ALAY SA KAPATID INTERNATIONAL FOUNDATION, INC. (AKAP), AS REPRESENTED BY SR. ESTHER MARIA CUVIN, PETITIONER, VS. ROMULO DOMINGUEZ, RESPONDENT.

G.R. NO. 164198. June 15, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Petitioner Alay sa Kapatid International Foundation, Inc. (AKAP) seeks to set aside the Decision[1] dated February 26, 2004 and the Resolution[2] dated June 23, 2004 of the Court of Appeals in CA-G.R. SP No. 70555. The appellate court directed petitioner to pay respondent Romulo Dominguez his full backwages from the time of his dismissal until the finality of the judgment, his unpaid salary of P3,254.90 for December 1 to 22, 1996, and attorney's fees.

AKAP is a non-stock, non-profit, and charitable corporation run by religious sisters. On February 1, 1996, it hired Dominguez as a community organizer. Dominguez and his co-workers, Pablo Abluyen and Cristina Segnaken, were also members of the Community Volunteers Missionaries (CVM). CVM is a loose group of lay workers involved in the parishes.

In a letter[3] dated November 27, 1996 addressed to AKAP's Local and Extended Board, Dominguez, Abluyen and Segnaken claimed that they were being oppressed due to their membership in CVM. They also labeled Sr. Diane Nieva, FMM; Sr. Esther Maria Cuvin, SSpS; and Sr. Raphael (Peng) Hernandez, SFIC, as "troublemakers," "outsiders/strangers," "persona non grata," "doers of abuses and misbehaviors," and "creators of mess in AKAP."

On December 6, 1996, AKAP's Local and Extended Board decided to terminate Dominguez effective December 31, 1996. But on December 23, 1996, Dominguez was already prevented from reporting to work.

In a Memorandum[4] dated January 4, 1997, Sr. Augustini Bernal, SFIC, AKAP's President, required Dominguez to explain in writing why he should not be terminated for circulating the letter dated November 27, 1996. Dominguez complied. On January 13, 1997, Dominguez received AKAP's Decision[5] terminating him from employment on the ground of serious misconduct.

Dominguez filed a complaint for illegal dismissal, nonpayment of salary for December 1996, overtime pay, holiday pay, night shift differentials, and backwages. The Labor Arbiter dismissed his complaint, but ordered AKAP to pay his unpaid salary, thus,

> WHEREFORE, the [petitioner] ALAY SA KAPATID International Foundation, Inc. (AKAP), is hereby ORDERED to pay [respondent] Romulo Dominguez his unpaid wages from December 1 to 22, 1996 in the total amount of THREE THOUSAND TWO HUNDRED FIFTY FOUR and 90/100 PESOS (P3,254.90).
>
> All other claims are hereby dismissed for lack of merit.
>
> SO ORDERED.[6]

On appeal, the National Labor Relations Commission (NLRC) reversed the Labor Arbiter's decision. It ruled that Dominguez's termination was substantively and procedurally invalid. It ruled,

> WHEREFORE, the foregoing premises considered, the Decision of the Executive Labor Arbiter is hereby SET ASIDE; and judgment is hereby rendered finding the [respondent] illegally dismissed. The [petitioner] is hereby ordered to pay the [respondent] the following:
>
> - Separation pay equivalent to one (1) month pay for every year of service, based on his last monthly salary of P4,500.00, counted from 01 February 1996 up to the finality of this judgment;
>
> - Backwages, inclusive of allowances and other benefits allowed by law, computed from 23 December 1996 until the finality of this judgment and the full payment of his separation pay;
>
> - The unpaid wages of 01-22 December 1996 in the amount of P3,254.90;
>
> - Attorney's fees equivalent to ten percent (10%) of all of the above monetary awards.
>
> SO ORDERED.[7]

AKAP appealed to the Court of Appeals which ruled partly in its favor. The appellate court declared that there was just cause to terminate Dominguez because he committed serious misconduct by making reckless imputations in the letter against his superiors and by maliciously circulating it to others. However, the appellate court held that AKAP failed to observe the twin requirements of notice and hearing since Dominguez was terminated even before he could explain his side. It therefore modified the NLRC decision as follows:

> WHEREFORE, premises considered, the petition is partially granted. Petitioner AKAP is directed to pay private respondent Romulo Dominguez full backwages counted from the time he was dismissed up to finality of this judgment, his unpaid salary for December 1-22, 1996 in the amount of P3,254.90, plus attorney's fees.
>
> SO ORDERED.[8]

AKAP moved for reconsideration but it was denied in the Resolution dated June 23, 2004.

