

COCA-COLA BOTTLERS PHILIPPINES, INC., *Petitioner*, vs. VALENTINA GARCIA, *Respondent*.

G.R. No. 159625. January 31, 2008

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court assailing the Decision[1] dated September 24, 2002 of the Court of Appeals (CA) in CA-G.R. SP No. 51794 and the CA Resolution[2] dated July 25, 2003 which denied petitioner's Motion for Partial Reconsideration.

The factual background of the case is as follows:

On December 1, 1988, Coca-Cola Bottlers Philippines, Inc. (petitioner) hired Valentina G. Garcia (respondent) as Quality Control Technician on probationary status. She was assigned at petitioner's Tacloban plant. On June 1, 1989 she became a regular employee. She was the most junior among the personnel in the Quality Control Department (Department).

In the middle of 1989, petitioner adopted some modernization programs which resulted in increased efficiency and production. Likewise, the work load of their employees was substantially reduced. As a result, one employee in the Department became redundant. Under the Collective Bargaining Agreement (CBA) and Article 283 of the Labor Code, respondent, as the most junior employee of the Department could be validly terminated. However, instead of terminating respondent on ground of redundancy, petitioner decided to assign her to its Iloilo plant.

Thus, sometime in April 1990, petitioner informed respondent that she would be transferred to the Iloilo plant for being an excess or redundant employee in the Tacloban plant. Respondent refused to be transferred. Through her Union, she brought the matter to their grievance machinery. Meanwhile, petitioner pushed through with respondent's transfer. On June 26, 1990, petitioner gave respondent notice of her transfer to take effect on July 2, 1990. Yet, on said date, respondent reported for work at the Tacloban plant. The security guard refused her entry.

Records show that on June 17, 1991, or almost one year after she was refused entry, respondent filed a complaint for illegal dismissal with Regional Arbitration Branch No. VIII, Tacloban City, National Labor Relations Commission (NLRC).

In its Position Paper, petitioner denied that respondent was illegally dismissed and countered that it gave respondent her transfer notice on June 26, 1990, giving her until June 30, 1990 to transfer to Iloilo. Petitioner claims that respondent ignored said notice; that when the Iloilo plant could no longer wait for respondent, petitioner decided to serve her notice of dismissal on July 13, 1990 for abandonment of work.

On August 15, 1995, the Labor Arbiter (LA) rendered a Decision[3] finding that respondent was illegally dismissed which petitioner appealed.

On September 26, 1996, the NLRC rendered a Decision[4] reversing the decision of the LA. It held that there was

a valid transfer since the mobility clause in petitioner's employment contract was valid; and because petitioner refused to be transferred, she was considered to have abandoned her work. Respondent's Motion for Reconsideration was denied by the NLRC in a Resolution dated November 25, 1996.

Respondent then filed with this Court a Petition for Certiorari[5] which was referred to the CA pursuant to *St. Martin Funeral Homes v. National Labor Relations Commission*. [6]

On September 24, 2002, the CA rendered a Decision[7] partially granting the petition. While the CA held that abandonment of work was a just cause to effect respondent's dismissal, it found that the dismissal was ineffectual since it did not comply with due process requirements, as petitioner received only the notice of her dismissal on the ground of abandonment, and she was not given the initial notice of her impending dismissal or the chance to explain her side. It held petitioner liable for backwages from the time respondent was dismissed up to the finality of the decision, in accordance with *Serrano v. National Labor Relations Commission*. [8]

Petitioner and respondent filed their respective motions for partial reconsideration. [9] Respondent questioned the CA's finding that she abandoned her work. Petitioner, for its part, assailed the CA's pronouncement that it failed to observe due process, arguing that it sent several notices to respondent's last known address. On July 25, 2003, the CA issued a Resolution[10] denying the motions for partial reconsideration.

