

CASHMATE CREDIT CORPORATION, PETITIONER, VS. JUN-JUN BAUTISTA, ANTONIO C. CORTEZ, JR., ARNEL S. ROSARIO, ROMMEL A. MENDOZA, RICHARD C. ESTRAS, WILSON DELOS SANTOS AND NATIONAL L...

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GALAPATE-LAGUILLES, J:

Before Us is a Petition for Certiorari[1] seeking to nullify and set aside the July 27, 2012 Decision[2] issued by the National Labor Relations Commission, Fifth Division rendered in NLRC Case No. SUB-RAB-1-7-07-0118-2009, NLRC LAC No. 04-001328-12, affirming the Labor Arbiter's Decision dated March 5, 2012,[3] as well as the Resolution dated September 28, 2012[4] denying petitioner's Motion for Reconsideration.

The facts are simple.

Cashmate Credit Corporation (petitioner herein) is engaged in the business of lending money to the public and, to carry out its operation, it hired Jun-Jun Bautista, Antonio Cortez, Jr., Arnel Rosario, Wilson Delos Santos, Rommel Mendoza and Richard Estras (private respondents herein), among others, as Accounts Executive. However, petitioner terminated private respondents' employment on various grounds as shown by the following Notice of Termination:

1. Jun-Jun Bautista – Notice of Termination dated June 30, 2009:[5]

Records show that since June 18, 2009 up to the present you were being absent and never reported back to your work. Thus[,] your absences were considered unofficial.

Further, management decided to terminate you as account executive due to your prolonged unofficial absences effective June 30, 2009.

xxx

2. Antonio C. Cortez, Jr. – Notice of Termination dated May 22, 2009:[6]

Records show that your last report to work (sic) was last April 29, 2009 and your absences were not official.

Thus your employment is hereby terminated effective on this date.

You are advised to secure clearance from the Company.

3. Wilson S. Delos Santos – Notice of Termination dated July 13, 2009:[7]

Based on Audit conducted in your area, it was being found that you have committed major violations of the Company Policy. Evidences were gathered in connection with the violation you have committed, such as:

1. Padding
2. No confirmation of clients in the official receipts
3. Non issuance of official receipts, and

4. Not updating the client's passbook

Thus you are hereby terminated as account executive of the company due to your acts of dishonesty abovementioned. Termination shall take effect on July 13, 2009. This will not bar the Company from filing a case against you

xxx

4. Richard C. Estras – Notice of Termination dated July 13, 2009:[8]

Based on Audit conducted in your area, it was being found that you have committed major violations of the Company Policy. Evidences were gathered in connection with the violation you have committed, such as:

1. Padding
2. Misappropriation of payments (payments from certain clients that (sic) were posted in another's name)
3. Unremitted payments (payments of certain client were not fully submitted to the office)
4. Not updating the clients' passbook
5. Tampering of Official Receipts

Thus you are hereby terminated as account executive of the company due to your acts of dishonesty abovementioned. Termination shall take effect on July 13, 2009. This will not bar the Company from filing a case against you

xxx

5. Rommel Mendoza – Notice of Termination dated July 13, 2009:[9]

Based on Audit conducted in your area, it was being found that you have committed major violations of the Company Policy. Evidences were gathered in connection with the violation you have committed, such as:

1. Padding
2. Misappropriation of payments (payments from certain clients that (sic) were posted in another's name)
3. Unremitted payments (payment of certain clients were not fully submitted to the office)
4. Consistently not updating the clients' passbook
5. Connivance with the former Cash Custodian of the branch

Thus you are hereby terminated as account executive of the company due to your acts of dishonesty abovementioned. Termination shall take effect on July 13, 2009. This will not bar the Company from filing a case against you.

xxx

6. Arnel S. Rosario – Notice of Termination dated June 4, 2009:[10]

It was being found out that you have committed major violations which affect the interest of the Company and a clear manifestation of your dishonesty. The violations are as follows:

- There are collections that were not being posted on that date
- Payments from certain client were posted in another's name
- There were clients whose payments were not fully (completely) posted in the daily cash collection report.
- There were official receipts that were being tampered. Thus the management decided to terminate your employment effective on this date (June 04, 2009) for the abovementioned grounds.

xxx

Feeling aggrieved, private respondents separately filed a Complaint for illegal dismissal and money claims questioning the legality of their dismissal. According to Bautista, he submitted his resignation letter as early as June 18, 2009 but it was not approved. Later, he was terminated on the ground of “unofficial absences” which, according to him, had no basis. The same thing happened to Cortez, Jr. who tendered his resignation on April 29, 2009 because petitioner allegedly forced him to shoulder the amounts that his clients could no longer pay. However, instead of approving his resignation, petitioner withheld his salary and issued him the Notice of Termination dated May 22, 2009. On the other hand, Delos Santos, Mendoza[11] and Estras claimed that their dismissal on July 13, 2009 was not justified in view of the previous suspension meted to them on June 29, 2009 on the same grounds cited in their respective notice of termination. Rosario likewise denied the charges and violations cited in his notice of termination.

