

CORAZON C. SIM, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND EQUITABLE PCI-BANK, RESPONDENTS.[]

G.R. No. 157376. October 02, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Corazon Sim (petitioner) filed a case for illegal dismissal with the Labor Arbiter, alleging that she was initially employed by Equitable PCI-Bank (respondent) in 1990 as Italian Remittance Marketing Consultant to the Frankfurt Representative Office. Eventually, she was promoted to Manager position, until September 1999, when she received a letter from Remegio David -- the Senior Officer, European Head of PCIBank, and Managing Director of PCIB- Europe -- informing her that she was being dismissed due to loss of trust and confidence based on alleged mismanagement and misappropriation of funds.

Respondent denied any employer-employee relationship between them, and sought the dismissal of the complaint.

On September 3, 2001, the Labor Arbiter rendered its Decision dismissing the case for want of jurisdiction and/or lack of merit.[1] According to the Labor Arbiter:

It should be stressed at this juncture that the labor relations system in the Philippines has no extra-territorial jurisdiction. It is limited to the relationship between labor and capital within the Philippines. Since complainant was hired and assigned in a foreign land, although by a Philippine Corporation, it follows that the law that govern their relationship is the law of the place where the employment was executed and her place of work or assignment. On this premise, the Italian law allegedly provides severance pay which was applied and extended to herein complainant (Annex "P", respondent's position paper).

As can be gleaned from the foregoing, a further elucidation on the matter would be an exercise in futility. Hence, this case should be dismissed for want of jurisdiction.

Assuming for the sake of argument that this Office has jurisdiction over this case, still, this Office is inclined to rule in favor of the respondent.

Complainant, as General Manager is an employee whom the respondent company reposed its trust and confidence. In other words, she held a position of trust. It is well-settled doctrine that the basic premise for dismissal on the ground of loss of confidence is that the employee concerned holds a position of trust and confidence. (National Sugar Refineries Corporation vs. NLRC, 286 SCRA 478.)

x x x

In this case, the respondent company had strong reason to believe that the complainant was guilty of the offense charged against her.[2]

On appeal, the National Labor Relations Commission (NLRC) affirmed the Labor Arbiter's Decision and dismissed petitioner's appeal for lack of merit.[3]

Without filing a motion for reconsideration with the NLRC, petitioner went to the Court of Appeals (CA) via a petition for certiorari under Rule 65 of the Rules of Court.

In a Resolution dated October 29, 2002, the CA[4] dismissed the petition due to petitioner's non-filing of a motion for reconsideration with the NLRC.[5]

Petitioner filed a motion for reconsideration but it was nonetheless denied by the CA per Resolution dated February 26, 2003.

Hence, the present recourse under Rule 45 of the Rules of Court.

Petitioner alleges that:

- The Court of Appeals departed from the accepted and usual concepts of remedial law when it ruled that the petitioner should have first filed a Motion for Reconsideration with the National Labor Relations Commission.
- The National Labor Relations Commission decided a question of jurisdiction heretofore not yet determined by the Court and decided the same in a manner not in accord with law when it ruled that it had no jurisdiction over a labor dispute between a Philippine corporation and its employee which it assigned to work for a foreign land.[6]

The pivotal question that needs to be resolved is whether or not a prior motion for reconsideration is indispensable for the filing of a petition for certiorari under Rule 65 of the Rules of Court with the CA.

Under Rule 65, the remedy of filing a special civil action for certiorari is available only when there is no appeal; or any plain, speedy, and adequate remedy in the ordinary course of law.[7] A “plain” and “adequate remedy” is a motion for reconsideration of the assailed order or resolution, the filing of which is an indispensable condition to the filing of a special civil action for certiorari.[8] This is to give the lower court the opportunity to correct itself.[9]

There are, of course, exceptions to the foregoing rule, to wit:

- (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 proceedings 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;
- (g) where the proceedings in the lower court are a nullity for lack of due process;
- (h) where the proceeding was ex parte or in which the petitioner had no opportunity to object; and
- (i) where the issue raised is one purely of law or public interest is involved.[10]

Petitioner, however, failed to qualify her case as among the few exceptions. In fact, the Court notes that the petition filed before the CA failed to allege any reason why a motion for reconsideration was dispensed with by petitioner. It was only in her motion for reconsideration of the CA's resolution of dismissal and in the petition

filed in this case that petitioner justified her non-filing of a motion for reconsideration.

