VIRGINIA A. SUGUE AND THE HEIRS OF RENATO S. VALDERRAMA, PETITIONERS, VS. TRIUMPH INTERNATIONAL (PHILS.), INC., RESPONDENT.

G.R. No. 164804. January 30, 2009

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

Before us are consolidated petitions for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure filed by both contending parties assailing the Decision[1] dated April 23, 2004 and the Resolution[2] dated July 21, 2004 rendered by the Court of Appeals (CA) in CA-G.R. SP No. 68591.

In G.R. No. 164804, petitioners Virginia Sugue (Sugue) and the Heirs of Renato Valderrama (Valderrama) question the CA decision which partly granted their appeal but deleted the attorney's fees and reduced the moral and exemplary damages awarded to them.

On the other hand, in G.R. No. 164784, petitioner Triumph International (Phils.), Inc. (Triumph hereafter) assails the CA decision for setting aside an earlier decision[3] of the National Labor Relations Commission (NLRC) dated June 13, 2001 which ruled in its favor.

The antecedents of the case show that Triumph hired Sugue in May 1990 as its Assistant Manager for Marketing and was subsequently promoted to Marketing Services Manager with a monthly salary of P82,500.00. On the other hand, Valderrama was hired in April 1993 as Direct Sales Manager with a monthly salary of P121,000.00. Their main function/responsibility was to ensure that the company's sales targets and objectives were met.

Beginning sometime in October 1999, Triumph's top management began to notice a sharp decline in the sales of the company. Moreover, in the following months, the actual sales figures continued to be significantly below the sales targets set by Valderrama himself. This persistent below target sales performance was the subject of correspondence between Valderrama and his superiors from November 1999 to July 2000.[4]

On June 1, 2000, Sugue and Valderrama filed a complaint with the NLRC against Triumph for payment of money claims arising from allegedly unpaid vacation and sick leave credits, birthday leave and 14[th] month pay for the period 1999-2000. Said complaint was docketed as NLRC-NCR-Case No. 00-06-03008-2000.[5]

On June 19, 2000, Sugue and Valderrama personally attended the preliminary conference of the said case. The following day, a memorandum was issued by Triumph's Managing Director/General Manager, Alfredo Escueta, reminding all department heads of existing company policy that requires department heads to notify him (Escueta) before leaving the office during work hours.[6] That same day, Triumph's Personnel Manager, Ralph Funtila, issued separate memoranda to Sugue and Valderrama requiring them to inform the office of the General Manager of their whereabouts on June 19, 2000 from 9:06 a.m. to 11:15 a.m. They replied that they attended the aforementioned preliminary conference.[7]

On June 23, 2000, Valderrama and Sugue were directed to submit a written explanation as to why they used

company time and the company vehicle and driver in attending the preliminary conference at the NLRC and why they left the office without advising the Managing Director. They explained that they believed they may use company time and the company vehicle since the hearing they attended was pursuant to a complaint that they filed as employees of the company.

On June 28, 2000, Triumph charged the one-half day utilized by Sugue and Valderrama in attending the NLRC hearing on June 19, 2000 to their vacation leave credits.

In the pleadings, Valderrama likewise complained that his request for an executive check-up on June 19, 2000 was disapproved by Triumph. Thereafter, Valderrama did not report for work on July 3 to 5, 2000 due allegedly to persistent cough and vertigo, but his request for sick leave on those dates was disapproved by Triumph because he failed to submit a medical certificate as required by the company's rules and policies.

