

**RENO FOODS, INC., AND/OR VICENTE KHU, PETITIONERS, VS.
NAGKAKAISANG LAKAS NG MANGGAGAWA (NLM) –
KATIPUNAN ON BEHALF OF ITS MEMBER, NENITA CAPOR,
RESPONDENT.**

G.R. No. 164016. March 15, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

There is no legal or equitable justification for awarding financial assistance to an employee who was dismissed for stealing company property. Social justice and equity are not magical formulas to erase the unjust acts committed by the employee against his employer. While compassion for the poor is desirable, it is not meant to coddle those who are unworthy of such consideration.

This Petition for Review on Certiorari[1] assails the June 3, 2004 Decision[2] of the Court of Appeals (CA) in CA-G.R. SP No. 76789 which denied the petition for certiorari filed by the petitioners and affirmed the award of financial assistance to respondent Nenita Capor.

Factual Antecedents

Petitioner Reno Foods, Inc. (Reno Foods) is a manufacturer of canned meat products of which Vicente Khu is the president and is being sued in that capacity. Respondent Nenita Capor (Capor) was an employee of Reno Foods until her dismissal on October 27, 1998.

It is a standard operating procedure of petitioner-company to subject all its employees to reasonable search of their belongings upon leaving the company premises. On October 19, 1998, the guard on duty found six Reno canned goods wrapped in nylon leggings inside Capor's fabric clutch bag. The only other contents of the bag were money bills and a small plastic medicine container.

Petitioners accorded Capor several opportunities to explain her side, often with the assistance of the union officers of Nagkakaisang Lakas ng Manggagawa (NLM) - Katipunan. In fact, after petitioners sent a Notice of Termination to Capor, she was given yet another opportunity for reconsideration through a labor-management grievance conference held on November 17, 1999. Unfortunately, petitioners did not find reason to change its earlier decision to terminate Capor's employment with the company.

On December 8, 1998, petitioners filed a complaint-affidavit against Capor for qualified theft in the Office of the City Prosecutor, Malabon-Navotas Substation. On April 5, 1999, a Resolution[3] was issued finding probable cause for the crime charged. Consequently, an Information was filed against Capor docketed as Criminal Case No. 207-58-MN.

Meanwhile, the Nagkakaisang Lakas ng Manggagawa (NLM) - Katipunan filed on behalf of Capor a complaint[4] for illegal dismissal and money claims against petitioners with the Head Arbitration Office of the National Labor

Relations Commission (NLRC) for the National Capital Region. The complaint prayed that Capor be paid her full backwages as well as moral and exemplary damages. The complaint was docketed as NLRC NCR Case No. 00-01-00183-99.

Ruling of the Labor Arbiter

In the proceedings before the Labor Arbiter, Capor alleged that she was unaware that her clutch bag contained the pilfered canned products. She claimed that petitioners might have planted the evidence against her so it could avoid payment of her retirement benefits, as she was set to retire in about a year's time.

After the submission of the parties' respective position papers, the Labor Arbiter rendered his Decision[5] dated November 16, 1999 finding Capor guilty of serious misconduct which is a just cause for termination.

The Labor Arbiter noted that Capor was caught trying to sneak out six cans of Reno products without authority from the company. Under Article 232 of the Labor Code, an employer may terminate the services of an employee for just cause, such as serious misconduct. In this case, the Labor Arbiter found that theft of company property is tantamount to serious misconduct; as such, Capor is not entitled to reinstatement and backwages, as well as moral and exemplary damages.

Moreover, the Labor Arbiter ruled that consistent with prevailing jurisprudence, an employee who commits theft of company property may be validly terminated and consequently, the said employee is not entitled to separation pay.[6]

Ruling of the National Labor Relations Commission

On appeal, the NLRC affirmed the factual findings and monetary awards of the Labor Arbiter but added an award of financial assistance. The decretal portion of the September 20, 2002 Decision[7] reads:

WHEREFORE, premises considered, the decision under review is hereby MODIFIED by granting an award of financial assistance in the form of separation pay equivalent to one-half month pay for every year of service. In all other respects the decision stands affirmed. All other claims of the complainant are dismissed for lack of merit.[8]

Both parties moved for a reconsideration of the NLRC Decision. Petitioners asked that the award of financial assistance be deleted, while Capor asked for a finding of illegal dismissal and for reinstatement with full backwages.[9]

On February 28, 2003, the NLRC issued its Resolution[10] denying both motions for reconsideration for lack of merit.

Ruling of the Court of Appeals

Aggrieved, petitioners filed a Petition for Certiorari[11] before the CA imputing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the NLRC for awarding financial assistance to Capor.