Hence, the present petition anchored on the following grounds:

I

THE COURT OF APPEALS HAS DECIDED IN A WAY PROBABLY NOT IN ACCORD WITH LAW OR WITH APPLICABLE DECISIONS OF THE SUPREME COURT, WHEN IT RULED THAT PETITIONER FAILED TO OBSERVE DUE PROCESS IN TERMINATING RESPONDENT, DESPITE THE UNCONTROVERTED FACT THAT SEVERAL NOTICES WERE SENT TO RESPONDENT'S LAST KNOWN ADDRESS BUT WERE RETURNED UNSERVED DUE TO CAUSES SOLELY ATTRIBUTABLE TO RESPONDENT HERSELF.

II

THE COURT OF APPEALS HAS DECIDED IN A WAY PROBABLY NOT IN ACCORD WITH LAW OR WITH APPLICABLE DECISIONS OF THE SUPREME COURT, WHEN IT RETROACTIVELY APPLIED THE "SERRANO DOCTRINE" TO THE INSTANT CASE WHICH WAS ALREADY PENDING BEFORE SUCH DOCTRINE WAS PROMULGATED BY THE HONORABLE SUPREME COURT. [11]

Petitioner argues that since respondent was terminated on the ground of abandonment of work, the sending of several notices to respondent's last known address informing her of the charges against her and giving her an opportunity to explain her side was sufficient compliance with due process; that it cannot be held liable for violation of due process when the notices were returned unserved due to causes solely attributable to the respondent herself; that the Serrano doctrine is inapplicable since it was superseded by *Agabon v. National Labor Relations Commission* [12] which ruled that a violation of an employee's statutory right to two notices prior to the termination of employment for just cause entitles such dismissed employee to nominal damages only, not payment of full backwages.

Respondent, on the other hand, contends that the records of the case would show that she did not abandon her work nor did she have any intention to abandon her work or sever the employer-employee relationship; that her termination was actually an illegal scheme on the part of petitioner to correct certain personnel lapses; that she was dismissed without due process; and that petitioner is obliged to pay backwages.

Petitioner avers that respondent, in raising the issue of the legality of her termination in her Comment, cannot be

allowed to seek affirmative relief from the Court since the CA's ruling thereon had already become final for her failure to appeal therefrom.

The Court agrees with petitioner that respondent can no longer seek a review of the CA's ruling on the validity of her termination from employment on the ground of abandonment of work. Records do not show that respondent appealed from the CA decision. For failure to appeal the decision of the CA to this Court, respondent cannot obtain any affirmative relief other than that granted in the decision of the CA. That decision of the CA on the validity of her termination has become final as against her and can no longer be reviewed, much less reversed, by this Court.

It is well-settled that a party who has not appealed from a decision cannot seek any relief other than what is provided in the judgment appealed from.[13] An appellee who has himself not appealed may not obtain from the appellate court any affirmative relief other than the ones granted in the decision of the court below.[14] The appellee can only advance any argument that he may deem necessary to defeat the appellant's claim or to uphold the decision that is being disputed, and he can assign errors in his brief if such is required to strengthen the views expressed by the court a quo.[15] These assigned errors in turn may be considered by the appellate court solely to maintain the appealed decision on other grounds, but not for the purpose of reversing or modifying the judgment in the appellee's favor and giving him other reliefs.[16]

Consequently, the sole issue for resolution in the present petition is whether respondent was accorded procedural due process before her separation from work.

The answer is in the negative.

