PHILIPPINE NATIONAL CONSTRUCTION CORPORATION, PETITIONER, VS. ROLANDO MATIAS, RESPONDENT.

G.R. NO. 156283. May 06, 2005

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

To constitute a valid cause to terminate employment, loss of trust and confidence must be proven clearly and convincingly by substantial evidence. To be a just cause for terminating employment, loss of confidence must be directly related to the duties of the employee to show that he or she is woefully unfit to continue working for the employer.

The Case

Before us is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court, seeking to reverse and set aside the September 16, 2002 Decision[2] and the November 28, 2002 Resolution[3] of the Court of Appeals (CA) in CA-GR SP No. 66212. The dispositive portion of the Decision reads:

> "WHEREFORE, in view of the foregoing, the petition is GRANTED. The assailed decision and resolution of the National Labor Relations Commission, Third Division are hereby ANNULLED and SET ASIDE. Accordingly, the Decision of the Labor Arbiter dated September 30, 1999 is hereby REINSTATED. No pronouncement as to costs."[4]

The assailed Resolution denied petitioner's Motion for Reconsideration.

The Facts

The Court of Appeals narrated the factual antecedents of the case in the following manner:

> "Rolando Matias was employed by Construction and Development Corporation of the Philippines (CDCP, for short) on July 16, 1975 as Chief Accountant and Administrative Officer. During his employment with the company, various parcels of land situated at Don Carlos Bukidnon were placed in the names of certain employees as trustees for the purpose of owning vast tracts of land more than the limit a corporation can own which were primarily intended for CDCP agricultural businesses. By internal arrangement documents transferring back the properties to the corporation were executed. A land containing an area of 117,750 square meters was registered in the name of Matias on April 24, 1980 covered by Original Certificate of Title No. P-11315.
>
> "In 1981, Matias transferred to the main office of the CDCP as Head of the Corporate Accounting Department. In 1984, the loans of CDCP from various government entities were converted to equity thus making it a government owned or controlled corporation, and the name of CDCP was changed to Philippine National Construction Corporation (PNCC). Under a new set up, PNCC offered a retrenchment program and on December 31, 1984 Matias availed of the said program.
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> "Sometime in 1985, the Conjuangco Farms owned by Mr. Danding Conjuangco acquired CDCP Farms

> Corporation wh[ich] took over the operations of said farms. Not long after, or in 1989, CDCP Farms Corporation ceased to operate.
>
> "In July 1992, two former CDCP employees, namely Reynaldo Tac-an and Luciano Tadena went to the house of Matias and brought with them duly accomplished documents and Special Power of Attorney for his signature and informed him that the lands in Bukidnon under his name with all the others were invaded by squatters, and that the said land were covered by the Comprehensive Agrarian Reform Program (CARP) where Matias' name was included in the list of landowners. Matias reluctantly signed the document and after six months, he signed an acknowledgment receipt of P100,000.00 x x x.
>
> "On December 18, 1992, the Register of Deeds for the Province of Bukidnon cancelled the Original Certificate of Title No. P-11315 originally registered in the name of Matias and issued a new Transfer Certificate of Title No. T-36141 in the name of the Republic of the Philippines. The transfer of said parcel of land was made possible because Rolando Matias and Elena Esmeralda Matias received manager's checks from the Land Bank of the Philippines in the amount of P102,355.96 and P219.22 and bond worth P203,478.48 as payment of Land Transfer Acquisition in November 1992.
>
> "On August 12, 1996, Matias was rehired by PNCC as Project Controller in Zambales PMMA Project. Subsequently, he headed the Core Group at the Central Office, Mandaluyong City.
>
> "Not long after, Mr. Felipe C. Al[d]ay, Head of the Realty Management Group of PNCC invited Matias to his office and showed him a listing of parcels of land in the name of different persons with the corresponding status including the latter's name. On the basis of the listing, Mr. Alday told Matias that the transfer of the property registered in the latter's name was not yet consummated by the LBP and then requested Matias to execute a Deed of Assignment in favor of PNCC pertaining to the said property.
>
> On September 16, 1997, Matias executed an Assignment of Real Property in his capacity, as registered owner of a parcel of land covered by OCT No. P-11315, in favor of PNCC for a consideration of P5,900.00. In the [D]eed of [A]ssignment, Matias guaranteed in writing that:
> "That the Assignor hereby warrants that the above-described parcel of land is free from any lien or encumbrance."

