

OSCAR P. GARCIA and ALEX V. MORALES, Petitioners, vs. MALAYAN INSURANCE CO., INC. and NATIONAL LABOR RELATIONS COMMISSION, Respondents.

G.R. NO. 160339. March 14, 2008

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

This resolves the Petition for Review on Certiorari under Rule 45 of the Rules of Court of Oscar P. Garcia and Alex V. Morales (petitioners), assailing the March 13, 2003 Decision[1] of the Court of Appeals (CA), which upheld the validity of the termination of their employment; and the October 9, 2003 CA Resolution[2] which denied their motion for reconsideration.

The facts are of record.

Petitioners were employed as risk inspectors by Malayan Insurance Company, Inc. (private respondent). They were also officers of the Malayan Employees Association-FFW (MEA-FFW).

On December 29, 1999, private respondent issued to petitioner Garcia an Inter-Office Memorandum[3] giving him 24 hours to explain his involvement in the theft of company property, consisting of diskettes, logbooks and other documents of the Risk Analysis Section, and to return the same. Private respondent also issued to petitioner Morales a similar memorandum but with additional instruction for his preventive suspension for 30 days pending investigation.[4]

In their separate written explanations, petitioners denied their involvement in the theft and countered that the filing of the charges against them was a form of harassment against their union MEA-FFW, which was in a deadlock with respondent in the ongoing negotiations over the terms of their collective bargaining agreement.[5]

After the conduct of an informal administrative hearing,[6] private respondent notified petitioner Garcia, through a letter dated February 28, 2000, of the termination of his employment, thus:

After a painstaking evaluation of the pieces of documentary and testimonial evidence presented, the Investigating Committee concluded that there is reason to believe that you participated in the theft of the subject Company properties when you:

- 1) Took possession of the subject diskettes and logbooks without any permission from the company;
- 2) Instigated the commission of the said unlawful act; and
- 3) Refused to deliver said Company properties upon demand by Management.

The above acts constitute serious misconduct and a violation of the Company's Code of Ethics which, under Article 282 of the Labor Code, as amended, justify your dismissal from the Company. In view thereof, we regret to inform you that you are considered dismissed from your employment effective immediately.[7]

Petitioner Morales was also served a similar notice of termination but on the following grounds:

After a painstaking evaluation of the pieces of documentary and testimonial evidence presented, the Investigating Committee concluded that there is reason to believe that you participated in the theft of the subject Company properties when you:

- 1) Conspired with Mr. Garcia in attempting to cover-up the loss of the subject diskettes and logbook; and
- 2) Deliberately withheld information from the Company regarding the whereabouts of said Company properties .

A review of your 201 File likewise revealed that you have been previously suspended for tampering receipts which you presented for reimbursement by the Company. You will therefore realize that when it comes to dishonesty, you are not a first offender.

The above recent acts constitute serious misconduct and violation of the Company's Code of Ethics which, under Article 282 of the Labor Code, as amended, justify your dismissal from the Company. In view thereof, we regret to inform you that you are considered dismissed from your employment effective immediately.[8]

Petitioners filed before the Labor Arbiter (LA) a Complaint for illegal dismissal, illegal suspension, unfair labor practice, damages and attorney's fees.[9] The LA dismissed their Complaint in a Decision[10] dated November 20, 2000.

Petitioners appealed to the National Labor Relations Commission (NLRC), which issued a Resolution[11] dated November 29, 2001, affirming the November 20, 2000 LA Decision. The NLRC also denied petitioners' Motion for Reconsideration in a Resolution[12] dated February 28, 2002.

Petitioners filed a Petition for Certiorari with the CA, which dismissed it in the March 13, 2003 Decision[13] assailed herein. Petitioners' Motion for Reconsideration was also denied by the CA in its October 9, 2003 Resolution.

Hence, the present petition, which raises the following issues:

I

The Honorable public respondent court seriously erred and committed grave abuse of discretion, amounting to lack and/or excess of jurisdiction, in denying the petition for certiorari a quo and, in effect, affirming the assailed resolutions of public respondent NLRC, dismissing the complaint for unfair labor practice, illegal suspension, illegal dismissal, damages and attorney's fees x x x.