Citing *Philippine Long Distance Telephone Company v. National Labor Relations Commission*,[12] petitioners argued that theft of company property is a form of serious misconduct under Article 282(a) of the Labor Code for which no financial assistance in the form of separation pay should be allowed.

Unimpressed, the appellate court affirmed the NLRC's award of financial assistance to Capor. It stressed that the laborer's welfare should be the primordial and paramount consideration when carrying out and interpreting provisions of the Labor Code. It explained that the mandate laid down in *Philippine Long Distance Telephone Company v. National Labor Relations Commission*[13] was not absolute, but merely directory.

Hence, this petition.

Issue

The issue before us is whether the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction in granting financial assistance to an employee who was validly dismissed for theft of company property.

Our Ruling

We grant the petition.

Conviction in a criminal case is not necessary to find just cause for termination of employment.

On the date that the appellate court issued its Decision, Capor filed a Manifestation^[14] informing the CA of her acquittal in the charge of qualified theft. The dispositive portion of said Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered acquitting Nenita Capor of the crime charged against her in this case on the ground of reasonable doubt with costs de oficio.

Capor thus claims that her acquittal in the criminal case proves that petitioners failed to present substantial evidence to justify her termination from the company. She therefore asks for a finding of illegal dismissal and an award of separation pay equivalent to one month pay for every year of service.

On the other hand, petitioners argue that the dismissal of a criminal action should not carry a corresponding dismissal of the labor action since a criminal conviction is unnecessary in warranting a valid dismissal for employment.

Petitioners further maintain that the ruling in *Philippine Long Distance Telephone Company v. National Labor Relations Commission*^[15] regarding the disallowance of separation pay for those dismissed due to serious misconduct or moral turpitude is mandatory. Petitioners likewise argue that in *Zenco Sales, Inc. v. National Labor Relations Commission*,^[16] the Supreme Court found grave abuse of discretion on the part of the NLRC when it ignored the principles laid down in the *Philippine Long Distance Telephone Company v. National Labor Relations Commission*. Thus, petitioners pray for the reversal of the CA Decision and reinstatement of the Labor Arbiter's Decision dated November 16, 1999.

Capor was acquitted in Criminal Case No. 207-58-MN based on reasonable doubt. In his Decision, the trial judge entertained doubts regarding the guilt of Capor because of two circumstances: (1) an ensuing labor dispute (though it omitted to state the parties involved), and (2) the upcoming retirement of Capor. The trial judge made room for the possibility that these circumstances could have motivated petitioners to plant evidence against Capor so as to avoid paying her retirement benefits. The trial court did not categorically rule that the acts imputed to Capor did not occur. It did not find petitioners' version of the event as fabricated, baseless, or unreliable. It merely acknowledged that seeds of doubt have been planted in the juror's mind which, in a criminal case, is enough to acquit an accused based on reasonable doubt. The pertinent portion of the trial court's Decision reads:

During the cross examination of the accused, she was confronted with a document that must be related to a labor dispute. x x x The Court noted very clearly from the transcript of stenographic notes that it must have been submitted to the NLRC. This is indicative of a labor dispute which, although not claimed directly by the accused, could be one of the reasons why she insinuated that evidence was planted against her in order to deprive her of the substantial benefits she will be receiving when she retires from the company. Incidentally,

this document was never included in the written offer of evidence of the prosecution.

Doubt has, therefore, crept into the mind of the Court concerning the guilt of accused Nenita Capor which in this jurisdiction is mandated to be resolved in favor of her innocence.

Pertinent to the foregoing doubt being entertained by this Court, the Court of Appeals citing *People v. Bacus*, G.R. No. 60388, November 21, 1991: "the phrase 'beyond reasonable doubt' means not a single iota of doubt remains present in the mind of a reasonable and unprejudiced man that a person is guilty of a crime. Where doubt exists, even if only a shred, the Court must and should set the accused free." (*People v. Felix*, CA-G.R. No. 10871, November 24, 1992)

WHEREFORE, premises considered, judgment is hereby rendered acquitting accused Nenita Capor of the crime charged against her in this case on the ground of reasonable doubt, with costs de oficio.

SO ORDERED.[17]

In *Nicolas v. National Labor Relations Commission*,^[18] we held that a criminal conviction is not necessary to find just cause for employment termination. Otherwise stated, an employee's acquittal in a criminal case, especially one that is grounded on the existence of reasonable doubt, will not preclude a determination in a labor case that he is guilty of acts inimical to the employer's interests.^[19]

Criminal cases require proof beyond reasonable doubt while labor disputes require only substantial evidence, which means such relevant evidence as a

reasonable mind might accept as adequate to justify a conclusion.^[20] The evidence in this case was reviewed by the appellate court and two labor tribunals endowed with expertise on the matter - the Labor Arbiter and the NLRC. They all found substantial evidence to conclude that Capor had been validly dismissed for dishonesty or serious misconduct. It is settled that factual findings of quasi-judicial agencies are generally accorded respect and finality so long as these are supported by substantial evidence. In the instant case, we find no compelling reason to doubt the common findings of the three reviewing bodies.

