

SAN MIGUEL BREWERY, INC., PETITIONER, VS. NATIONAL LABOR UNION AND SAMBELA, RESPONDENTS.

G.R. No. L-7905. July 30, 1955

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On September 17, 1949, as a result of a labor dispute had between the San Miguel Brewery, Inc. and the National Labor Union and Sambela (Case No. 271-V), the Court of Industrial Relations rendered a decision decreeing, among other things, that the company should not effect any dismissal, suspension or transfer except for just cause.

On April 4, 1950, the company dismissed from its service one Macario Borile, an affiliate of said labor union and, as a consequence of his dismissal, Borile filed a motion in said case alleging that he was dismissed without just cause in violation of the aforesaid decision and prayed that he be reinstated with backpay from April 4, 1950, the date of his dismissal. The company filed a written opposition on October 7, 1950 denying that Borile was dismissed without just cause or for his union activities and alleging that his dismissal was for a just cause.

On September 11, 1953, the court, through Judge V. Jimenez Yanzon, rendered a decision the dispositive part of which reads:

"Wherefore, the Court decides this case according to the tenor and dispositions hereinabove stated: Hence, the motion to reinstate Macario Borile to his former position with back pay to be based ,on his separation pay in lieu of notice as mentioned in Exhibit 'D' is hereby granted but his back pay is to be counted from April 4, 1950 up to August 27, 1952 the date when this case was submitted for decision; Provided, however, that a total off eight (8) months covering the periods of his two (2) suspensions be deducted therefrom. And finally, there being no proof that Macario Borile was dismissed by the company for his union activities, the prayer for contempt is hereby denied."

On September 21, 1953, the company filed a motion for reconsideration but the court in bane affirmed the decision in a resolution entered on January 19, 1954. This resolution was penned by Judge V. Jimenez Yanson and concurred in by Judges Bautista and Lanting. Judges Roldan and Castillo dissented in separate opinions, so that, as it appears, the original decision stands affirmed by a vote of 3 to 2. From both the decision as well as the resolution affirming it, the company filed the present petition for review.

The pertinent portions of the decision of Judge V. Jimenez Yanson, which bears the affirmative vote of two other members of the trial court, which need to be considered in connection with this petition for review read as follows:

"For a better understanding of the issue in this case, we reproduce hereunder the letter of Mr. J. B. Preysler, vice-president of the San Miguel Brewery, Inc., addressed to Macario Borile, enumerating the causes for his discharge:

April 4, 1950

Mr. Macario V. Borile
c/o Security Force
San Miguel Brewery
Manila

Dear Sir:

In view of the fact that your services have proved unsatisfactory, we regret to inform you that we have to dispense with your services as member of our Security Force effective April 4, 1950. In lieu of notice, you will be allowed an extra compensation equivalent to one month salary.

Our action in your case is the culmination of a series of irregularities that you have committed and which we enumerate hereunder:

1. On March 21, 1950, at about 2:00 p.m., while on duty at the Magnolia compound from 8:00 a.m. to 4:00 p.m. you left the said compound without any permission from your superior officers carrying with you the Corporation's pistol which, as you know, "should be used only inside the San Miguel Brewery compound and its subsidiaries and should not be taken outside;
2. On January 24, 1950, you also abandoned your post at the Magnolia compound without permission from your security officer;
3. On December 14, 1950, you conducted yourself in a manner so unbecoming a police officer in connection with the scandal made by your two paramours inside the premises of the San Miguel Brewery compound;
4. On September 17, 1949, you made a false report by stating that you were on your tour of duty as an inspector, when in fact, you witnessed the Tirso-Marino fight at the Rizal Memorial Stadium. Your presence thereat was confirmed by two officials of the Company who had seen you in the stadium on the night in question.

In view of all the foregoing circumstances, and in order to maintain the efficiency of our Security Force, we have no other recourse but to separate you from the service.

Yours truly,

San Miguel Brewery, Inc.
J.P. Preysler
Vice President

* * * * *

"On the Charge that Macario Borile was present at the Rizal Memorial Stadium on the night of September 17, 1949 while on tour of duty, * * *"

"Viewing this accusation in the light of such direct and positive affirmations, it seems that the case against Borile is air-tight that he was in truth and in fact, inside the stadium on the night of September 17, 1949. But in fairness to Borile, the Court cannot and should not make such a hasty conclusion without considering and weighing the evidence of both parties, more particularly with respect to (a) time element (b) explanation of Borile as contained in Exhibit 'B-1' and 'B-2', and (c) the nature and result of petitioner's investigation."

