

**AMA COMPUTER COLLEGE, INC., AMABLE R. AGUILUZ V, AND
CARMELITA R. CONDENUENO, PETITIONERS, VS. ZENAIDA R.
GARAY, RESPONDENT.**

G.R. NO. 162468. January 23, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

The instant petition seeks to annul the August 21, 2003 Decision[1] and the January 16, 2004 Resolution[2] of the Court of Appeals in CA-G.R. SP No. 59689, which affirmed the February 11, 2000 Resolution[3] of the National Labor Relations Commission (NLRC) in NLRC CA No. 020193-99. The NLRC had affirmed the September 14, 1998 Decision[4] of the Labor Arbiter in NLRC NCR Case No. 00-08-05043-96, declaring illegal the dismissal of herein respondent Zenaida R. Garay.

Petitioner AMA Computer College, Inc. (AMACC) hired Zenaida R. Garay as a College Instructor in 1994. On May 13, 1996, she was promoted principal of the High School Department, with a monthly salary of P10,000.

On May 17, 1996, AMACC cashier, Sarah Pechardo, carried a brown envelope containing P47,299.34 to the comfort room of the high school. While inside, she placed the envelope on top of the toilet bowl tank. After she left the room, she realized the envelope was left behind, hence she returned to the comfort room, but the envelope was already gone. Pechardo reported the incident to petitioner Carmelita R. Condenueno and told her that the only person she recalled entering the comfort room after her was Garay.

Condenueno immediately ordered the investigation of Pechardo and Garay. Garay was subjected to physical inspection and her office was searched. But the petitioners did not find the envelope. Thereafter, Garay was brought to the barangay office and the incident was entered in its blotter. On May 20, 1996, she was preventively suspended.

Petitioners served on respondent several notices enjoining her to appear during the hearings and to submit her written explanation. Garay complied but the hearings were always cancelled. On June 19, 1996, the petitioners terminated Garay's employment effective June 20, 1996 but on the ground of loss of trust and confidence.

On June 21, 1996, the petitioners sent her another notice directing her to appear on the June 27, 1996 hearing and to submit a written explanation. In the meantime, the first notice of termination was set aside. The hearing was, however, cancelled. On July 1, 1996, the petitioners finally terminated Garay's employment on the same ground stated in the first termination letter.

On August 14, 1996, Garay filed a complaint for illegal dismissal with a prayer for reinstatement with payment of backwages. On September 14, 1998, Labor Arbiter Eduardo J. Carpio rendered judgment finding that Garay's employment was terminated on mere suspicion. He ruled that there was no material and direct evidence to show that Garay took the collections. According to him, while the petitioners conducted a lengthy investigation to comply with the due process requirement, there was no evidence that established Garay's guilt during this

investigation. He concluded that Garay was terminated without just cause and decreed as follows:

WHEREFORE, judgment is hereby rendered declaring as illegal the termination of complainant. Respondents are ordered to immediately reinstate her to her former or substantially equal position and pay her backwages computed as of August 31, 1998 in the amount of P300,000.00 (7/1/96 to 12/31/98 = 30 mos. P10,000.00 x 30 mos. = P300,000.00). (Said computation is subject to further adjustment until complainant's physical or payroll reinstatement).

Respondents are further ordered to pay complainant the amounts of P100,000.00 and P50,000.00 by way of moral and exemplary damages, respectively.

SO ORDERED.[5]

The petitioners appealed to the NLRC, which affirmed the challenged decision, with the modification that the backwages shall include 13th month pay and five days' service incentive leave pay. The decretal part of the decision, dated February 11, 2000, reads:

WHEREFORE, the appeal of respondents-appellants is dismissed for lack of merit and the decision being impugned is AFFIRMED subject only to the modification on the computation of backwages to include 13th month pay and five days service incentive leave pay.

SO ORDERED.[6]

The NLRC was convinced that the dismissal did not rest on solid grounds. It noted that initially, Garay was suspected of having taken the money. But when the investigation revealed that there was no evidence that would show her responsibility for the loss, she was charged of having refused to extend her utmost cooperation in the investigation, resulting in the loss of trust and confidence vested on her by the petitioners. The NLRC concluded that aside from their bare assertions, the petitioners did not present evidence to support said loss. Thus, the loss of trust and confidence as the ground for dismissal was not established.

