CORNELIO C. CRUZ, PETITIONER, VS. COCA-COLA BOTTLERS PHILS., INC., MANUEL A. REMULLA, JR., ROMEO A. LARA AND/OR RENE P. HORRILLENO, RESPONDENTS.

G.R. NO. 165586. June 15, 2005

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This petition assails the decision[1] of the Court of Appeals dated June 3, 2004 in CA-G.R. SP No. 66970 which modified the decision and resolution of the National Labor Relations Commission (NLRC) dated May 29, 2001 and July 11, 2001 respectively, and its resolution[2] dated October 5, 2004 denying reconsideration thereof. The appellate court deleted the order of reinstatement but awarded backwages to petitioner Cornelio C. Cruz computed from the time he was dismissed from the service on August 19, 1998 until the date of the finality of the said decision. Coca-Cola Bottlers Phils., Inc. (CCBPI) and its officers Manuel A. Remulla, Jr., Romeo A. Lara and Rene P. Horilleno are named respondents.

Petitioner Cruz has been working for respondent company's plant in Calamba, Laguna, as a driver/helper since June 1983. At times, however, petitioner gets designated as Acting Salesman for respondent's soft drinks and other beverages. On July 25, 1998, petitioner was assigned as acting salesman of Route DA1, covering the small barangays within the Calamba Area. Together with his helper, Mr. Pablito Aguila, petitioner loaded their truck with CCBPI products. After the required verification and confirmation of the products loaded on the truck by the Checker and the guard at the gate, petitioner proceeded to leave the plant vicinity.

After gate inspection, however, petitioner drove back inside the plant on the pretext of refueling. While waiting in line to refuel, petitioner allegedly asked Aguila to load an additional thirty (30) cases of assorted canned soft drinks as "plus load". As there was no Temporary Gate Pass (TGP) and Load Order Gate Pass (LOGP) prepared for the additional products, Aguila reminded petitioner about the required documents but he merely stated "Ayos na" and continued with the refueling of the truck.

On his second exit from the plant premises, petitioner did not slow down for the mandatory inspection even as the security guards at the gate flagged him down. Instead, petitioner shouted, "Ayos na". Miguel Legaspi, one of the security guards, noticed several cases of canned soft drinks loaded at the back of the truck which he verified to be unlisted in the truck's LOGP.

He thus pursued the truck and when he caught up with petitioner at the Walter Mart Shopping Mall in Barangay Real, Calamba, the latter could not produce the proper documents for the extra thirty (30) cases loaded on his truck. He was then directed to return to the plant and unload the products. At this point, it was confirmed that petitioner did not actually secure any paper for the added products nor did he follow the established procedure before taking out the extra cases.

The Shift-in-Charge made a written report regarding the incident. In an Inter-Office Memorandum[3] dated July 27, 1998, petitioner was directed to explain why no disciplinary action should be taken against him for violating

Section 16, Rule 003-85[4] and Section 12, Rule 005-85[5] of the Coca-Cola Bottlers Phils., Inc. Employees Code of Disciplinary Rules and Regulations. In his written explanation,[6] petitioner admitted the incident but alleged that he forgot to secure the requisite documents for the products. On August 5, 1998, an investigation was conducted on the alleged violations committed by petitioner. On August 19, 1998, respondent company terminated the services of petitioner effective upon receipt of the memorandum.[7]

On August 24, 1998, petitioner filed a Complaint[8] before the Labor Arbiter for illegal dismissal, unfair labor practice and damages against respondents. The Labor Arbiter[9] dismissed the Complaint for lack of merit, ruling that the petitioner's termination was valid and lawful because it was based on a just cause. On appeal,[10] the NLRC found the penalty of dismissal too excessive and not proportionate to the alleged infractions committed.[11] Thus, it modified the decision of the Labor Arbiter, stating:

> WHEREFORE, premises considered, the assailed decision, dated September 30, 1999 of Labor Arbiter Antonio R. Macam is hereby MODIFIED in such a way that respondents are hereby ordered to reinstate complainant to his former position without loss of seniority rights, and to pay full backwages computed from the time of illegal dismissal to the time of actual reinstatement, less the period of suspension of six (6) days for violation of Rule 005-85, Section 12 and another fifteen (15) days for violation of Rule 003-85, Section 16 of the CCBPI Employees' Code of Disciplinary Rules and Regulations.
>
> However, the dismissal of the charge of unfair labor practice and claim for payment of moral and exemplary damages, as well as, attorney's fees or cost of litigation are AFFIRMED.
>
> SO ORDERED.[12]

