

MARANAW HOTELS AND RESORT CORPORATION, (OWNER OF CENTURY PARK SHERATON MANILA), PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND EDDIE DAMALERIO, RESPONDENTS.

G.R. No. 123880. February 23, 1999

Ponente: PURISIMA, J.

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PURISIMA, J.:

This special civil action for certiorari under Rule 65 of the Revised Rules of Court seeks to annul and set aside the Decision, dated September 18, 1995, of the National Labor Relations Commission (NLRC)[1], and the Order[2], dated January 30, 1996, denying petitioner's motion for reconsideration in NLRC-NCR-CA No. 005642-93, on the ground of lack or excess of jurisdiction or grave abuse of discretion.

On April 2, 1992, Eddie Damalerio (Damalerio), a room attendant of the Century Park Sheraton Hotel, operated by Maranaw Hotel and Resort Corporation, was seen by hotel guest Jamie Glaser (Glaser) with left hand inside the latter's suitcase. Confronted with what he was doing, Damalerio explained that he was trying to tidy up the room. Not satisfied with the explanation of Damalerio, Glaser lodged a written complaint before William D. Despuig, shift-in-charge of security of the hotel. Glaser also reported that Damalerio had previously asked from him souvenirs, cassettes, and other giveaways. The complaint was later brought by Despuig to the attention of Major Eddie Buluran, chief of Security of the hotel.

On April 3, 1992, Damalerio was given a Disciplinary Action Notice (DAN). The next day, an administrative hearing was conducted on the matter. Among those present at the hearing were: 1) Lourdes Ricardo (room attendant), 2) Angelito Torres (floor supervisor), 3) Major Eddie Buluran (chief of security), 4) Susan Dino (Personnel representative), 5) Alfredo San Gabriel (senior floor supervisor) and 6) Ben Hur Amador (union representative).

Taking the witness stand on his own behalf, Damalerio denied the accusation against him, theorizing that when he found the room of Glaser in disarray, and was about to make the bed, he noticed some belongings, such as socks and T-shirts of the said hotel guest scattered around, so much so that he thought of placing the same in his luggage. While doing so, Glaser arrived. When asked by the latter if something was wrong, he (Damalerio) said "I'm just cleaning your room," and Glaser remarked, "Good work," and then, the two of them chatted about Glaser's concert at the Araneta Coliseum.

On April 13, 1992, Damalerio received a memorandum[3] issued by Alfredo San Gabriel, Sr., Floor Supervisor, bearing the approval of Nicolas R. Kirit, Executive Housekeeper, stating that he (Damalerio) was found to have committed qualified theft in violation of House Rule No. 1, Section 3 of Hotel Rules and Regulations. The same memorandum served as a notice of termination of his employment.

On May 19, 1992, Damalerio filed with the Labor Arbiter a Complaint for illegal dismissal against the petitioner.

On August 20, 1993, after the parties had sent in their position papers, Labor Arbiter Ceferina J. Diosana decided the case; disposing, thus:

"WHEREFORE, judgment is hereby rendered finding the dismissal of complainant to be illegal and ordering the respondents to reinstate him to his former or equivalent position without loss of seniority rights and with backwages from April 15, 1992 when he was preventively suspended up to actual reinstatement and other benefits, including but not limited to his share in the charges and/or tips which he failed to receive, and all other CBA benefits that have accrued since his dismissal.

SO ORDERED."

From the aforesaid Labor Arbiter's disposition, the petitioner appealed to the NLRC, which modified the appealed decision by giving petitioner the option of paying Damalerio a separation pay equivalent to one (1) month pay for every year of service, instead of reinstating him.

On November 22, 1995, petitioner interposed a motion for reconsideration but to no avail. NLRC denied the same on January 30, 1996.

Undaunted, petitioner has come to this Court via the present petition; posing the questions:

- WHETHER OR NOT RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN HOLDING THAT PETITIONER FAILED TO ADDUCE CONCLUSIVE EVIDENCE IN SUPPORT OF ITS VERSION OF THE INCIDENT, CONSIDERING THE FACT THAT THE EVIDENCE ON RECORD INELUCTABLY SHOWS THAT PRIVATE RESPONDENT WAS CAUGHT IN FLAGRANTE DELICTO; and
- WHETHER OR NOT RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN NOT REVERSING THAT PORTION OF THE DECISION OF THE LABOR ARBITER ORDERING HEREIN PETITIONER TO PAY PRIVATE RESPONDENT HIS SHARE IN THE SERVICE CHARGE WHICH WAS COLLECTED DURING THE TIME HE WAS NOT WORKING IN THE HOTEL.

The petition is barren of merit.

Petitioner's theory that Damalerio was caught committing qualified theft in flagrante delicto is anemic of evidentiary support. Records disclose petitioner's failure to substantiate such imputation against him. During the investigation presided over by the Labor Arbiter, Damalerio narrated a plausible and satisfactory explanation for his behavior complained of. According to him, he was then cleaning the hotel room of Glaser, and while in the process of placing inside the luggage the personal belongings of Glaser scattered near the bed, the latter entered the room. Glaser did not bother to testify as all his things were intact.

Although it was not completely proper for Damalerio to be touching the things of a hotel guest while cleaning the hotel rooms, personal belongings of hotel guests being off-limits to roomboys, under the attendant facts and circumstances, we believe that the dismissal of Damalerio was unwarranted. To be sure, the investigation held by the hotel security people did not unearth enough evidence of culpability. It bears repeating that subject hotel guest lost nothing. Albeit petitioner may have reasons to doubt the honesty and trustworthiness of Damalerio, as a result of what happened, absent sufficient proof of guilt, he (Damalerio), who is a rank-and-file employee, cannot be legally dismissed.[4] Unsubstantiated suspicions and baseless conclusions by employers are not legal justification for dismissing employees. The burden of proving the existence of a valid and authorized cause of termination is on the employer.[5] Any doubt should be resolved in favor of the employee, in keeping with the principle of social justice enshrined in the Constitution.[6]

All things studiedly considered and viewed in proper perspective, the dismissal of Damalerio, under the premises, cannot be countenanced.

As regards the share of Damalerio in the service charges collected during the period of his preventive suspension, the same form part of his earnings, and his dismissal having been adjudged to be illegal, he is entitled not only to full backwages but also to other benefits, including a just share in the service charges, to be computed from the start of his preventive suspension until his reinstatement.

However, mindful of the animosity and strained relations between the parties, emanating from this litigation, we uphold the ruling a quo that in lieu of reinstatement, separation pay may be given to the private respondent, at the rate of one (1) month pay for every year of service. Should petitioner opt in favor of separation pay, the private respondent shall no longer be entitled to share in the service charges collected during his preventive suspension.

WHEREFORE, the petition is hereby DISMISSED and the Court affirms the questioned Decision of the National Labor Relations Commission, to be implemented according to law and this disposition. No pronouncement as to costs.

SO ORDERED.

Romero (Chairman), Panganiban, and Gonzaga-Reyes, JJ., concur.
Vitug, J., on official leave.

[1]Rollo, pp. 33-40.

[2]Ibid, pp. 41-43.

[3] Ibid., p. 72.

[4] Lamsan Trading, Inc. v. Leogardo, Jr., et al. 144 SCRA.

[5] Reahs Corporation, et al. vs. National Labor Relations Commission, et al., 271 SCRA 247.

[6] Samillano, et al. vs. National Labor Relations Commission, et al. 265 SCRA 788.

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