"In the final analysis, the Court finds that the evidence of the petitioner in support of this charge has not been sufficiently and satisfactorily established to warrant the dismissal of Macario Borile."

"On the charge of scandal and conduct unbecoming of a police officer committed on December 14, 1949:

"With respect to this incident occurring inside the San Miguel Brewery compound on December 14, 1949,

wherein Borile conducted himself in a manner unbecoming of a police officer by slapping, kicking and sending out his first common-law wife, Olympia Olaza, who figured in a fight with his second common-law wife, Nena Esperas, there is a clear preponderance of evidence pointing to Borile's responsibility. . . ."

". . . Considering that this offense, if it can be called such, is not of serious nature in the sense that the slapping and kicking were done not against his co-employees, co-officer or high official of the petitioner nor in the presence of the latter and considering further that this is his first offense after twelve years of service, the Court after taking into account all these considerations does not believe that this actuation of Borile was a sufficient cause for his dismissal, yet said acts should not remain unpunished. As a punishment therefore, the Court is of the opinion that Macario Borile should be penalized for four (4) months without pay for having acted as such.

"On the charge of abandonment of post at the Magnolia Compound on January 24, 1950.

"As may be concluded from the evidence of the parties, there is no question that Borile left his post at the Magnolia Plant on January 24, 1950. . . ."

"... There being a reprimand made by the petitioner on the actuations of Macario Borile on this matter, the Court believes that same cannot be made a ground for his dismissal.

"On the charge that Macario Borile left the Magnolia Compound on March 31, 1950 without permission and carrying with him the corporation's pistol:

"There is again no question between the parties that Borile left his post in the afternoon of March 21, 1950 at the Magnolia Compound."

"On this last charge, the Court finds Macario Borile guilty of violating the standing order of the office in taking and using outside the corporation's pistol. Considering that there is no showing that Borile in taking out the pistol misused it to the prejudice of the petitioner, nor is there a showing that because of the taking of said pistol outside, some incident happened in the compound which necessitates the use of same, this Court again believes that the offense is not a sufficient ground to dismiss him. However, this violation of the corporation's rules is one matter which would not remain unpunished. This Court finds Macario Borile guilty of this offense as charged and hereby punishes him with another suspension of four (4) months without pay.

"With respect to the claim of the respondent that Borile was dismissed on account of his union activities, the Court finds no clear, convincing and sufficient evidence to establish such claim."

It should be noted that the company decided to dispense with the service of Borile as member of its security force effective April 4, 1950 in view of certain irregularities which were allegedly committed by the latter, to wit:

- "1. On March 21, 1950, at about 2:00 p.m., while on duty at the Magnolia compound from 8:00 a.m. to 4:00 p.m. you left the said compound without any permission from your superior officers carrying with you the Corporation's pistol which, as you know, should be used only inside the San Miguel Brewery compound and its subsidiaries and should not be taken outside;
2. On January 24, 1950, you also abandoned your post at the Magnolia compound without permission from your security officer;
3. On December 14, 1950, you conducted yourself in a manner so unbecoming a police officer in connection with the scandal made by your two paramours inside the premises of the San Miguel Brewery compound;
4. On September 17, 1949, you made a false report by stating that you were on your tour of duty as an inspector, when in fact, you witnessed the Tirso-Marino fight at the Rizal Memorial Stadium. Your presence thereat was confirmed by two officials of the Company who had seen you in the Stadium on the night in question."

It should likewise be noted that the trial court found Borile guilty of charges 1, 2, and 3 but decided that the alleged irregularities, even if proven, are not sufficient to warrant his dismissal. For the first offense, which consisted in certain scandal, and conduct unbecoming a police officer committed on December 14, 1949, the court decreed that Borile should be merely "penalized for 4 months without pay"; on the charge of abandonment of post of the Magnolia compound on January 14, 1950, the court held that "there being a reprimand made by the petitioner on the actuations of Macario Borile on this matter, * * * the same cannot be a ground for dismissal"; and on the charge that Borile left the Magnolia compound on March 21, 1950 without permission carrying with him the corporation's pistol, the court merely punished him with another suspension of 4 months without pay. Consequently, the court ordered the company to reinstate Borile with back-pay subject only to the corresponding deduction equivalent to his eight months suspension.

