

CYNTHIA GANA, Petitioner, V.S. THE NATIONAL LABOR RELATIONS COMMISSION, ABOITIZ HAULERS, INC., and CARL WOZNIAK, Respondents.

G.R. No. 164640. June 13, 2008

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Assailed in the present Petition for Review on Certiorari under Rule 45 of the Rules of Court is the Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 71318 promulgated on April 30, 2004 affirming the Decision[2] of October 31, 2000 and the Order[3] dated May 3, 2002 of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 020479-99 (NLRC NCR Case No. 06-04712-98); and the CA Resolution[4] dated July 26, 2004, denying petitioner's Motion for Reconsideration.

The facts of the case are as follows:

Aboitiz Transport System (Aboitiz Transport), Aboitiz Container Services, Inc. (Aboitiz Container) and Aboitiz Haulers, Inc. (respondent company) are sister corporations belonging to the Aboitiz Group of Companies. Sometime in 1996, Aboitiz Transport entered into a marketing agency contract with another corporation, Trans-America Leasing (Trans-America). During that time, Trans-America had an existing contract with Aboitiz Container wherein the latter served as Trans-America's container depot. Subsequently, herein respondent company entered into a contract with Trans-America wherein the former took over the obligations of Aboitiz Transport to Trans-America.

On December 1, 1996, Cynthia Gana (petitioner) commenced her employment as marketing manager of Total Distribution and Logistics System, Inc. (TDLSI),[5] another sister company of Aboitiz Transport, Aboitiz Container and respondent company. As marketing manager, petitioner received a monthly salary of P20,000.00 plus a monthly allowance of P15,000.00; and she availed herself of the company car plan.

On August 15, 1997, petitioner was transferred from TDLSI to respondent company retaining the same position as marketing manager.

On April 21, 1998, petitioner was required by private respondent Carl Wozniak (Wozniak), the Senior Vice-President and General Manager of Aboitiz Haulers, to explain in writing why she should not be penalized for having violated company rules on offenses against company interest. Wozniak directed her to appear in an investigation to be conducted by the company and defend herself with respect to the electronic mails (e-mails) she sent to an official of Trans-America, divulging various confidential information about the business operations and transactions of Aboitiz Container which are detrimental to the said company.[6]

On April 24, 1998, petitioner, through her counsel, sent a letter to Wozniak denying the charges against her.[7]

In a letter dated May 22, 1998, Wozniak informed petitioner that her explanations during the investigation with

respect to the charges leveled against her were found to be unacceptable; that she was found guilty of Betrayal of Confidential Information which constitutes sufficient reason for the company to lose the high degree of trust and confidence which it reposed upon her as its manager; and that as a result, her employment with respondent company has been terminated.[8]

Petitioner then filed a Complaint for illegal dismissal with the National Labor Relations Commission (NLRC) in Quezon City.[9]

On June 14, 1999, the Labor Arbiter (LA) rendered a Decision [10] finding respondent company guilty of illegally dismissing petitioner.

On appeal, the NLRC set aside the Decision of the LA. The dispositive portion of the NLRC Decision reads:

WHEREFORE, the appealed decision dated June 19, 1999 is SET ASIDE and a new one is ENTERED dismissing the instant complaint for lack of merit. Respondent company is however ordered to return to complainant her paid equity on the car amounting to One Hundred Eighty One Thousand Three Hundred Nine and 05/100 (P181,309.05), as well as to pay complainant financial assistance in the amount of Seventy Thousand Pesos (P70,000.00).

SO ORDERED. [11]

Petitioner filed a Motion for Reconsideration[12] but the same was denied by the NLRC in its Order[13] promulgated on May 3, 2002.

Petitioner then filed a petition for certiorari with the CA questioning the above-mentioned Decision and Order of the NLRC.

On April 30, 2004, the CA promulgated its presently assailed Decision[14] dismissing the petition for certiorari and affirming the questioned Decision and Order of the NLRC.