Subsequently, on July 10, 2000, Triumph issued a show cause memo to Valderrama requiring him to explain, among others, his department's dismal performance since October 1999, within 48 hours from receipt.[8] On July 11, 2000, Valderrama replied to the show cause memo.[9]

On July 17, 2000, Valderrama wrote the company a letter stating that he considered himself constructively dismissed due to the unreasonable pressures and harassments he suffered the past months which prevented him from effectively exercising his tasks as Direct Sales Manager.[10]

Subsequently, on July 28, 2000, Triumph issued a memorandum requiring Valderrama to explain, under pain of dismissal, his continued absences without official leave. Valderrama failed to respond, thus, on August 11, 2000, Triumph decided to terminate Valderrama's employment for abandonment of work.[11]

Meanwhile, on July 25, 2000, Sugue also wrote the company stating that she considers herself constructively dismissed.[12] From the pleadings, Sugue's charge of constructive dismissal was based on the fact that her request for vacation leave from July 14 to 15, 2000 was subject to the condition that she first submit a report on the company's 2001 Marketing Plan. Also, the approval of her request for executive check-up was deferred. Then, on July 18, 2000, she received a memorandum instructing her to report to Mr. Efren Temblique, who was appointed OIC for Marketing as a result of a reorganization prompted by Valderrama's continued absences. Sugue claimed that such act by Triumph was an outright demotion considering that Mr. Temblique was her former assistant.

On August 11, 2000, Triumph required Sugue to explain why she should not be terminated for continued absences without official leave.[13] Sugue failed to comply, thus, on September 1, 2000, her employment was terminated for abandonment of work.[14]

Prior to the actual termination of their employment by Triumph, Sugue and Valderrama filed on July 31, 2000 a complaint for constructive dismissal against Triumph, docketed as NLRC NCR Case No. 00-07-03965-2000.[15]

The following day, on August 1, 2000, Valderrama commenced his employment as Sales Director of Fila Phils., Inc., a competitior of Triumph.

On March 15, 2001, Labor Arbiter Salimathar Nambi rendered a decision, declaring that Sugue and Valderrama were constructively dismissed. The dispositive portion of the Labor Arbiter's decision follows:

> WHEREFORE, premises considered, judgment is hereby rendered ordering respondent Triumph International (Phils.), Inc. to:
>
> 1)
>
> Pay, since reinstatement is not feasible, complainants Virginia A. Sugue and Renato Valderrama their

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separation pay computed at one month salary for every year of service from their initial engagement on May 1990 and April 1993, respectively.

2)

Pay both complainants full backwages from the time that they were constructively dismissed, i.e. from 17 July 2000 in the case of Valderrama and from 25 July 2000 in the case of Sugue until finality of judgment.

3)

Pay P2,000,000.00 as moral damages to each of the complainants

4)

Pay P1,000,000.00 as exemplary damages to each of the complainants.

5)

Reimburse the complainants the 20% of the amounts claimed as attorney's fees.

SO ORDERED.[16]

Aggrieved, Triumph filed an appeal with the NLRC,[17] and in a decision dated June 13, 2001, the First Division of the NLRC granted the appeal and reversed the ruling of Labor Arbiter Nambi.

Not satisfied with the NLRC decision, Sugue and Valderrama elevated the matter to the CA by way of a petition for certiorari. While the matter was pending with the CA, Valderrama passed away (on July 3, 2003) and notice of his death was filed by his counsel.[18]

On April 23, 2004, the CA rendered its assailed decision, the dispositive portion of which reads:

WHEREFORE, the petition is partly granted. The Decision dated June 13, 2001 of public respondent NLRC is hereby set aside, and the Decision dated March 15, 2001 of the labor arbiter is reinstated, subject to the deletion of the award of attorney's fees and the reduction of the award of moral damages to P500,000.00 and exemplary damages to 250,000.00, for each of the petitioners.

SO ORDERED.[19]

Triumph's subsequent motion for reconsideration as well as the motion for partial reconsideration filed by Sugue and the heirs of Valderrama were both denied by the appellate court in its resolution dated July 21, 2004.

Hence, the parties filed the present petitions which were consolidated by this Court in a Resolution dated September 27, 2004.[20]

In G.R. No. 164804, petitioners therein Sugue and the heirs of Valderrama allege that the Court of Appeals gravely erred in deleting the labor arbiter's award of attorney's fees.[21]

In G.R. No. 164784, petitioner therein Triumph cites the following reasons why the Court should rule in its favor:

I

The Court of Appeals gravely erred and contravened prevailing jurisprudence in abandoning the NLRC's findings of fact and making its own findings. The rule is basic that the factual findings of the NLRC are accorded respect, if not finality, considering that the same were based on evidence on record. Reassessment of evidence is beyond the province of a writ of certiorari.

