

EMILIA B. SANTOS, PETITIONER, VS. HON. COURT OF APPEALS, HON. RTC JUDGE OF CALOOCAN CITY, BRANCH 121 AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.*G.R. No. 100929. January 27, 1994*

Ponente: ROMERO, J.

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This is a petition for review on certiorari of respondent Court of Appeal's decision dated March 26, 1991 in CA-GR CR No. 09962 entitled "Emilia B. Santos v. Hon. RTC Judge of Caloocan City-Branch 121 and People of the Philippines," affirming with modification the decision of the Metropolitan Trial Court of Caloocan City-Branch 49 in Criminal Case No. 150291 ("People of the Philippines v. Emilia B. Santos"), which was affirmed on appeal by the Regional Trial Court of Caloocan-Branch 121, in its Order dated September 28, 1990.

The evidence shows that Emilia B. Santos was employed as a personnel clerk on June 17, 1980 by Sampaguita Garment Corporation (SAGARCO for brevity), a garment manufacturing company with principal office at Arellano St., Caloocan City. In April 1987 when the following incident occurred, she held the position of assistant to the personnel manager.

On April 14, 1987 at around 4:00 o'clock in the afternoon, one Corazon Santos, identifying herself as Emilia's sister-in-law, arrived at the main gate of the compound. She asked the guards on duty, namely Reynaldo dela Cruz and Jose Paredes, to inform Emilia that she was waiting by the gate. Within minutes, Emilia came out of the Personnel Office, carrying a brown envelope. When asked by guard dela Cruz what the envelope contained, Emilia told him that it was for her sister-in-law, without showing the contents thereof, and proceeded to the main gate where her sister-in-law was waiting. Pursuant to his duty of examining and inspecting packages at the egress gate of the company premises, guard dela Cruz followed Emilia, caught up with her and grabbed the envelope as she was about to hand the same to her sister-in-law. The envelope was found to contain 1 1/2 yards of white corduroy cloth belonging to the company. After Emilia was unable to show dela Cruz any gate pass or authorization to bring the fabric out of the company, the latter reported the incident to David Chan, Chief Security Officer, to whom he turned over the confiscated envelope.

Emilia followed dela Cruz to Chan's office, accompanied by her immediate superior, Ms. Rosalia Maglalang, the personnel manager. The Chief Security Officer refused at first to return the confiscated material but later acquiesced to Maglalang's request for him to do so, but only after he had drawn a distinguishing red line on one edge of the material and cut a swatch therefrom.[1] During the confrontation, the accused claimed that she did not secure any gate pass because the fabric was given to her by their general manager, Alfonso Arceo. When informed of such a claim, Arceo denied having given any piece of cloth to the accused and instructed Chan, not only to investigate the case further, but to submit immediately a written report of his findings.

When Chan confronted the accused with Arceo's denial, the accused changed her story and explained that it was Danton Esteves who had given her the material, with the request that the same be delivered to his former

office-mate and girlfriend, Liza Cruz, who was allegedly a neighbor of Emilia's in-laws. Esteves was a customs employee assigned to the company's customs bonded warehouse in Caloocan for almost nine (9) years but ceased to be SAGARCO's storekeeper in 1985. Therefore, during the incident, he had already been separated from the company for two (2) years.

Confident that the matter had already been straightened out, Emilia reported for work the following day (April 15, 1987). On the basis of the investigation report, however, she was placed "on suspension effective immediately" by virtue of a memorandum transmitted to her on April 16, 1987.

Allegedly upon the advice of Mr. Arceo, Emilia sought out Esteves in Marikina to secure from him a written authorization to bring the fabric out of SAGARCO's premises, but was informed that Esteves had taken a vacation leave for the Lenten season, to return to work only on April 20, 1987. Emilia promptly secured the written authorization from him on the very day he reported back to work (April 20, 1987) and submitted the same to David Chan's office. Her suspension, however, later ripened into termination after the lapse of thirty (30) days from its issuance.

On July 8, 1987, Emilia Santos filed Case No. NCR-IRD-C-5-281-87 for illegal suspension in the Department of Labor and Employment. In her complaint, she reiterated her claim of innocence, explaining that she had agreed to deliver the clothing material for Danton Esteves merely as part of her "public relations duty to the company," further adding that because of Esteves' position as storekeeper, the company had tolerated his bringing out pieces of clothing material manufactured by the company even without the corresponding gate pass.

