

BAGUIO COUNTRY CLUB CORPORATION, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (THIRD DIVISION) AND LOLITA GENOVE, RESPONDENTS.

G.R. No. 102397. September 04, 1992

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for certiorari under Rule 65 of the Rules of Court seeking to annul and set aside the resolution of respondent National Labor Relations Commission in NLRC No. 01-09-50288-88, entitled "Lolita Genove v. Baguio Country Club, et al." which ordered petitioner to grant private respondent Genove separation pay in lieu of reinstatement.

The antecedent facts of this case are as follows:

Respondent Lolita Genove was employed by petitioner Baguio Country Club Corporation on September 1, 1973 as Office Clerk. She was promoted to higher positions until she was appointed in February, 1981 to the position of Personnel Manager and at the same time as Chief Security Officer.

Sometime in October and December, 1987 and April, 1988, respondent Genove received the amount of P6,000.00 as cash advance for the expenses she will incur as a witness in a civil case pending with the Regional Trial Court of Manila involving petitioner club as the defendant. Upon her return, respondent Genove however failed to make an accounting for the cash advance she received.

On July 12, 1988, respondent Genove was placed on preventive suspension due to various offenses, ranging from unliquidated cash advances, unauthorized expenses to tampering of documents in support of the liquidation of cash advances and at the same time, she was asked to explain. Respondent Genove submitted the following explanation:

"With reference to the requested explanation by Mr. Donald J.D. Nye, please be informed of the following:

1. P 94.90 - Assorted junk food, bakery item and candies purchased in Cubao-store along the highway.

207.00 - Food and junk food?Makati-nearby store.

39.10 - Food-Cubao near Araneta.

81.37 - Snack in a nearby carinderia with bakery item-Makati.

2. Repaired-calibrated-Cannon automatic camera repaired at cannon world is chargeable to the club. This was used to take pictures of caddies during the last Fil-am but was destroyed at that time. The pictures were for the IDs of the caddies as required. For economy, we used my personal camera.

3. Cards - These were purchased on my way to bus station-Baguio. Intended to be given as friendly token-to my friends in the court. Expidite (sic) processing papers (TSN) and other items needed.

4. This should be paid by the Club because it was purchased to groom myself in the court. It was strike at that time Maam (sic), I am in a hurry to take my personal belonging. The car was waiting for me then to cross the PICKET LINE of the STRIKER. (items-FML Syn pump is an account name for cosmetic item

- a lipstick P99.95

- a powder 84.95

(no number 5)

6. Miscellaneous items - This was included in the club accounts Maam because it is a slipper/sneaker purchased by the undersigned which I have used in the boarding house and in the court due to swollen foot caused by my leather shoes.

7. Two days stay at Caramillo given in kind, is in exchange of my stay with them rather than checking in a hotel alone. This was less expensive and for my security.

The chit addressed to Caramillo represents snack in the afternoon in the name of Caramillo but paid by me and was purchased at nearby store.

8. The difference of P100.00 MAAM was due to the fact that an additional order was not included thru inadvertence in the duplicate but reflected in the original copy. I have not been furnished a copy of the supposed invoice for the P85.00 MAAM.

9. There is no double payment in this case maam because due to oversight, the P300.00 was erroneously included in the summary. How can there be a double payment if only one receipt was given in support of the payment. The other P300.00 will be fully accounted for.

10. The fourth allowance is to be liquidated. x x x

11. As to my canteen and BCC-account-everything was settled except for my current account. x x x. (Annex 'B', complainant)." (pp. 2-5, NLRC decision; pp. 56-59, Rollo)

In a letter dated September 2, 1988, petitioner's general manager informed respondent Genove that the expenses which she had incurred could not be rightfully charged against petitioner club; that there is a clear attempt on the part of Genove to defraud the club; and that since respondent had violated the trust required of her as Personnel Manager, respondent's employment with the petitioner club is terminated.

