ROMY’S FREIGHT SERVICE, REPRESENTED BY ROMAN G. CRUZ, PETITIONER, VS. JESUS C. CASTRO, DOMINADOR VELORIA AND THE FIRST DIVISION OF THE COURT OF APPEALS, RESPONDENTS.

G.R. NO. 141637. June 08, 2006

Ponente: CORONA, J.

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CORONA, J.:

This petition for certiorari under Rule 65 of the Rules of Court assails the September 9, 1999 decision[1] and January 18, 2000 resolution of the First Division of the Court of Appeals in CA-G.R. SP No. 51268.

This case originated from a complaint for illegal dismissal filed jointly by private respondents Jesus C. Castro and Dominador Veloria against petitioner Romy's Freight Service, represented by Roman G. Cruz, its owner/sole proprietor, with the Regional Arbitration Branch of the National Labor Relations Commission (NLRC) in Baguio City.

Private respondent Castro was hired by petitioner as a mechanic in April 1975. He was promoted to supervisor in 1986. On December 31, 1994, he suffered a stroke. On his doctor's advice, he took a leave of absence from work. Pending recovery, he extended his leave several times. While on leave, however, petitioner Roman G. Cruz sent him several letters first urging him to return to work. The succeeding ones assumed the nature of show cause letters requiring him to explain why he should not be disciplined for his prolonged absence. Cruz also filed complaints for estafa and qualified theft against him. Because of these, Castro was constrained to file a case for illegal dismissal against petitioner on the ground that Cruz's acts constituted constructive dismissal.

On the other hand, private respondent Veloria was hired by petitioner in 1977 as a carpenter. After several years, he was promoted to mechanic and, in 1993, as senior mechanic. Sometime in the last week of February 1995, he figured in an accident. The overheated water coming from the radiator of a car he was repairing spurted onto his face, burning it. He was forced to absent himself from work to undergo recuperation. During his absence, he received several letters from Cruz. One letter required him to explain the loss of several tools, another ordered him to pay his loan and still another required him to explain his absences. He was later charged for qualified theft of the missing tools.[2] Because of petitioner's acts against him, Veloria joined Castro in filing a case for illegal constructive dismissal against petitioner.

For its part, petitioner denied that private respondents were dismissed from their employment, asserting that private respondents abandoned their work.

On September 15, 1997, executive labor arbiter Jesselito Latoja ruled that petitioner was guilty of illegal dismissal and ordered it to pay private respondents the total amount of P352,944.90, representing 13[th] month pay, backwages, separation pay, premium pay for work rendered on rest days and holidays, and attorney's fees.

Private respondents moved for the clarification of the decision, specifically on the award of backwages in their

favor. While the decision discussed their entitlement to backwages, it was not included in the computation of the judgment award in the dispositive portion of the decision. The labor arbiter, in his October 1, 1997 order, recognized his inadvertence and granted the motion. He amended the decision and increased the award to P985,529.20 to include backwages.

Petitioner appealed to the NLRC which, in its October 29, 1998 decision, reversed and set aside the labor arbiter's ruling. It found private respondents guilty of abandonment of work and dismissed their complaint for illegal dismissal against petitioner.[3]

Aggrieved, private respondents filed a petition for certiorari under Rule 65 of the Rules of Court with the Court of Appeals (CA). They ascribed grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the NLRC for not finding that they were constructively dismissed by petitioner.

On September 9, 1999, the appellate court granted the petition. It ruled that, since the findings of the labor arbiter were supported by substantial evidence, it should be respected by appellate tribunals. Petitioner failed to overcome the burden of proving the existence of just cause for dismissing private respondents, hence, it was guilty of illegal dismissal. The CA rejected petitioner's contention that private respondents abandoned their work. It held that their failure to report for work was for justifiable reasons and that they had no intention to sever their employment. As a consequence, the CA reversed and set aside the decision of the NLRC and reinstated the September 15, 1997 decision of the labor arbiter as modified by the latter's October 1, 1997 order.

Petitioner moved for the reconsideration of the appellate court's decision but the same was denied. Hence, this petition.

Petitioner faults the CA for reversing the decision of the NLRC. It asserts that the petition for certiorari of private respondents should have been dismissed outright for failure to file a motion for reconsideration with the NLRC before filing the petition for certiorari with the CA. Petitioner also maintains that the CA erred when it adopted the findings of the labor arbiter that private respondents were constructively dismissed, instead of the contrary finding of the NLRC. It insists that the appellate court erred when it awarded 13[th] month pay, backwages, separation pay and attorney's fees to Castro and 13[th] month pay, backwages, premium pay for work rendered on rest days and holidays, and attorney's fees to Veloria.

We affirm the CA decision.