Petitioner argues that filing a motion for reconsideration with the NLRC would be merely an exercise in futility and useless. But it is not for petitioner to determine whether it is so. As stressed in *Cervantes v. Court of Appeals*:

It must be emphasized that a writ of certiorari is a prerogative writ, never demandable as a matter of right, never issued except in the exercise of judicial discretion. Hence, he who seeks a writ of certiorari must apply for it only in the manner and strictly in accordance with the provisions of the law and the Rules. Petitioner may not arrogate to himself the determination of whether a motion for reconsideration is necessary or not. To dispense with the requirement of filing a motion for reconsideration, petitioner must show a concrete, compelling, and valid reason for doing so, which petitioner failed to do. Thus, the Court of Appeals correctly dismissed the petition.[11] (Emphasis supplied)

Petitioner also contends that the issue at bench is purely a question of law, hence, an exception to the rule. A reading of the petition filed with the CA shows otherwise. The issues raised in this case are mixed questions of fact and law. There is a question of fact when doubt or difference arises as to the truth or falsehood of the alleged facts, and there is a question of law where the doubt or difference arises as to what the law is on a certain state of facts.[12]

Petitioner, aside from questioning the ruling of the NLRC sustaining the Labor Arbiter's view that it does not have any jurisdiction over the case, also questions the NLRC's ruling affirming the Labor Arbiter's conclusion that she was validly dismissed by respondent. The legality of petitioner's dismissal hinges on the question of whether there was an employer-employee relationship, which was denied by respondent; and, if in the affirmative, whether petitioner, indeed, committed a breach of trust and confidence justifying her dismissal. These are mixed questions of fact and law and, as such, do not fall within the exception from the filing of a motion for reconsideration.

Consequently, the CA was not in error when it dismissed the petition. More so since petitioner failed to show any error on the part of the Labor Arbiter and the NLRC in ruling that she was dismissed for cause.

The rule is that the Court is bound by the findings of facts of the Labor Arbiter or the NLRC, unless it is shown that grave abuse of discretion or lack or excess of jurisdiction has been committed by said quasi-judicial bodies.[13] The Court will not deviate from said doctrine without any clear showing that the findings of the Labor Arbiter, as affirmed by the NLRC, are bereft of sufficient substantiation.

Petitioner does not deny having withdrawn the amount of P3,000,000.00 lire from the bank's account. What petitioner submits is that she used said amount for the Radio Pilipinas sa Roma radio program of the company. Respondent, however, countered that at the time she withdrew said amount, the radio program was already off the air. Respondent is a managerial employee. Thus, loss of trust and confidence is a valid ground for her dismissal.[14] The mere existence of a basis for believing that a managerial employee has breached the trust of the employer would suffice for his/her dismissal.[15]

[w]hen an employee accepts a promotion to a managerial position or to an office requiring full trust and confidence, she gives up some of the rigid guaranties available to ordinary workers. Infractions which if committed by others would be overlooked or condoned or penalties mitigated may be visited with more severe disciplinary action. A company's resort to acts of self-defense would be more easily justified.[16]

The Court notes, however, a palpable error in the Labor Arbiter's disposition of the case, which was affirmed by the NLRC, with regard to the issue on jurisdiction. It was wrong for the Labor Arbiter to rule that "labor relations system in the Philippines has no extra-territorial jurisdiction." [17]

Article 217 of the Labor Code provides for the jurisdiction of the Labor Arbiter and the National Labor Relations

Commission, viz.:

ART. 217. Jurisdiction of Labor Arbiters and the Commission. – (a) Except as otherwise provided under this Code the Labor Arbiters shall have original and exclusive jurisdiction to hear and decide, within thirty (30) calendar days after the submission of the case by the parties for decision without extension, even in the absence of stenographic notes, the following cases involving all workers, whether agricultural or non-agricultural:

- Unfair labor practice cases;
- Termination disputes;
- If accompanied with a claim for reinstatement, those cases that workers may file involving wage, rates of pay, hours of work and other terms and conditions of employment;
- Claims for actual, moral, exemplary and other forms of damages arising from the employer-employee relations;
- Cases arising from any violation of Article 264 of this Code, including questions involving the legality of strikes and lockouts; and
- Except claims for Employees Compensation, Social Security, Medicare and maternity benefits, all other claims, arising from employer-employee relations, including those of persons in domestic or household service, involving an amount of exceeding five thousand pesos (P5,000.00) regardless of whether accompanied with a claim for reinstatement.

