:00 PM., without telling what it was all about. The meeting was transferred to 4:00 PM. At the meeting, petitioner was interrogated about her improper relationship with Alan. Screen shots of the email exchanges between petitioner and Alan, and the email of Jing where flashed on an LCD monitor. Petitioner tried to explain her side but Antonio would cut her off. Respondents threatened petitioner that unless she admit to charges and prepare her resignation letter, they will put bad remarks in her 201 file and will not allow her to go out of the room. Petitioner narrated what happened thereafter:

Petitioner, who was already tired, hungry, frustrated and irritated because of the insults heaped upon her person by respondents which was already beyond the procedure of the investigation proper was flabbergasted and dazed of the posture of her interrogators whom she considered her direct superiors who have the power to make or unmake her with the top management of Nestle Philippines, Inc. Thus, she succumbed to their desire of admitting their accusations despite her being innocent and she exasperatedly shouted, saying: “THEN YOU WANT ME TO ADMIT THIS TO PUT AN END TO IT?”, and to satisfy them she said “YES, YES” and Respondents joyfully patted her back. Respondent Antonio immediately provided her with a laptop and told her to type her resignation letter immediately with Antonio dictating the reason petitioner should type as reason for her resigning from the company. The date and time stated in her letter of resignation was June 24, 2008, Tuesday, 6:07 PM. She was also made to prepare the letter of acceptance of Antonio on same date and the time stated therein was Tuesday, June 24, 2008 6:18 PM. The minutes of the interrogation had lasted for more than

three and a half hours, from past 4:00 PM which lasted at exactly 8:00 PM afterwhich, respondents allowed her to go home.[4]

According to Respondents

On June 23, 2008, an email from weepingwifeandchildren@hotmail.com was sent to a number of Nestle's employees, the subject of which reads: "Jean Anne Monge: Mistress of my husband (Kabit ng Asawa ko)." The sender, Jing, claimed that Alan, her husband, also an employee of Nestle, was having an affair with petitioner. Attached to it were screen shots of the email exchanges between the two alleged lovers.

On June 24, 2008, petitioner was requested to appear in a meeting called by Antonio, Nestle's Field Operation Manager, and Batisla-on, petitioner's immediate supervisor. The minutes[5] revealed what transpired during the meeting:

The meeting was called to give Jean the chance to explain her side as to the allegation that she is the mistress of Mr. Allan Inumerables. During the discussion, initially she denied that she has an affair with Mr. Inumerables even after she was confronted with the evidences in the email forwarded by Mrs. Inumerables. She maintains that another person must have been using her profile to send those emails to Mr. Inumerables and that it is her fault that she gave the passwords of her yahoo account to several people and that she was too trusting.

When we presented her the screenshots of her yahoo inbox, particularly her sent messages which showed that in several occasions, there were emails she sent both to Allan and to Richel on the same dates, we asked her how it was possible that two different persons (as she was insisting) use her profile to send mails. We also confronted her with her Saturday trips to the office, as shown in the guard's logbook, dates of which coincide with the dates she sent emails to Allan. With these, she finally admitted between tears that she cannot believe that she has done those things. Jean further said that Allan approached her last year to ask for help with regards to the requirements for his practicum as a student nurse. Being accommodating in nature, she willingly helped him and what started as a casual friendship turned into something else which she never thought would lead to an illicit affair. With this, she will just tender her resignation to protect her family and herself from further scandal and humiliation and because she cannot continue working with the burden of guilt and the pain she has caused everyone. And that she plans to make amends with Mrs. Inumerables. She signed her resignation which will take effect on July 1 and has requested that her admission to the allegation will not reflect in her 201 file and that we treat this matter with utmost confidentiality so she can still move on and pursue other endeavors. She expressed her gratitude to us and to Nestle for all the learnings and opportunities given to her and that she is willing to extend her support to us should we need her as she has held so dear her job and the contacts she worked with.

