

ANTONIO B. MOLATO, RENATO ALEJAGA AND ESMERALDO B. MOLATO, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, LABOR ARBITER RICARDO C. NORA, REACH OUT BIBLICAL HOUSE AND ILDE...

G.R. No. 113085. January 02, 1997

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This is a special civil action for certiorari under Rule 65 of the Rules of Court which seeks to annul the decision of Labor Arbiter Ricardo C. Nora dated 6 September 1991 and the resolutions of public respondent National Labor Relations Commission (NLRC) dated 12 August 1993 affirming the decision of the Labor Arbiter and dated 6 October 1993 denying petitioners' motion for reconsideration.

Petitioners Antonio B. Molato, Renato Alejaga and Esmeraldo B. Molato are regular employees of private respondent Reach Out Biblical House. On 16 March 1991 private respondent Ildefonso Barcelo, manager of Reach Out Biblical House, issued three (3) separate Inter-Office Memoranda to petitioners informing them of their dismissal from the office for grave misconduct, insubordination and inefficiency which greatly affected the operations and security of the company. Their dismissal was to take effect on the same date the memoranda were issued.

Petitioners immediately filed with the Labor Arbiter a complaint for illegal dismissal, underpayment and non-payment of certain benefits.

On 6 September 1991 the Labor Arbiter rendered a decision finding just and valid cause for the termination of petitioners' employment based on the joint affidavit of six (6) co-employees of petitioners dated 28 June 1991 and the affidavit of the company's external auditor Emmanuel Tiongson of the same date attesting to the misconduct of petitioners. Nonetheless, the Labor Arbiter ordered private respondent to indemnify petitioners P5,000.00 each for failure to observe the twin requirements of notice and hearing in effecting their termination.

Petitioners appealed to the NLRC. On 12 August 1993 the NLRC sustained the Labor Arbiter. Petitioners sought a reconsideration but it was denied by the NLRC on 6 October 1993.

Hence, this petition for certiorari alleging that public respondents Labor Arbiter and NLRC gravely abused their discretion when they gave evidentiary weight to the self-serving affidavits of private respondents' witnesses which were executed three (3) months after the complaint for illegal dismissal was lodged. Petitioners contend that the affidavits contain general statements and do not allege specific acts committed by them to warrant their dismissal under Art. 282, pars. (a) and (b), of the Labor Code. Furthermore, petitioners claim that the affidavits were mere afterthoughts to put a semblance of legality to their arbitrary and illegal dismissal.

The original and exclusive jurisdiction of this Court to review the decision of the NLRC in a petition for certiorari under Rule 65 of the Rules of Court does not normally include an inquiry into the correctness of its evaluation of

the evidence but confined merely to issues of jurisdiction or grave abuse of discretion. It is therefore incumbent upon petitioners to establish satisfactorily that public respondents acted capriciously and whimsically in total disregard of evidence material to or even decisive of the controversy in order that the extraordinary writ of certiorari will lie.[1]

The petition is meritorious. To constitute a valid dismissal from employment two (2) requisites must concur: (a) the dismissal must be for any of the causes provided in Art. 282 of the Labor Code; and, (b) the employee must be given an opportunity to be heard and to defend himself.[2] Unfortunately, both requirements were not satisfied.

Both public respondents Labor Arbiter and NLRC found just and valid causes in terminating the services of petitioners on the basis solely on the affidavits executed by External Auditor Emmanuel Tiongson and the six (6) co-employees of petitioners. However, a perusal of the aforesaid affidavits readily reveals that the acts allegedly committed by petitioners were merely general allegations which were not adequately substantiated -

2. Na magmula noong Agosto 1990 hanggang sa sila'y matanggal sa trabaho noong Marso 16, 1991, ang nasabing tatlong (3) kawani ay nagpakita ng mga sumusunod na asal at pag-uugali na hindi karapat-dapat sa isang matinong manggagawa.

2.1 Ang pagpapakita ng kawalang galang kay Ginoong Ildefonso P. Barcelo, may-ari ng Reach Out Biblical House lalong-lalo na kung sila'y bibigyan ng mga kaukulang gawain sa shop;

2.2 Ang pagtataas ng boses, pagsigaw at pagsagot ng pabalang at wala sa katwiran kay Ginoong Barcelo sa tuwing magkakaroon ng pulong ang mga manggagawa;

2.3 Ang sadyang pagbagal sa pagtupad ng mga tungkuling kanilang ginagampanan upang ma-delay ang mga trabaho sa shop at;

2.4 Ang hindi pagpapakita ng respeto kay Ginoong Barcelo bilang isang employer sa kabila ng lahat ng kabutihan, kababaang loob at mga makataong patakarang ipinapakita nito; x x x [3]

Quite obviously, affiants failed to cite particular acts or circumstances when petitioners were disrespectful to their employer. Affiants merely alleged that petitioners would raise their voices and utter unpleasant remarks at their employer during their meetings without however pointing in detail when, where and how the incidents transpired. The same is true with the affidavit of Emmanuel Tiongson. He merely stated that he witnessed the arrogance, misconduct, grossly abusive language, serious disrespect and uncalled-for remarks of petitioners towards their employer.

For misconduct or improper behavior to be a just cause for dismissal the same must be related to the performance of the employee's duties and must show that he has become unfit to continue working for the employer.[4] The affidavits of private respondents' witnesses are insufficient to warrant such findings. It is grave abuse of discretion for public respondents Labor Arbiter and NLRC to rule that petitioners were guilty of serious misconduct and insubordination based on those affidavits alone.

As regards the manner by which petitioners were dismissed, it is apparent that the twin requirements of notice and hearing, which are the essential elements of due process, were not observed. The memoranda dismissing the petitioners took effect on the very day they were issued. Clearly, petitioners were not given the opportunity to present their side. Thus they were terminated from their employment maliciously, whimsically and without just cause. This act of illegally dismissing an employee violates the constitutional guarantee of security of tenure of workers and contributes heavily to the economic burdens of the nation.

WHEREFORE, the petition is GRANTED. The assailed decision of public respondent Labor Arbiter dated 6 September 1991 and the resolutions of public respondent National Labor Relations Commission dated 12 August

1993 and 6 October 1993 are SET ASIDE. A new decision is entered declaring illegal the dismissal of petitioners ANTONIO B. MOLATO, RENATO ALEJAGA and ESMERALDO B. MOLATO, and ordering private respondents REACH OUT BIBLICAL HOUSE and ILDEFONSO P. BARCELO to reinstate petitioners to their former or equivalent position without loss of seniority rights and other privileges with full back wages inclusive of allowances and other benefits or their monetary equivalent computed from the time these compensation were withheld until their actual reinstatement, pursuant to Art. 279 of the Labor Code.

Costs against private respondents Reach Out Biblical House and Ildefonso P. Barcelo.
SO ORDERED.

Padilla, (Chairman), Vitug, Kapunan, and Hermosisima, Jr., JJ., concur.

[1] Sta. Fe Construction Co. v. NLRC, G.R. No. 101280, 2 March 1994, 230 SCRA 593, citing Pan Pacific Industries Sales Co., Inc. v. NLRC, G.R. No. 96191, 4 March 1991, 194 SCRA 633.

[2]Mapalo v. NLRC, G.R. No. 107940, 17 June 1994, 233 SCRA 266.

[3] Annex 2 of private respondent's position paper, Original Records, p. 71.

[4] Alcantara, Philippine Labor and Social Legislation Annotated, vol.1, 1994 ed., p. 670; Aris Philippines, Inc. v. NLRC, G.R. No. 97817, 10 November 1994, 238 SCRA 59.

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