

GALLERA DE GUISON HERMANOS, INC., CARLO REYES AND PACITA REYES, PETITIONERS, VS. MA. ASUNCION C. CRUZ, RESPONDENT.

G.R. No. 159390. June 10, 2004

Ponente: TINGA, J.

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TINGA, J.:

This Petition[1] seeks a review of the decision[2] and resolution[3] of the Court of Appeals dismissing the petitioners' petition for certiorari[4] and affirming the decision[5] of the Labor Arbiter which found that the respondent was illegally dismissed and therefore entitled to separation pay, backwages and attorney's fees.

The appellate court's findings of fact, undisputed by the petitioners, are as follows:

"Private respondent Ma. Asuncion G. Cruz was a cashier and stockholder of Petitioner Gallera de Guison Hermanos, Inc. ('Gallera' for brevity) since 1976. Gallera is engaged in the operation and maintenance of a cockpit arena in Quezon City and petitioners Carlos H. Reyes, Sr. and Pacita G. Reyes are the chairman of the Board of Directors and President, respectively thereof.

On February 15, 1998, private respondent wrote Gallera requesting that she be assigned as Liaison Officer, which is a more challenging job than as a cashier.

Subsequently, Atty. Sumawang, Gallera's counsel, wrote a letter dated February 16, 1998 addressed to the private respondent informing her that the Board is not in a legal position to consider the request because an employee cannot be appointed to another position which would result in the reduction of his existing salary and that the duties and responsibilities of a Liaison Officer are already being performed by some of the management staff.

On February 24, 1998, due to the alleged ill treatment and harassment perpetrated by Galera's (sic) management against the private respondent, the latter procured a medical certificate and went on sick leave until March 5, 1998.

While on leave, petitioners appointed one Antonio G. Reyes, a relative of the former, as cashier.

On February 26, 1998, private respondent wrote Atty. Sumawang that her request for transfer has no legal implication and stated that the real reason for the request for transfer is the ill treatment and harassment perpetuated by the management of Gallera's management (sic) on her person.

The following day, Gallera, thru Atty. Sumawang; wrote private respondent advising her that upon her return to work on March 6, 1998, she shall cease and desist from occupying and performing the duties of cashier and instead she shall report for work on a no work no pay basis in the meantime that the management is studying to which position private respondent will be transferred.

Meanwhile, private respondent was designated as liaison officer as shown in 22 payrolls dating from October 1, 1999 up to November 13, 1999.

On November 13, 1999, the salary of private respondent was withheld allegedly due to her absence on the said

date. Private respondent's designation as liaison officer in the payroll on even date was likewise removed. Thereafter, the private respondent did not report for work.

On December 2, 1999, Gallera, thru its board chairman Carlos Reyes wrote private respondent informing the latter that the position of liaison officer still holds and that private respondent is still welcome to work with Galera (sic) on a "no work, no pay basis," except the allowances and other cash entitlements to the position.

On March 8, 2000, private respondent filed with the Department of Labor, NCR, a complaint for illegal dismissal, docketed as NLRC NCR Case No. 00-03-01416-2000.

Meanwhile, Galera (sic) notified private respondent thru a letter dated April 16, 2000, that the latter should report for work on April 23, 2000 and explain why private respondent has not been reporting for work since November 18, 1999.

On October 15, 2000, labor arbiter issued a decision declaring private respondent to have been illegally dismissed by petitioners, the dispositive portion of which, reads as follows:

WHEREFORE, premises considered, judgment is hereby rendered declaring complainant to have been illegally dismissed by respondent corporation.

Respondents are ordered to pay complainant the following:

- (1) Separation pay in lieu of reinstatement for twenty four (24) years in the amount of P460,800.00;
- (2) Backwages from November 13, 1999 up to the date of this decision in the amount of P211,200.00; and
- (3) Attorneys fees in the amount of ten (10%) percent of the total amount awarded.

All other claims are dismissed...

Copy of said decision was received by petitioners on December 8, 2000. Petitioners, however, filed their Notice of Appeal and Memorandum on Appeal only on December 26, 2000 or 8 days beyond the 10-day reglementary period for filing an appeal. Consequently, NLRC Second Division dismissed the appeal on May 30, 2001 for being filed out of time...