In its Position Paper, petitioner asserted that the dismissal of private respondents was valid. According to petitioner, the unofficial absences incurred by Bautista and Cortez, Jr. were tantamount to gross negligence while the violations committed by Delos Santos, Estras, Mendoza and Rosario amounted to fraud, breach of trust and confidence, and dishonesty.

On March 5, 2012, Labor Arbiter Jose G. De Vera rendered a Decision finding that the private respondents were illegally dismissed considering that petitioner failed to overcome the burden of proof to establish valid dismissal as its allegations were unsupported by substantial evidence. The fallo of the said Decision reads:

WHEREFORE, all the foregoing premises being considered, judgment is hereby rendered ordering the respondent company to pay complainants' backwages and separation pay, as well as the [re]fund of their cash bonds, 13th month pay and service incentive leave, in accordance with the computation of the Labor Arbiter Associate which is attached hereto as integral part of this Decision.

All other claims of the complainant[s] are dismissed for lack of merit.

SO ORDERED.[12]

The petitioner filed an appeal to the NLRC arguing, in the main, that it was deprived of due process because the Labor Arbiter decided the case solely on the basis of the evidence of the complainants. Thus, for the first time on appeal, petitioner raised new arguments, not passed upon during the proceedings before the Labor Arbiter, to justify the dismissal of the private respondents and submitted photocopied documents in support thereof, as follows: (1) the photocopies of various receipts allegedly tampered by the private respondents; (2) the private respondents' letters allegedly explaining and admitting the violations imputed against them; and (3) the daily time records allegedly showing Bautista and Cortez, Jr.'s unauthorized absences.

On July 27, 2012, the NLRC rendered a Decision sustaining the findings of the Labor Arbiter. The NLRC disregarded the newly submitted evidence presented by the petitioner holding that the latter had all the opportunity to present the same before the Labor Arbiter but failed to do so. The NLRC pointed out that petitioner had submitted its Position Paper without attaching all relevant documents to prove its allegations thereon. The NLRC likewise observed that the petitioner manifested before the Labor Arbiter that it would file its Reply but, again, failed to do so despite the extension of time granted. Moreover, the NLRC discredited the petitioner's new theory on appeal for being different from the stance the latter had taken before the Labor Arbiter.

The petitioner sought reconsideration of the said adverse Decision but the same was likewise denied per Resolution dated September 28, 2012.[13] Hence, the instant Petition ascribing to the NLRC grave abuse of discretion purportedly committed as follows:

1[st] – THE PUBLIC RESPONDENT NLRC, WITH GRAVE ABUSE OF DISCRETION TANTAMOUNT

TO LACK OF JURISDICTION, ERRED IN FINDING THAT THE COMPLAINANT[S]-APPELLEES (RESPONDENTS HEREIN) WERE ILLEGALLY DISMISSED, WITH OVERWHELMING EVIDENCE ON RECORD SHOWING THAT THEY COMMITTED SERIOUS MISCONDUCT IN, AND GROSS HABITUAL NEGLECT OF, THEIR DUTIES, NOTWITHSTANDING, AND ON THE CONTRARY;

2[nd] – THE PUBLIC RESPONDENT NLRC, IN PROMULGATING ITS DECISION DATED JULY 27, 2012 AND RESOLUTION DATED SEPTEMBER 28, 2012, WITH GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OF JURISDICTION ERRED IN AFFIRMING THE HONORABLE LABOR ARBITER'S DECISION, DATED MARCH 5, 2012, SUSTAINING AS ILLEGAL THE DISMISSAL OF THE COMPLAINANTS-APPELLEES (RESPONDENTS HEREIN) NOTWITHSTANDING THE FACT THAT THE LATTER HAVE COMMITTED SERIOUS ACTS OF DISHONESTY AND MISCONDUCT IN THE DISCHARGE OF THEIR DUTIES AS ACCOUNT EXECUTIVES RESULTING TO THE LOSS OF THE TRUST AND CONFIDENCE BY THE PETITIONER ON THEM AND FOR HAVING GROSSLY AND HABITUALLY ABSENTED THEMSELVES FROM THEIR WORK WITHOUT LEAVE OF ABSENCE;

