RODELIA S. FUNGO, PETITIONER, VS. LOURDES SCHOOL OF MANDALUYONG AND FR. SERVILLANO B. BUSTAMANTE, OFM, CAP., RESPONDENTS.

G.R. NO. 152531. July 27, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-152531/

SANDOVAL-GUTIERREZ, J.:

Challenged in this Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, are the Decision[1] dated July 25, 2001 and Resolution dated January 18, 2002 of the Court of Appeals in CA-G.R. SP No. 59424.

Rodelia S. Fungo, petitioner, alleged in her petition that on June 1, 1981, she was employed as secretary of respondent Fr. Servillano B. Bustamante, rector of Lourdes School of Mandaluyong. Respondent Fr. Bustamante authorized her to file and keep confidential documents in his office. He entrusted to her the duplicate keys of the filing cabinet and she was allowed to take any document therefrom whenever she had to bring some matters to his attention.

In January 1996, petitioner's husband, Nicolas Fungo, an elementary school teacher in the same school, was dismissed from the service because of his low performance rating. According to petitioner, her husband's services were terminated because of his statement during a faculty meeting that the Mission and Vision Statement of the school is not being practiced. He was also one of those who signed a letter asking the Provincial Minister of the Capuchins in the Philippines to appoint Fr. Miguel Peralta either as rector or vice rector of the school. Fr. Peralta is "a close rival" of respondent Fr. Bustamante since their seminary days.

Petitioner then wrote respondent Fr. Bustamante questioning the performance rating given to her husband. She attached to her letter documents containing the summary of efficiency ratings of all the teachers. She retrieved these documents from the filing cabinet.

On March 8, 1996 petitioner received a letter from respondent Fr. Bustamante requiring her to explain in writing why she should not be dismissed from employment for willful breach of trust reposed on her.

On March 11, 1996, petitioner filed her written explanation.

Petitioner further alleged in her petition that in the morning of April 1, 1996, Fr. Manuel Remirez, the school treasurer, summoned her to his office. Thereupon, he compelled her to tender her resignation within 30 minutes, otherwise, she will not receive her separation pay. Petitioner pleaded for one day deferment so she could consult her aunt, Milagros Tadeo, former assistant principal on academics for the elementary department of the same school. However, Fr. Remirez denied her plea. Considering that her husband was jobless and that her family was in financial predicament, petitioner submitted her resignation letter[2] on the very same day. Subsequently, she received her separation pay.

On January 28, 1997, petitioner filed with the Labor Arbiter a complaint for illegal dismissal with prayer for

reinstatement and payment of backwages and other benefits, as well as for an award of moral and exemplary damages and attorney's fees. Petitioner alleged therein that she was forced to resign and to accept her separation pay; and that Fr. Remirez took advantage of her economic plight, compelling her to submit her resignation letter within 30 minutes.

Respondents, in their answer, denied the allegations in the complaint, contending that petitioner voluntarily submitted her resignation letter on April 1, 1996. She even filed with the school an application for benefits under the Retirement Plan of the Catholic Educational Association of the Philippines (CEAP) which was granted. Then she executed a waiver of her claims for benefits from the school and the CEAP board of trustees. Respondents thus prayed that the complaint be dismissed for being malicious and baseless.

On September 23, 1998, the Labor Arbiter promulgated a Decision[3] finding that petitioner was constructively dismissed from employment. The dispositive portion reads:

> WHEREFORE, premises considered, judgment is hereby entered in favor of complainant and against respondents, ordering the latter, jointly and severally, as follows:
>
> - To pay the sum of P316,187.00 as backwages of complainant from April 1, 1996 up to September 1, 1998, less P58,292.60 which was paid to her in advance;
>
> - To pay another sum of P21,806.00 as mandatory 13th month pay of the complainant for two years, 1996 and 1997; and
>
> - To immediately reinstate complainant to her former or equivalent position under the same terms and conditions prevailing prior to her dismissal or separation, or, at the option of the employer, to reinstate her name in the payroll, also under the same terms and conditions prevailing prior to her dismissal or separation. Provided; however, that should reinstatement be no longer feasible due to any intervening event, respondents are further ordered to pay the separation pay of complainant equivalent to her one (1) month salary per year of service, a fraction of six (6) months considered as one (1) year without qualification or deduction in addition to her backwages. All other issues or claims are hereby ordered DISMISSED for lack of merit.
>
> SO ORDERED.[4]

On appeal, the National Labor Relations Commission (NLRC), in its Decision dated November 22, 1999, reversed the Labor Arbiter's judgment, holding that based on the documentary evidence presented by respondents, petitioner voluntarily resigned. Her resignation letter and application for benefits under the CEAP Retirement Plan negate her claim that she was illegally dismissed.

Petitioner filed a motion for reconsideration but the NLRC denied the same in its Resolution[5] dated April 17, 2000.