II

> The Court of Appeals gravely erred and contravened the law and jurisprudence in ruling that Valderama and Sugue were constructively dismissed, and are entitled to separation pay, backwages and damages. The facts of the case, as correctly found by the NLRC based on evidence on record, clearly belie their contention that they were constructively dismissed.[22]

From the allegations of the respective parties in their pleadings, it is clear that the controversies involved in the two consolidated cases center on the question of whether Valderrama and Sugue were constructively dismissed by Triumph.

At the outset, it should be stated that the main issue in this case involves a question of fact. It is an established rule that the jurisdiction of the Supreme Court in cases brought before it from the CA via Rule 45 of the 1997 Rules of Civil Procedure is generally limited to reviewing errors of law.[23] This Court is not a trier of facts. In the exercise of its power of review, the findings of fact of the CA are conclusive and binding and consequently, it is not our function to analyze or weigh evidence all over again.[24]

The above rule, however, is not without exceptions. In Sta. Maria v. Court of Appeals,[25] we enumerated the instances when the factual findings of the CA are not deemed conclusive, to wit: (1) when the conclusion is a finding grounded entirely on speculations, surmises or conjecture; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when the CA, in making its findings, went beyond the issues of the case and the same are contrary to the admission of both the appellant and the appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; and (10) when the findings of fact are premised on the supposed evidence and contradicted by the evidence on record.

In the instant case, it appears that there is a divergence between the findings of facts of the NLRC and that of the CA. Hence, we are constrained to review the factual findings made by the NLRC and the appellate court.

After a thorough review of the evidence on record, we find sufficient reasons to uphold Triumph's position.

Constructive dismissal is defined as an involuntary resignation resorted to when continued employment becomes impossible, unreasonable or unlikely; when there is a demotion in rank or a diminution in pay; or when a clear discrimination, insensibility or disdain by an employer becomes unbearable to an employee.[26]

On a preliminary point, we note that Sugue and Valderrama discuss extensively in their pleadings alleged denial of leave applications and unpaid cash conversion of unused leaves and other monetary benefits which moved them to file a complaint for monetary claims on June 1, 2000.[27] We find no need to pass upon these matters here precisely because they are the subject matters of a separate case and properly threshed out therein. In any event, it is Sugue and Valderrama's theory that Triumph's acts of harassment, upon which they base their charge of constructive dismissal, were in retaliation for their filing of the aforementioned complaint for unpaid benefits.[28] The acts which purportedly show discrimination and bad faith on the part of Triumph are summarized below:

In the case of Valderrama:

- The half-day he spent in attending the NLRC hearing on June 19, 2000 was charged to his vacation leave credit;

- His application for sick leave for July 3 to 5, 2000 was disapproved; and

- His request for executive check-up was denied.

In the case of Sugue:

- The half-day she spent in attending the NLRC hearing on June 19, 2000 was charged to her vacation leave credit;

- The approval of her application for leave of absence for July 14 and 15, 2000 was made subject to the condition that she should first submit a report on the 2001 Marketing Plan;

- The approval of her request for executive check-up was deferred until after the visit of the company's regional marketing manager; and

- A memorandum was issued instructing her to report to her former assistant, Mr. Temblique, which was allegedly tantamount to a demotion.

According to Sugue and Valderrama, this series of discriminatory acts committed by Triumph created an adverse working environment rendering it impossible for them to continue working for Triumph. Hence, their severance from the company was not of their own making and therefore amounted to constructive dismissal which is tantamount to an illegal termination of employment.

With respect to the first alleged discriminatory act, we can conceive of no reason to ascribe bad faith or malice to Triumph for charging to the leave credits of Sugue and Valderrama the half-day that they spent in attending the preliminary conference of the case they instituted against Triumph. It is fair and reasonable for Triumph to do so considering that Sugue and Valderrama did not perform work for one-half day on June 19, 2000.