The award of separation pay is not warranted under the law and jurisprudence.

We find no justification for the award of separation pay to Capor. This award is a deviation from established law and jurisprudence. ^[21]

The law is clear. Separation pay is only warranted when the cause for termination is not attributable to the employee's fault, such as those provided in Articles 283 and 284 of the Labor Code, as well as in cases of illegal dismissal in which reinstatement is no longer feasible.^[22] It is not allowed when an employee is dismissed for just cause,^[23] such as serious misconduct.

Jurisprudence has classified theft of company property as a serious misconduct and denied the award of separation pay to the erring employee.^[24] We see no reason why the same should not be similarly applied in the case of Capor. She attempted to steal the property of her long-time employer. For committing such misconduct, she is definitely not entitled to an award of separation pay.

It is true that there have been instances when the Court awarded financial assistance to employees who were terminated for just causes, on grounds of equity and social justice. The same, however, has been curbed and rationalized in *Philippine Long Distance Telephone Company v. National Labor Relations Commission*.^[25] In that case, we recognized the harsh realities faced by employees that forced them, despite their good intentions, to

violate company policies, for which the employer can rightfully terminate their employment. For these instances, the award of financial assistance was allowed. But, in clear and unmistakable language, we also held that the award of financial assistance shall not be given to validly terminated employees, whose offenses are iniquitous or reflective of some depravity in their moral character. When the employee commits an act of dishonesty, depravity, or iniquity, the grant of financial assistance is misplaced compassion. It is tantamount not only to condoning a patently illegal or dishonest act, but an endorsement thereof. It will be an insult to all the laborers who, despite their economic difficulties, strive to maintain good values and moral conduct.

In fact, in the recent case of *Toyota Motors Philippines, Corp. Workers Association (TMPCWA) v. National Labor Relations Commission*,^[26] we ruled that separation pay shall not be granted to all employees who are dismissed on any of the four grounds provided in Article 282 of the Labor Code. Such ruling was reiterated and further explained in *Central Philippines Bandag Retreaders, Inc. v. Diasnes*:^[27]

To reiterate our ruling in *Toyota*, labor adjudicatory officials and the CA must demur the award of separation pay based on social justice when an employee's dismissal is based on serious misconduct or willful disobedience; gross and habitual neglect of duty; fraud or willful breach of trust; or commission of a crime against the person of the employer or his immediate family - grounds under Art. 282 of the Labor Code that sanction dismissals of employees. They must be most judicious and circumspect in awarding separation pay or financial assistance as the constitutional policy to provide full protection to labor is not meant to be an instrument to oppress the employers. The commitment of the Court to the cause of labor should not embarrass us from sustaining the employers when they are right, as here. In fine, we should be more cautious in awarding financial assistance to the undeserving and those who are unworthy of the liberality of the law.

We are not persuaded by Capor's argument that despite the finding of theft, she should still be granted separation pay in light of her long years of service with petitioners. We held in *Central Pangasinan Electric Cooperative, Inc. v. National Labor Relations Commission*^[28] that:

Although long years of service might generally be considered for the award of separation benefits or some form of financial assistance to mitigate the effects of termination, this case is not the appropriate instance for generosity x x x. The fact that private respondent served petitioner for more than twenty years with no negative record prior to his dismissal, in our view of this case, does not call for such award of benefits, since his violation reflects a regrettable lack of loyalty and worse, betrayal of the company. If an employee's length of service is to be regarded as justification for moderating the penalty of dismissal, such gesture will actually become a prize for disloyalty, distorting the meaning of social justice and undermining the efforts of labor to clean its ranks of undesirables.

Indeed, length of service and a previously clean employment record cannot simply erase the gravity of the betrayal exhibited by a malfeasant employee.^[29] Length of service is not a bargaining chip that can simply be stacked against the employer. After all, an employer-employee relationship is symbiotic where both parties benefit from mutual loyalty and dedicated service. If an employer had treated his employee well, has accorded him fairness and adequate compensation as determined by law, it is only fair to expect a long-time employee to return such fairness with at least some respect and honesty. Thus, it may be said that betrayal by a long-time employee is more insulting and odious for a fair employer. As stated in another case:

x x x The fact that [the employer] did not suffer pecuniary damage will not obliterate respondent's betrayal of trust and confidence reposed by petitioner. Neither would his length of service justify his dishonesty or mitigate his liability. His length of service even aggravates his offense. He should have been more loyal to petitioner company from which he derived his family bread and butter for seventeen years.^[30]