Petitioners elevated the case to the Court of Appeals, which denied their petition for certiorari and their motion for reconsideration. The petitioners then filed the instant petition for review predicated on the following issues:

- WHETHER OR NOT THE COURT OF APPEALS COMMITTED ERRORS OF LAW WHICH SHOULD BE CORRECTED BY WAY OF PETITION FOR REVIEW ON CERTIORARI?
- WHETHER OR NOT THE COURT OF APPEALS MISAPPREHENDED THE FACTUAL FINDINGS OF THE PRESENT CASE?
- WHETHER OR NOT THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN RENDERING THE ASSAILED ORDER AND RESOLUTION?[7]

The threshold issue is whether AMACC's loss of trust and confidence in Garay is founded on facts established by substantial and competent evidence.

At the outset, it is pertinent to note that the petitioners are fundamentally raising a question of fact regarding the appellate court's finding that the loss of trust and confidence was not substantially proved. Thus, petitioners would have us sift through the evidence on record and pass upon whether there is valid ground to dismiss Garay. This clearly involves a factual inquiry, the determination of which is the statutory function of the NLRC,[8] and outside the normal terrain of a petition for review.

Deeply embedded in our jurisprudence is the rule that factual findings of quasi-judicial bodies like the NLRC, particularly when they coincide with those of the Labor Arbiter and if supported by substantial evidence, are accorded respect and even finality by this Court.[9] Here, we find no basis to deviate from the aforestated doctrine

without any clear showing that the findings of the labor arbiter, as affirmed by the NLRC and the Court of Appeals, are bereft of sufficient substantiation.[10] It bears stressing that these tribunals all have the same findings that Garay's termination was without valid legal cause.

To be a valid ground for dismissal, loss of trust and confidence must be based on a willful breach of trust 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. It must rest on substantial grounds and not on the employer's arbitrariness, whims, caprices or suspicion; otherwise, the employee would eternally remain at the mercy of the employer.[11] Such ground of dismissal has never been intended to afford an occasion for abuse because of its subjective nature.[12]

What cannot escape the Court's attention is the circumstance that Garay was initially investigated as one of the primary suspects for the loss of the P47,299.34. When it became clear that she was not liable for it, the petitioners changed their charge and accused her of exhibiting a belligerent and hostile attitude during the investigation. The records, however, reveal that Garay cooperated in the investigation process. In fact, no less than the petitioners admitted that Garay voluntarily complied with the written notices requiring her to file her written explanation and to appear at the hearings.[13] She may have shown her exasperation through her written explanation and her lawyer's demand letter but we do not find this sufficient for the petitioners to lose their trust and confidence in her. The sudden shift made by the petitioners on the ground for terminating Garay only reinforces the Court's conviction that there was no basis in the first place to hold Garay suspect of any infraction. She could not in any credible way be connected with the loss of an envelope with cash left in the comfort room by the cashier.

WHEREFORE, the petition is DENIED for lack of merit. The August 21, 2003 Decision and the January 16, 2004 Resolution of the Court of Appeals, in CA-G.R. SP No. 59689, are hereby AFFIRMED. Costs against petitioners. SO ORDERED.

Carpio, Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 34-39. Penned by Associate Justice Lucas P. Bersamin, with Associate Justices Eugenio S. Labitoria, and Edgardo F. Sundiam, concurring.

[2] Id. at 41.

[3] CA rollo, pp. 22-30.

[4] Id. at 31-34.

[5] Id. at 34.

[6] Id. at 29-30.

[7] Rollo, pp. 241-242.

[8] P.J. Lhuillier, Inc. v. National Labor Relations Commission, G.R. No. 158758, April 29, 2005, 457 SCRA 784, 795.

[9] Tres Reyes v. Maxim's Tea House, G.R. No. 140853, February 27, 2003, 398 SCRA 288, 298. See Cocoland Development Corp. v. NLRC, G.R. No. 98458, July 17, 1996, 259 SCRA 51, 59-60.

[10] P.J. Lhuillier, Inc. v. National Labor Relations Commission, *supra*.

[11] Fujitsu Computer Products Corporation of the Philippines v. Court of Appeals, G.R. No. 158232, March 31,

2005, 454 SCRA 737, 760.

[12] Brent Hospital, Inc. v. NLRC, G.R. No. 117593, July 10, 1998, 292 SCRA 304, 310.

[13] CA rollo, p. 6.

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