Hence, the instant petition raising the lone issue:

> WHETHER OR NOT THE HONORABLE COURT OF APPEALS RULED IN ACCORDANCE WITH PREVAILING LAWS AND JURISPRUDENCE WHEN IT HELD THAT AKAP DID NOT COMPLY WITH THE TWIN REQUIREMENTS OF NOTICE AND HEARING IN RESPONDENT'S TERMINATION[.][9]

At the outset, we must stress that in petitions for review, only errors of law are generally reviewed by this Court, and in labor cases, this applies with greater force. Factual questions are for labor tribunals to resolve.[10] This rule, however, is not ironclad. Where, as in this case, the issue is shrouded by a conflict of factual perceptions by the lower courts, we are constrained to review the factual findings of the Court of Appeals.[11]

The sole issue here is whether petitioner complied with the twin requirements of notice and hearing before it terminated respondent's employment.

Petitioner does not deny that AKAP's Local and Extended Board had already decided to terminate respondent as early as December 6, 1996. However, it explains that the legality of respondent's termination depends on his status as probationary employee. It avers that the records show that respondent was not a regular employee and was still below the one-year probationary period.

Petitioner's argument is unsubstantiated. Petitioner admitted that there was no written contract evidencing respondent's employment, regular or otherwise. Further, granting that respondent was merely a probationary

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employee, he was still entitled to security of tenure and may only be terminated for a just cause or when he fails to qualify as a regular employee in accordance with reasonable standards made known to him by petitioner at the time of his engagement.[12] Petitioner has not shown either of these circumstances. In fact, petitioner does not even deny that it already prevented respondent from reporting to work on December 23, 1996.

Clearly, it appears that the reason why AKAP's Local and Extended Board decided to terminate respondent as early as December 6, 1996 was the latter's letter dated November 27, 1996. As an afterthought and to give a semblance of compliance with the twin requirements of notice and hearing, petitioner belatedly required respondent to explain in writing why he should not be terminated. After finding his explanation unsatisfactory, respondent was terminated on January 13, 1997.

In Agabon v. National Labor Relations Commission,[13] we said that where the dismissal is for a just cause, the lack of statutory due process should not nullify the dismissal, or render it illegal, or ineffectual. The employer should indemnify the employee, however, in the form of nominal damages, for the violation of his right to statutory due process.[14] The amount of such damages is addressed to the sound discretion of the Court, taking into account the relevant circumstances.[15] In this case, we deem it proper to fix it at P30,000.

WHEREFORE, the instant petition is DENIED. The Decision dated February 26, 2004 and the Resolution dated June 23, 2004 of the Court of Appeals in CA-G.R. SP No. 70555 are MODIFIED. Petitioner is directed to pay respondent P30,000 as nominal damages for its noncompliance with statutory due process, P3,254.90 as unpaid salary for December 1 to 22, 1996, and attorney's fees.

SO ORDERED.

Carpio, Tinga, and Velasco, Jr., JJ., concur.
Carpio-Morales, J., on official leave.

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[1] Rollo, pp. 26-33. Penned by Associate Justice Rosmari D. Carandang, with Associate Justices Eugenio S. Labitoria and Mercedes Gozo-Dadole concurring.

[2] Id. at 35.

[3] CA rollo, pp. 34-37.

[4] Id. at 38.

[5] Rollo, p. 43.

[6] CA rollo, pp. 63-64.

[7] Id. at 30-31.

[8] Rollo, p. 32.

[9] Id. at 19.

[10] Hacienda Fatima v. National Federation of Sugarcane Workers-Food and General Trade, G.R. No. 149440, January 28, 2003, 396 SCRA 518, 524.

[11] Go v. Court of Appeals, G.R. No. 158922, May 28, 2004, 430 SCRA 358, 365.

[12] LABOR CODE, ART. 281. Probationary employment. Probationary employment shall not exceed six (6) months from the date the employee started working, unless it is covered by an apprenticeship agreement

stipulating a longer period. The services of an employee who has been engaged on a probationary basis may be terminated for a just cause or when he fails to qualify as a regular employee in accordance with reasonable standards made known by the employer to the employee at the time of his engagement. An employee who is allowed to work after a probationary period shall be considered a regular employee.

[13] G.R. No. 158693, November 17, 2004, 442 SCRA 573, 616.

[14] Philippine Pizza, Inc. v. Bungabong, G.R. No. 154315, May 9, 2005, 458 SCRA 288, 300.

[15] Id.

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