Indeed, we find it surprising that Sugue and Valderrama would even have the temerity to contend that the hours they spent in attending the hearing were compensable time. As the NLRC correctly pointed out, as early as the case of J.B. Heilbronn Co. v. National Labor Union,[29] this Court held that:

> When the case of strikes, and according to the CIR even if the strike is legal, strikers may not collect their wages during the days they did not go to work, for the same reasons if not more, laborers who voluntarily absent themselves from work to attend the hearing of a case in which they seek to prove and establish their demands against the company, the legality and propriety of which demands is not yet known, should lose their pay during the period of such absence from work. The age-old rule governing the relation between labor and capital or management and employee is that a "fair day's wage for a fair day's labor." If there is no work performed by the employee there can be no wage or pay, unless of course, the laborer was able, willing and ready to work but was illegally locked out, dismissed or suspended. It is hardly fair or just for an employee or laborer to fight or litigate against his employer on the employer's time.
>
> In a case where a laborer absents himself from work because of a strike or to attend a conference or hearing in a case or incident between him and his employer, he might seek reimbursement of his wages from his union which had declared the strike or filed the case in the industrial court. Or, in the present case, he might have his absence from his work charged against his vacation leave. xxx (Emphasis ours)

This doctrine in Heilbronn was reiterated in Manila Trading & Supply Co. v. Manila Trading Labor Association[30] and quoted favorably in later cases.[31] Triumph is, thus, justified in charging Sugue and Valderrama's half-day absence to their vacation leave credits.

Corollarily, we cannot uphold the CA's approval of the Labor Arbiter's finding that the memoranda issued by Triumph in connection with the June 19, 2000 hearing constitute undue harassment.

To begin with, the complained of Memorandum dated June 20, 2000 issued by Mr. Escueta, regarding the company policy that required department heads to give prior notice to the General Manager if they will be away from the office during office hours, did not single out Sugue and Valderrama but was addressed to all department

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heads. Contrary to Sugue and Valderrama's assertion that said policy was being retroactively applied to them, it is plain on the face of the same memorandum (a copy of which was even attached to their Position Paper filed with the Labor Arbiter)[32] that the policy of requiring department heads to give notice to the Office of the Managing Director/General Manager should they leave the office during regular work hours had been in force since 1997. The memoranda of Mr. Funtila, requiring Sugue and Valderrama to inform the office of the General Manager of their whereabouts on the morning of June 19, 2000, could not be deemed a form of harassment but rather it was in keeping with due process. Notwithstanding the fact that the company had received summons for the same hearing, the company could not simply assume that the hearing was the reason for Valderrama and Sugue's absence. When an employer believes that there has been a possible violation of company rules or policies, the law, in fact, requires the employer to give the employee ample opportunity to explain. Finally, the memoranda informing Valderrama and Sugue that they cannot use company time and the company vehicle when attending hearings for the case they filed against the company and that their absence would be charged against their vacation leaves were, as discussed above, in accordance with existing jurisprudence and principles of fair play. Verily, this is not a case of ordinary workers with limited resources who were being unlawfully pressured or prevented by their employer from pursuing their claims. Sugue and Valderrama are highly educated managers who were ably represented by counsel and were then being paid handsome compensation packages by Triumph. Even assuming that Sugue and Valderrama in good faith believed that they are merely exercising their legal right to prosecute their monetary claims when they chose to absent themselves from work to attend the June 19, 2000, it would have imposed little burden on them to have the courtesy to inform their employer beforehand of their intention to personally attend the hearing and the decency to do so on their own time and at their own expense.

Anent Sugue and Valderrama's claim that they were unjustly denied availment of their leaves as part of a scheme on the part of Triumph to harass them, we find the same patently without merit.

