CRAYONS PROCESSING, INC., PETITIONER, VS. FELIPE PULA AND COURT OF APPEALS (FIFTH DIVISION), RESPONDENTS.

G.R. No. 167727. July 30, 2007

Ponente: TINGA, J.

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TINGA, J.:

The key facts are undisputed.

Petitioner Crayons Processing, Inc. (Crayons) employed respondent Felipe Pula (Pula) as a Preparation Machine Operator beginning June 1993. On 27 November 1999, Pula, then aged 34, suffered a heart attack and was rushed to the hospital, where he was confined for around a week. Pula's wife duly notified Crayons of her husband's medical condition.[1]

Upon his discharge from the hospital, Pula was advised by his attending physician to take a leave of absence from work and rest for three (3) months. Subsequently, on 25 February 2000, Pula underwent an Angiogram Test at the Philippine Heart Center under the supervision of a Dr. Recto, who advised him to take a two-week leave from work.[2]

Following the angiogram procedure, respondent was certified as "fit to work" by Dr. Recto. On 11 April 2000, Pula returned to work, but 13 days later, he was taken to the company clinic after complaining of dizziness. Diagnosed as having suffered a relapse, he was advised by his physician to take a leave of absence from work for one (1) month.

Pula reported back for work on 13 June 2000, armed with a certification from his physician that he was "fit to work." However, Pula claimed that he was not given any post or assignment, but instead, on 20 June 2000, he was asked to resign with an offer from Crayons of P12,000 as financial assistance.[3] Pula refused the offer and instead filed a complaint for illegal dismissal with prayer for damages and the payment of holiday premium, 5 days service incentive leave pay, and 13th month pay for 1999. The complaint was filed against Crayons, Clothman Knitting Corp., Nixon Lee, Paul Lee, Peter Su, and Ellen Caluag.[4]

It appears that Crayons and the other named respondents in the complaint, except one, failed to appear during the preliminary conferences and the hearings. Only Nixon Lee appeared before the National Labor Relations Commission (NLRC) but only to manifest that he should be excluded from the complaint as he had no hand in the management of the employees and that there was an intra-corporate squabble between him and his co-respondents Peter Su and Paul Lee, who had denied him access to the company premises. Despite their previous non-appearance, the other respondents belatedly filed a Position Paper alleging that Pula had not been dismissed at all, but had only been offered a less strenuous job. They prayed that Pula be ordered to report for work without loss of seniority rights.[5]

In a Decision[6] dated 20 November 2001, Labor Arbiter Marita V. Padolina ruled that Pula had been illegally dismissed and ordered reinstatement to his former position without loss of seniority rights. Pula was awarded

backwages computed from the time of his dismissal on 20 June 2000, as well as service incentive leave pay, 13th month pay, and attorney's fees.

The Labor Arbiter took Crayons and its co-respondents to task for failing to participate in the proceedings despite notice, and for belatedly filing their Position Paper which contained "bare denials and unsubstantiated allegations."[7] She described their claim of non-dismissal as "a deleterious scheme" and a "last-ditch effort... in order for [the Labor Arbiter] to treat the case as water under the bridge."[8] Instead, the Labor Arbiter concluded as evident from the facts that Pula was illegally dismissed and "denied his right to security of tenure when he was not allowed to work on 13 June 2000."[9] Rejecting Crayons' contention that Pula's ailment was a proper reason to dismiss him, the Labor Arbiter stressed that no evidence was presented to show that his illness could not be cured within the period of six months. It was pointed out that under Section 8, Rule I, Book VI of the Omnibus Rules Implementing the Labor Code, implementing in particular Article 284 of the Labor Code, termination on the ground of disease is prohibited unless there is a certification by a competent public health authority that the disease is of such nature or at such a stage that it cannot be cured within a period of six months even with proper medical treatment.[10]

On appeal, the NLRC ruled, in a Decision dated 18 March 2003,[11] that there was indeed valid cause to terminate Pula's employment considering that he had a heart attack that kept him out of work for more than six (6) months. According to the NLRC, the fact that Pula was on leave for more than six months due to his illness rendered unnecessary the certification from a public health authority as required under the Omnibus Implementing Rules. As a result, the Labor Arbiter ruled that the dismissal was valid, although respondent was entitled to separation pay in accordance with Article 284 of the Labor Code.