II

While the public respondent court is totally correct in declaring that "factual findings of the NLRC, particularly when it coincide with those of the Labor Arbiter, are accorded respect, even finality," it erred, however in applying said doctrinal ruling in the instant case, x x x.

III

The public respondent court seriously erred in not finding that the public respondent NLRC and the Labor Arbiter a quo seriously erred and committed grave abuse of discretion in rendering the assailed resolution, as clearly private respondent company acted with bad faith in terminating the services of herein petitioners.

IV

The public respondent court committed grave abuse of discretion amounting to lack and/or excess of jurisdiction in denying petitioners' motion for reconsideration without resolving the legal issues raised.[14]

Resolution of the foregoing issues entails an inquiry into the facts, a re-evaluation of the credibility of the witnesses and a recalibration of the evidence presented. Ordinarily, the Court does not undertake these functions, for it defers to the expertise of the CA, NLRC and LA, and accords great weight to their factual findings, especially when these are unanimous. Thus, only their errors of law are reviewable by the Court in a petition for review on certiorari under Rule 45.

However, under extraordinary circumstances, the Court delves into the factual assessment of the forums below when it is shown that (1) the findings are not supported by evidence; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when in making its findings, the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's reply briefs are not disputed by the respondent; and (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record.[15]

To determine whether any of these extraordinary circumstances obtains in the present case, a preliminary assessment of the evidence upon which the CA, NLRC and LA based their factual findings cannot be avoided.

The LA declared the dismissal of petitioners valid in view of substantial evidence that petitioner Garcia was involved in the theft of private respondent's confidential records and that petitioner Morales participated in the cover-up thereof:

In the case at bar, this Office finds that there is substantial evidence to justify the dismissal of [petitioners]. The testimonies of [Jovita] Umila, [Philip] de Guzman and [Romeo] Corral are such "relevant evidence as a reasonable mind might accept as adequate to justify (the) conclusion" that [petitioners] are guilty of serious misconduct which is duly recognized under the law as valid cause for the dismissal of an employee. Their statements explain the questioned incident in its entirety from the inception of wrongdoing (Umila), to the denial of knowledge of the whereabouts of the subject lost records (Corral), to the subsequent admission of possession of the missing diskettes and logbooks (Umila), up to the attempt to cover-up their misconduct (De Guzman). [Petitioners] failed to adduce any evidence that would taint the credibility of said witnesses. It goes against the usual grain of logic and normal human conduct for a witness to testify against a co-Union member or co-employee, absent any clear evil or ill-motive on his/her part, thus demonstrating that said witness is moved only by the desire to tell the truth and clear his conscience. There being nothing to indicate that the witnesses were moved by dubious or improper motives to testify falsely, their testimonies should be accorded full faith and credit.

Tellingly, [petitioner] Garcia never denied, much less refuted, Umila's positive testimony that he (Garcia) admitted that he has in his possession the missing diskettes and logbooks. The same holds true as regards [petitioner] Morales who likewise never denied, much less refuted, De Guzman's first person testimony of his (Morales') complicity in the cover-up of the wrongdoing of [petitioner] Garcia.[16]

The NLRC sustained the findings of the LA. It held that the LA correctly relied on the affidavits of Umila and De Guzman whose detailed account of how petitioners committed serious misconduct was never refuted by the latter.[17] The NLRC found these witnesses credible because they were not shown to hold any "grudge against [petitioners], much more because said witnesses are ordinary members of the union while those being charged are union officers, hence, with moral ascendancy over them." [18]

While the CA did not elaborate on its view, it bound itself by the concurrent factual findings of the LA and NLRC for it found them to be supported by evidence.[19]

Impugning the stand of the CA, petitioners argue that the affidavits of Umila and De Guzman have no probative value for neither had direct knowledge of the taking of private respondent's properties: first, Umila merely stated that on December 24, 1998, petitioner Garcia and another employee, Jun Bato, asked about these properties and that she told them that said properties were on top of her office table; and second, De Guzman merely described how these properties were recovered.[20]

Perusal of the affidavits in question does not bear out petitioners' claim. Umila also stated that when she confronted petitioner Garcia about the lost properties, the latter admitted having them in his possession.[21] De Guzman's statement detailed the effort to bring said properties back into the premises of private respondent and to make it appear that these were merely misplaced.[22] Thus, without going into the veracity of the statements in said affidavits, the Court cannot agree that no direct evidence was presented on the theft of the properties or the cover-up thereof.