Petitioner seasonably filed with the Court of Appeals a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended, contending that the NLRC committed grave abuse of discretion in ruling that she resigned voluntarily. On July 25, 2001, the appellate court rendered its Decision dismissing the petition. Its ratiocination is partly reproduced as follows:

> A painstaking examination of the records leads this Court to conclude that petitioner cannot that easily be intimidated into tendering her resignation for a simple reason that she was facing a financial trauma out of the dismissal of her husband. If she was of honest heart and belief that she has every right to hold and maintain her position and employment as secretary, she could have fought off the imposing threats she alleges to have been given by Fr. Remirez and simply turned down the latter's offer. In fact, she would even have a better standing in court if she was terminated by her employers rather than executing a resignation letter and later on claim that such was only resorted to because of undue intimidation of her superior. Indubitably, it is the petitioner's

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

word now against the word of Fr. Remirez that she was pressured into resigning by the latter.

Petitioner filed a motion for reconsideration. However, it was denied by the appellate court in its Resolution dated January 18, 2002.

Hence, this petition.

The primordial issue for our resolution is whether the petitioner was constructively dismissed from the service.

The petition is impressed with merit.

It is a well-established rule that the jurisdiction of this Court in cases brought before it from the Court of Appeals via Rule 45 of the same Rules is limited to reviewing errors of law.[6] This Court is not a trier of facts. In the exercise of its power of review, the findings of facts of the Court of Appeals are conclusive and binding. Thus, it is not the function of this Court to analyze and weigh the evidence all over again.[7]

In the instant case, however, we have to determine the appellate court's findings of facts since they contradict those of the Labor Arbiter.

After a careful scrutiny of the records, we agree with the Labor Arbiter that petitioner was constructively dismissed from employment.

Respondents argue that petitioner's act of retrieving the document from the files inside the rector's office was improper and constituted a willful breach of the trust reposed upon her by Fr. Bustamante. Such breach of trust is a just cause for terminating her services.

To be a valid ground for dismissal, loss of trust and confidence must be based on a willful breach of trust and founded on clearly established facts. A breach is willful if it is done intentionally, knowingly and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. It must rest on substantial grounds and not on the employer's arbitrariness, whims, caprices or suspicion. Otherwise, the employee would eternally remain at the mercy of the employer.[8] Loss of confidence must not be indiscriminately used as a shield by the employer against a claim that the dismissal of an employee was arbitrary. And, in order to constitute a just cause for dismissal, the act complained of must be work-related and shows that the employee concerned is unfit to continue working for the employer.[9]

In Nokom v. National Labor Relations Commission,[10] we set the guidelines for the application of loss of confidence as a just cause for dismissing an employee from the service, thus:

- loss of confidence should not be simulated;

- it should not be used as a subterfuge for causes which are improper, illegal or unjustified;

- it may not be arbitrarily asserted in the face of overwhelming evidence to the contrary; and

- it must be genuine, not a mere afterthought to justify earlier action taken in bad faith.

In the instant case, Fr. Bustamante entrusted to petitioner various documents in his office. She could take any document from the filing cabinet inside his office. While she retrieved documents pertaining to the efficiency ratings of all teachers in the school for the year 1990-1991, such act did not constitute a breach of trust and confidence since she did not show those documents to any other person except to Fr. Bustamante himself. Significantly, he did not dispute the fact that petitioner had access to the records.

When petitioner asked Fr. Bustamante why her husband's performance rating was low, Fr. Remirez summoned her to his office and urged her to tender her resignation within 30 minutes. He threatened her that if she would not

resign, her separation pay would be forfeited. These circumstances glaringly show that respondents wanted to terminate her employment, but they made it appear that she voluntarily resigned.

Resignation is the voluntary act of employees who are compelled by personal reasons to disassociate themselves from their employment. It must be done with the intention of relinquishing an office, accompanied by the act of abandonment.[11] It would have been illogical therefore for the petitioner to resign and then file a complaint for illegal dismissal. Resignation is inconsistent with the filing of the complaint.[12]

An examination of the records of this case convinced us that petitioner was indeed made to resign against her will with threat that she will not be given her separation pay should she fail to do so. Clearly, her consent was vitiated. Indeed, it is very unlikely that petitioner, who worked in the school for almost fifteen (15) years, would simply resign voluntarily. Her receipt of the benefits could be considered as an act of self preservation, taking into consideration the financial predicament she and her family were then facing.

Thus, we rule that petitioner was constructively dismissed from her employment. There is constructive dismissal if an act of clear discrimination, insensibility, or disdain by an employer becomes so unbearable on the part of the employee that it would foreclose any choice by him except to forego her continued employment.[13] It exists where there is cessation of work because "continued employment is rendered impossible, unreasonable or unlikely, as an offer involving a demotion in rank and a diminution in pay."[14] Respondent Fr. Bustamante claimed that he had lost trust and confidence in petitioner. Under this circumstance, coupled with Fr. Remirez's threat that she would not be given her separation pay, petitioner was compelled to resign.