3[rd] – THE PUBLIC RESPONDENT NLRC, WITH GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OF JURISDICTION GRAVELY, ERRED IN SUBSEQUENTLY AWARDING MONETARY AWARDS FOR SEPARATION PAY, RETURN OF THEIR CASH BONDS, PAYMENT OF 13[th]MONTH PAY AND SERVICE INCENTIVE LEAVE PAY, NOTWITHSTANDING THE FACT THAT THE TERMINATION OF THEIR SERVICES WAS LEGAL OR FOR A JUST AND VALID CAUSE AND THEY, BY INDUBITABLE DOCUMENTS SUBMITTED, DULY SIGNED BY THEM (SIC), IT IS SHOWN THAT THEY HAVE WAIVED AND QUITCLAIMED THEIR RIGHTS TO SAID AWARDS, AND THAT FOR HAVING COMMITTED THE CRIME OF QUALIFIED THEFT AGAINST THEIR EMPLOYER, PETITIONER HEREIN, THEIR DISMISSAL OR TERMINATION OF SERVICE IS JUSTIFIED AND VALID AND IN ACCORDANCE WITH ARTICLE 282 OF THE LABOR CODE OF THE PHILIPPINES; and

4[th] – THE DECISION AND RESOLUTION APPEALED FROM ARE NOT IN ACCORDANCE WITH THE LAW AND APPLICABLE JURISPRUDENCE.[14]

The fundamental issue proffered in this Petition is whether or not petitioner had successfully cast the burden of proving by substantial evidence the validity of the dismissal of the private respondents which, under Article 283 (b)[15] of the Labor Code, is placed upon the shoulder of the employer.

Both the Labor Arbiter and the NLRC have uniform findings that the petitioner miserably failed to present evidence to support its claim of valid dismissal. In its assailed Decision, the NLRC aptly observed that the petitioner was unable to timely submit to the Labor Arbiter its documentary evidence, such as the photocopied daily time records showing the alleged unauthorized absences incurred by Bautista and Cortez, Jr.; the letters of Rosario, Delos Santos, and Mendoza allegedly admitting the the violations imputed to them; and the allegedly tampered official receipts which formed the bases of their dismissal. The NLRC further found that the petitioner, despite an extension of time, failed to file its Reply to private respondents' Position Paper. Hence, the NLRC disregarded petitioners' pieces of documentary evidence that were belatedly attached as annexes in its Memorandum of Appeal and reviewed the findings of the Labor Arbiter based on the evidence on record before it.

We sustain the NLRC.

We are cognizant of the rule that the stringent application of the technical rules of procedure have no place in the resolution of labor dispute. The labor officials are encouraged to use all reasonable means to ascertain the facts in each case speedily and objectively, without regard to technicalities of law or procedure, in the interest of due process.[16]

However, this liberal policy should still be subject to rules of reason and fair play. The delay in the submission of evidence must be adequately explained and should sufficiently prove the allegations sought to be proven.[17] The reason for these requirements is that the liberal application of the rules before quasi-judicial agencies cannot be used to perpetuate injustice and hamper the just resolution of the case. Neither is the rule on liberal construction a license to disregard the rules of procedure,[18] particularly in the appreciation of the required quantum of evidence.

Here, it is indubitable that the petitioner, other than its invocation of denial of due process, did not bother to explain the delay in the submission of its evidence. It was remiss in failing to cite reasons to justify the said lapse in procedure to convince the NLRC to relax the rules in the interest of justice. It also baffles this Court why the petitioner only submitted its documentary evidence on appeal to the NLRC when the said documents were not newly discovered and the same were, all along, in its possession. The petitioner could have presented them to the Labor Arbiter at the earliest possible time, with facility, so that the latter could have weighed the parties' diverging arguments. This serious misstep cast a doubt on the credibility of the said documents and the purpose of their submission, more so because the same were mere photocopies thus giving rise to the presumption that the original thereof have been suppressed by the petitioner itself. As ruled by the Supreme Court in *Loon, et al. v. Power Master, Inc., et al.*, [19] the failure to present the original documents raises the presumption that evidence willfully suppressed would be adverse if produced.