It should finally be noted that while the company, in taking disciplinary action against Borile, considered the different acts of misconduct committed by him as a whole, and not independent one from the other, the court considered them singly and individually and applied a penalty for each separate offense. And while the company considered the series of offenses committed by Borile as sufficient to warrant his dismissal because they reflect against his conduct and character, the court failed to respect this disciplinary action and imposed upon Borile a much lesser penalty. The company now disputes this action and considers it as an encroachment on the power that it possesses to run its business the way it may see fit and fix the policy and norm of conduct to be observed by its employees in order that they may deserve the trust and confidence of their employer.

A case that can be considered parallel to the present is *Manila Trading & Supply Co. vs. The Honorable Francisco Zulueta, et al.*, 69 Phil. 485. The facts of this case briefly are: A labor dispute between the petitioner company and its employees who were members of the Philippine Labor Union arose and, after a preliminary hearing, the court decreed, inter alia, that the company should not dismiss any of its employees except for good cause and with its permission. Subsequently, one of the gatekeepers, Filomeno Ramollo, was suspended for a breach of duty, which consisted in that as gatekeeper he permitted, contrary to instructions, one of the customers to pass through the exit gate without paying for the work done on the car. It was alleged that he refused to work in the setting-up department when ordered by his superior, so he was dismissed from the service. The union submitted a petition requesting for his reinstatement. The court found that the laborer was guilty of the breach imputed to him, but, deciding that his suspension was a sufficient punishment, ordered his immediate reinstatement. The Supreme Court found this to be an abuse of discretion and reversed the decision of the court a quo. This Court made the following pronouncement:

"The whole controversy is centered around the right of the Court of Industrial Relations to order the readmission of a laborer who, it is admitted, had been found derelict in the performance of his duties towards his employer. We concede that the right of an employer to freely select or discharge his employees, is subject to regulation by the State basically in the exercise of its paramount police power. (Commonwealth Act Nos. 103 and 213.) But much as we should expand beyond economic orthodoxy we hold that an employer cannot legally be compelled to continue with the employment of a person who admittedly was guilty of misfeasance or malfeasance towards his employer, and whose continuance in the service of the latter is patently inimical to his interests. The law in protecting the rights of the laborer, authorizes neither oppression nor self-destruction of the employer. There may, of course, be cases where¹ the suspension or dismissal of an employee is whimsical or unjustified or otherwise illegal in which case he will be protected. Each case will be scrutinized carefully and the proper authorities will go to the core of the controversy and not close their eyes to the) real situation. This is not however the case here." [1]

We hold that this pronouncement is applicable to the present case. Note that the lower court found at least three of the charges to have been duly substantiated and for which, according to the court, the employee deserves to be

punished. These offenses are serious enough considering the nature of the duties of said employee. He was a member of the security force in charge of the custody and protection of the properties of the company, and the acts of misconduct he was found to be guilty of are of such a nature that make him unfit for that position. Thus, he was found guilty of leaving his post at least on two occasions without permission from his superior officer, and in one instance he carried the pistol assigned to him out of the compound in violation of the regulation of the company. He was also found guilty of conducting an immoral life by keeping two paramours and allowing them to stage a scandalous scene in the very premises of the company. If in the Manila Trading case, the acts of misconduct imputed to the employee were much lesser in nature and yet they were found by this Court to be sufficient to warrant his dismissal, we do not see any plausible reason why in the present case the action of the company in dismissing its employee should be found unjustified. As this Court well said, "an employer cannot legally be compelled to continue with the employment of a person who admittedly was guilty of misfeasance or malfeasance towards his employer, and whose continuance in the service of the latter is patently inimical to his interest. The law, in protecting the rights of the laborer, authorizes neither oppression nor self-destruction of the employer." The only exception to this rule is where the suspension or dismissal is whimsical or unjustified, and such is not the situation in the present case.

Wherefore, the petition is granted. The decision, as well as the resolution appealed from, are hereby reversed, without pronouncement as to costs.

Bengzon, Acting C.J., Montemayor, Reyes, A., Jugo, Labrador, and Reyes, J.B.L., JJ., concur.

Concepcion, J., concurs in the result.

[1] A similar ruling was upheld in *Dy Pac and Company vs. Katipunan Ng Mga Manggagawa Sa Kahoy Sa Filipinas, et al.*, 40 Off. Gaz., (No. 21) p. 82.

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