Petitioner's intention to leave the school, as well as her act of relinquishment, is not present in the instant case. On the contrary, she vigorously pursued her complaint against respondents. It is a clear manifestation that she had no intention of relinquishing her employment. That Fr. Remirez convinced her to resign or else she will not receive her separation pay obviously shows that respondents wanted to get rid of her under the guise of voluntary resignation.

Under Article 279 of the Labor Code, an employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. Considering, however, that the nature of petitioner's work requires constant interaction with Fr. Bustamante, their working relationship has been strained. Thus, the payment of separation pay and other benefits in lieu of reinstatement is in order. A more equitable disposition would be an award of separation pay equivalent to at least one month pay, or one month pay for every year of service, whichever is higher, with a fraction of at least six (6) months being considered as one (1) whole year.[15]

In fine, we hold that the Court of Appeals erred when it ruled that petitioner voluntarily resigned from employment.

WHEREFORE, we GRANT the petition. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP. No. 59424 are REVERSED. The Decision of the Labor Arbiter is hereby REINSTATED with MODIFICATION in the sense that respondents are ordered to pay petitioner separation pay equivalent to one (1) month salary for every year of service rendered, plus full backwages and other privileges and benefits, or their monetary equivalent, computed from her dismissal until the finality of this Decision. From these amounts shall be deducted the separation pay she already received in advance.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

---

[1] Penned by Associate Justice Romeo A. Brawner (retired, now Commissioner of the COMELEC) and concurred in by Associate Justice Remedios Salazar-Fernando and Associate Justice Rebecca De Guia-Salvador; rollo, pp. 42-49.

[2] Annex "C" of the Petition; id., p. 51.

[3] Id., pp. 53-57.

[4] Id., pp. 56-57.

[5] Id., pp. 72-73.

[6] Go v. Court of Appeals, G.R. No. 158922, May 28, 2004, 430 SCRA 358, citing Rizal Commercial Banking Corporation v. Alfa RTW Manufacturing Corporation, et al., 368 SCRA 611 (2001).

[7] Id., citing Alejandro Gabriel v. Spouses Mabanta, 399 SCRA 573 (2003).

[8] Fujitsu Computer Corporation of the Philippines v. Court of Appeals, G.R. No. 158232, March 31, 2005, 454 SCRA 737, citing Surigao del Norte Electric Cooperative v. National Labor Relations Commission, 309 SCRA 233 (1999).

[9] Id., citing Sulpicio Lines, Inc. v. Gulde, 377 SCRA 525 (2002).

[10] G.R. No. 140043, July 18, 2000, 336 SCRA 97, cited in Fujitsu Computer Corporation of the Philippines v. Court of Appeals, supra.

[11] EMCO Plywood Corporation v. Abelgas, G.R. No. 148532, April 14, 2004, 427 SCRA 496, citing Dosch v. National Labor Relations Commission, 123 SCRA 296 (1983), and Magtoto v. National Labor Relations Commission, 140 SCRA 58 (1985); Molave Tours Corporation v. National Labor Relations Commission, G.R. No. 112909, November 24, 1995, 250 SCRA 325, citing Intertrod Maritime, Inc. v. National Labor Relations Commission, 198 SCRA 318 (1991).

[12] Id., citing Valdez v. National Labor Relations Commission, 349 Phil. 760 (1998), Santos v. National Labor Relations Commission, 166 SCRA 759 (1988), Hua Bee Shirt Factory v. National Labor Relations Commission, 186 SCRA 586 (1990), and Dagupan Bus Company, Inc. v. National Labor Relations Commission, 191 SCRA 328 (1990).

[13] Philippines Employ Services and Resources, Inc. v. Paramio, G.R. No. 144786, April 15, 2004, 427 SCRA 732, citing Hyatt Taxi Services, Inc. v. Catinoy, 359 SCRA 686 (2001).

[14] Id., citing Globe Telecom, Inc. v. Florendo-Flores, 490 SCRA 210 (2002); Mobil Protective & Detective Agency v. Ompad, G.R. No. 159195, May 9, 2005, 458 SCRA 308, citing R.P. Dinglasan Construction, Inc. v. Atienza, 433 SCRA 263 (2003).

[15] Hodieng Concrete Products v. Emilia, G.R. No. 149180, February 14, 2005, 451 SCRA 249, citing Bolinao Security and Investigation Service, Inc. v. Toston, 421 SCRA 406 (2004), Jardine Davies, Inc. v. NLRC, 311 SCRA 289 (1999), and Lopez v. NLRC, 297 SCRA 508 (1998).

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.