Petitioner formalized her resignation in an email[6] addressed to Antonio and Batisla-on. She also made a hard copy of the email and affixed her signature thereon. It reads:

From : Monge, JeanAnne, MAKATI, HEALTHCARE NUTRITION

Sent : Tuesday, June 24, 2008 6:07 PM

To : Batisla-on, Richel, MAKATI, INFANT & HEALTHCARE NUTRITION

Cc : Antonio, Jennifer, CEBU, INFANT & HEALTHCARE NUTRITION

Subject : Resignation Letter-Jean Anne P. Monge

Dear Ma'm,

For the past 2 years and 8 mos. I enjoyed my stay with Nestle Nutrition and I learned a lot from product knowledge, to detailing even scientific and factual information was easily understood and ethically shared with

my HCPs. I really enjoyed sharing what I'ved (sic) learned from Nestle Nutrition. But time has come that I need to explore new field wherein I will be able practice my profession as Physical Therapist. Ma'am I would like to render my letter of resignation effective July 1, 2008. Ma'am, I really appreciate your support and I really consider you as my mentor and bestfriend thank you for everything. God bless.

Jean Anne P. Monge

NS-Bacolod

A few minutes after, Antonio replied to petitioner's email and accepted her resignation. It reads:

From : Antonio, Jennifer, CEBU, INFANT & HEALTHCARE NUTRITION

Sent : Tuesday, June 24, 2008 6:18 PM

To : Monge, JeanAnne, MAKATI, HEALTHCARE NUTRITION

Cc : Mauricio, MarieChristine, MAKATI, INFANT & HEALTHCARE NUTRITION; Batisla-on, Richel, MAKATI, INFANT & HEALTHCARE NUTRITION

Subject : Resignation Letter-Jean Anne P. Monge

Importance : High

Dear Jean -

Acknowledge receipt of your resignation. It is with deep regret that I will accept it. I wish you luck in your new endeavor.

On June 30, 2008, petitioner dropped by the Nestle office where she signed the minutes of the meeting conducted on June 24, 2008.[8] She also acknowledged receipt of the Acceptance of Resignation issued by Nestle in her favor. It reads:

June 30, 2008

To: Ms. Jean Anne P. Monge
IHN-West Visayas

Acceptance of Resignation

We hereby acknowledge receipt of your resignation dated June 24, 2008 and we hereby accept the same with regrets effective July 1, 2008.

x x x

For this purpose, please initiate your clearance from job, property and financial accountabilities, if any, by accomplishing the attached clearance checklist form.

Please answer the exit interview form and return the same to HR immediately.

x x x

Richel A. Batisla-on

Area Nutrition Manager

IHN-West Visayas

Received : (sgd) Jean Anne P. Monge

Date : June 30, 2008.

Also on June 30, 2008, petitioner sent an email[9] to Batisla-on, copy furnished Antonio and respondent Mauricio. It reads:

Good PM Ma'am,

Today, June 30, 2008 is my last day of work with Nestle Nutrition, Ma'am attached are the lists of requests, employee claims and benefits.

Ma'am thank you so much for everything and God Bless.

Jean

Attached to the email was a letter of claims[10] made by the petitioner. It reads:

June 30, 2008

Good Day Ma'am,

I already submitted my letter of resignation to Ms. Jennifer Antonio and Ms. Richel Batisla-on last June 24, 2008 and this will take effect effective July 1, 2008. Ma'am I would like to request for the following after our verbal agreement.