In a decision dated November 23, 1987, Labor Arbiter Edgardo Madriaga decided the case in favor of respondent SAGARCO, finding petitioner to have been legally suspended and dismissed. Emilia Santos then appealed from the decision to the National Labor Relations Commission.

Sometime in February 1988, during the pendency of the appeal before the NLRC, SAGARCO filed Criminal Case No. 150291 against Santos in the Metropolitan Trial Court of Caloocan-Branch 49 for attempted qualified theft under Art. 310 of the Revised Penal Code.

On June 26, 1989, the NLRC rendered a decision in the appealed labor case, setting aside the labor arbiter's decision dated November 2, 1987 and ordering petitioner's reinstatement without loss of seniority rights and with full backwages from the time of her alleged suspension up to the date of actual reinstatement.[2] The Commission ruled that the respondent company's memorandum of April 16, 1987 placing the complainant under preventive suspension leading to termination, even if treated as a notice of dismissal, failed to state the cause/s for termination and preventive suspension, thereby depriving Emilia Santos of due process. The NLRC also noted that the company should have brought the complainant to the nearest police headquarters for proper investigation, but had failed to do so. Moreover, it released the article, subject of the herein controversy, to the complainant. Thus, it held that:

"The employer is duly clothed with managerial power to effect dismissal of workers. But let it be remembered that this power is subject to the limitations provided for by law and without sacrifice to the worker's right to due process.

Under the law, termination and/or dismissal to be legal, the employer is bound to give the subject employee a written notice of at least one (1) month before the intended date of separation with a recital of the grounds for termination and shall afford the employee the opportunity to be heard and explain his side.

The respondent's Memorandum dated April 16, 1987 placing complainant under preventive suspension, even if to be treated as a notice of dismissal, miserably fails to state the causes for termination and preventive suspension. The complainant was thereby deprived of the opportunity to adduce evidence in her behalf."

SAGARCO filed a petition for certiorari before the Supreme Court in G.R. No. 89323. In a resolution dated February 26, 1990, the NLRC decision was sustained by this Court, which dismissed SAGARCO's petition "for failure to sufficiently show that the questioned judgment is tainted with grave abuse of discretion." [4] Under entry of judgment dated February 26, 1990, the Resolution became final and executory on August 7, 1990.

Esteves did not appear in the hearings before the labor arbiter. In the criminal case, he was subpoenaed under pain of contempt of court to appear as witness therein. Thereupon, he identified the written authorization dated April 20, 1987 as his, declaring that previously, he had been given verbal authority by the general manager to bring home for his personal use clothing material produced by the company and stored in the customs bonded warehouse. On cross-examination, however, Esteves stated that his clothing material was cut in the regular pants-size of 1 3/4 yards (not 1 1/2 yards) and that he did not know anyone by the name of Corazon (Cora) Santos. [5] In his testimony, he also denied knowing that Cora Santos was his girlfriend Liza's neighbor.

On September 13, 1989, the MTC of Caloocan City-Branch 49 rendered a decision, the dispositive portion of which reads:

"WHEREFORE, after a careful consideration of the evidence presented, the Court finds the accused Emilia B. Santos GUILTY beyond reasonable doubt of the offense of Attempted Qualified Theft as defined in Article 39 of the Revised Penal Code. As there is no clear showing that the subject property costs P250 as alleged, but considering the prevailing market price of the said item at the time, the value thereof exceeds P50, accused is hereby sentenced to an indeterminate penalty of one (1) month and one (1) day of arresto mayor as minimum to four (4) months of arresto mayor as maximum. Accused is further ordered to pay the cost of the suit." [6]

Petitioner filed a motion for reconsideration of the decision but it was denied in an order dated January 24, 1990. Dissatisfied, petitioner appealed to the Regional Trial Court of Caloocan City-Branch 121, which issued an order dated September 29, 1990 affirming the decision of the court a quo.

A motion for reconsideration filed by petitioner was denied in another order dated November 5, 1990. Hence, petitioner filed with the respondent Court of Appeals a petition for review of the orders of the Regional Trial Court of Caloocan.

In a decision dated March 26, 1991, respondent Court of Appeals affirmed the RTC orders but modified the penalty imposed to a straight penalty of four (4) months and one (1) day of arresto mayor. In a resolution dated April 29, 1991, said respondent court denied petitioner's motion for reconsideration. Hence this last recourse, on the sole issue of whether or not petitioner's guilt has been proven beyond reasonable doubt.