In the case of Valderrama, he applied for sick leave for the period July 3 to 5, 2000 allegedly because of persistent cough and vertigo, but this was disapproved by Triumph. The record, however, reveals that he failed to comply with the company's requirement that an application for sick leave for two or more days must be supported by a medical certificate which must be verified by the company physician. He was even given twenty-four (24) hours to submit the same but he totally ignored it. That his sick leave application was denied was mainly due to his own fault and must not be unduly blamed on his employer.

For her part, Sugue condemns Triumph for putting a condition on the approval of her two days vacation leave for July 14 and 15, 2000, when she was required to first submit a report on the 2001 Marketing Plan. To be very accurate, Mr. Escueta's memorandum dated July 13, 2000 advised Sugue that her application for leave will be approved if she will commit to submit her reports in connection with the 2001 Marketing Plan by July 17, 2000, which was two days after her leave. Again, we find nothing discriminatory in such a condition considering that she was unable to show that she was the only employee whose leave application has been subjected to a condition. Discrimination is the failure to treat all persons equally when no reasonable distinction can be found between those favored and those not favored.[33] Sugue obviously failed to substantiate her claim of discrimination. To be sure, he who asserts must prove.[34] On the contrary, the record shows that as early as October 12, 1999, a memorandum was issued by Triumph addressed to all department heads that leave applications may be approved, disapproved or postponed depending on the (1) business status due to CBA; (2) company's urgent need for their presence; and (3) CBA negotiations status.[35] Evidently, this directive applies not just to Sugue but to all department heads. Although this memorandum was supposedly in force only until December 1999, it establishes a precedent for the company imposing conditions on the approval of leave applications of department heads.

As for the nature of the condition itself, we do not see how it can be deemed unreasonable or in bad faith for the

employer to require its employee to complete her assignments on time or before taking a vacation leave. Being the Marketing Services Manager, Sugue's reports were indispensable in the preparation of the 2001 Marketing Plan plus the fact that the company had been experiencing a significant decline in sales at that time which all the more emphasizes the need for her to submit an updated report relative to the 2001 Initial Marketing Plan. For sure, she failed to show that the company prevented her from availing of her vacation leave afterwards or at some other time. Clearly then, there was no discrimination nor harassment to speak of.

Third, both Sugue and Valderrama question the denial by Triumph of their request for executive check-up. It should be noted that Triumph did not completely turn down their request. Based on Sugue and Valderrama's own evidence, their request was merely deferred because the 2001 Initial Marketing Plan was due on June 26, 2000 and Triumph's regional product manager was scheduled to visit the country on June 26 to 29, 2000.[36] As Valderrama was the Direct Sales Manager and Sugue was the Marketing Services Manager, their presence on those dates was undoubtedly needed. Thus, their contention that the approval of their request was indefinitely withheld is apocryphal. In fact, there is nothing that prevented them from scheduling their executive check-up after the visit of the regional marketing manager.

It is worth stressing that in the grant of vacation and sick leave privileges to an employee, the employer is given leeway to impose conditions on the entitlement to the same as the grant of vacation and sick leave is not a standard of law, but a prerogative of management. It is a mere concession or act of grace of the employer and not a matter of right on the part of the employee.[37] Thus, it is well within the power and authority of an employer to deny an employee's application for leave and the same cannot be perceived as discriminatory or harassment.

Sugue next asserts that she was demoted when she was directed to report to Mr. Efren Temblique who was her subordinate and when she was stripped of her usual functions. We are far from convinced. Demotion involves a situation where an employee is relegated to a subordinate or less important position constituting a reduction to a lower grade or rank, with a corresponding decrease in salaries, benefits and privileges.[38]

The evidence on hand belies Sugue's assertion, the truth being that prior to the reorganization, Mr. Temblique occupied the position of Assistant Manager for Direct Sales,[39] and as such was Valderrama's subordinate and not of Sugue. Sugue likewise failed to adequately prove her assertion that she reported directly to the General Manager, Mr. Escueta, when she was Marketing Services Manager or that she was not subordinate to Valderrama. To show that she was reporting directly to Mr. Escueta, Sugue adverts to Annexes U and V of her Position Paper. However, Annexes U and V were merely memoranda addressed to Mr. Escueta involving Sugue's application for leave and did not relate to the discharge of her functions.[40] On the other hand, there is on record memoranda issued by Sugue concerning work matters which were addressed to Valderrama, not Mr. Escueta.[41]