Claims and benefits: Employee Jean Anne Peters Monge

- I'm interested for option to buy company issued Vehicle Honda City with plate number XSC 783 (silver)
- Clean 201
- CPOA – Credits (audiometer reading 097941 as of June 30, 2008)
- Separation pay as agreed with Jennifer Antonio and Richel Batisla-on
- SSS Salary Loan Check – filed application for salary loan last year and never received the check (stale check)
- PMS – Quarter 2
- Claims for unused VL – 12 days as agreed with Jennifer Antonio and Richel Batisla-on
- Claims for unused SL – 18 days as agreed with Jennifer Antonio and Richel Bautista
- Claims for unused Emergency Leave – 5 days
- Contribution: Contributory Retirement plan – dated April 22, 2007 as agreed with Jennifer Antonio and Richel Batisla-on
- Claims for car insurance policy (Honda City XSC 783)
- Claims for SSS Certification (for voluntary contribution use)
- Claims for employment history in Nestle
- Claims for BIR (Certificate of compensation payment/Tax withheld for future use)
- OR/CR, Registration for Honda City XSC 783

Ma'am if I forgot some of my claims and benefits not listed above please help me facilitate these claims.

Ma'am may I request that all these important documents be mailed to my home address: Jean Ann P. Monge

Hongkong street Sunshine Valley Subdivision Bacolod City Negros Occidental 6100 c/o Mrs. Rosa Peters.

Ma'am if you have questions please feel free to call me through my cell number: 09174520998.

Thank you so much and God Bless.

Jean Anne P. Monge

Bacolod City.

In response to petitioner's requests and claims, Antonio and Batisla-on explained that since she resigned, she is not entitled to any separation pay.

THE CASE

Claiming that she was forced to resign, petitioner, on July 29, 2008, filed a complaint[11] for illegal dismissal before the Labor Arbiter (LA).

On January 19, 2009, the LA issued the Decision,[12] the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered dismissing the complaint of complainant Jean Anne P. Monge against respondents Nestle Philippines, Inc.,/Richel Batislaon, Jennifer Antonio and Christine Mauricio for lack of merit.

The NLRC, on appeal, also dismissed petitioner's complaint in the assailed August 27, 2009 Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the appealed Decision is AFFIRMED and the appeal of complainant is DISMISSED for lack of merit.

SO ORDERED.

Petitioner filed her motion for reconsideration.[13] She highlighted the fact that the email from Jing, with email address, weepingwifeandchildren@hotmail.com was a fabrication because, allegedly, the real wife of Alan, Ghing Inumerables, executed an affidavit[14] in her favor. It states:

- I am not the owner of the hotmail email account weepingwifeandchildren@hotmail.com as alleged in the said complaint. Any one can name of somebody else;
- In fact, the spelling of my nickname is GHING and not as JING as alleged in the said email letter;
- That never (sic), and had not made any communication, through internet or in any other way to Nestle Philippines, much more, in making a complaint against JEAN ANN P. MONGE;
- The said email letter was infact forwarded to so many email address, which spread all over the country. I don't even know those people, much more that I don't have their email addresses;
- I was further informed that she was forced to resign by virtue of this accusation, as being told that I am determined to file a case of Adultery against her, which is an utter falsehood;
- To state also categorically that I am secured with my relationship with my husband, ALAN INUMERABLES, and that such stories of infidelity, is just a product of rumormonger, whether outside or inside the company;
- I am not in any way pursuing an alleged complaint against any one in the company, as I do believe that there was no truth to such story;
- That I also believe wit the company, being a responsible one, to rectify whatever errors they have committed

along the way, and not just to be swayed easily, as the same is very dangerous precedent. Prudence dictate that at least the company had verified the same, to same (sic), to confirm whether it is truthfully made or not by the undersigned; and

- That again I reiterate my denial to such complaint, to seek justice to those who had been affected by this controversy.

Hoping that this matter will be sufficient enough to explain and tell the truth.

Thank you

Very truly yours,

VIRGINIA "GHING" INUMERABLES (signed)

Petitioner also filed a manifestation on September 16, 2009, annexing thereto three CDs which are purportedly copies of the recordings she made through her cellular phone during the meeting on June 24, 2008.[15]

On January 15, 2010, the NLRC rendered assailed resolution denying petitioner's motion for reconsideration.

Hence, this petition.

ISSUE

WHETHER THE NLRC COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT HELD THAT PETITIONER VOLUNTARILY RESIGNED.