In support of her claim that her guilt has not been proven beyond reasonable doubt, petitioner asserts that:

- the NLRC found merit in the complaint for illegal dismissal and ordered her reinstatement, as affirmed by this Court when it sustained the NLRC decision;
- the NLRC found that private respondent released the same clothing material to her on the same day of the incident;
- private respondent's delay in filing the criminal complaint for attempted qualified theft against her is indicative of its baselessness, meant to harass her and secure a stronger bargaining position for private respondent in the complaint for illegal dismissal she had filed; and
- she was able to prove that Danton Esteves, the customs broker of private respondent, owned the corduroy material.

All the above contentions are mere reiterations of petitioner's allegations before the respondent Court of Appeals

but which the latter rejected.

In respect of the first contention, the NLRC ordered her reinstatement mainly on the basis of its findings that in terminating petitioner's services, respondent company did not observe the rudimentary tenets of due process, thus reversing the labor arbiter's decision finding her dismissal valid. However, the fact that the petitioner brought out of company premises company property without proper authorization or consent on April 14, 1987 remains undisputed. It is to be borne in mind that a proceeding before the NLRC, being administrative in character, the parties are merely required to submit their respective position papers on the bases of which the Commission could resolve the case. Only substantial evidence is necessary in an administrative proceeding, i.e., such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine otherwise.

On the other hand, the offense for which the petitioner was charged partakes of the nature of a crime, provable by evidence beyond reasonable doubt and not merely prima facie evidence. It is substantiated by a degree of proof which produces conviction in an unprejudiced mind. Appellant's conviction can well be sustained on the un rebutted evidence that she was caught in flagrante delicto carrying out of the company premises company property without the owner's consent or authority to do so.

Clearly, even if the NLRC decision stated that the respondent company returned the seized clothing material to the petitioner on the very same day of the incident, such finding is of no relevance to the adjudication in a criminal proceeding where the court, not merely conducts an exhaustive examination of the witnesses on the stand during trial but also considers other evidence at its disposal to determine the witnesses' credibility. Besides, there is no rule which requires the prosecution to offer in evidence the subject matter of the crime,[7] as long as it is sufficiently described.

With respect to petitioner's version that the fabric was given to her by Danton Esteves to be delivered to Liza Cruz, it is worth noting that Esteves had transferred to another warehouse two (2) years before the incident. Petitioner, having held the position of assistant personnel manager, was presumed to be well-versed with company rules and regulations, as well as the corresponding penalties for infractions thereof. Her reason for not having secured the required gate pass or authorization is flimsy and hardly credible, especially as she offered different reasons for her failure to show any gate pass or authorization during the confrontation at the security officer's office. Evidence to be believed must not only proceed from the mouth of a credible witness but must be credible in itself.[8] Settled is the doctrine that the trial court's conclusion on issues of credibility is to be accorded the highest respect, if not finality, by appellate courts.[9]

Finally, the circumstance that there was a "delay in filing the complaint for attempted qualified theft," proffered to show that respondent company decided to press charges merely as a leverage for petitioner to settle amicably with respondent company instead of filing an appeal in the labor case, hardly constitutes ample reason to reverse the decision of conviction, absent any proof of motive on the part of the prosecution witnesses to testify against her.

By and large, prosecution's version of the incident is more in accord with logic and human experience than petitioner's version in light of applicable law and doctrine. Thus, petitioner's guilt has been proven beyond reasonable doubt.

WHEREFORE, finding the questioned orders to be consistent with fact and law, the petition is hereby DISMISSED for lack of merit.

SO ORDERED.

Feliciano, (Chairman), Bidin, Melo, and Vitug, JJ., concur.

[1] Exhs. "A-A-1," "B-B-2."

[2] Rollo, pp. 26-37.

[3] Rollo, p. 35.

[4] Ibid, p. 8 of CA decision on p. 47.

[5] TSN of May 17, 1988, p. 17.

[6] p. 4 of petition.

[7] People v. Jumamoy, G.R. No. 101584, April 17, 1993.

[8] People v. Maribung, No. L-47500, April 29, 1987, 149 SCRA 292.

[9] People v. Dominguez, G.R. No. 100199, January 18, 1993, 217 SCRA 170.

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