Petitioner filed a Motion for Reconsideration but it was denied by the CA in its Resolution[15] dated July 26, 2004.

Hence, the present petition raising the following issues:

- WHETHER SHE [PETITIONER] WAS ILLEGALLY DISMISSED AND OR HER DISMISSAL WAS IN VIOLATION OF DUE PROCESS;
- WHETHER SHE [PETITIONER] IS ENTITLED TO REINSTATEMENT AND BACKWAGES AS WELL AS MONETARY CLAIM AND POSITIVE RELIEF FOR AWARD OF DAMAGES AND ATTORNEY'S FEES;
- WHETHER THE APPEAL OF PRIVATE RESPONDENT WAS FILED OUT OF TIME.[16]

Petitioner posits that the marketing agency contract between respondent company and Trans-America requires transparency; that any information considered significant to the conduct of Trans-America's business should be forwarded to it considering that both companies are actually business partners; and that petitioner's e-mails sent to Trans-America may not be considered disclosure of confidential information regarding the business operations and transactions of respondent company or of Aboitiz Container as, in fact, there is nothing confidential contained in said e-mails. As such, petitioner claims that there is no factual and legal basis in dismissing petitioner from her employment.

Petitioner also avers that there was a violation of her right to due process as there was no just cause for termination and that respondent company failed to comply with the requirements of procedural due process.

Petitioner claims that she was forced to submit to the investigation conducted by respondent company.

Private respondents, on the other hand, contend that petitioner failed to show any palpable error or grave abuse of discretion on the part of the CA or the NLRC and that the present petition is a mere reproduction of the arguments and assertions which were already passed upon by the CA and the NLRC in their assailed decisions.

Private respondents also assert that, contrary to petitioner's contention, their appeal with the NLRC was timely filed; and that the delay, if any, in the filing of the said appeal was justified when government offices were closed and government workers were sent home early due to inclement weather conditions on the supposed last day of filing of their appeal.

Private respondents contend that petitioner was not denied due process because she was given the requisite notices as well as ample opportunity to explain her side as required by the Labor Code.

The Court finds the petition devoid of merit.

As to the first assigned error, petitioner alludes to the LA's conclusion that she was denied procedural due process, to wit:

We could not likewise lend credence to respondent's contention that complainant was afforded due process before effecting his [sic] dismissal, if at all, the alleged due process granted the complainant was more farcical than real.

We find the aforesaid legal requirements absolutely disregarded by the respondents in the case at bar, and certainly, the complainant could not be faulted for having challenged her severance from employment as an unreasonable infringement of her constitutional right to security of tenure and due process.[17]

The Court agrees with the NLRC and to the CA that this conclusion has no basis. The LA Decision failed to cite any evidence or factual circumstance which would support the conclusion that petitioner was not accorded procedural due process. The NLRC aptly found that there is sufficient proof to show that respondent company complied with the requirements of procedural due process. The Court quotes with approval the following disquisition of the NLRC:

As with procedural due process requirements, We find complainant to have been accorded with the same. It is undisputed that on April 21, 1998, respondent company sent complainant a show cause letter due to her various violations. On April 24, 1998, complainant through her counsel, Atty. Franco Loyola, submitted an explanation letter denying the charges against her. On May 22, 1998, after investigation hearing, respondent company found her guilty of willful breach of trust and confidence and gross misconduct and dismissed her from employment. The foregoing show that respondent company complied with the procedural due process requirements. x x x[18]

Settled is the rule that the requirements of due process are satisfied where the parties are afforded fair and reasonable opportunity to explain their side of the controversy at hand.[19] In the present case, petitioner, as shown above, was given this opportunity.