However, it is noted that while the participation of petitioner Garcia in said theft and cover-up is detailed in said affidavit, the same cannot be said of the connection of Morales to said incidents. To recall, petitioner Morales was dismissed for conspiring in the cover-up of the theft. However, it appears that the only evidence of petitioner Morales's involvement in the cover-up is the statement of De Guzman that it was said petitioner who instructed him to get a parcel from a third person. The statement of De Guzman on this particular matter is reproduced below:

- Noon Disyembre 29, 1999 bandang alas-kuwatro kuwarenta y singko ng hapon (4:45 p.m.), ako ay kasalukuyang naghuhugas ng mga plato sa Comfort Room ng 5th floor ng ETY Building nang ako ay lapitan ni Alex Morales ng Risk Analysis Department at inutusanag pumunta sa Farmacia Rubi, dito rin sa Quintin Paredes, Binondo para kunin ang isang bagay sa lalaking may bigote.[23]

By no means can it be extrapolated from the foregoing statement that petitioner Morales knew the contents of the parcel - whether or not these were the stolen company properties - or the purpose for getting the parcel from a third party. In fact, the succeeding paragraphs in the statement disclose that it was that third party who instructed De Guzman to call petitioner Garcia, who, in turn, disclosed the nature of the contents of the parcel and gave out instruction on what steps to take to bring said parcel back into the office building and to make it appear that it was just misplaced. Nowhere does it appear that petitioner Morales had knowledge of what was to happen or had participation in it. It is difficult then to connect petitioner Morales to the theft or the attempt to cover it up merely on the basis of his having instructed De Guzman to get a parcel from another person.

Therefore, on the specific culpability of petitioner Morales, the Court finds the affidavit of De Guzman so lacking in crucial detail that the same cannot serve as basis for the finding that said petitioner conspired in the theft of private respondent's properties or the cover up thereof.[24] The Court reverses the factual findings of the CA, NLRC and LA, for the evidence on which their findings were based was too tenuous to justify the termination of petitioner Morales's employment.

Nonetheless, no bad faith can be attributed to private respondent in dismissing petitioner Morales despite such scant evidence. Its error in the assessment of the available evidence cannot be equated with bad faith as there is no evidence that it was animated by malice or ill motive. Hence, its action in dismissing petitioner Morales may have been illegal, but did not amount to unfair labor practice.

Moving on to the other issues pertaining to petitioner Garcia, he insists that, contrary to the observation of the CA, he controverted the affidavits presented by private respondent, not only by denying the averments therein, but also by presenting counter evidence consisting of an entry in the guard's logbook and the affidavit of the guard-on-duty, Joey Limbo.[25] Petitioner explains that it took time for him to present these documents, because

private respondent had tried to conceal them and was compelled to present the same before the LA[26] only when he (petitioner Garcia) demanded to see them.[27]

The Court is not convinced that by said logbook entry and affidavit of Joey Limbo, petitioner Garcia effectively controverted the existing evidence against him. The logbook entry merely reports that De Guzman recovered the stolen properties from the fifth floor of the office building.[28] The affidavit of Joey Limbo merely repeated the logbook entry.[29] That these documents do not disclose any further detail is understandable, for as explained by De Guzman himself in his affidavit, he merely reported the recovery of the stolen properties to Joey Limbo and did not elaborate on the circumstances thereof, but when he was confronted by private respondent the following day, it was then that he divulged the details leading to the recovery of said properties.[30]

Verily, the Court finds no indication that the CA misappreciated the evidence when it affirmed the findings of the NLRC and LA against petitioner Garcia.

Finally, petitioners complain that they were denied due process when they were not furnished a copy of the evidence against them or the minutes of the investigation.[31]

It is oft repeated that in administrative proceedings, due process is served by the mere fact that each party is afforded an opportunity to air its side,[32] not necessarily through verbal argumentation, but also through pleadings in which the parties may explain their side of the controversy. [33] It is of record that petitioners were informed of the charges against them and were given the opportunity to present their defense, not just in the administrative investigation, but also in the proceedings before the LA and NLRC. The requirements of due process were more than adequately satisfied.