"In December 1997, Matias made a verbal follow-up as to the status of his appointment at the Central Office and was advised that it be already for signature by the President. A letter dated June 1, 1998 followed this.

"On April 20, 1998, a memorandum was issued to Matias by PNCC through its Head, Administration Division, Ms. Janice Day E. Alejandro, directing the former to explain in writing why none of the following actions, falsification, estafa, dishonesty, and breach of trust and confidence, should be taken against him in connection with the Deed of Assignment.

"In due time, Matias submitted his written explanation. On June 1, 1998, Ms. Alejandro first demanded x x x his resignation in lieu of termination. Thereafter, a letter advising him of his termination from the service on the ground of loss of trust and confidence effective June 15, 1998 was served. Hence, Matias filed a complaint for illegal dismissal and money claims against PNCC, on July 8, 1998 alleging that the dismissal on the ground of loss of trust and confidence was without basis."[5]

The above narration is substantially corroborated (or, at least, not controverted) by the parties' respective Memoranda.

After hearing, the labor arbiter[6] (LA) held that herein respondent had been illegally dismissed. The LA thus ordered herein petitioner to reinstate respondent to the employee's former position or to a substantially equivalent one, without loss of seniority rights, benefits and privileges; and to pay back wages in the amount of P242,666.66

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and attorney's fees equivalent to P24,266.66.[7]

On appeal, however, sufficient basis for petitioner's loss of trust and confidence in respondent was found by the National Labor Relations Commission (NLRC) as follows:

> "We are fully convinced that complainant [herein respondent] failed to disclose the fact that he had already received payments from the Land Bank of the Philippines for the transfer of the aforesaid parcel of land under his name by respondent [herein petitioner] PNCC's predecessor CDCP at the time when he executed an Assignment of Real Property involving the same parcel of land. As assignor, complainant guaranteed that it was free from lien and encumbrance. It is of no moment that complainant was advised by Mr. Felipe C. Alday, Jr. as Head of Equipment Management Division, that the aforesaid parcel of land was not yet compensated by Land Bank of the Philippines based on the list furnished by Land Bank Cagayan de Oro Branch (Annex "A", of respondent's Sur-Rejoinder). Surely, complainant committed an omission of relevant information that he had already received payments for the aforesaid parcel of land in December 1992. We are fully convinced that there was sufficient basis for loss of trust and confidence in warranting the termination from employment of complainant who held a position of trust " project controller."[8]

Thus, the NLRC reversed the labor arbiter's Decision and dismissed the Complaint. Subsequently, respondent instituted a Petition for Certiorari before the CA.

Ruling of the Court of Appeals

The CA held that herein respondent had not acted with malice, deceit and bad faith when, in 1997, he executed the Deed of Assignment and guaranteed that the subject land was free from all liens and encumbrances, despite the fact that the property had already been sold to the Republic of the Philippines in 1992. The CA further noted that PNCC had acted anomalously in assigning its properties to different employees, purposely to evade the compulsory coverage of the Comprehensive Agrarian Reform Program (CARP). For having acted with fraud, petitioner had not come with clean hands in seeking sanctions against respondent. Thus, PNCC did not deserve the protection of the law.

In reversing the NLRC and reinstating the labor arbiter's disposition, the CA explained thus:

> "By and large, we find the dismissal of the petitioner on the ground of loss of trust and confidence to be not in order. Public respondent's conclusion that the petitioner committed a breach of trust and confidence when he disposed the subject property without the consent of the management is not in accord with the established facts of the case. As correctly found by the labor arbiter, it was only in March 1998 when petitioner was following up his regular employment paper that the status of PNCC's alleged property in Bukidnon was verified, and that in September 1997, PNCC asked all its employees to execute a Deed of Transfer in favor of PNCC but as it is, only petitioner was singled out. In fact, petitioner was advised by Mr. Felipe C. Alday, Head of the Equipment Management Division of PNCC that the subject land was not yet compensated by the Land Bank of the Philippines based on the list furnished by the LBP Cagayan De Oro Branch. Hence, the representation of Mr. Felipe that the subject property was not yet compensated by the Land Bank prompted petitioner to sign the Deed of Assignment which was an already prepared document by the Legal Department of PNCC. The said representation merely instigated petitioner to omit to divulge a relevant fact leading to his dismissal on the ground of loss of trust and confidence. Clearly then, we apply the principle against the private respondent that "he who comes to court must come with clean hands." Necessarily, we are not persuaded with respondent's contention that the petitioner acted with malice, deceit and bad faith when he executed the deed of assignment in favor of PNCC in 1997 and warranted that the land is free from all liens and encumbrances, when the subject land had already been sold to the Republic of the Philippines in 1992. Moreover, in view of the fact that PNCC is also a party to the anomalous transaction of assigning the properties to different employees purposely to evade from the compulsory coverage of the Comprehensive Agrarian Reform Program, the act of private respondent of seeking remedy under the Labor Code and of charging complainant for having acted with