While we sympathize with Capor's plight, being of retirement age and having served petitioners for 39 years, we cannot award any financial assistance in her favor because it is not only against the law but also a retrogressive

public policy. We have already explained the folly of granting financial assistance in the guise of compassion in the following pronouncements:

x x x Certainly, a dishonest employee cannot be rewarded with separation pay or any financial benefit after his culpability is established in two decisions by competent labor tribunals, which decisions appear to be well-supported by evidence. To hold otherwise, even in the name of compassion, would be to send a wrong signal not only that "crime pays" but also that one can enrich himself at the expense of another in the name of social justice. And courts as well as quasi-judicial entities will be overrun by petitioners mouthing dubious pleas for misplaced social justice. Indeed, before there can be an occasion for compassion and mercy, there must first be justice for all. Otherwise, employees will be encouraged to steal and misappropriate in the expectation that eventually, in the name of social justice and compassion, they will not be penalized but instead financially rewarded. Verily, a contrary holding will merely encourage lawlessness, dishonesty, and duplicity. These are not the values that society cherishes; these are the habits that it abhors.[31]

WHEREFORE, the petition is GRANTED. The assailed June 3, 2004 Decision of the Court of Appeals in CA-G.R. SP No. 76789 affirming the September 20, 2002 Decision of the National Labor Relations Commission is ANNULLED and SET ASIDE. The November 16, 1999 Decision of the Labor Arbiter is REINSTATED and AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Brion, Abad, and Perez, JJ., concur.

[1] Rollo, pp. 3-20.

[2] Id. at 65-75; penned by Associate Justice Bienvenido L. Reyes and concurred in by Associate Justices Rosalinda Asuncion-Vicente and Jose C. Reyes, Jr.

[3] CA rollo, p. 60.

[4] Id. at 27.

[5] Rollo, pp. 21-37.

[6] Id. at 29-36.

[7] Rollo, pp. 38-44.

[8] Id. at 43.

[9] Id. at 45-61; CA rollo, pp. 169-185.

[10] Rollo, pp. 62-63.

[11] CA rollo, pp. 2-25.

[12] G.R. No. L-80609, August 23, 1988, 164 SCRA 671, 679-680.

[13] Id.

[14] CA rollo, pp. 225-228.

[15] Supra note 12.

[16] G.R. No. 111110, August 2, 1994, 234 SCRA 689.

[17] Rollo, pp. 129-130.

[18] 327 Phil. 883, 886-887 (1996).

[19] Vergara v. National Labor Relations Commission, 347 Phil. 161, 173-174 (1997); Chua v. National Labor Relations Commission, G.R. No. 105775, February 8, 1993, 218 SCRA 545, 548; See MGG Marine Services, Inc. v. National Labor Relations Commission, 328 Phil. 1047, 1068 (1996).

[20] See Patna-an v. National Labor Relations Commission, G.R. No. 92878, March 6, 1992, 207 SCRA 106; Iriga Telephone Co., Inc. v. National Labor Relations Commission, 350 Phil. 245, 253 (1998).

[21] See Philippine Long Distance Telephone Company v. National Labor Relations Commission, supra note 12; Zenco Sales, Inc. v. National Labor Relations Commission, supra note 16; Philippine National Construction Corporation v. National Labor Relations Commission, 252 Phil. 211 (1989).

[22] Section 4(b), Rule I, Book VI of the Implementing Rules and Regulations of the Labor Code.

[23] Article 282 of the Labor Code and Section 7, Rule I, Book VI of the Implementing Rules and Regulations of the Labor Code.

[24] Philippine Long Distance Telephone Company v. National Labor Relations Commission, supra note 12; Zenco Sales, Inc. v. National Labor Relations Commission, supra note 16.

[25] Supra note 12.

[26] G.R. Nos. 158798-99, October 19, 2007, 537 SCRA 171, 219-223.

[27] G.R. No. 163607, July 14, 2008, 558 SCRA 194, 207.

[28] G.R. No. 163561, July 24, 2007, 528 SCRA 146, 151-152.

[29] See Philippine Long Distance Telephone Company v. The Late Romeo F. Bolso, G.R. No. 159701, August 17, 2007, 530 SCRA 550, 563-564; Central Pangasinan Electric Cooperative, Inc. v. National Labor Relations Commission, supra; Philippine Long Distance Telephone Company v. National Labor Relations Commission, supra note 12; United South Dockhandlers, Inc. v. National Labor Relations Commission, 335 Phil. 76, 81-82 (1997).

[30] United South Dockhandlers, Inc. v. National Labor Relations Commission, supra note 29.

[31] San Miguel Corporation v. National Labor Relations Commission, 325 Phil. 940, 952 (1996).

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