In the light of the foregoing, petitioner's pieces of documentary evidence could not be admitted at this late stage without offending the standard norms of reason and fair play. More significantly, We could not countenance the negligent and cavalier attitude of the petitioner in not actively participating in the proceedings before the Labor Arbiter and later lamenting that it was not afforded due process when the said tribunal rendered an unfavorable judgment. The records, however, show otherwise: that petitioner had more than ample opportunity to thresh out its defenses. Thus, the petitioner must take the brunt of its own inaction and negligence.

Left only with the allegations in the Position Paper as well as the affidavit of the Human Resource Officer of the petitioner, the latter's bid to declare the dismissal of the private respondents as valid became nil. It is a settled rule that the facts alleged constituting legal dismissal, adequately supported by evidence on record, should be initially raised, argued and proven before the Labor Arbiter. Mere allegations of such, without evidence, are self-serving. Evidently, without more, the petitioner fell short of the burden of proving its claim by substantial evidence – or that kind of relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Anent the issue of the validity of the quitclaims and waivers signed by the private respondents, petitioner asserts that the same precluded the dismissed employees from claiming monetary benefits arising from their employment. The argument is specious.

It is a well-entrenched rule that quitclaims executed by employees are often frowned upon as contrary to public policy, especially those that are wangled from unsuspecting and lowly employees experiencing financial distress.[20] Nonetheless, jurisprudence equally recognizes that the freedom to execute quitclaims is protected by law and the courts should not be quick to interfere with such freedom unless the contract is contrary to law, morals, good customs, public policy or public order. Thus, in *Plastimer Industrial Corporation v. Gopo, et al.*, [21] the same case that was cited by the petitioner, a waiver or quitclaim is considered a valid and binding agreement between the parties, provided that it constitutes a credible and reasonable settlement, and that the one accomplishing it has done so voluntarily and with a full understanding of its import. These jurisprudential standards, however, are not not availing in this case. A close scrutiny of the said quitclaims, which were similarly worded, shows that there was no amount of money stated therein to answer for whatever claim or remuneration the private respondents might have against the petitioner. Clearly, it could not be ascertained whether the said

quitclaims represent as credible and reasonable settlement of the private respondents' valid monetary claim. Furthermore, the private respondents insisted even before the Labor Arbiter that they signed the quitclaim because of intimidation exerted by the president of the petitioner,[22] thus, tainting the voluntariness of its execution. Accordingly, We rule that the validity and binding force of the said quitclaims are compromised and cannot bar the private respondents from demanding benefits to which they are legally entitled.

All told, We hereby find that the NLRC did not act with grave abuse of discretion when it affirmed the findings of the Labor Arbiter declaring the dismissal of the private respondents as illegal. Grave abuse of discretion implies such capricious and whimsical exercise of judgment as to be equivalent to lack or excess of jurisdiction. It connotes exercise of power in an arbitrary or despotic manner that is so patent or so gross as to amount to an evasion of a positive duty or to a virtual refusal either to perform the duty enjoined or to act at all in contemplation of law.[23]

WHEREFORE, the instant Petition for Certiorari is hereby DISMISSED for lack of merit.

SO ORDERED.

Punzalan Castillo, M.P. Chairperson and Lazaro-Javier, A.C., J.J., concur.

[1] Rollo, pp. 3-27.

[2] Id., pp. 48-59.

[3] Id., pp. 66-78.

[4] Id., pp. 61-64.

[5] Id., p. 65.

[6] Id., p. 66.

[7] Id., p. 70.

[8] Id., p. 74.

[9] Id., p. 79.

[10] Id., p. 82.

[11] Suspension Memo. Id., p. 46.

[12] Id., p. 116.

[13] Id., pp. 267-269.

[14] Id., pp. 9-10.

[15] As amended by Section 33, Rep. Act No. 6715, March 21, 1989.

[16] Loon, et al. v. Power Master, Inc., et al., G.R. No. 189404, December 11, 2013.

[17] MORESCO II v. Cagalawan, G.R. No. 175170, September 5, 2012.

[18] Loon, et al. v. Power Master, Inc., et al., supra.

[19] Ibid.

[20] Mindoro Lumber Hardware v. Bacay, et al., G.R. No. 158753, June 8, 2005.

[21] G.R. No. 183390, February 16, 2011.

[22] Rollo, p. 353.

[23] Tagle v. Equitable PCI Bank, G.R. No. 172299, April 22, 2008.

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