The evidence on record suggests that the Marketing Services Department was part of the Direct Sales Department. As Direct Sales Manager, Valderrama's responsibilities not only included sales but also marketing for which he was tasked to closely coordinate with the regional sales/marketing head office in Hongkong.[42] The record would also show that Sugue considered herself as belonging to the Direct Sales Department.[43] It is unsurprising then that when the Direct Sales Department was reorganized due to Valderrama's unexpected departure on July 17, 2000, Sugue's Marketing Services Department was included in the reorganization. It would appear from Mr. Escueta's Memorandum dated July 18, 2000 (Re: Direct Sales Reorganization) the sales and marketing responsibilities of Mr. Valderrama were taken over by Mr. Edilberto S. Rivera and Temblique, as OIC for Direct Sales and Marketing, respectively.

In view of Valderrama's sudden severance of his employment coupled with the substantially low sales Triumph had been experiencing for the past nine months, the company saw an imperative need to effect a reorganization in

its sales department, and this included the temporary designation of Temblique as OIC for Marketing concurrently with his position as Assistant Manager for Direct Sales-SMSD.[44] When Sugue was directed to report to Temblique, she was not being made to report to Temblique as Assistant Manager for Direct Sales-SMSD but as the newly designated OIC for Marketing, i.e., the officer chiefly responsible for all marketing matters. Furthermore, we find no merit in Sugue's contention that she was in any way stripped of her usual functions. A careful perusal of Annexes EE and FF of her Position Position shows that she continued to be the head of Marketing Services, under the supervision of Temblique as OIC for Marketing.

As we see it, Triumph's directive for Sugue to report to Temblique was not unreasonable, inconvenient or prejudicial to her considering that it did not entail a demotion in rank or diminution of salaries, benefits and other privileges. Even assuming there was a change in the personalities to whom Sugue is required to report, she continued to assume her position as Marketing Services Manager and to exercise the same functions. Neither did she assert, much less prove, that there was any diminution in her salary or other benefits. We ruled in Philippine Wireless, Inc. v. NLRC[45] that there is no demotion where there is no reduction in position, rank or salary.

In fine, we find that Triumph's reorganization was intended to improve management operations especially in the light of the poor sales performance of the company during that period. The act of management in reorganizing the sales department in order to achieve its objectives is a legitimate exercise of its management prerogatives, barring any showing of bad faith which is absent in the instant case. Indeed, labor laws discourage interference in employers' judgments concerning the conduct of their business. The law must protect not only the welfare of employees, but also the right of employers.[46]

All told, Triumph did not act with discrimination, insensibility or disdain towards Sugue and Valderrama, which foreclosed any choice on their part except to forego their continued employment. Purely conjectural are their assertions that the disapproval of their leave applications, the denial of their request for executive check-up and the alleged demotion, were carried out by Triumph in retaliation to their filing of a complaint for unpaid money claims against the company. Sugue and Valderrama offered insufficient proof to substantiate their allegations. For this reason, their bare and self-serving charges of constructive dismissal, when unsupported by the evidence on record, cannot be given credence.

Worth noting at this point is that as early as June 21, 2000, Valderrama had accepted employment with Fila Philippines, Inc. as its Sales Director. Although his appointment was to take effect only on August 1, 2000, it cannot be denied that he had finalized or was finalizing his employment deal with Fila while he was still employed with Triumph as shown by Fila's inter-office memo dated June 21, 2000 announcing to its employees Valderrama's appointment effective August 1, 2000.[47] Unlike the Labor Arbiter and the CA, we do not view this circumstance as insignificant. It is evident that Valderrama already had a firm understanding with Fila as of June 21, 2000 so much so that his arrival was highly anticipated and even formally announced by his new employer on said date. This undeniably demonstrated that Valderrama intended to leave his employment with Triumph even before the company issued a show cause memo (on July 10, 2000) for him to explain, among others, his below target sales performance and before he informed the company that he considered himself constructively dismissed on July 17, 2001. It may be inferred therefrom that he filed the constructive dismissal case merely as a subterfuge to evade liability for breach of his employment contract with Triumph which requires 60-day notice prior to resignation. The circumstance that he did not pray for reinstatement in his complaint bolsters the theory that the constructive dismissal case was a tool designed to conceal his impending transfer to Fila.