Expectedly, petitioners filed a Motion for Reconsideration on June 15, 2001. But NLRC Second Division resolved to deny the same on August 9, 2001."^[6]

The petitioners then filed a petition for certiorari with the Court of Appeals assailing the NLRC's dismissal of its appeal. Setting aside technicalities, the appellate court dealt with the substantive issues in the petition. The Court of Appeals nonetheless dismissed the petition ruling that contrary to the petitioners' contention that respondent Ma. Asuncion C. Cruz ("Cruz") resigned from her position as cashier, the latter was actually removed from her position by the petitioners. Subsequently, the petitioners appointed Cruz as liaison officer, a move which entailed a demotion in her position and diminution of salaries, privileges and other benefits. Hence, the Court of Appeals concluded that Cruz was constructively dismissed and declared her entitled to backwages, separation pay and attorney's fees. Finding that the individual petitioners-officers of Gallera, Carlos and Pacita Reyes, assented to and sustained Cruz' illegal transfer from cashier to liaison officer, the appellate court declared the former solidarily liable with Gallera for Cruz' monetary claims.

In their petition, the petitioners tenaciously assert that Cruz resigned from her position as cashier and insisted that she be designated as liaison officer. Assuming that she was forcibly transferred to the latter position, petitioners theorize that Cruz is estopped from questioning said transfer because she voluntarily assumed the position and received the appurtenant salary for one (1) year and eight (8) months. The petitioners also dispute the appellate court's decision holding the individual petitioners solidarily liable with Gallera for Cruz' monetary claims.

We denied the Petition in our Resolution[7] dated October 15, 2003 for failure of the petitioners to take the appeal within the reglementary period in view of the earlier denial of their Motion for Extension. However, acting on the petitioners' Motion for Reconsideration[8] dated October 3, 2003, we issued a Resolution[9] dated January 12, 2004 granting the motion, reinstating the petition and requiring the respondent to file a comment on the petition.

Cruz maintains in her Comment[10] dated March 19, 2004 that the issues raised in the instant petition have been addressed and resolved in her favor by the Labor Arbiter, the NLRC and the Court of Appeals.

Indeed, the instant petition raises a fundamental factual issue which has already been exhaustively discussed and passed upon by the Labor Arbiter and the Court of Appeals, i.e, whether Cruz was dismissed for cause. The appellate court, dismissing the petitioners' petition for certiorari assailing the NLRC's dismissal of their appeal and upholding the decision of the Labor Arbiter, ruled that Cruz was illegally dismissed and the dismissal was attended by bad faith on the part of the petitioners; hence, the petitioners are solidarily liable for Cruz' monetary claims consisting of separation pay, backwages and attorney's fees.

We stated then, "time and again the much-repeated but not so well-heeded rule that findings of fact of the Court of Appeals, particularly where it is in absolute agreement with that of the NLRC and the Labor Arbiter, as in this case, are accorded not only respect but even finality and are deemed binding upon this Court so long as they are supported by substantial evidence." [11] We reiterate the statement in this case.

After a careful consideration of the records of this case, we find no reason to disturb the unanimous findings and conclusions of the Court of Appeals, NLRC and the Labor Arbiter.

WHEREFORE, the instant petition is DENIED and the assailed decision dated July 31, 2002 of the Court of Appeals is AFFIRMED.

SO ORDERED.

Puno, (Chairman), Quisumbing, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Dated October 24, 2003, Rollo, pp. 8-166, with Annexes.

[2] Dated July 31, 2002, Rollo, pp. 29-40.

[3] Dated August 7, 2003, Rollo, pp. 42-43.

[4] Assailing the decision and resolution of the National Labor Relations Commission (NLRC) which dismissed the petitioners' appeal for having been filed beyond the reglementary period.

[5] Dated October 15, 2000, Rollo, pp. 128-147.

[6] Supra, note 2.

[7] Supra, note 1 at 176.

[8] Id. at 178-179.

[9] Id. at 186.

[10] Id. at 197-209.

[11] Hantex Trading Co., Inc. v. Court of Appeals, G.R. No. 148241, September 27, 2002, 390 SCRA 181, 189, citing Permex, Inc. v. NLRC, G.R. No. 125031, January 24, 2000, 323 SCRA 121.

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