CARLOS DE CASTRO, PETITIONER, VS. LIBERTY BROADCASTING NETWORK, INC. AND EDGARDO QUIOGUE, RESPONDENTS.

G.R. No. 165153. August 25, 2010

Ponente: BRION, J.

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BRION, J.:

The respondent, Liberty Broadcasting Network, Inc. (LBNI), filed the present Motion for Reconsideration with Motion to Suspend Proceedings, asking us, first, to set aside our Decision[1] and, second, to suspend the court proceedings in view of the Stay Order issued on August 19, 2005 by the Regional Trial Court (RTC) of Makati, Branch 138, in relation to the corporate rehabilitation proceedings that LBNI initiated.

The dispositive part of our Decision reads:

> WHEREFORE, premises considered, we hereby GRANT the petition. Accordingly, we REVERSE and SET ASIDE the Decision and Resolution of the CA promulgated on May 25, 2004 and August 30, 2004, respectively, and REINSTATE in all respects the Resolution of the National Labor Relations Commission dated September 20, 2002. Costs against the respondents.
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> SO ORDERED.[2]

The facts, as recited in our Decision, are summarized below:

The petitioner, Carlos C. de Castro, worked as a chief building administrator at LBNI. On May 31, 1996, LBNI dismissed de Castro on the grounds of serious misconduct, fraud, and willful breach of the trust reposed in him as a managerial employee. Allegedly, de Castro committed the following acts:

> - Soliciting and/or receiving money for his own benefit from suppliers/dealers/traders [Cristino Samarita and Jose Aying], representing "commissions" for job contracts involving the repair, reconditioning and replacement of parts of the airconditioning units at the company's Antipolo Station, as well as the installation of fire exits at the [LBNI's] Technology Centre;
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> - Diversion of company funds by soliciting and receiving on different occasions a total of P14,000.00 in "commissions" from Aying for a job contract in the company's Antipolo Station;
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> - Theft of company property involving the unauthorized removal of one gallon of Delo oil from the company storage room;
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> - Disrespect/discourtesy towards a co-employee, for using offensive language against [Vicente Niguidula, the company's supply manager];
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> - Disorderly behavior, for challenging Niguidula to a fight during working hours within the company premises, thereby creating a disturbance that interrupted the normal flow of activities in the company;
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> - Threat and coercion, for threatening to inflict bodily harm on the person of Niguidula and for coercing [Gil Balais], a subordinate, into soliciting money in [de Castro's] behalf from suppliers/contractors;

- Abuse of authority, for instructing Balais to collect commissions from Aying and Samarita, and for requiring Raul Pacaldo (Pacaldo) to exact 2% - 5% of the price of the contracts awarded to suppliers; and

- Slander, for uttering libelous statements against Niguidula.[3]

Aggrieved, de Castro filed a complaint for illegal dismissal against LBNI with the National Labor Relations Commission (NLRC) Arbitration Branch, National Capital Region, praying for reinstatement, payment of backwages, damages, and attorney's fees.[4] He maintained that he could not have solicited commissions from suppliers considering that he was new in the company.[5] Moreover, the accusations were belatedly filed as the imputed acts happened in 1995. He explained that the one gallon of Delo oil he allegedly took was actually found in Gil Balais' room.[6] He denied threatening Vicente Niguidula, whom he claimed verbally assaulted him and challenged him to a fight, an incident which he reported to respondent Edgardo Quiogue, LBNI's executive vice president, and to the Makati police.[7] De Castro alleged that prior to executing affidavits against him, Niguidula and Balais had serious clashes with him.[8]

On April 30, 1999, the Labor Arbiter rendered a decision[9] in de Castro's favor, holding LBNI liable for illegal dismissal.[10] The Labor Arbiter found the affidavits of LBNI's witnesses to be devoid of merit, noting that (1) witnesses Niguidula and Balais had altercations with de Castro prior to the execution of their respective affidavits; (2) the affidavit of Cristino Samarita, one of the suppliers from whom de Castro allegedly asked for commissions, stated that it was not de Castro, but Balais, who personally asked for money; and (3) Jose Aying, another supplier, recanted his earlier affidavit.[11]