Anent the second issue, petitioner relies on the conclusion of the LA that there is no sufficient evidence to justify petitioner's termination from employment on the ground of loss of trust and confidence. However, evidence shows otherwise. The LA cited private respondent's letter terminating petitioner from her employment to prove that respondent company failed to show sufficient evidence to establish the charges against petitioner. Contrary to the conclusion of the LA, it is very clear in the said letter that respondent company enumerated the facts and circumstances upon which petitioner's termination was based. Pertinent portions of the letter are as follows:

Last April 22, 1998, an investigation was conducted in order to give you the chance to present your side of matters that were contained in the letter to explain dated April 21, 1998 that was sent to you and which you received last April 21, 1998 also.

During the said investigation, it was established that:

- a) You sent email messages/reports to Leslie Leow of Transamerica last March 9, 1998 and March 25, 1998 regarding the company's internal problems with the truckers, depot and special permit to load (spl) and the rates charge[d] by ACSI to its customers.
- b) You sent again email message last April 16, 1998 to Leslie Leow concerning the complaints of Mr. Carmelo Garcia regarding the company's poor services which puts the company's credibility to deliver good service in question.
- c) You have literally provided Transamerica information about the inefficiencies and inflexibility of the company in catering to the needs of the customer.
- d) The Officers of the company only learned of the complaints of Mr. Carmelo Garcia because of your email messages to Transamerica.
- e) You declared that your loyalty is to Transamerica and not to your employer, AHI.[20]

The settled rule is that the mere existence of a basis for believing that a managerial employee has breached the trust of the employer justifies dismissal.[21]

Petitioner does not deny having sent the subject e-mails to Trans-America. The Court finds no error in the conclusion of the CA that petitioner's intention in sending these e-mails was to inform Trans-America of the supposed inefficiency in the operations of respondent company as well as the company's poor services to its clients. These pieces of information necessarily diminish the credibility of respondent company and besmirch its reputation. In fact, Trans-America wrote Wozniak expressing its disappointment in the services that the Aboitiz companies were rendering.

Even if petitioner had no other intention but to improve the business of respondent company, the Court agrees with the CA and NLRC in ruling that she should have first coursed the said information to her superiors instead of hastily sending correspondence to their client, considering that the information she possessed was prejudicial to her employer's business. Petitioner should have confined her grievance or complaint regarding the conduct of her employer's business within the company. As a managerial employee, she is expected to exercise her judgment and discretion with utmost care and concern for her employer's business. The Court agrees with the CA that petitioner is tasked to perform key functions and, unlike ordinary employees, she is bound by a more exacting work ethic.[22] In sending e-mails to Trans-America, she unnecessarily and prematurely exposed the company's shortcomings in handling the business of its clients when the company could have possibly rectified or remedied the matter before any damage was done.

Hence, respondent company cannot be faulted for having lost its trust and confidence in petitioner and in refusing to retain her as its employee considering that her continued employment is patently inimical to respondent company's interest. The law, in protecting the rights of labor, authorizes neither oppression nor self-destruction of an employer company which itself is possessed of rights that must be entitled to recognition and respect.[23]

As to the third issue, the Court finds its ruling in *Chronicle Securities Corporation v. National Labor Relations Commission* [24] apropos to the present case, pertinent portions of which read as follows:

The right to appeal is a purely statutory right. Not being a natural right or a part of due process, the right to appeal may be exercised only in the manner and in accordance with the rules provided therefor. Failure to bring an appeal within the period prescribed by the rules renders the judgment appealed from final and executory. However, it is always within the power of this Court to suspend its own rules, or to except a particular case from its operations, whenever the purposes of justice require it.

In not a few instances, we relaxed the rigid application of the rules of procedure to afford the parties the opportunity to fully ventilate their cases on the merits. This is in line with the time honored principle that cases should be decided only after giving all parties the chance to argue their causes and defenses. Technicality and procedural imperfections should thus not serve as bases of decisions. In that way, the ends of justice would be better served. For indeed, the general objective of procedure is to facilitate the application of justice to the rival claims of contending parties, bearing always in mind that procedure is not to hinder but to promote the administration of justice.