In dismissing an employee, the employer has the burden of proving that the dismissed worker has been served two notices: (1) the first to inform the employee of the particular acts or omissions for which the employer seeks his dismissal, and (2) the second to inform the employee of his employer's decision to terminate him.[17] The first notice must state that the employer seeks dismissal for the act or omission charged against the employee; otherwise, the notice does not comply with the rules.[18]

In *Maquiling v. Philippine Tuberculosis Society, Inc.*,[19] the Court held that the first notice must inform outright the employee that an investigation will be conducted on the charges specified in such notice which, if proven, will result in the employee's dismissal. The Court explained the rationale for this rule, thus:

This notice will afford the employee an opportunity to avail all defenses and exhaust all remedies to refute the allegations hurled against him for what is at stake is his very life and limb his employment. Otherwise, the employee may just disregard the notice as a warning without any disastrous consequence to be anticipated. Absent such statement, the first notice falls short of the requirement of due process. One's work is everything, thus, it is not too exacting to impose this strict requirement on the part of the employer before the dismissal process be validly effected. This is in consonance with the rule that all doubts in the implementation and interpretation of the provisions of the Labor Code, including its implementing rules and regulations, shall be resolved in favor of labor.[20]

In the present case, petitioner argues that the purpose of the notice requirement was achieved when petitioner sent several notices to respondent at her last known address.

The Court is not persuaded by such argument.

Article 277 of the Labor Code explicitly provides:

ART. 277. Miscellaneous provisions. x x x

(b) Subject to the constitutional right of workers to security of tenure and their right to be protected against dismissal except for a just and authorized cause and without prejudice to the requirement of notice under Article 283 of this Code, the employer shall furnish the worker whose employment is sought to be terminated a written notice containing a statement of the causes for termination and shall afford the latter ample opportunity to be heard and to defend himself with the assistance of his representative if he so desires in accordance with company rules and regulations promulgated pursuant to guidelines set by the Department of Labor and Employment. x x x

Section 2, Rule XXIII, Book V of the Omnibus Rules Implementing the Labor Code provides:

Section 2. Standards of due process: requirements of notice. – In all cases of termination of employment, the following standards of due process shall be substantially observed:

I. For termination of employment based on just causes as defined in Article 282 of the Code:

(a) A written notice served on the employee specifying the ground or grounds for termination, and giving to said employee reasonable opportunity within which to explain his side;

(b) A hearing or conference during which the employee concerned, with the assistance of counsel if the employee so desires, is given opportunity to respond to the charge, present his evidence or rebut the evidence presented against him; and

(c) A written notice of termination served on the employee indicating that upon due consideration of all the circumstances, grounds have been established to justify his termination. x x x

There is no dispute that in cases of abandonment of work, notice shall be served at the worker's last known address.[21] While petitioner presented the envelopes of the alleged notices sent to respondent's last known address, the contents thereof were not offered in evidence. Thus, the records are wanting of proof that respondent was properly apprised of the charges against her and given an opportunity to explain her side, as petitioner maintains. Evidently, it is clear that respondent's dismissal was effected without the notice required by law. Thus, petitioner failed to satisfy the two-notice requirement.

The Serrano doctrine, which awarded full backwages to “ineffectual dismissal cases” where an employee dismissed for cause was denied due process, was applied by the CA. That doctrine has been abandoned by the Court's ruling in *Agabon*, where the Court held that if the dismissal was for cause, the lack of statutory due process should not nullify the dismissal, or render it illegal or ineffectual; but the employer's violation of the employee's right to statutory due process warrants the payment of indemnity[22] in the form of nominal damages. The amount of such damages is addressed to the sound discretion of the Court, taking into account the relevant circumstances.[23] The Court explicitly ruled in *Agabon* that it was abandoning the Serrano doctrine in this wise:

After carefully analyzing the consequences of the divergent doctrines in the law on employment termination, we believe that in cases involving dismissals for cause but without observance of the twin requirements of notice and hearing, the better rule is to abandon the Serrano doctrine and to follow *Wenphil* by holding that the dismissal was for just cause but imposing sanctions on the employer. Such sanctions, however, must be stiffer than that imposed in *Wenphil*. By doing so, this Court would be able to achieve a fair result by dispensing justice not just to employees, but to employers as well.[24]

Considering the foregoing, the Court deems the amount of P30,000.00 as sufficient nominal damages, pursuant to prevailing jurisprudence,[25] to vindicate or recognize respondent's right to procedural due process which was violated by her employer, herein petitioner.