> fraud can not be sanctioned. Fraud implies willfulness or wrongful intent hence, the innocent non-disclosure of facts by the petitioner-employee to the private respondent-employer will not constitute a just cause for the dismissal of the employee."[9]

Hence, this Petition.[10]

The Issues

Petitioner raises the following issues for our consideration:

> "I. The Honorable Court of Appeals erred in giving due course to the Petition when in fact the Petition was filed out of time.
>
> "II. The Honorable Court of Appeals seriously erred in finding that Rolando Matias was illegally dismissed.
>
> "III. The Court of Appeals committed grave abuse of discretion and serious error in completely ignoring the findings of the NLRC that Complainant Rolando Matias was guilty of breach of trust reposed in him by his employer."[11]

The second and the third issues, being closely related, will be discussed together.

The Court's Ruling

The Petition has no merit. It has not successfully shown any reversible error in the assailed Decision and Resolution.

First Issue:

Giving Due Courseto Petition Justifiable

Respondent's Petition before the Court of Appeals, assailing the Decision and Resolution of the NLRC, was filed one day late. Nonetheless, upon motion of herein respondent, the CA reinstated "in the interest of substantial justice" the Petition that it had initially dismissed. The appellate court noted that he had no intention to delay the proceedings, and that the one-day delay in the filing of the Petition had not prejudiced the substantive rights of herein petitioner. Indeed, the prevailing trend is to accord party litigants the amplest opportunity for the proper and just determination of their causes, free from the constraints of needless technicalities. In Trans International v. Court of Appeals,[12] this Court held that if the right to appeal would be curtailed by the mere expediency of holding that respondents had belatedly filed their notice of appeal, then the courts as the final arbiters of justice, would be abandoning their avowed objective to dispense justice based on the merits of the case, not on mere technicalities.[13]

In Siguenza v. Court of Appeals,[14] the appeal, perfected thirteen (13) days late, was nonetheless allowed by the Court in the exercise of its equity jurisdiction, because "on its face the appeal appeared to be impressed with merit." In PNB v. Court of Appeals,[15] the appeal, filed three (3) days beyond the reglementary appeal period, was allowed "in the higher interest of justice x x x (f)or to bar the appeal would be inequitable and unjust when viewed in the light of the trial court's decision x x x." The Court further took notice of the detailed demonstration by petitioners therein of the merits of their case, showing that they deserved another opportunity for the proper and just determination of their cause.

In De Guzman v. Sandiganbayan,[16] procedural rules were again relaxed to give way to substantial justice, especially when "transcendental matters" like life, liberty or State security were involved. The Court said:

> "The Rules of Court was conceived and promulgated to set forth guidelines in the dispensation of justice but not to bind and chain the hand that dispenses it, for otherwise, courts will be mere slaves to or robots of

> technical rules, shorn of judicial discretion. That is precisely why courts in rendering real justice have always been, as they in fact ought to be, conscientiously guided by the norm that when on the balance, technicalities take a backseat against substantive rights, and not the other way around. x x x."

In the present case, the findings and conclusions of the labor arbiter and the NLRC are at odds, and the case concerns a labor matter to which our fundamental law mandates the State to give utmost priority and full protection. Hence, this Court finds no reason to disturb the CA's action giving due course to the certiorari Petition, despite the fact that it was filed one day late. The rationale behind the constitutional mandate to accord full protection to labor and to safeguard the employee's means of livelihood should be given proper attention and sanction.

Second Issue:No Just Cause for Dismissal

In resolving the present controversy, the Court is guided by the basic principle in termination cases that the employer bears the burden of proving that the dismissal of the employee is for a just or an authorized cause.[17] Failure to dispose of the burden would imply that the dismissal is not lawful, and that the employee is entitled to reinstatement, back wages and accruing benefits.[18] Moreover, dismissed employees are not required to prove their innocence of the employer's accusations against them.[19]

In the present case, petitioner invokes loss of trust and confidence as the ground for dismissing respondent. Under Article 282 of the Labor Code, as amended, loss of confidence must be based on "fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative." Ordinary breach does not suffice.

