

EUROTECH HAIR SYSTEMS, INC., LUTZ KUNACK, AND JOSE BARIN, PETITIONERS, VS. ANTONIO S. GO, RESPONDENT.

G.R. NO. 160913. August 31, 2006

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QUISUMBING, J.:

For review on certiorari are the Decision[1] dated July 9, 2003 and the Resolution[2] dated November 19, 2003, of the Court of Appeals in CA-G.R. SP No. 69909 setting aside the National Labor Relations Commission (NLRC) Decision[3] but reinstating with modification the Decision[4] of the Labor Arbiter.

The facts are as follows:

Petitioner Eurotech Hair Systems, Inc. is a domestic corporation engaged in the manufacture and export of wigs and toupees. Petitioners Lutz Kunack and Jose E. Barin are the company's president and general manager, respectively.

Respondent Antonio S. Go served as Eurotech's operations manager from September 2, 1996 until he was dismissed on September 27, 1999. As operations manager, he drafted and implemented the plans for the production of wigs and toupees. Respondent's responsibilities included manpower planning to meet the monthly production targets.

In 1999, the company suffered production shortfalls. Thus, on September 2, 1999, petitioner Barin issued respondent a memorandum, strongly advising him to improve his performance. He was also admonished because of the late shipment of 80 units of hairpieces to one of petitioners' clients, Bergmann Company.

On September 7, 1999, Eurotech issued another memorandum reiterating the previous reminder for respondent to improve his performance. Again, on September 21, 1999, Eurotech issued two memoranda, reminding respondent of his continued failure to improve his performance. He was given 24 hours to explain in writing why the company should not terminate his services on the ground of loss of trust and confidence.

On September 22, 1999, Eurotech relieved respondent as operations manager pending evaluation of his performance. On September 24, 1999, Eurotech issued yet another memorandum reminding respondent of his failure to submit his written explanation and granting him another 24 hours to submit such explanation. The second 24-hour period lapsed without respondent's explanation. On September 27, 1999, petitioner Kunack finally issued respondent a termination letter citing loss of trust and confidence.

Consequently, respondent filed against petitioners a complaint docketed as NLRC Case No. RAB-IV-10-11565-99-L for illegal dismissal, separation pay, backwages, and damages.[5] The Labor Arbiter ruled for respondent.

On appeal, the NLRC reversed the Labor Arbiter and dismissed the complaint for lack of merit.[6] Respondent's motion for reconsideration was denied. Hence, respondent elevated the matter to the Court of Appeals. The appellate court set aside the decision of the NLRC and essentially reinstated the ruling of the Labor Arbiter.

Respondent received said Decision of the Court of Appeals on July 21, 2003. Prior to such receipt, he had executed a quitclaim[7] in consideration of P450,000. Hence, on July 16, 2003, the Labor Arbiter issued an Order[8] dismissing with prejudice the complaint for illegal dismissal in view of the said waiver.

Petitioners thus moved for reconsideration of the Court of Appeals' decision in light of the said settlement. Respondent, on the other hand, manifested that he was not represented by his counsel when he signed the quitclaim. He further alleged that he was in fact advised by petitioners not to inform his counsel about the quitclaim.

The Court of Appeals denied the motion for reconsideration for lack of merit and voided for lack of jurisdiction the Labor Arbiter's Order dismissing the case with prejudice.

Hence, the instant petition raising the following issues:

A

WHETHER OR NOT THE NLRC EXHIBITED GRAVE ABUSE OF DISCRETION IN RENDERING ITS DECISION DATED 30 JULY 2001 AND ITS ORDER DATED 20 DECEMBER 2001.

- Whether or not respondent's Petition for Certiorari prayed for the Court of Appeals' correction of the NLRC's evaluation of the evidence without establishing where the grave of abuse lies.
- Whether or not the findings of facts by the NLRC are conclusive upon the Court of Appeals, which can no longer be disturbed.

B

WHETHER OR NOT THE JUDGMENT OF THE COURT OF APPEALS HAD LEGAL BASIS AND WAS BASED ON GROSS MISAPPRECIATION OF FACTS.

- Whether or not the NLRC correctly ruled that there was sufficient and legitimate basis to terminate the services of respondent for his gross incompetence resulting in the Company's loss of confidence on said employee.
- Whether or not the Court of Appeals had substantial basis to support its judgment.
- Whether or not the Court of Appeals' ruling has violated the Company's constitutional right to reasonable returns on its investments.
- Whether or not respondent was afforded the required procedural due process.

C

WHETHER OR NOT THE COURT OF APPEALS HAD LEGAL BASIS IN HOLDING THAT THE LABOR ARBITER DID NOT HAVE JURISDICTION TO DISMISS THE CASE IN VIEW OF THE COMPROMISE AGREEMENT REACHED BETWEEN THE PARTIES.[9]

Simply put, the issues now for our resolution are: (1) Was respondent's dismissal in accordance with law? and (2) Is the compromise agreement entered into by the parties valid?

Petitioners contend the NLRC correctly ruled there was legitimate basis to terminate respondent for gross incompetence resulting in the company's loss of confidence in him. But petitioners also claim that the Court of Appeals' ruling effectively violated their constitutional right to reasonable returns on investment. They allege that the evidence on record shows respondent was afforded the required procedural due process.

Petitioners likewise contend that the pendency of respondent's petition for certiorari before the Court of Appeals

did not divest the Labor Arbiter of jurisdiction to dismiss the case in view of the quitclaim. They add that respondent knowingly and voluntarily executed the waiver in the presence of the Labor Arbiter. Petitioners further allege that the compromise agreement has the force and effect of *res judicata*.

Respondent, for his part, counters that there was no legal or factual basis to terminate him on the ground of loss of trust and confidence. He argues that allowing an employer to dismiss an employee on a simple claim of loss of trust and confidence places the employee's right to security of tenure at the mercy of the employer.

Respondent further contends that the petition raises only questions of fact and should therefore be denied outright. Finally, he assails the Court of Appeals' deletion of the award of attorney's fees. He argues that since moral and exemplary damages have been awarded to respondent, an award of attorney's fees is proper under Article 2208[10] of the Civil Code.

Considering all the circumstances in this case, we find the present petition meritorious.

Loss of trust and confidence to be a valid ground for an employee's dismissal must be based on a willful breach and founded on clearly established facts. A breach is willful if it is done intentionally, knowingly and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently.[11]

While failure to observe prescribed standards of work, or to fulfill reasonable work assignments due to inefficiency may be a just cause for dismissal,[12] the employer must show what standards of work or reasonable work assignments were prescribed which the employee failed to observe. In addition, the employer must prove that the employee's failure to observe any such standards or assignments was due to his own inefficiency.[13]

In this case, petitioners showed that respondent failed to meet production targets despite reminders to measure up to the goals set by the company. However, they were unable to prove that such failure was due to respondent's inefficiency. Significant fa

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