WHEREFORE, the present petition is DENIED. The Decision dated September 24, 2002 and Resolution dated

July 25, 2003 of the Court of Appeals in CA-G.R. SP No. 51794 are AFFIRMED with MODIFICATION that petitioner Coca-Cola Bottlers Philippines, Inc. is ORDERED to pay respondent Valentina Garcia the amount of P30,000.00 as nominal damages for failure to comply fully with the notice requirement as part of due process. No pronouncement as to costs.

SO ORDERED.

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

* In lieu of Justice Minita V. Chico-Nazario, per Special Order No. 484 dated January 11, 2008.

[1] Penned by Associate Justice Juan Q. Enriquez, Jr. and concurred in by Associate Justices Buenaventura J. Guerrero and Eloy R. Bello, Jr., CA rollo, p. 282.

[2] Id. at 337.

[3] CA rollo, p. 29.

[4] Id. at 35.

[5] Id. at 4.

[6] 356 Phil. 811 (1998).

[7] CA rollo, p. 282.

[8] 387 Phil. 345 (2000).

[9] CA rollo, pp. 297, 301.

[10] Id. at 337.

[11] Rollo, p. 40.

[12] G.R. No. 158693, November 17, 2004, 442 SCRA 573.

[13] Solidbank Corp. v. Court of Appeals, 456 Phil. 879, 887 (2003); Buot v. Court of Appeals, G.R. No. 119679, May 18, 2001, 357 SCRA 846, 860; Quezon Development Bank v. Court of Appeals, 360 Phil. 392, 399 (1998).

[14] Solidbank Corp. v. Court of Appeals, supra note 13; Buot v. Court of Appeals, supra note 13, at 860-861; Quezon Development Bank v. Court of Appeals, supra note 13.

[15] Buot v. Court of Appeals, supra note 13, at 861; Quezon Development Bank v. Court of Appeals, supra note 13.

[16] Id.; id.; Custodio v. Court of Appeals, 323 Phil. 575, 584 (1996).

[17] Challenge Socks Corporation v. Court of Appeals, G.R. No. 165268, November 8, 2005, 474 SCRA 356, 363-364; Manly Express, Inc. v. Payong, Jr., G.R. No. 167462, October 25, 2005, 474 SCRA 323, 330.

[18] Manly Express, Inc. v. Payong, Jr., id.; Electro System Industries Corporation v. National Labor Relations Commission, G.R. No. 165282, October 5, 2005, 472 SCRA 199, 203; Tan v. National Labor Relations Commission, 359 Phil. 499, 516 (1998).

[19] G.R. No. 143384, February 4, 2005, 450 SCRA 465.

[20] Id. at 477.

[21] Agabon case, *supra* note 12, at 609; Section 2, Rule XIV, Book V of the Omnibus Implementing Rules and Regulations of the Labor Code.

[22] See *Garcia v. National Labor Relations Commission*, 327 Phil. 649 (1996).

[23] *Agabon v. National Labor Relations Commission*, *supra* note 12, at 617.

[24] Id. at 613-614.

[25] *Philemploy Services and Resources, Inc. v. Rodriguez*, G.R. No. 152616, March 31, 2006, 486 SCRA 302, 318; *Durban Apartments Corporation v. Catacutan*, G.R. No. 167136, December 14, 2005, 477 SCRA 801, 811; *Amadeo Fishing Corporation v. Nierra*, G.R. No. 163099, October 4, 2005, 472 SCRA 13, 35; *Central Luzon Conference Corporation of Seventh Day Adventist Church, Inc. v. Court of Appeals*, G.R. No. 161976, August 12, 2005, 466 SCRA 711, 713; *Caingat v. National Labor Relations Commission*, G.R. No. 154308, March 10, 2005, 453 SCRA 142, 155.

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