Having failed to substantiate their claim of constructive dismissal, Sugue and Valderrama should be deemed to have abandoned their work, thus, their dismissal is warranted. Abandonment is the deliberate and unjustified

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refusal of an employee to resume his employment, without any intention of returning. It is a form of neglect of duty, hence, a just cause for termination of employment by the employer. For abandonment to be a valid ground for dismissal, two elements must then be satisfied: (1) the failure to report for work or absence without valid or justifiable reason; and (2) a clear intention to sever the employer-employee relationship. The second element is the more determinative factor and must be evinced by overt acts.[48]

The abovementioned elements are present in the instant case. First, Sugue and Valderrama's failure to report for work was without justifiable reason. As earlier discussed, their allegation of discrimination and harassment lacks factual basis, thus, under the circumstances, we find their absences to be unjustified and without any valid reason. Second, their overt act of writing letters informing Triumph that they considered themselves constructively dismissed was a clear manifestation of their intention to desist from their employment. Too, their defiance and disregard of the memorandum sent by Triumph requiring them to explain their unauthorized absences demonstrated a clear intention on their part to sever their employer-employee relationship. This is particularly true with Valderrama who, even before unilaterally terminating his employment with Triumph, had already sought regular employment elsewhere and in fact was set to join a competitor, Fila Phils., Inc.

Further, they filed a complaint for constructive dismissal without praying for reinstatement. By analogy, we point to the doctrine that abandonment of work is inconsistent with the filing of a complaint for illegal dismissal is not applicable where the complainant does not pray for reinstatement and just asks for separation pay instead.[49] In this case, Sugue and Valderrama opted not to ask for reinstatement and even for separation pay, which clearly contradicts their stance that they did not abandon their work, for it appears they have no intention of ever returning to their positions in Triumph. In addition, we cannot subscribe to the CA's view that Triumph's issuance of show cause memos and notices of termination for abandonment were mere afterthought since they were preceded by Sugue's and Valderrama's letters informing the company that they considered themselves constructively dismissed. Logically, Triumph could not have issued show cause memos or termination notices for abandonment before Sugue and Valderrama unilaterally declared themselves constructively dismissed and stopped reporting for work without justifiable reason.

Indeed, the law imposes many obligations on the employer such as providing just compensation to workers, and observance of the procedural requirements of notice and hearing in the termination of employment. On the other hand, the law also recognizes the right of the employer to expect from its workers not only good performance, adequate work and diligence, but also good conduct and loyalty. The employer may not be compelled to continue to employ such persons whose continuance in the service will patently be inimical to his interests.[50] Triumph has adequately shown the existence of a just and valid cause in terminating the employment of Sugue and Valderrama, and has faithfully complied with the procedural requirements of due process for valid termination of employment.

Anent Sugue and the heirs of Valderrama's petition regarding the CA's deletion of the award of attorney's fees, a discussion on the propriety of the award of damages and attorney's fees is rendered unnecessary in view of their failure to prove constructive dismissal.

WHEREFORE, the petition for review filed by Virginia Sugue and the Heirs of Renato Valderrama in G.R. No. 164804 is DENIED while the petition for review filed by Triumph International (Phils.), Inc. in G.R. No. 164784 is GRANTED. Accordingly, the assailed decision and resolution of the Court of Appeals are hereby REVERSED and SET ASIDE. The National Labor Relations Commission's Decision dated June 13, 2001 is REINSTATED.

SO ORDERED.

Carpio[**], (Acting Chairperson), Austria-Martinez[***], Corona, and Carpio Morales[***], JJ., concur.