(b) The commission shall have exclusive appellate jurisdiction over all cases decided by Labor Arbiters.

Moreover, Section 10 of Republic Act (R.A.) No. 8042, or the Migrant Workers and Overseas Filipinos Act of 1995,[18] provides:

SECTION 10. Money Claims. — Notwithstanding any provision of law to the contrary, the Labor Arbiters of the National Labor Relations Commission (NLRC) shall have the original and exclusive jurisdiction to hear and decide, within ninety (90) calendar days after the filing of the complaint, the claims arising out of an employer-employee relationship or by virtue of any law or contract involving Filipino workers for overseas deployment including claims for actual, moral, exemplary and other forms of damages.

Also, Section 62 of the Omnibus Rules and Regulations Implementing R.A. No. 8042[19] provides that the Labor Arbiters of the NLRC shall have the original and exclusive jurisdiction to hear and decide all claims arising out of employer-employee relationship or by virtue of any law or contract involving Filipino workers for overseas deployment including claims for actual, moral, exemplary and other forms of damages, subject to the rules and procedures of the NLRC.

Under these provisions, it is clear that labor arbiters have original and exclusive jurisdiction over claims arising from employer-employee relations, including termination disputes involving all workers, among whom are overseas Filipino workers.[20] In *Philippine National Bank v. Cabansag*, the Court pronounced:

x x x Whether employed locally or overseas, all Filipino workers enjoy the protective mantle of Philippine labor and social legislation, contract stipulations to the contrary notwithstanding. This pronouncement is in keeping with the basic public policy of the State to 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. For the State assures the basic rights of all workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work [Article 3 of the Labor Code of the Philippines; See also Section 18, Article II and Section 3, Article XIII, 1987 Constitution]. This ruling is likewise rendered

imperative by Article 17 of the Civil Code which states that laws “which have for their object public order, public policy and good customs shall not be rendered ineffective by laws or judgments promulgated, or by determination or conventions agreed upon in a foreign country.”[21] (Emphasis supplied)

In any event, since the CA did not commit any error in dismissing the petition before it for failure to file a prior motion for reconsideration with the NLRC, and considering that the Labor Arbiter and the NLRC's factual findings as regards the validity of petitioner's dismissal are accorded great weight and respect and even finality when the same are supported by substantial evidence, the Court finds no compelling reason to relax the rule on the filing of a motion for reconsideration prior to the filing of a petition for certiorari.

WHEREFORE, the petition is DENIED.

Costs against petitioner.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Nachura, and Reyes, JJ., concur.

[*] The Court of Appeals, impleaded as respondent, is deleted from the caption per Section 4, Rule 45 of the RULES OF COURT.

[1] CA rollo, p. 66.

[2] Id. at 64-65.

[3] Id. at 23.

[4] Rendered by Associate Justice Buenaventura J. Guerrero (now retired), with Associate Justices Teodoro P. Regino (also retired) and Mariano C. del Castillo, concurring.

[5] CA rollo, p. 69.

[6] Id. at 15.

[7] RULES OF COURT, Rule 65, Section 1.

[8] *Cervantes v. Court of Appeals*, G.R. No. 166755, November 18, 2005, 475 SCRA 562, 569.

[9] *Abacan v. Northwestern University, Inc.*, G.R. No. 140777, April 8, 2005, 455 SCRA 136, 148.

[10] *Abacan v. Northwestern University, Inc.*, id. at 149.

[11] *Cervantes v. Court of Appeals*, supra note 8, at 570.

[12] *Cano v. Galvante*, 440 Phil. 821, 825-826 (2002).

[13] *Nueva Ecija Electric Cooperative II v. National Labor Relations Commission*, G.R. No. 157603, June 23, 2005, 461 SCRA 169, 182

[14] *Philippine Long Distance Company v. Tolentino*, G.R. No. 143171, September 21, 2004, 438 SCRA 555, 560.

[15] *Community Rural Bank of San Isidro (N.E.), Inc. v. Paez*, G.R. No. 158707, November 27, 2006, 508 SCRA 245, 259.

[16] Philippine Long Distance Company case, *supra* note 14, at 560.

[17] CA rollo, p. 64.

[18] Effective July 15, 1995.

[19] Published in the April 7, 1996 issue of the Manila Bulletin.

[20] Philippine National Bank v. Cabansag, G.R. No. 157010, June 21, 2005, 460 SCRA 514, 526-527.

[21] *Id.* at 528-529.

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