On September 6, 1988, respondent Genove filed a complaint for illegal dismissal with the Labor Arbiter. On January 29, 1991, the Labor Arbiter rendered a decision, the dispositive portion of which states:

"WHEREFORE, judgment is hereby rendered:

1. Dismissing the complaint for lack of merit; and
2. Ordering the Baguio Country Club to give the complainant financial assistance in the amount of P31,500.00

"SO ORDERED." (p. 72, Rollo)

Not satisfied with the decision of the Labor Arbiter, respondent Genove appealed with respondent National Labor Relations Commission. On August 30, 1991, the respondent Commission rendered a resolution reversing the decision of the Labor Arbiter. The dispositive portion of the resolution states:

"WHEREFORE, consistent with the foregoing premises, the respondent company is hereby ordered to grant complainant, in lieu of reinstatement, separation pay of one (1) month for every year of service or in the amount of SIXTY THREE THOUSAND (P63,000.00) PESOS.

"SO ORDERED." (p. 93, Rollo)

Hence this petition was filed with the petitioner club alleging grave abuse of discretion on the part of respondent Commission in ruling that the dismissal of respondent Genove is not valid.

Petitioner argues that respondent Genove committed willful breach of trust reposed upon her when she disbursed the cash advances she received from petitioner for the purpose of satisfying her personal whims and caprices, which are not in any way related to her official trip. Petitioner also submits that respondent Genove deliberately falsified the amount of a sales invoice issued by Red Ribbon Bakeshop from P85.00 to P185.00 for a cake she purchased so that she could claim a bigger amount to the prejudice of petitioner club; and that contrary to the ruling of respondent Commission, the anomalous acts of respondent Genove are not minor shortcomings of respondent Genove but involve dishonesty and the commission of fraud by petitioner which justify the former's dismissal.

The Solicitor General, in his comment, agrees with the decision of the labor arbiter that the dismissal of private respondent was for cause. He contends that the submission by respondent Genove of a falsified invoice of the Red Ribbon Bakeshop to justify one of her expenses constituted sufficient basis for the employer's loss of confidence; and that when petitioner club introduced in evidence a certified copy of the falsified invoice, this constituted substantial evidence to support the conclusion that private respondent violated the trust of petitioner.

We find the petition meritorious.

The law allows an employer to dismiss an employee on account of loss of confidence, provided that the loss of confidence arises from particular proven facts. Loss of confidence is a valid ground for the dismissal of an employee. The law does not require proof beyond reasonable doubt of the employee's misconduct to invoke such justification. It is sufficient that there is some basis for the loss of trust or that the employer has reasonable grounds to believe that the employee is responsible for the misconduct which renders him unworthy of the trust and confidence demanded of his position (*Ocean Terminal Services Inc. v. NLRC*, G.R. No. 85446, May 27, 1991).

Jurisprudence abounds with cases recognizing the employer's right to dismiss an employee on loss of confidence. More so in the case of personnel occupying positions of responsibility, loss of trust justifies termination. It is only fair and just to uphold the employer's right to dismiss an employee as a measure of self-protection against acts inimical to its interest.

In the instant case, respondent's dismissal from the service was based on the unliquidated cash advances, unauthorized expenses and falsification of receipt in support of liquidation of cash advances which were discovered when respondent finally made her liquidation. The first ground refers to the failure of respondent Genove to liquidate her cash advances on time in spite of repeated reminders by the auditor and comptroller of the petitioner, in violation of the petitioner's policy that liquidation should be done immediately after completion of the mission. The second ground alleged by petitioner in dismissing respondent refers to the act of the latter in using the cash advances given to her by petitioner for purely personal purposes and not for official purposes related to her trip.

While We agree with the respondent Commission that there were no written rules or specific instructions to guide respondent as to what particular expenses are allowed, an overall assessment however, of the liquidation made by respondent Genove of the cash advances received from the petitioner reveals a deliberate attempt to obtain money from the petitioner to which she was not entitled. The Labor Arbiter correctly held that it is incomprehensible how lipstick, powder and slippers could have redounded to the benefit of petitioner in connection with the testimony

she gave in a civil case in Manila. The explanation that the repair done on October 30, 1987 of a personal camera purportedly for the taking of the pictures of some caddies done late in November, 1987 cannot be likewise be accepted as a justification to charge the petitioner the amount of the repair. The attempt to include the P300.00 allegedly paid for the transcript of stenographic notes which was earlier paid with a separate amount is likewise reprehensible considering that she could not account for the other P300.00 when asked to explain. Beside the foregoing, respondent Genove failed to liquidate her other cash advances.