In fine, the Court sees no compelling reason to disturb the concurrent factual findings of the CA, NLRC and LA that petitioner Garcia was involved in the theft of respondent's properties and in the attempt to cover up said act for the same are supported by substantial evidence.

However, the Court finds scant evidence to connect petitioner Morales to the theft or its cover-up and therefore declares that the CA committed a grievous error in upholding his dismissal.

WHEREFORE, the petition is PARTLY GRANTED. The assailed March 13, 2003 Decision and October 9, 2003 Resolution of the Court of Appeals are AFFIRMED insofar as they sustained the dismissal of the complaint of petitioner Oscar Garcia; and REVERSED and SET ASIDE insofar as they sustained the dismissal of the complaint of petitioner Alex Morales. The complaint for the illegal dismissal of Alex Morales is GRANTED. His immediate reinstatement with backwages is ordered.

No costs.

SO ORDERED.

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

[*] The present petition impleaded the Court of Appeals as respondent. Pursuant to Section 4, Rule 45 of the Rules of Court, the name of the Court of Appeals is deleted from the title.

[1] Penned by Associate Justice Eugenio S. Labitoria and concurred in by Associate Justices Renato C. Dacudao and Danilo B. Pine; rollo, p. 41.

[2] Rollo, p. 69.

- [3] Id. at 252.
- [4] Id. at 256.
- [5] Id. at 258-260.
- [6] Id. at 263-265.
- [7] Rollo, pp. 266-267.
- [8] Id. at 268-269.
- [9] CA rollo, p. 117.
- [10] Rollo, p. 108.
- [11] Id. at 149.
- [12] CA rollo, p. 114.
- [13] Id. at 294.
- [14] Petition, rollo, pp. 20, 28, 31 and 34.
- [15] *BMG Records (Phils.), Inc. v. Aparecio*, G.R. No. 153290, September 5, 2007, 532 SCRA 300, 309; *Asiatic Development Corporation v. Brogada*, G.R. No. 169136, July 14, 2006, 495 SCRA 166, 168; *Binay v. Odeña*, G.R. No. 163683, June 8, 2007, 524 SCRA 248, 257; *Civil Service Commission v. Ledesma*, G.R. No. 154521, September 30, 2005, 471 SCRA 589, 605-606; *Metropolitan Bank and Trust Company v. Barrientos*, G.R. No. 157028, January 31, 2006, 481 SCRA 311, 321; *Marival Trading, Inc. v. National Labor Relations Commission*, G.R. No. 169600, June 26, 2007, 525 SCRA 708, 721; *Metro Transit Organization v. Court of Appeals*, 440 Phil. 743, 754 (2002).
- [16] LA Decision, rollo, pp. 117-118.
- [17] NLRC Decision, rollo, p. 158.
- [18] Id. at 157.
- [19] CA Decision, id. at 46-47.
- [20] Petition, id. at 26-28.
- [21] *Sinumpaang Salaysay*, id. at 246.
- [22] Id. at 249-250.
- [23] Id. at 249.
- [24] *C.F. Sharp & Co., Inc. v. Zialcita*, G.R. No. 157619, July 17, 2006, 495 SCRA 387, 393.
- [25] Petition, rollo, p. 23.
- [26] *Manifestation and Motion*, CA rollo, p. 253.
- [27] *Rejoinder*, id. at 232.
- [28] Id. at 257.
- [29] Id. at 256.

[30] Sinumpaang Salaysay, paragraphs 15 and 16, rollo, pp. 259-260.

[31] Petition, id. at 24.

[32] Nueva Ecija Electric Cooperative II v. National Labor Relations Commission, G.R. No. 157603, June 23, 2005, 461 SCRA 169, 178; Mayon Hotel & Restaurant v. Adana, G.R. No. 157634, May 16, 2005, 458 SCRA 609, 629.

[33] Sunrise Manning Agency, Inc. vs. National Labor Relations Commission, G.R. No. 146703, November 18, 2004, 443 SCRA 35, 42.

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