

ARMANDO NICOLAS, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND PHILIPPINE NATIONAL CONSTRUCTION CORP., RESPONDENTS.

G.R. No. 113948. July 05, 1996

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

The facts as found and summarized by public respondent National Labor Relations Commission (NLRC) are as follows:

"From the pleadings submitted by the parties, the following are the facts of this case: On July 13, 1987, complainant [Armando Nicolas] was charged by the respondent [Philippine National Construction Corporation (PNCC)] of having misappropriated company funds. On December 9, 1987, complainant received a notice of dismissal with forfeiture of company privileges and benefits.

"Complainant filed a complaint on April 12, 1988 for illegal dismissal, non-payment of wages from July 13, 1987 to December 9, 1987, non-payment of 13th month pay, unused sick and vacation leaves, damages and attorney's fees.

"Respondent, in defense, alleged that it discovered the loss of P144,155.50 in toll collections which was not deposited with the Philippine National Bank. The loss was investigated by the National Bureau of Investigation. Consequently, respondent issued a notice of dismissal to the complainant and four other employees. An investigation committee was formed at the instance of the employees involved. Based on the Committee's report, complainant's dismissal was confirmed and the four other employees were reinstated but without prejudice to the filing of the criminal case against them. The loss of the toll collection was attributed to the complainant and so he was dismissed for cause. His salaries and 13th month pay during the preventive suspension were set-off against the amount he misappropriated. Respondent denied the charge that complainant was not afforded due process. Complainant's right to the payment of his accrued vacation and sick leaves was forfeited.

"Respondent further asserts that complainant as cash clerk was tasked to bring out the shift collections from the vault for delivery to the PNB collector and that the issue of the missing toll collections has been resolved by the National Bureau of Investigation and the Assistant Provincial Fiscal with the filing of the criminal case for estafa against the complainant before the Regional Trial Court [RTC] of Malolos, Bulacan.

"The Labor Arbiter found for the complainant and we quote from his decision, to wit:

'In said decision, complainant was acquitted because "From the testimony of Mr. Sanqui, the amount of P144,155.50 which was allegedly collected on August 24, 1986 charged in the information was not lost. So with the amount of P136,286.60 for it was found and deposited with the PNB on August 25, 1986 x x x. (Italics ours)

'In other words, if as found the trial court, the amount of P144,155.50 was "not lost" but subsequently accounted for, complainant could not have misappropriated the same as charged by respondents, the alleged

misappropriation of which was the only reason for his dismissal. Complainant has not been charged for the alleged loss of P136,286.60 which was also later accounted for.

‘Considering that the charge of misappropriation against complainant has no factual and legal basis, it follows that he was illegally dismissed and is therefore entitled to reinstatement without loss of seniority rights and with full backwages and benefits including his 13th month pay and unused sick and vacation leaves.’”[1]

PNCC appealed before the NLRC on the ground, among others, that the Labor Arbiter decided the illegal dismissal complaint on the basis of the criminal case for estafa filed against Nicolas before the RTC. In its November 18, 1993 decision, the NLRC observed that the crime of estafa and the complaint for illegal dismissal involve two different issues and the conviction of the employee in the criminal case is not indispensable to warrant the employee’s dismissal.[2] The NLRC also noted that the Labor Arbiter failed to make his own findings of facts from the evidence submitted by the parties as mandated by Rule V, Section 16, of the New Rules of Procedure of the NLRC. The decision of the Labor Arbiter was accordingly "set aside and the record of [the] case [was] remanded to the Arbitration Branch of origin for further appropriate proceedings.”[3] Nicolas filed his motion for reconsideration which the NLRC denied; hence, this petition. We granted due course to the petition and required the parties to file their respective memoranda. After considering the pleadings filed and the arguments raised, however, we find the petition not impressed with merit.

A reading of Labor Arbiter Madriaga’s decision shows that he merely based the resolution of the complaint for illegal dismissal from the verdict of acquittal in the criminal case against Nicolas. This reliance in the result of the criminal case, however, leaves much to be desired. The criminal case for estafa and the complaint for illegal dismissal deal with two different issues cognizable by two different tribunals. Indeed, these two cases respectively require distinct and well delineated degrees of proof. Under the law, proof beyond reasonable doubt is required to sustain a criminal conviction, an inapplicable requirement in a labor complaint. In fact, and as correctly ruled by the NLRC, the judgment in a criminal case has no binding or conclusive effect in a labor case. Conviction of an employee in a criminal case is not indispensable to warrant an employee’s dismissal. Thus, we feel that the Labor Arbiter erred in basing his decision exclusively on the outcome of the criminal case. The Labor Arbiter is duty bound to make his findings of facts after the presentation and due consideration of all the pertinent circumstances and evidence of the case. And this is precisely what Rule V, Section 16 of the NLRC Rules of Procedure requires. We thus find the NLRC’s order remanding the case to the Arbitration Branch of origin to thresh out pertinent factual matters not usually reviewable in a special civil action for certiorari, as in this case, to be untainted with grave abuse of discretion.

ACCORDINGLY, the decision appealed from is hereby AFFIRMED with this modification: the Arbitration Branch to which this case shall be assigned and remanded should not only conduct further appropriate proceedings, but should also proceed and resolve the case with dispatch.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Melo, and Panganiban, JJ., concur.

[1] NLRC Decision, November 18, 1993, pp. 2-4; Rollo, pp. 73-75.

[2] Id., p. 5; Rollo, p. 76, citing *Lacorte v. Inciong*, 166 SCRA 1.

[3] Id., at p. 6; Rollo, p. 77.

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