Pula assailed the NLRC Decision by way of a special civil action for certiorari before the Court of Appeals. In a Decision[12] dated 25 October 2004, the Court of Appeals annulled the NLRC Decision and reinstated the ruling of the Labor Arbiter.

In favoring Pula, the appellate court gave credence to his claims over that of Crayons, particularly stressing that Crayons failed to specifically deny respondent's allegations that he was no longer given any assignment by Crayons after he had reported back for work on 13 June 2000, and that he was asked to resign on 20 June 2000. The Court of Appeals thus engaged the suppletory application of Section 11, Rule 8 of the 1997 Rules of Civil Procedure, which provides in essence that material allegations in the complaint which are not specifically denied are deemed admitted.

The Court of Appeals did observe that Crayons, in its Comment[13] before the appellate court, attached a report[14] prepared by Ellen Caluag, Crayons' HRD Head. The report narrated that during the time Pula was purportedly dismissed, Crayons had told him that it was willing to allow him to return to work, provided that he undergo a medical examination by a certain Dr. Ting, who was to prepare a certification as to his fitness to return to work. Allegedly, after Pula had an initial consultation with Dr. Ting, he failed to submit the medical findings prepared by the Philippine Heart Center which would serve as basis for the medical certification. Instead, Pula filed the instant complaint for illegal dismissal. Nonetheless, the Court of Appeals refused to give weight to the report prepared by Caluag, noting that not having been acknowledged before a notary public, it was hearsay and of nil probative value.[15]

Before this Court, Crayons argues that the Court of Appeals erred in dismissing the Caluag Report, saying that the refusal to entertain the same was prejudicial to its substantial rights.[16] Crayons also claims that "[it] was merely exercising prudence in not giving [Pula] work on June 13, 2000;"[17] that the medical certification attesting to his fitness to return to work then "did not guarantee [Pula's] fitness to work,"[18] and; that the situation dictated that it

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exercise prudence and exert every effort "to ascertain the health condition of [Pula], thus prompting [Crayon's] referral to its company doctor, Dr. Ting."[19] Assuming arguendo that Pula was indeed terminated on 13 June 2000, Crayons argues that the NLRC correctly ruled that there was valid cause to terminate respondent's employment[20] owing to his medical condition, in accordance with Article 284 of the Labor Code and its implementing rules. Betraying its real motivation behind the "assuming arguendo" ploy, Crayons prays for the reinstatement of the NLRC decision upholding the termination of Pula under Article 284 of the Labor Code.[21]

We begin first by upholding the Court of Appeals when it refused to give credence to the Caluag report. It appears that this report emerged at first instance only in the proceedings before the Court of Appeals. No reference was made to it before the Labor Arbiter or the NLRC. The report, as attached to Crayons' Comment before the Court of Appeals, is undated and unverified. It is addressed to no one in particular, certainly not to any court or tribunal, and is not accompanied by any motion or pleading seeking its admission as evidence. It is, as the Court of Appeals ruled, hearsay in character. It could have easily been introduced in evidence before the Labor Arbiter. Caluag herself could have likewise easily appeared before the Labor Arbiter herself to give testimony or otherwise verify under oath the contents of such report, especially since she herself was named as a respondent in the complaint. Yet Crayons and Caluag did neither, limiting their participation before the Labor Arbiter to a three (3)-page, seven (7)-paragraph Position Paper[22] that stands out as a classic example of a pro forma pleading, and which was, to boot, filed five (5) months late.

Before this Court, Crayons is all too willing to stress the neglect in the handling of the case by the former counsel of [Crayons] who represented it before the Labor Arbiter. Yet the general rule is that the client is bound by the mistakes of his counsel, save when the negligence of counsel is so gross, reckless and inexcusable that the client is deprived of his day in court.[23] Espinosa v. Court of Appeals[24] explicates the requisite character of counsel's negligence that would be sufficient to excuse the client from the consequences thereof.