A breach of trust is willful if it is done intentionally and knowingly without any justifiable excuse, as distinguished from an act done carelessly, thoughtlessly or inadvertently. [20]

Petitioner alleges that respondent fraudulently breached its trust and confidence when, without its knowledge and consent, he disposed of the Bukidnon property; though actually belonging to petitioner, that property had purportedly been merely placed in trust under his name. Thereafter, he assigned the same property to petitioner, allegedly despite his full knowledge that the title had already been transferred -- with his active planning and participation -- to the Republic of the Philippines.

The CA found petitioner's allegations and conclusions to be unsupported by substantial evidence or by established facts. We agree.

It was more than seven (7) years (in July 1992) after respondent had been separated from the employ of petitioner when two of his former co-employees at CDCP (petitioner's predecessor) -- Reynaldo Tac-an and Luciano Tadena -- went to see him at his home in Quezon City, carrying accomplished documents and a Special Power of Attorney. They informed him that the pieces of land in Bukidnon, including that which had been placed by petitioner in his name, were covered by CARP; and that he therefore had to sign the documents. Relying on their representations, he did as he had been told.

Petitioner has not at any time denied or repudiated the acts of Tac-an and Tadena. Thus, we cannot fault respondent for presuming that both employees were acting on its behalf.

After respondent was rehired by petitioner in August 1996, the head of its Realty Management Group, Felipe C. Alday, summoned him. In his office, Alday showed respondent a list of parcels of land in the name of different persons, including the latter's, with the corresponding status of each one. The former informed respondent that, for CARP purposes, the transfer of the property registered under the latter's name had not yet been consummated. Alday then requested respondent to sign a prepared Deed of Assignment, in which the latter had purportedly

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reassigned the subject property to petitioner.

It appears that the representations of Alday -- who, as head of petitioner's Realty Management Group, presumably knew what he was talking about -- were relied upon by respondent. The fact that there was a priorly prepared Deed of Assignment in favor of petitioner, and that the Deed was ready for respondent's immediate signature, further shows that Alday's acts were with the full knowledge and authority of top management. Petitioner should not now be allowed to penalize respondent for merely acting on the representations of its officer, whose primary function precisely related directly to the management of its real properties. After all, the fact that he had previously signed documents purporting to transfer the subject land to the government, pursuant to its agrarian reform program, is not totally inconsistent with the statement of Alday that the transfer of the same property had not been fully consummated.

In addition, the documents presented to respondent, first by Tac-an and Tadena then by Alday, had priorly been prepared and readied for his signature. This fact negates petitioner's assertion that he had actively planned and participated in the transfer of the property to the government for his personal benefit.

Rather, it is apparent that he had no choice but to sign the documents presented to him by petitioner's officers. He was aware that he was a mere employee being used as a dummy for the corporation, and that he had affixed his signature for no consideration other than his continued employment. Under the circumstances, he merely acceded to the will of petitioner, lest he lose his means of livelihood.

Furthermore, loss of confidence as a just cause for termination of employment is premised on the fact that the employee concerned holds a position of responsibility, trust and confidence. In order to constitute a just cause for dismissal, the act complained of must be so related to the performance of the duties of the dismissed employee as would show that he or she is unfit to continue working for the employer.[21]

Undeniably, the position of project controller -- the position of respondent at the time of his dismissal -- required trust and confidence, for it related to the handling of business expenditures or finances. However, his act allegedly constituting breach of trust and confidence was not in any way related to his official functions and responsibilities as controller. In fact, the questioned act pertained to an unlawful scheme deliberately engaged in by petitioner in order to evade a constitutional and legal mandate. We find the observations of the Office of the Solicitor General to be apropos in this regard:

> "x x x. Noteworthy is the unlawful scheme by PNCC of using its employees as "dummies" for the acquisition of vast tract of land in Bukidnon and thereafter compelling them to assign all rights over same properties in favor of PNCC. Such scheme by PNCC is a flagrant violation of the Constitution as regards the maximum area of real property which a corporation can acquire.
>
> "An ordinary laborer such as Matias will definitely submit to such scheme plotted by PNCC so as not to lose his source of livelihood.
>
> "PNCC, being Matias' employer, induced if not compelled the latter to commit said acts. What was constitutionally prohibited to the Corporation was done indirectly by using Matias and all its employees.
>
> "PNCC and its administrative officers were also parties to the anomalous transactions of assigning the properties to different employees to indirectly evade the compulsory coverage of the CARP. PNCC cannot use the cloak of protection granted to employers under the Labor Code to terminate an optionless employee. Any party who seeks relief before any judicial tribunal must come with "clean hands."
>
> "Since there was doubt as regards the real party at fault, it is equitable to resolve it in favor of labor."[22]