Petitioner claims that she was forced to resign. She says she was not afforded a fair hearing. She further claims that she was not given time to think, study and prepare her defense. She was not emotionally, physically and mentally stable due to hunger, tiredness, hopelessness and frustration when she signed her resignation letter.

Petitioner also highlights the fact that Ghing Inumerables, Alan's wife, had disowned the email sent by Jing.

THE COURT'S RULING

The petition is WITHOUT MERIT.

Since this is a petition for certiorari, the issue in this case is whether or not the NLRC gravely abused its discretion amounting to lack of or in excess of jurisdiction when it affirmed the LA's finding.

By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law. Grave abuse of discretion refers not merely to palpable errors of jurisdiction or to violations of the Constitution, the law and jurisprudence. It refers also to cases in which, for various reasons, there has been gross misapprehension of facts.[16]

We do not find grave abuse of discretion in the instant case as the decision of the NLRC was in accord with existing jurisprudence and is based on evidence.

Records disclose that petitioner resigned from her job. Her resignation letter[17] was unambiguous and straightforward. Thus, it is incumbent upon her to prove with clear, positive, and convincing evidence that her resignation was not voluntary but was actually a case of constructive dismissal; that it is a product of coercion or intimidation. She has to prove her allegations with particularity.[18] Unfortunately, petitioner failed to do this.

For one, petitioner is no ordinary laborer with limited education and skills; she is not a rank-and-file employee with inadequate understanding such that she would be easily beguiled or forced into doing something against her will.[19] As ruled by the LA, which We quote with approval:

x x x complainant is not an ordinary worker but an employee holding a responsible position. As a nutrition specialist, she regularly meets and interacts with doctors, nurses, and other medical and health professionals and her job required considerable communication skills, intelligence and assertiveness. It is a job that also requires considerable judgment, discretion and maturity. It is, thus, highly, incredible and it would be preposterous on the part of the complainant to succumb to the alleged pressure excited (sic) by the respondents. Complainant, therefore, was expected to know the import of everything that she executes particularly when she signed, affirmed and submitted her resignation letters. Thus, it is safe to conclude that contrary to her charge of coercion and intimidation, the resignation letter that complainant signed and submitted to the respondent were voluntary. The charge, therefore, of coercion and intimidation into signing said letter is therefore without basis.

Indeed, We find it hard to believe that given her educational background and position, petitioner would be coerced to not only resign from work, but also to admit that she had an illicit relationship with a married man.

It is of note that the NLRC, upon examination of the audio recording of the meeting on June 24, 2008, found out that there was no intimidation, thus:

Nevertheless, the Commission notes the Manifestation filed by complainant on 16 September 2009, annexing thereto three (3) CDs which are purportedly copies of the recordings she made through her cellular phone during the interview/interrogation conducted by respondents-Batislaon and Antonio, wherein she claimed to be threatened, intimidated and coerced to prepare her resignation letter.

We find the authenticity of the contents of these CDS wanting. But even if we give them probative value, there is nothing therein that can be perceived as intimidation, threat or coercion by the aforesaid respondents, that would induce complainant to make a resignation letter. Hence, even after listening to these recordings, we still don't find any substantial evidence to consider complainant as having been constructively dismissed.[20]

We do not doubt the assessment of the NLRC on the matter especially since petitioner has not given Us reason to do so. Moreover, the NLRC, in discounting, petitioner's allegation that she was grilled for more or less three and a half hours - from past 4:00 PM to 8:00 PM - held:

x x x the print out copy of her resignation letter sent via email by complainant to her immediate superiors reflects this: Tuesday, June 24, 2008, 6:07 PM.