LBNI appealed the Labor Arbiter's ruling to the NLRC. Initially, the NLRC reversed the Labor Arbiter's decision but on de Castro's motion for reconsideration, the NLRC reinstated the Labor Arbiter's decision.[12] It ruled that the charges against de Castro "were never really substantiated other than by `bare allegations' in the witnesses' affidavits who were the company's employees and who had altercations with De Castro prior to the execution of their affidavits."[13]

LBNI again appealed the NLRC's adverse decision to the Court of Appeals (CA). On May 25, 2004, the CA reversed the NLRC's decision and held that de Castro's dismissal was based on valid grounds. It ruled too that the NLRC gravely abused its discretion when it disregarded the affidavits of all of LBNI's witnesses.[14]

In our September 23, 2008 Decision, we found that de Castro's dismissal was based on unsubstantiated charges. Aying, a contractor, earlier executed an affidavit stating that de Castro asked him for commission, but in his second affidavit, he recanted his statement and exonerated de Castro.[15] The other witnesses, Niguidula and Balais, were LBNI employees who resented de Castro.[16] We noted that de Castro had not stayed long in the company and had not even passed his probationary period when the acts charged allegedly took place. We found this situation contrary to common experience, since new employees have a natural motivation to make a positive first impression on the employer, if only to ensure that they are regularized.[17]

Thus, we ruled that the grounds that LBNI invoked for de Castro's dismissal were, at best, doubtful, based on the evidence presented. These doubts should be interpreted in de Castro's favor, pursuant to Article 4 of the Labor Code.[18] Between a laborer and his employer, doubts reasonably arising from the evidence or interpretation of agreements and writing should be resolved in the former's favor.[19]

The Motion for Reconsideration

LBNI now moves for a reconsideration of our September 23, 2008 Decision based on the following arguments: (1) LBNI had valid legal grounds to terminate de Castro's employment for loss of trust and confidence;[20] (2) the affidavits of LBNI's witnesses should not have been totally disregarded;[21] and (3) LBNI is currently under

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rehabilitation, hence, the proceedings in this case must be suspended.[22] LBNI points out that it filed, with the RTC of Makati, a petition for Corporate Rehabilitation with Prayer for Suspension of Payments (docketed as S.P. Proc. Case No. M-6126), and on August 19, 2005, the RTC issued a Stay Order directing, among others, that the -

> enforcement of all claims against Liberty Telecoms, Liberty Broadcasting and Skyphone, whether for money or otherwise and whether such enforcement is by Court action or otherwise x x x be forthwith stayed.[23]

Comment on the Motion for Reconsideration

In his comment, de Castro contends that LBNI's motion for reconsideration contains a rehash of LBNI's earlier arguments. He avers that despite the RTC's Stay Order, it is premature for this Court to suspend the proceedings. If a suspension of the proceedings is necessary, the proper venue to file the motion is with the Office of the Labor Arbiter. [24] De Castro further posits that LBNI should have informed this Court of the status of its Petition for Corporate Rehabilitation.[25]

THE COURT'S RULING

Except for the prayer to suspend the execution of our September 23, 2008 Decision, we do not find LBNI's Motion for Reconsideration meritorious. Although we reject, for lack of merit, LBNI's arguments regarding the legality of de Castro's dismissal, we suspend the execution of our Decision in deference to the Stay Order issued by the rehabilitation court.

The issue of illegal dismissal has already been resolved
in the Court's September 23, 2008 Decision

LBNI's motion for reconsideration merely reiterates its earlier arguments, which we have already addressed in our September 23, 2008 Decision. LBNI has failed to offer any substantive argument that would convince us to reverse our earlier ruling.

LBNI argues that there is no logic for it to illegally dismiss de Castro because being on probationary employment - a fact which this Court had stated in its decision - all that the company had to do was not to re-hire him.[26] By this claim, LBNI has misread the import of our ruling. The September 23, 2008 Decision declared that de Castro "had not stayed long in the company and had not even passed his probationary period when the acts charged allegedly took place."[27] Properly read, we found that the acts charged against de Castro took place when he was still under probationary employment - a finding completely different from LBNI's claim that de Castro was dismissed during his probationary employment. On the contrary, de Castro was dismissed on the ninth month of his employment with LBNI, and by then, he was already a regular employee by operation of law. Article 281 of the Labor Code provides that "[p]robationary employment shall not exceed six (6) months from the date the employee started working, x x x [a]n employee who is allowed to work after a probationary period shall be considered a regular employee." As a regular employee, de Castro was entitled to security of tenure and his illegal dismissal from LBNI justified the awards of separation pay, backwages, and damages.

