ALADDIN TRANSIT CORPORATION, PETITIONER, VS. THE HONORABLE COURT OF APPEALS (SPECIAL SIXTH DIVISION), AND RAFAEL ROXAS, RESPONDENTS.

G.R. NO. 152123. June 21, 2005

Ponente: AZCUNA, J.

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AZCUNA, J.:

This is a petition for certiorari under Rule 45 of the Revised Rules of Court seeking to set aside and annul the Decision of the Court of Appeals[1] and the Resolution denying the Motion for Reconsideration dated December 20, 2001 in C.A.-G.R. SP No. 62302.

The facts are not disputed.

Petitioner Aladdin Transit Corporation, a public service entity engaged in transportation, hired respondent Rafael Rodriguez in February 1990 as an accounting clerk. Sometime thereafter, or on July 17, 1997, respondent employee alleged that his sister had a quarrel with their personnel manager. As a result thereof, he was barred from entering the company's premises. He was then instructed to take a leave of absence for a month. He wrote a letter to the President of the company but he did not receive any reply. While he was on leave, he received a letter from their personnel manager asking him to shed light about the SSS contribution that he allegedly did not remit. Respondent merely said he tried to report to the office, but petitioner did not allow him.

On August 11, 1997, respondent employee received another letter from the personnel department informing him of his preventive suspension for certain offenses. He alleged that he tried to answer the allegation and wrote a letter to the President of the company, but did not receive a reply. Thus, he filed a complaint with the Labor Arbiter.

Petitioner, on its part, alleged that respondent employee violated the trust and confidence of petitioner when he used the company's funds and lent them with interest to his co-employees for his personal gain. Petitioner added that an investigation they conducted showed that respondent employee and a co-employee, Divina David, had colluded in illegally making payroll salary deductions. Furthermore, petitioner alleged that respondent employee is guilty of using the company vehicle without authority and failed to remit the SSS contribution of his co-employees.

Finding the arguments of petitioner deserving of credence, the Labor Arbiter ruled as follows:

> "WHEREFORE, premises considered, the complaint is hereby DISMISSED for utter lack of merit with admonition that the filing of another baseless complaint shall be severely dealt[ ] with in the future."[2]

Subsequently, on April 27, 2000, respondent employee appealed to the National Labor Relations Commission (NLRC). On July 3, 2000, the NLRC denied his appeal, for lack of merit.

Respondent employee thereupon appealed through a Petition for Certiorari to the Court of Appeals. The Court of

Appeals in its Decision held, as follows:

> The issue before the Court, therefore, is whether petitioner was dismissed: 1) for just cause and 2) with the observance of due process.
>
> With regard the requirement of just cause, the Court finds in the affirmative. Both the Labor Arbiter and the NLRC have thoroughly discussed the reason why private respondent was justified in dismissing petitioner from the service. (pp. 123-124, 139-140, Rollo)
>
> However, with regard the second requirement, the Court notes that the Labor Arbiter and the NLRC failed to discuss and rule on the same. Nothing in the records show that private respondent gave petitioner the opportunity to be heard and to explain his side. It has been ruled by the Supreme Court that:
> The law requires the employer to give the worker to be dismissed two written notices before terminating his employment, namely: (1) a notice which apprises the employee of the particular acts or omissions for which his dismissal is sought; and (2) the subsequent notice which informs the employee of the employer's decision to dismiss him. x x x (Tingson, Jr. vs. NLRC, 185 SCRA 498 [1990]; National Service Corp. vs. NLRC, 168 SCRA 122 [1988]; Ruffy vs. NLRC, 182 SCRA 365 [1990])

The same is provided for in Section 2(a) Rule 1 of the Implementing Rules of Book VI which reads:

> "SEC. 2. Security of Tenure. – (a) In cases of regular employment, the employer shall not terminate the services of an employee except for just or authorized causes as provided by law, and subject to the requirements of due process." (Underscoring supplied)

In the case at bar, it was not proven by private respondent that it gave petitioner notice informing him of the cause of his impending dismissal. It did not narrate that it heard petitioner's side, nor did it show that petitioner was given notice of his dismissal. The Court recognizes the right of [the] employer to discipline its employees and not to continue in its employ those who are inimical to its business operation. However, it must be stressed that in the normal course of things, labor stands not on equal plane as the employer which has in its disposal all means to defend itself. Thus, laws must be read for the protection of labor.

This reality is enunciated in Article 3 of the Labor Code in relation to Article 3 of the 1987 Constitution, when it provides:

> ART. 3. DECLARATION OF BASIC POLICY. – The State shall afford protection to labor, promote full employment, ensure equal work opportunities regardless of sex, race or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work."

As such, based on the ruling of the Supreme Court in the earlier quoted case of Serrano vs. NLRC, private respondent is directed to pay petitioner his backwages from the time he was dismissed up to the time the herein decision becomes final.

WHEREFORE, based on the foregoing, the instant petition is hereby GRANTED in part. Private respondent is directed to pay petitioner his full backwages from the time the latter was dismissed until this decision becomes final.

SO ORDERED.[3]

After the reconsideration was denied, as aforestated, petitioner appealed to this Court.

Since there is no dispute that petitioner did not inform the respondent employee in dismissing him from the service, the whole issue to be resolved is whether the Court of Appeals correctly applied the ruling of this Court in

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Serrano v. NLRC,[4] to the effect that in cases where there is a valid cause to dismiss the employee but the required notice of dismissal was not given, the dismissal is deemed ineffectual and the employee must be reinstated with full backwages.

Recently, this Court has had occasion to revisit the Serrano doctrine and the present rule is set forth in the Agabon v. NLRC, et al.,[5] namely, that where the dismissal is based on a just cause, the failure to give the required notice does not invalidate the same, but merely holds the employer liable for damages for violating said notice of requirement. The amount of damages was fixed at Thirty Thousand Pesos (P30,000) by way of nominal damages.

WHEREFORE, the Petition is GRANTED and the Decision and Resolution of the Court of Appeals dated September 5, 2001 and December 20, 2001, respectively, in C.A.-G.R. SP No. 62302, are hereby MODIFIED, in that instead of requiring petitioner to reinstate respondent employee with full backwages, the petitioner is ORDERED to pay respondent employee nominal damages in the amount of Thirty Thousand Pesos (P30,000).

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Carpio, JJ., concur.

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[1] Special Sixth Division penned by Justice Ramon A. Barcelona and concurred in by Justices Rodrigo V. Cosico and Bienvenido L. Reyes, dated September 5, 2001.

[2] CA Decision, Rollo, p. 121.

[3] Id. at 122-124.

[4] G.R. No. 117040, January 27, 2000, 323 SCRA 445.

[5] G.R. No. 158693, November 17, 2004.

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