It has oft been held that loss of confidence should not be used "as a subterfuge for causes which are illegal,

improper and unjustified. It must be genuine, not a mere afterthought to justify an earlier action taken in bad faith."[23] Be it remembered that at stake here are the sole means of livelihood, the name and the reputation of the employee. Thus, petitioner must prove an actual breach of duty founded on clearly established facts sufficient to warrant his loss of employment.[24]

We stress once more that the right of an employer to dismiss an employee on account of loss of trust and confidence must not be exercised whimsically. To countenance an arbitrary exercise of that prerogative is to negate the employee's constitutional right to security of tenure. In other words, the employer must clearly and convincingly prove by substantial evidence the facts and incidents upon which loss of confidence in the employee may be fairly made to rest; otherwise, the latter's dismissal will be rendered illegal.[25]

WHEREFORE, the Petition is hereby DENIED and the assailed Decision and Resolution AFFIRMED. Costs against petitioner.

SO ORDERED.

Sandoval-Gutierrez, Corona, Carpio-Morales, and Garcia, JJ., concur.

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* The Petition names the "Honorable Court of Appeals" as a respondent. However, under §4 of Rule 45 of the Rules of Court, the lower court need not be impleaded in petitions for review. Hence, the Court deleted it from the title.

[1] Rollo, pp. 24-44.

[2] Id., pp. 48-59. Seventeenth Division. Penned by Justice Josefina Guevara-Salonga, with the concurrence of Justices Rodrigo V. Cosico (Division chair) and Edgardo F. Sundiam (member).

[3] Id., p. 61.

[4] CA Decision, p. 11; rollo, p. 58.

[5] CA Decision, pp. 2-4; rollo, pp. 49-51.

[6] Joel Lustria.

[7] Labor arbiter's Decision dated September 30, 1999, p. 8; rollo, p. 69.

[8] NLRC Decision dated January 31, 2001, pp. 9-10; rollo, pp. 93-94.

[9] CA Decision, pp. 9-10; rollo, pp. 56-57.

[10] This case was deemed submitted for decision on July 6, 2004, upon this Court's receipt of petitioner's Memorandum, signed by Attys. Glenna Jean R. Ogan and Raisa P. Disomangcop. Respondent's Memorandum, signed by Attys. Antonio Enrile-Inton Jr. and Mariano A. Lalin, was received by this Court on June 30, 2004.

[11] Petition, p. 9; rollo, p. 32. Original in upper case.

[12] 285 SCRA 49, January 26, 1998.

[13] Ibid.

[14] 137 SCRA 570, July 16, 1985, per Gutierrez Jr., J.

[15] 246 SCRA 304, July 14, 1995, per Davide Jr., J (now CJ).

[16] 256 SCRA 171, April 11, 1996, per Francisco, J.

[17] Philippine Long Distance Telephone Company v. National Labor Relations Commission, 276 SCRA 1, July 23, 1997.

[18] Me-Shurn Corporation v. Me-Shurn Worker's Union, GR No. 156292, January 11, 2005.

[19] Garcia v. National Labor Relations Commission, 289 SCRA 36, April 15, 1998.

[20] Gonzales v. NLRC, 355 SCRA 195, March 26, 2001.

[21] Gonzales v. National Labor Relations Commission, supra; Equitable Banking Corporation v. National Labor Relations Commission, 273 SCRA 352, June 13, 1997; National Sugar Refineries Corporation (NASUREFCO) v. National Labor Relations Commission, 286 SCRA 478, February 24, 1998; Jardine Davies, Inc. v. National Labor Relations Commission, 311 SCRA 289, July 28, 1999.

[22] Rollo, pp. 137-138.

[23] General Bank & Trust Co. v. Court of Appeals, 135 SCRA 569, 578, April 9, 1985, per Gutierrez Jr., J.

[24] Fernandez v. National Labor Relations Commission, 281 SCRA 423, November 6, 1997.

[25] Jardine Davies, Inc. v. National Labor Relations Commission, supra.

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