Their motion for reconsideration having been denied,[13] respondents filed a petition with the Court of Appeals which ruled that while there was valid cause for petitioner's termination, respondent company failed to satisfy the procedural requirements because the notices it sent to petitioner were "legally deficient in failing to notify [petitioner] with particularity the specific acts of violation he was being charged of". Thus, it ruled:

> WHEREFORE, the assailed Decision dated May 29, 2001 and the Resolution dated July 11, 2001 of the National Labor Relations Commission, Second Division in NLRC Case No. CA 021908-00 are hereby MODIFIED in that the order for reinstatement is DELETED and that the Backwages be computed from the time Private Respondent was dismissed or from August 19, 1998 up to the date of the finality of this Decision.
>
> SO ORDERED.[14]

Petitioner's motion for reconsideration[15] was denied.[16] Hence, the instant petition based on the following assignment of errors:

> A.
>
> THE HONORABLE COURT OF APPEALS COMMITTED REVERSIBLE ERROR AND GRAVELY ABUSED ITS DISCRETION IN MODIFYING THE DECISION OF THE NLRC BY DELETING ITS REINSTATEMENT ASPECT AND FINDING THE DISMISSAL OF THE PETITIONER VALID ALBEIT WITHOUT OBSERVANCE OF PROCEDURAL DUE PROCESS.
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> B.
>
> THE HONORABLE COURT OF APPEALS DID NOT HEED THE INJUNCTION OF THIS HONORABLE COURT THAT: "AS IS WELL-SETTLED, IF DOUBTS EXIST BETWEEN THE EVIDENCE PRESENTED BY THE EMPLOYER AND THE EMPLOYEE, THE SCALES OF JUSTICE MUST BE TILTED IN FAVOR OF THE EMPLOYEE. SINCE IT IS A TIME-HONORED RULE THAT IN CONTROVERSIES BETWEEN A LABORER AND HIS MASTER, DOUBTS REASONABLY ARISING FROM THE

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EVIDENCE, OR IN THE INTERPRETATION OF AGREEMENTS AND WRITINGS SHOULD BE RESOLVED IN THE FORMER'S FAVOR" IN RENDERING THE DISPUTED DECISION AND RESOLUTION.[17]

Petitioner maintains that there is no basis for the appellate court's conclusion that he is guilty of serious misconduct and fraudulent acts to warrant his termination. He argues that the charge was not proven by substantive evidence; and even assuming that he violated company rules and regulations, the penalty of dismissal is too harsh for the infractions he allegedly committed.

Petition lacks merit.

The Labor Arbiter, the NLRC and the Court of Appeals were unanimous in their findings that petitioner was guilty of dishonest acts but differed only on the propriety of the penalty imposed upon petitioner.

Time and again we have held that the findings of fact of quasi-judicial bodies like the NLRC and of the Labor Arbiter are accorded with respect, even finality, if supported by substantial evidence. Particularly when passed upon and upheld by the Court of Appeals, these are binding and conclusive upon the Court and will not normally be disturbed.[18] The rationale behind this doctrine is that review of the findings of fact by the Court of Appeals is not a function that the Supreme Court normally undertakes.[19] Only when there is a clear showing of grave abuse of discretion, fraud or error of law will such findings of fact be set aside.[20]

After a careful evaluation of the evidence on record of this case, we found no compelling reason to disturb the unanimous findings of the Court of Appeals, the NLRC and the Labor Arbiter. The incident that transpired on July 25, 1998 was witnessed by a number of people who have all executed affidavits attesting to petitioner's actuations. Petitioner even admitted that indeed, he had the thirty (30) cases of canned soft drinks loaded on his truck without the required documentation.

Several factors militate against petitioner's claim of good faith. Petitioner's length of service, which spans almost fifteen (15) years, works against his favor in this case. We have held that the longer an employee stays in the service of the company, the greater is his responsibility for knowledge and compliance with the norms of conduct and the code of discipline in the company.[21] Considering that petitioner has worked at respondent company for a long period of time, one expects that securing the LOGP or TGP would be automatic for him.