To top all these acts of indiscretion resulting in lost of trust and confidence is the falsification of the amount stated in the sales invoice issued by Red Ribbon Bakeshop from P85.00 to P185.00, which is clearly indefensible. Respondent submitted this falsified receipt to petitioner club as one of her supporting documents to the liquidation she made of the cash advances. The Labor Arbiter made the following findings on this matter:

"x x x. The receipt submitted by the complainant to support the expense showed the amount of P185.00 as having been paid for the purchase of some bakery items. Complainant would state that after she paid for the items worth P85.00, she made some more purchases and so the digit '1' was added to P85.00, thus making it P185.00. But this statement was belied by a xerox copy of the duplicate of the receipt, authenticated by Josefina Carpio, manager of the Red Ribbon Bakeshop, Inc., x x x which showed the amount to be only P85.00.

"Complainant belatedly justified the alteration by claiming that only the original was changed after she made additional purchases. The allegation is preposterous not only because it is contrary to usual business practice but also because it was made by someone of the stature of the complainant. If the original of a sales receipt is altered by a sales person, it would naturally follow that the duplicate would likewise be changed x x x.

"But what gave the complainant away is the fact that the receipt showed that what she handed as payment was only P100.00, an amount just enough to cover her purchase worth P85.00 and what she now avers to be P185.00. x x x." (pp. 10-11, Rollo)

The rule is settled that if there is sufficient evidence to show that the employee has been guilty of breach of trust or that his employer has ample reason to distrust him, the labor tribunal cannot justly deny to the employer the authority to dismiss such employee (*Reynolds v. Eslava*, No. L-48814, June 27, 1985, 137 SCRA 259). It cannot be gainsaid that the submission by respondent of an altered receipt indicating a larger amount without any satisfactory explanation as to why it is altered is sufficient reason for the petitioner to lose its trust on respondent considering that the latter is the personnel manager of the company whose position carries with it the highest degree of responsibility in upholding the interests of the employer and in setting the standards of honesty and discipline among her subordinates. The mere fact that respondent Genove committed falsification of a document which she submitted to petitioner club as part of company requirement is sufficient basis for the employer's loss of confidence in her. The rule is clear that employers are allowed a wider latitude of discretion in terminating the employment of managerial personnel when the latter has committed acts inimical to the employer's interests. A managerial employee who performs an act which tends to show a questionable moral character and a taint in the latter's sense of honesty can no longer be expected by the employer to promote its interests. Based on all the foregoing, the petitioner club cannot be compelled to continue in employment respondent Genove. We find that the dismissal of respondent Genove is justified.

As to the propriety of the award of separation pay or financial assistance to respondent, it is settled that where it comes to valid but not iniquitous causes for dismissal such as failure to comply with work standards, the grant of separation pay to the dismissed employee may be both just and compassionate, particularly if he has worked for some time with the company. But where the reason for the valid dismissal is an offense involving moral turpitude and dishonesty, as in the case at bar, the grant of separation pay is not justified (*PLDT v. NLRC*, G.R. No. 80609,

August 23, 1988, 164 SCRA 671). Even though it may be true that petitioner had offered financial assistance during the proceedings before the labor arbiter, this was allegedly intended to prevent a protracted litigation which would cause both parties unnecessary expenses and delay (p. 172, Rollo). When petitioner brought this special civil action with this Court to annul the decision of respondent Commission, it manifested its withdrawal of offer of financial assistance to respondent on the basis that the latter is guilty of serious misconduct that warrants dismissal. In view of the circumstances of this case, We find that petitioner may not be required to give respondent separation pay or financial assistance since she was validly dismissed for loss of trust or confidence. This Court has ruled in the PLDT case that if the employee who steals from the company is granted separation pay, it is not unlikely that he will commit a similar offense in his next employment because he thinks he can expect a like leniency if he is again found out, and this kind of misplaced compassion is not going to do labor in general any good as it will encourage the infiltration of its ranks by those who do not deserve the protection and concern of the Constitution (PLDT v. NLRC, *supra*).

ACCORDINGLY, the petition is GRANTED and the assailed resolution of respondent Commission dated August 30, 1991 is hereby REVERSED and SET ASIDE and another one is rendered dismissing the complaint for illegal dismissal.

SO ORDERED.

Cruz, (Chairman), Griño-Aquino, and Bellosillo, JJ., concur.

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