[**] Acting Chairperson in lieu of Chief Justice Reynato S. Puno as per Special Order No. 552-A.

[***] Additional Members in lieu of Chief Justice Reynato S. Puno and Justice Adolfo S. Azcuna as per Special Order No. 553.

[1] Penned by Associate Justice Fernanda Lampas-Peralta, with Associate Justices Salvador J. Valdez, Jr. (ret.) and Rebecca De Guia-Salvador, concurring; Rollo, Vol. II, at 66-76.

[2] Id. at 78.

[3] Id. at 50-62.

[4] Rollo, Vol. I, at 94-114, 121-135, 141-143.

[5] Sugue and Valderrama's Position Paper, p. 6; CA Rollo, at 44.

[6] Id. at 70.

[7] Id. at 71-74.

[8] Id. at 84-85.

[9] Id. at 86-88.

[10] Id. at 90.

[11] Id. at 92.

[12] Id. at 95.

[13] Id. at 96.

[14] Id. at 97.

[15] Id. at 38.

[16] Rollo, Vol. II, at 48-49.

[17] Docketed as NLRC NCR CA No. 028290-01.

[18] Rollo, Vol. II, at 23.

[19] Id. at 76.

[20] Id. at 87.

[21] Id. at 12.

[22] Rollo, Vol. I, p. 14.

[23] Rizal Commercial Banking Corporation v. Alfa RTW Manufacturing Corporation, et al., G.R. No. 133877, November 14, 2001, 368 SCRA 611, 617.

[24] Gabriel v. Mabanta, G.R. No. 142403, March 26, 2003, 399 SCRA 573, 579-580.

[25] G.R. No. 127549, January 28, 1998, 285 SCRA 351, 357-358.

[26] Francisco v. NLRC, G.R. No. 170087, August 31, 2006, 500 SCRA 690, 702-703.

[27] Docketed as NLRC-NCR-Case No. 00-06-03008-2000 and raffled to Labor Arbiter Daisy G. Cauton Barcelona.

[28] Sugue and Valderrama's Position Paper; CA Rollo, at 39.

[29] 92 Phil. 575, 577-578 (1953).

[30] 92 Phil. 997, 1000 (1953).

[31] Social Security System v. SSS Supervisors' Union-CUGCO, G.R. No. L-31832 October 23, 1982, 117 SCRA 746, 749; Philippine Diamond Hotel and Resort v. Manila Diamond Hotel, G.R. No. 158075, June 30, 2006, 494 SCRA 195, 214.

[32] Annex K of Valderrama and Sugue's Position Paper; CA Rollo, at 70.

[33] Black's Law Dictionary, 6[th] Edition, p. 467.

[34] Go v. Court of Appeals, G.R. No. 158922, May 28, 2004, 430 SCRA 358, 367.

[35] CA Rollo, at 61.

[36] Id. at 79.

[37] Sobrepeña v. Court of Appeals, G.R. No. 111148, October 10, 1997, 280 SCRA 476, 489-490.

[38] Tinio v. Court of Appeals, G.R. No. 171764, June 8, 2007, 524 SCRA 533, 541.

[39] CA Rollo, p. 222.

[40] Id. at 80-81.

[41] Id. at 200-201.

[42] Id. at 243.

[43] Id. at 249.

[44] Id. at 93-94.

[45] G.R. No. 112963, July 20, 1999, 310 SCRA 653, 656.

[46] Mendoza v. Rural Bank of Lucban, G.R. No. 155421, July 7, 2004, 433 SCRA 756, 765.

[47] CA Rollo, p. 192.

[48] Sta. Catalina College v. National Labor Relations Commission, G.R. No. 144483, November 2003, 416 SCRA 233, 239-240.

[49] Jo v. National Labor Relations Commission, G.R. No. 121605, February 2, 2000, 324 SCRA 437, 446.

[50] Agabon v. National Labor Relations Commission, G.R. No. 158693, November 17, 2004, 442 SCRA 573, 606-607.

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