Moreover, in his sworn statement,[22] Aguilar attested that he reminded petitioner of whether he had secured the gate pass for the products, and petitioner merely replied, "Ayos na". The Labor Arbiter and the NLRC found no reason to disregard Aguilar's statement which was candid, straightforward and in harmony with the statements of the other witnesses. More importantly, the statement is consistent with how petitioner acted on that fateful day. Petitioner was described to have left the plant premises without stopping at the gates for the mandatory inspection. His suspicious actions, thus, prompted the dispatch of security to pursue his truck.[23]

As the Labor Arbiter observed, faced with the overwhelming evidence presented by respondents on one hand and the mere general denial of petitioner on the other, the invocation of the protective mantle of the law in favor of labor cannot be upheld in this case. This principle cannot be adopted where there is clear and convincing evidence of the truth. While this court endeavors to live up to its mandate that the workingman's welfare should be the primordial and paramount consideration,[24] it cannot do so if it will be at the expense of justice and will result in the oppression or self-destruction of the employer.[25] The interests of both the employers and employees are intended to be protected and not one of them is given undue preference.[26]

It appears that the points of contention in this case are limited to the propriety of the penalty imposed on petitioner and the respondent company's compliance with the procedural requirements for termination. Both the Labor

Arbiter and the Court of Appeals upheld respondent company insofar as it terminated petitioner's services, but the Court of Appeals found that the notices sent to petitioner were deficient. The NLRC, for its part, believed that the dismissal was too severe a penalty considering that respondent company's own rules provided for the penalty of suspension alone.

Termination of employment by reason of loss of confidence is governed by Article 282(c) of the Labor Code, which provides that an employer can terminate the employment of the employee concerned for "fraud or willful breach by an employee of the trust reposed in him by his employer or duly authorized representative."[27] Loss of confidence, as a just cause for termination of employment, is premised on the fact that the employee concerned holds a position of responsibility, trust and confidence. He must be invested with confidence on delicate matters such as the custody, handling, care and protection of the employer's property and/or funds.[28]

Admittedly, the company rules violated by petitioner are punishable, for the first offense, with the penalty of suspension. However, respondent company has presented evidence showing that petitioner has a record of other violations from as far back as 1986. In 1991, petitioner was found to have deliberately misrepresented on two occasions the total number of empties and was consequently suspended for six (6) days.[29] In 1990 and 1991, petitioner was also suspended for his involvement in vehicular accidents, which caused damage to another car and an outlet store.[30] On several occasions, petitioner has been investigated for shortages in remittances of collections from customers.[31] These misdemeanors are aggravated by several AWOLS which petitioner had taken in the course of his employment.

To be sure, the nature of petitioner's offenses is downright inimical to the interests of respondent company. By virtue of his job, petitioner is entrusted with the property and funds, which belong to respondent company. His actions on that fateful day of July 25, 1998 highlight, not only petitioner's consistent and deliberate defiance of company rules and regulation, but also his duplicity in handling respondent company's properties. It would appear that respondent company had tolerated petitioner's work ethic far too long. We therefore find that it was justified in terminating petitioner after the flagrant dishonesty he committed.

Anent the issue of compliance with the procedural requirements for termination, we agree with the Court of Appeals that the notices given to petitioner were legally deficient. As observed by the appellate court, the first notice dated July 27, 1998,[32] did not contain the particulars of the charges nor the circumstances in which the violation happened. The notice was also couched in general terms that it only mentions the specific sections and rule numbers of the Red Book that was violated without defining what such violation was. A cursory reading of this notice likewise shows that it does not state that petitioner was in fact facing a possible dismissal from the company. Consequently, petitioner was not sufficiently apprised of the gravity of the situation he was in.

We have long established that the twin requirements of notice and hearing constitute the essential elements of due process, and neither of those elements can be eliminated without running afoul of the constitutional guaranty.[33] These requisites cannot be replaced as they are not mere technicalities, but requirements of due process to which every employee is entitled to ensure that the employer's prerogative to dismiss is not exercised arbitrarily.[34] Pursuant to the case of Agabon v. NLRC, the prevailing doctrine is that where the dismissal is for just cause, the lack of statutory due process does not nullify the dismissal or render it illegal. The employer, however, should indemnify the employee in the form of nominal damages to vindicate or recognize the employee's right that was violated. The amount of such damages is addressed to the sound discretion of the court, taking into account the relevant circumstances.[35] In this case, the amount of P20,000.00 is sufficient for the purpose.

WHEREFORE, the instant petition is DENIED. The decision of the Court of Appeals dated June 3, 2004 in CA-G.R. SP No. 66970 and its resolution dated October 5, 2004, are hereby AFFIRMED with MODIFICATION.