While the print out copy of the email sent by respondent-Antonio to complainant, accepting her resignation letter reflects this: Tuesday, June 24, 2008, 6:18 PM.

x x x complainant would want us to believe that she was constructively dismissed, as she was forced to prepare and submit a resignation letter, after having been grilled by respondents-Antonio and Batislaon for four (4) hours, i.e., from 4 p.m. to 8 p.m. of 24 June 2008. She's telling us that by 8 p.m. of that day, she finally gave in to their coercion. Then, how come that it was only 6:07 p.m. when she emailed her resignation letter to her immediate superiors? How come, that by 6:18 p.m. of the same day, her resignation letter was already accepted by respondent-Antonio? Even the CDs that she presented to us, though covering matters prior to and after the actual investigation, took only more or less 2 hours and 38 minutes.

To us, these only mean, that there was no intimidation, threat or coercion resulting in complainant's forced resignation.[21] x x x

Even granting arguendo that the environment during the June 24, 2008 meeting was hostile which prompted petitioner to write the resignation letter under duress, the threat and intimidation no longer existed when she went

back to the Nestle office on June 30, 2008, six days after. If she felt aggrieved during the meeting on June 24, 2008, she should have protested and disowned the resignation letter she earlier signed. The six day interval was more than enough time for her to study and prepare her defenses and to secure a lawyer, things that she said were denied from her during the earlier meeting. Instead, she signed the minutes of the meeting dated June 24, 2008, which, among others, narrated how she voluntarily resigned. She also received the Acceptance of Resignation prepared by Nestle. She even sent an email[22] thanking respondents, and, attaching therewith, her claims and requests.

Evidence to be believed, must not only proceed from the mouth of a credible witness, but it must be credible in itself – such as the common experience and observation of mankind can approve as probable under the circumstances. We have no test of the truth of human testimony, except its conformity to our knowledge, observation, and experience. Whatever is repugnant to these belongs to the miraculous and is outside of judicial cognizance.[23] If, according to petitioner, something untoward really took place on June 24, 2008, experience dictates that petitioner would not have bothered to sign the minutes of the meeting, receive the Acceptance of Resignation and write a docile worded email of “thank you,” accompanied by a litany of requests, to respondents.[24]

As to the disavowal by Ghing Inumerables of the email sent through weepingwifeandchildren@hotmail.com, suffice it to state that petitioner was not dismissed for immorality or any other offense related to the said email. She voluntarily resigned and Ghing’s affidavit, even granting that the statements therein are true, does not in any way taint the voluntariness of petitioner’s resignation letter.

WHEREFORE, the petition is DENIED. The assailed August 27, 2009 Decision and January 15, 2010 Resolution are AFFIRMED in toto.

SO ORDERED.

Hernando[**], (Chairperson), and Quijano-Padilla[*], JJ., concur.

[**] Vice J. Ingles per Office Order No. 05-14-ELDF dated Feb. 26, 2014.

[*] Acting Junior Member per Office Order No. 472-12-ABR dated December 12, 2013.

[1] Rollo, p. 27.

[2] Rollo, p. 54.

[3] Also spelled as “Allan.”

[4] Rollo, p. 14.

[5] Rollo, p. 257. Dated June 24, 2008. It was prepared by respondent Antonio. Respondent Batisla-on and petitioner, signed in conformity. Note: Petitioner signed it on June 30, 2008.

[6] Rollo, p. 260.

[7] Rollo, p. 259.

[8] Supra.

[9] Rollo, p. 263.

[10] Rollo, p. 265.

[11] Rollo, p. 182.

[12] Rollo, p. 155.

[13] Rollo, p. 39.

[14] See Rollo, p. 45.

[15] See Rollo, p. 56.

[16] Philippine National Bank v. DKS International, Inc., et al., G.R. No. 179161, January 22, 2010.

[17] Supra.

[18] Gan v. Galderma Philippines, Inc. et al., G.R. No. 177167, January 17, 2013

[19] Gan v. Galderma Philippines, Inc. et al., supra.

[20] Rollo, p. 56.

[21] Rollo, p. 57.

[22] Supra.

[23] Digitel Telecommunications Philippines, Inc., et al. v. Soriano, G.R. No. 166039, June 26, 2006.

[24] See Globe Telecom, et al. v. Crisolago, G.R. No. 174644, August 10, 2007.

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