The pendency of the rehabilitation proceedings does
not affect the Court's jurisdiction to resolve the case,
but merely suspends the execution of the
September 23, 2008 Decision

On October 18, 2005, while de Castro's petition was still pending before the Court, LBNI filed a motion to suspend the proceedings, citing the Stay Order, dated August 19, 2005, issued by the RTC of Makati, Branch 138 in S.P. Case No. M-6126.[28] The Stay Order read:

> FOR THE REASONS GIVEN and applying Section 6 of the Interim Rules of Procedure on Corporate Rehabilitation, x x x it is ordered that enforcement of all claims against [LBNI] whether for money or otherwise and whether such enforcement is by Court action or otherwise, its guarantors and sureties not solidarily liable with the petitioner, be forthwith stayed.
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> x x x x
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> SO ORDERED.[29]

LBNI's motion was denied in our Resolution of December 12, 2005 for being premature, as de Castro then had yet to file his reply to LBNI's comment on the petition.[30] Thereafter, nothing was heard from LBNI regarding the Stay Order or the rehabilitation proceedings it instituted before the RTC of Makati, Branch 138. Even the memorandum, dated May 4, 2006, that LBNI filed with the Court contained no reference to the rehabilitation proceedings.[31]

The filing of a memorandum before the Court is not an empty requirement, devoid of legal significance. In A.M. No. 99-2-04-SC, the Court declared that issues raised in previous pleadings but not included in the memorandum shall be deemed waived or abandoned. Being a summation of the parties' previous pleadings, the memoranda alone may be considered by the Court in deciding or resolving the petition. Thus, on account of LBNI's omission, only the issues raised in the parties' memoranda - principally, the validity of de Castro's dismissal from LBNI - were considered by the Court in resolving the case.

"The Court does not take judicial notice of proceedings in the various courts of justice in the Philippines."[32] At the time we decided the present case, we were thus not bound to take note of and consider the pendency of the rehabilitation proceedings, as the matter had not been properly brought to our attention. In Social Justice Society v. Atienza,[33] we said that:

> In resolving controversies, courts can only consider facts and issues pleaded by the parties. Courts, as well as magistrates presiding over them are not omniscient. They can only act on the facts and issues presented before them in appropriate pleadings. They may not even substitute their own personal knowledge for evidence. Nor may they take notice of matters except those expressly provided as subjects of mandatory judicial notice.
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> x x x x
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> The party asking the court to take judicial notice is obligated to supply the court with the full text of the rules the party desires it to have notice of.

Notably, LBNI's memorandum was filed on May 4, 2006, more than 180 days from the date of the initial hearing on October 5, 2005 (as set in the Stay Order of August 19, 2005). Under Section 11, Rule 4 of the Interim Rules of Procedure on Corporate Rehabilitation (Interim Rules), a petition for rehabilitation shall be dismissed if no rehabilitation plan is approved by the court upon the lapse of 180 days from the date of initial hearing. While the Interim Rules grant extension beyond the 180-day period, no such extension was alleged in this case; in fact, as we earlier pointed out, no mention at all was made in LBNI's memorandum of the rehabilitation proceedings. With the failure of LBNI to raise rehabilitation proceedings in its memorandum, the Court had sufficient grounds to suppose that the rehabilitation petition had been dismissed by the time the case was submitted for decision.

Given these circumstances, the existence of the Stay Order - which would generally authorize the suspension of judicial proceedings, even those pending before the Court - could not have affected the Court's action on the present case. At any rate, a stay order simply suspends all actions for claims against a corporation undergoing rehabilitation; it does not work to oust a court of its jurisdiction over a case properly filed before it.[34] Our ruling on the principal issue of the case - that de Castro had been illegally dismissed from his employment with LBNI -

thus stands.