> Citing the cases of Legarda v. Court of Appeals and Alabanzas v. IAC[,] Espinosa invokes the exception to the general rule that a client need not be bound by the actions of counsel who is grossly and palpably negligent. These very cases cited demonstrate why Atty. Castillon's acts hardly constitute gross or palpable negligence. Legarda provides a textbook example of gross negligence on the part of the counsel. The Court therein noted the following negligent acts of lawyer Antonio Coronel:
> Petitioner's counsel is a well-known practicing lawyer and dean of a law school. It is to be expected that he would extend the highest quality of service as a lawyer to the petitioner. Unfortunately, counsel appears to have abandoned the cause of petitioner. After agreeing to defend the petitioner in the civil case filed against her by private respondent, said counsel did nothing more than enter his appearance and seek for an extension of time to file the answer. Nevertheless, he failed to file the answer. Hence, petitioner was declared in default on motion of private respondent's counsel. After the evidence of private respondent was received ex-parte, a judgment, was rendered by the trial court.
>
> Said counsel for petitioner received a copy of the judgment but took no steps to have the same set aside or to appeal therefrom. Thus, the judgment became final and executory.

Gross negligence on the part of the counsel in Legarda is clearly established, characterized by a series of negligent omissions that led to a final executory judgment against the client, who never once got her side aired before the court of law before finality of judgment set in. The actions of Atty. Castillon hardly measure up to this standard of gross negligence exhibited in the Legarda case.

On the other hand, in Alabanzas counsel failed to file an appellant's brief, thereby causing the dismissal of the appeal before the Court of Appeals. Despite such inexcusable and fatal lapse, the Court ruled that it was not sufficient to establish such gross or palpable negligence that justified a deviation from the rule that clients should be bound by the acts and mistakes of their counsel. It strikes as odd that Espinosa should cite Alabanzas in the

first place, considering that the lapse of the counsel therein was far worse than that imputed to Atty. Castillon, yet the Court anyway still refused to apply the exception to the general rule.[25]

The failure of Crayons to submit any evidence worthy of credence to bolster its factual allegations stands independent of the failures of its former counsel before the Labor Arbiter. It may have been a different story had the Caluag report been verified under oath or submitted as an affidavit. Even if questions on its admissibility past the Labor Arbiter stage of proceedings would linger, at least it would manifest some good faith or earnest effort on the part of Crayons to submit credible evidence in support of its bare allegations. Such a showing may be cause to mitigate the damage wrought by the negligence of its former counsel. But instead, Crayons submitted a report with utterly no probative value.

As such, the factual version presented by Pula remains unrefuted, particularly the claim that he was no longer given work after 13 June 2000 and that he was asked to resign seven (7) days later. Notably though, even in the face of the foregoing facts, the NLRC still concluded that Pula's termination was proper. The NLRC was in error.

The termination as upheld by the NLRC was grounded on Article 284 of the Labor Code, which reads:

> An employer may terminate the services of an employee who has been found to be suffering from any disease and whose continued employment is prohibited by law or is prejudicial to his health as well as to the health of his co-employees: Provided, That he is paid separation pay equivalent to at least one (1) month salary or to one-half (1/2) month salary for every year of service, whichever is greater, a fraction of at least six (6) months being considered as one (1) whole year.

The particular manner by which it is determined that the employee is suffering from the disease of such character as expressed in Article 284 is in turn spelled out in Section 8, Rule I, Book VI of the Omnibus Rules Implementing the Labor Code, which provides:

> Sec. 8. Disease as a ground for dismissal. — Where the employee suffers from a disease and his continued employment is prohibited by law or prejudicial to his health or to the health of his co-employees, the employer shall not terminate his employment unless there is a certification by a competent public health authority that the disease is of such nature or at such a stage that it cannot be cured within a period of six (6) months even with proper medical treatment. If the disease or ailment can be cured within the period, the employer shall not terminate the employee but shall ask the employee to take a leave. The employer shall reinstate such employee to his former position immediately upon the restoration of his normal health. (Emphasis supplied)

For a dismissal on the ground of disease to be considered valid, two requisites must concur: (a) the employee must be suffering from a disease which cannot be cured within six months and his continued employment is prohibited by law or prejudicial to his health or to the health of his co-employees; and (b) a certification to that effect must be issued by a competent public health authority.[26] The burden falls upon the employer to establish these requisites,[27] and in the absence of such certification, the dismissal must necessarily be declared illegal.[28] As succinctly stressed in Tan v. NLRC,[29] "it is only where there is a prior certification from a competent public authority that the disease afflicting the employee sought to be dismissed is of such nature or at such stage that it cannot be cured within six (6) months even with proper medical treatment that the latter could be validly terminated from his job."[30]

Without the required certification, the characterization or even diagnosis of the disease would primarily be shaped according to the interests of the parties rather than the studied analysis of the appropriate medical professionals. The requirement of a medical certificate under Article 284 cannot be dispensed with; otherwise, it would sanction the unilateral and arbitrary determination by the employer of the gravity or extent of the employee's illness and thus defeat the public policy in the protection of labor.[31]