As modified, the dismissal of petitioner is declared valid but respondent company is ORDERED to pay petitioner the amount of P20,000.00 as nominal damages for non-compliance with statutory due process.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Carpio, and Azcuna, JJ., concur.

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[1] Penned by Court of Appeals Associate Justice Noel G. Tijam as concurred in by Associate Justices Godardo A. Jacinto and Jose L. Sabio, Jr., Rollo, pp. 46-55.

[2] Rollo, pp. 57-58.

[3] Id. at 227.

[4] Removal of Company property without proper authorization or theft/pilferage of Company Property or personal property of co-employees, or third persons in Company premises.

[5] Negligence or inefficiency in the performance of Duties or blatant disregard of or deviation from Established control and other policies and procedures.

[6] Rollo, p. 228.

[7] Id. at 246.

[8] Id. at 59-61.

[9] Antonio R. Macam.

[10] Rollo, pp. 83-111.

[11] Penned by Commissioner Victoriano R. Calaycay as concurred in by Commissioners Raul T. Aquino and Angelita A. Gacutan, Rollo, pp. 112-124.

[12] Rollo, pp. 123-124.

[13] Id. at 125.

[14] Id. at 54.

[15] Id. at 126-135.

[16] Id. at 57.

[17] Id. at 24-25.

[18] San Juan de Dios Educational Foundation Employees Union-Alliance of Filipino Workers v. San Juan de Dios Educational Foundation, Inc., G.R. No. 143341, 28 May 2004, 430 SCRA 193, 205-206; see also Procter and Gamble Philippines v. Bondesto, G.R. No. 139847, 5 March 2004, 425 SCRA 1, 8; Mitsubishi Motors Philippines Corporation v. Chrysler Philippines Labor Union, G.R. No. 148738, 29 June 2004, 433 SCRA 206, 217; Felix v. National Labor Relations Commission, G.R. No. 148256, 17 November 2004; Urbanes, Jr. v. Court of Appeals, et al., G.R. No. 138379, 25 November 2004; German Machineries Corporation v. Andaya, G.R. No. 156810, 25 November 2004.

[19] Philippine Journalists, Inc. v. Mosqueda, G.R. No. 141430, 7 May 2004, 428 SCRA 369, 376.

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[20] Rosario v. Victory Ricemill, 445 Phil. 830, 838 (2003).

[21] Central Pangasinan Electric Cooperative, Inc. v. Macaraeg and De Vera, 443 Phil. 866, 877 (2003).

[22] Rollo, p. 220.

[23] Affidavit of Security Personnel Miguel Legaspi, Rollo, pp. 221-222; Written Report by Shift-in-Charge Jorge D. Vergara, Rollo, pp. 225-226.

[24] Santos v. Velarde, 450 Phil. 381, 390-391 (2003).

[25] Cama v. Joni's Food Services, Inc., G.R. No. 153021, 10 March 2004, 425 SCRA 259, 269; see also Rosario v. Victory Ricemill, supra; Philippine Airlines, Inc. v. NLRC, G.R. No. 117038, 25 September 1997, 345 SCRA 57, 66.

[26] Philtread Workers Union (PTWU) v. Secretary, 336 Phil. 375, 381 (1997).

[27] Del Val v. NLRC, 357 Phil. 286, 292 (1998); see also Quezon Electric Cooperative v. NLRC, G.R. Nos. 79718-22, 12 April 1989, 172 SCRA 88, 94; Kwikway Engineering Works v. NLRC, G.R. No. 84914, 22 March 1991, 195 SCRA 526, 529; National Sugar Refineries Corporation (NASUREFCO) v. NLRC, 350 Phil. 119, 127 (1998).

[28] Gonzales v. NLRC, G.R. No. 131653, 26 March 2001, 355 SCRA 195, 207.

[29] Rollo, pp. 207-208.

[30] Id. at 205.

[31] Id. at 210, 212 and 217.

[32] Id. at 227.

[33] Condo Suite Club Travel, Inc. v. NLRC, 380 Phil. 660, 670 (2000); see also Vinta Maritime Co., Inc. v. NLRC, 348 Phil. 714, 731-732 (1998).

[34] Malaya Shipping Services, Inc. v. NLRC, 351 Phil. 421, 428 (1998).

[35] G.R. No. 158693, 17 November 2004.

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