In *Philippine National Bank, et al. v. Court of Appeals*, [25] we allowed, in the higher interest of justice, an appeal filed three days late.

In *Republic v. Court of Appeals*, [26] we ordered the Court of Appeals to entertain an appeal filed six days after the expiration of the reglementary period; while in *Siguenza v. Court of Appeals*, [27] we accepted an appeal filed thirteen days late. Likewise, in *Olacao v. NLRC*, [28] we affirmed the respondent Commission's order giving due course to a tardy appeal "to forestall the grant of separation pay twice" since the issue of separation pay had been judicially settled with finality in another case. All of the aforequoted rulings were reiterated in our 2001 decision in the case of *Equitable PCI Bank v. Ku*. [29]

Moreover, the facts herein are akin to the case of *Surigao del Norte Electric Cooperative v. NLRC*, [30] where we upheld the NLRC's order taking cognizance of an appeal filed one day late since the delay in filing was caused by the onslaught of typhoon Basing, resulting in the closure of the Surigao Post Office on the last day for the appellant to file her appeal. [31]

In the instant case, considering that private respondents' petition is unequivocally meritorious, the Court upholds the CA ruling that the one-day delay in the filing of private respondents' appeal is justified.

Having been established that the twin requirements of just cause and procedural due process had been complied with by private respondents in dismissing petitioner from her employment, the NLRC and the CA correctly denied her prayer for the award of exemplary and moral damages as well as attorney's fees.

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals dated April 30, 2004 and its Resolution of July 26, 2004 in CA-G.R. SP No. 71318 are AFFIRMED.

No pronouncement as to costs.

SO ORDERED.

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

* In lieu of Justice Antonio Eduardo B. Nachura, per Special Order No. 507 dated May 28, 2008.

** Spelled as "Karl" in other parts of the SC and CA rollos.

[1]

Penned by Justice Delilah Vidallon-Magtolis with the concurrence of Justices Edgardo P. Cruz and Noel G.

Tijam, rollo, pp. 98-106.

[2] Id. at 49.

[3] Id. at 93.

[4] Id. at 128.

[5] Also referred to as Total Distributors and Logistic Services, Inc. in other parts of the SC and CA rollos.

[6] Annex "18" of private respondents' Position Paper, CA rollo, p. 496.

[7] Annex "19", id. at 497.

[8] Annex "20", id. at 499.

[9] Annex "A" of Memorandum for the Petitioner, rollo, p. 302.

[10] Id. at 34.

[11] Id. at 59.

[12] Rollo, p. 61.

[13] Id. at 93.

[14] CA rollo, p. 651.

[15] Id. at 709.

[16] Rollo, p. 19.

[17] Rollo, p. 45.

[18] Id. at 58.

[19] *Filipino v. Macabuhay*, G.R. No. 158960, November 24, 2006, 508 SCRA 50, 58.

[20] Annex "20" of respondent's Position Paper, CA rollo, p. 499.

[21] *Sim v. National Labor Relations Commission*, G.R. No. 157376, October 2, 2007, 534 SCRA 515, 524.

[22] *Molina v. Pacific Plans, Inc.*, G.R. No. 165476, March 10, 2006, 484 SCRA 498, 520.

[23] *Dayan v. Bank of the Philippine Islands*, 421 Phil. 620, 630 (2001).

[24] G.R. No. 157907, November 25, 2004, 444 SCRA 342.

[25] 316 Phil. 371 (1995),

[26] 172 Phil. 741 (1978).

[27] G.R. No. L-44050, July 16, 1985, 137 SCRA 570.

[28] G.R. No. 81390, August 29, 1989, 177 SCRA 38.

[29] 407 Phil. 609 (2001).

[30] 368 Phil. 537 (1999).

[31] *Chronicle Securities Corp. v. National Labor Relations Commission*, *supra* note 24, at 348-350.

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