The NLRC's conclusion that no such certification was required since Pula had effectively been absented due to illness for more than six (6) months is unsupported by jurisprudence and plainly contrary to the language of the Implementing Rules. The indefensibility of such conclusion is further heightened by the fact that Pula was able to obtain two different medical certifications attesting to his fitness to resume work. Assuming that the burden did fall on Pula to establish that he was fit to return to work, those two medical certifications stand as incontestable in the absence of contrary evidence of similar nature from Crayons. Then again, the burden lies solely on Crayons to prove that Pula was unfit to return to work.[32] Even absent the certifications favorable to Pula, Crayons would still be unable to justify his dismissal on the ground of ill health or disease, without the necessary certificate from a competent public health authority.

All told, we agree with the Court of Appeals that the reinstatement of the Decision of the Labor Arbiter is in order.

WHEREFORE, the petition is DENIED. Costs against petitioner.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Velasco, Jr., JJ., concur.

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[1] Rollo, p. 35.

[2] Id.

[3] Id.

[4] In respondent's Position Paper, it is accounted that Crayons Processing, Inc. was a subsidiary of Clothman Knitting Corp. and both corporations had as common stockholders Nixon Lee, Paul Lee, and Peter Su. Ellen Caluag, on the other hand, was the HR manager of both Crayons Processing, Inc. and Clothman Knitting Corp. See rollo, p. 67. Only Crayons Processing, Inc. is a party to the present petition.

[5] CA rollo, pp. 34-35.

[6] Rollo, pp. 164-170.

[7] CA rollo, p. 35.

[8] Id. Interestingly, while petitioners attached to their petition a copy of the Labor Arbiter's Decision, supra note 6 in relation to rollo, p. 31, page 3 of said copy, which highlighted petitioners' lapses before the Labor Arbiter, was omitted therefrom (footnote 7).

[9] Id.

[10] Id. at 36.

[11] Rollo, pp. 186-191. Decision penned by Presiding Commissioner Lourdes C. Javier, concurred in by Commissioner Tito F. Genilo.

[12] Id. at 49-60. Decision penned by Associate Justice Perlita J. Tria Tirona, and concurred in by Associate Justices Ruben T. Reyes (now Presiding Justice) and Jose C. Reyes, Jr.

[13] CA rollo, pp. 101-112.

[14] Id. at 115-116.

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[15] Rollo, pp. 57-58

[16] Id. at 38.

[17] Id. at 42.

[18] Id.

[19] Id.

[20] Id. at 43.

[21] Id. at 45.

[22] CA rollo, pp. 30-32.

[23] Alarcon v. Court of Appeals, 380 Phil. 678, 688–689 (2000), citing Tenebro v. Court of Appeals, 275 SCRA 81 (1997) and Legarda v. Court of Appeals, 280 SCRA 642 (1997).

[24] G.R. No. 128686, 28 May 2004, 430 SCRA 96.

[25] Id. at 105-106.

[26] Manly Express, Inc. v. Payong, Jr. G.R. No. 167462, 25 October 2005, 474 SCRA 323, 329.

[27] Phil. Employ Services & Resources, Inc. v. Paramio,, G.R. No. 144786, 15 April 2004, 427 SCRA 732, 748; ATCI Overseas Corporation v. Court of Appeals, 414 Phil. 883, 893 (2001).

[28] See Manly Express v. Payong, supra note 14, at 329; Cruz v. Court of Appeals, 381 Phil. 775, 783 (2000), citing Pantranco North Express, Inc. v. NLRC, et al., G.R. No. 114333, January 24, 1996, 252 SCRA 237, 244; General Textile, Inc. v. NLRC, et al., G.R. No. 102969, April 4, 1995, 243 SCRA 232, 236; Cebu Royal Plant v. Hon. Deputy Minister of Labor, et al., G.R. No. 58639, August 12, 1987, 15 SCRA 38, 43-44.

[29] 337 Phil. 667 (1997).

[30] Id. at 674. Emphasis retained.

[31] Sy v. Court of Appeals, 446 Phil. 404, 418 (2003); citing Triple Eight Integrated Services, Inc. v. NLRC, 299 SCRA 608, 618 (1998).

[32] See Tan v. NLRC, supra note 17, at 674-675.

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