As a general rule, a motion for reconsideration is needed before a petition for certiorari under Rule 65 can be resorted to.[4] However, there are well recognized exceptions to this rule.[5] Private respondents' petition for certiorari before the CA was covered by the exceptions.

The issue raised in the certiorari proceeding before the appellate court, i.e., whether private respondents were constructively dismissed without just cause, was also the very same issue raised before the NLRC and resolved by it. Moreover, the employer-employee relationship between petitioner and private respondents was impressed with public interest.[6] Thus, it was proper for the appellate court to take cognizance of the case even if no motion for reconsideration had been filed by private respondents with the NLRC.

The other issues raised by petitioner, i.e., whether private respondents were illegally dismissed (as the CA and the labor arbiter ruled) or abandoned their work (as the NLRC held) and whether they were entitled to backwages, unpaid benefits, separation pay and attorney's fees, are not proper subjects of a petition for certiorari. They involve an inquiry into factual matters.

The Supreme Court is not a trier of facts, more so in the consideration of the extraordinary writ of certiorari where

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neither questions of fact nor of law are entertained, but only questions of lack or excess of jurisdiction or grave abuse of discretion.[7] The sole object of the writ is to correct errors of jurisdiction or grave abuse of discretion.[8] The phrase 'grave abuse of discretion' has a precise meaning in law, denoting abuse of discretion "too patent and gross as to amount to an evasion of a positive duty, or a virtual refusal to perform the duty enjoined or act in contemplation of law, or where the power is exercised in an arbitrary and despotic manner by reason of passion and personal hostility."[9] It does not encompass an error of law.[10] Nor does it include a mistake in the appreciation of the contending parties' respective evidence or the evaluation of their relative weight.[11]

The Court cannot be tasked to go over the proofs presented by the parties and analyze, assess and weigh them all over again to ascertain if the trial court or quasi-judicial agency and the appellate court were correct in according superior credit to this or that piece of evidence of one party or the other.[12] The sole office of a writ of certiorari is the correction of errors of jurisdiction including the commission of grave abuse of discretion amounting to lack of jurisdiction, and does not include the review of public respondent's evaluation of the evidence and the factual findings based thereon.[13] Therefore, the present petition for certiorari fails insofar as it questions the affirmation by the CA of the factual finding of the labor arbiter that private respondents were illegally dismissed, entitling them to an award of backwages, unpaid benefits, separation pay and attorney's fees.

Nevertheless, a perusal of the CA decision shows that the findings that petitioner failed to overcome the burden of proving just cause for terminating the employment of private respondents and that private respondents did not abandon their work were supported by substantial evidence. Moreover, petitioner's obstinate insistence on the alleged serious misconduct (i.e., the commission of estafa and/or qualified theft) of private respondents belies his claim of abandonment as the ground for the dismissal of private respondents. Rather, it strengthens the finding of petitioner's discrimination, insensibility and antagonism towards private respondents which gave no choice to private respondents except to forego their employment.

WHEREFORE, the petition is hereby DISMISSED.Costs against petitioner.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

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[1] Penned by then Associate Justice Delilah Vidallon-Magtolis (now retired) and concurred in by then Presiding Justice Jesus M. Elbinias (now retired) and Associate Justice Rodrigo V. Cosico of the First Division of the Court of Appeals; rollo, pp. 84-89.[2] He was subsequently acquitted of this charge.[3] However, it awarded Veloria service incentive leave pay and the balance of his 13[th] month pay in the total amount of P3,625.[4] Gabi Multi Purpose Cooperative, Inc. v. Republic of the Philippines, G.R. No. 155126, 09 November 2004, 441 SCRA 484.[5] These exceptions are:

> (a) Where the order is a patent nullity, as where the Court a quo has no jurisdiction;
> (b) Where the questions raised in the certiorari proceeding have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court;
> (c) Where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable;
> (d) Where, under the circumstances, a motion for reconsideration would be useless;
> (e) Where petitioner was deprived of due process and there is extreme urgency for relief;
> (f) Where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable;

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(g) Where the proceedings in the lower court are a nullity for lack of due process;
(h) Where the proceedings were ex parte or in which the petitioner had no opportunity to object; and
(i) Where the issue raised is one purely of law or where public interest is involved.

[6] Cf. Article 1700, CIVIL CODE.[7] Samson v. Office of the Ombudsman, G.R. No. 117741, 29 September 2004, 439 SCRA 315. [8] Lim v. Executive Secretary, 430 Phil. 55 (2002).

[9] Id.

[10] Land Bank of the Philippines v. Court of Appeals, G.R. No. 129368, 25 August 2003, 409 SCRA 455.[11] Cf. Cruz v. People of the Philippines, 363 Phil. 156 (1999).[12] Yuchengco v. Court of Appeals, 427 Phil. 11 (2002).[13] Id.

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