Nevertheless, with LBNI's manifestation that it is still undergoing rehabilitation, the Court resolves to suspend the execution of our September 23, 2008 Decision. The suspension shall last up to the termination of the rehabilitation proceedings, as provided in Section 11, in relation to Section 27, Rule 4 of the Interim Rules -

> Sec. 11. Period of the Stay Order. - The stay order shall be effective from the date of its issuance until the dismissal of the petition or the termination of the rehabilitation proceedings.
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> The petition shall be dismissed if no rehabilitation plan is approved by the court upon the lapse of one hundred eighty (180) days from the date of the initial hearing. The court may grant an extension beyond this period only if it appears by convincing and compelling evidence that the debtor may successfully be rehabilitated. In no instance, however, shall the period for approving or disapproving a rehabilitation plan exceed eighteen (18) months from the date of filing of the petition.
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> x x x x
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> Sec. 27. Termination of Proceedings. - In case of the failure of the debtor to submit the rehabilitation plan, or the disapproval thereof by the court, or the failure of the rehabilitation of the debtor because of failure to achieve the desired targets or goals as set forth therein, or the failure of the said debtor to perform its obligations under the said plan, or a determination that the rehabilitation plan may no longer be implemented in accordance with its terms, conditions, restrictions, or assumptions, the court shall upon motion, motu proprio, or upon the recommendation of the Rehabilitation Receiver, terminate the proceedings. The proceedings shall also terminate upon the successful implementation of the rehabilitation plan.

WHEREFORE, we DENY the Motion for Reconsideration; accordingly, our Decision dated September 23, 2008 is hereby AFFIRMED. The National Labor Relations Commission is, however, directed to suspend the execution of our September 23, 2008 Decision until the Stay Order is lifted or the corporate rehabilitation proceedings are terminated. Respondent Liberty Broadcasting Network, Inc. is hereby directed to submit quarterly reports to the National Labor Relations Commission on the status of its rehabilitation, subject to the penalty of contempt in case of noncompliance.

SO ORDERED.

Carpio Morales, Velasco, Jr., Brion, [*]Abad, and [**]Perez, JJ., concur.

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[*] Designated additional member vice Associate Justice Dante O. Tinga (ret.), pursuant to the Amended Rules under A.M. No. 99-8-09-SC.

[**] Designated additional member vice Associate Justice Leonardo A. Quisumbing (ret.), per Court En Banc Memorandum dated December 28, 2009, pursuant to the Amended Rules under A.M. No. 99-8-09-SC.

[1] De Castro v. Liberty Broadcasting Network, Inc., G.R. No. 165153, September 23, 2008, 566 SCRA 238.

[2] Id. at 251-252.

[3] Id. at 241-242.

[4] Rollo, p. 46.

[5] Id. at 48.

[6] Id. at 49.

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[7] Ibid.

[8] Ibid.

[9] Id. at 46-55.

[10] Id. at 54-55.

[11] Id. at 50-51.

[12] NLRC Resolution, id. at 73-85.

[13] Id. at 83.

[14] CA Decision, id. at 190-199.

[15] Supra note 1, at 249-250.

[16] Ibid.

[17] Id. at 248.

[18] Art. 4. Construction in favor of Labor. - All doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved in favor of labor.

[19] Supra note 1, at 251.

[20] Motion for Reconsideration; rollo, p. 309.

[21] Id. at 311.

[22] Id. at 314.

[23] Id. at 221.

[24] Comment to the Motion for Reconsideration, id. at 341.

[25] Ibid.

[26] Supra note 20, at 309.

[27] Supra note 1, at 247.

[28] Rollo, pp. 218-220.

[29] Id. at 221-222.

[30] Id. at 228.

[31] Id. at 252-268.

[32] R. Francisco, Evidence, Rules of Court in the Philippines, Rules 128-134 (1994 ed.), p. 24, citing Mortera and Eceiza v. West of Scotland Insurance Office, 36 Phil. 994 (1917).

[33] G.R. No. 156052, February 13, 2008, 545 SCRA 92, 114-120.

[34] Negros Navigation Co., Inc. v. Court of Appeals, G.R. No. 163156, December 10, 2008, 573 SCRA 434, 455.

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