

MICHAEL J. LAGROSAS, PETITIONER, VS. BRISTOL-MYERS SQUIBB (PHIL.), INC./MEAD JOHNSON PHIL., RICHARD SMYTH AS GENERAL MANAGER AND FERDIE SARFATI, AS MEDICAL SALES DIRECTOR, RESPO...

G.R. No. 168637. September 12, 2008

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Before this Court are two consolidated petitions. The first petition, docketed as G.R. No. 168637, filed by Michael J. Lagrosas, assails the Decision [1] dated January 28, 2005 and the Resolution [2] dated June 23, 2005 of the Court of Appeals in CA-G.R. SP No. 83885. The second petition, docketed as G.R. No. 170684, filed by Bristol-Myers Squibb (Phil.), Inc./Mead Johnson Phil., assails the Resolutions [3] dated August 12, 2005 and October 28, 2005 of the Court of Appeals in CA-G.R. SP No. 83885.

The facts are undisputed.

Michael J. Lagrosas was employed by Bristol-Myers Squibb (Phil.), Inc./Mead Johnson Phil. from January 6, 1997 until March 23, 2000 as Territory Manager in its Medical Sales Force Division. [4]

On February 4, 2000, Ma. Dulcinea S. Lim, also a Territory Manager and Lagrosas' former girlfriend, attended a district meeting of territory managers at McDonald's Alabang Town Center. After the meeting, she dined out with her friends. She left her car at McDonald's and rode with Cesar R. Menquito, Jr. When they returned to McDonald's, Lim saw Lagrosas' car parked beside her car. Lim told Menquito not to stop his car but Lagrosas followed them and slammed Menquito's car thrice. Menquito and Lim alighted from the car. Lagrosas approached them and hit Menquito with a metal steering wheel lock. When Lim tried to intervene, Lagrosas accidentally hit her head.

Upon learning of the incident, Bristol-Myers required Lagrosas to explain in writing why he should not be dismissed for assaulting a co-employee outside of business hours. While the offense is not covered by the Code of Discipline for Territory Managers, the Code states that "other infractions not provided for herein shall be penalized in the most appropriate manner at the discretion of management." [5] In his memo, Lagrosas admitted that he accidentally hit Lim when she tried to intervene. He explained that he did not intend to hit her as shown by the fact that he never left the hospital until he was assured that she was all right. [6]

In the disciplinary hearing that followed, it was established that Lagrosas and Lim had physical confrontations prior to the incident. But Lagrosas denied saying that he might not be able to control himself and hurt Lim and her boyfriend if he sees them together.

On March 23, 2000, Bristol-Myers dismissed Lagrosas effective immediately. [7] Lagrosas then filed a complaint [8] for illegal dismissal, non-payment of vacation and sick leave benefits, 13[th] month pay, attorney's fees, damages and fair market value of his Team Share Stock Option Grant.

On February 28, 2002, Labor Arbiter Renaldo O. Hernandez rendered a Decision [9] in NLRC NCR Case No. 00-03-02821-99, declaring the dismissal illegal. He noted that while Lagrosas committed a misconduct, it was not connected with his work. The incident occurred outside of company premises and office hours. He also observed that the misconduct was not directed against a co-employee who just happened to be accidentally hit in the process. Nevertheless, Labor Arbiter Hernandez imposed a penalty of three months suspension or forfeiture of pay to remind Lagrosas not to be carried away by the mindless dictates of his passion. Thus, the Arbiter ruled:

WHEREFORE, premises considered, judgment is hereby [rendered] finding that respondent company illegally dismissed complainant thus, ORDERING it:

1) [t]o reinstate him to his former position without loss of seniority rights, privileges and benefits and to pay him full backwages reckoned from [the] date of his illegal dismissal on 23 March 2000 including the monetary value of his vacation/sick leave of 16 days per year reckoned from July 1, 2000 until actually reinstated, less three (3) months salary as penalty for his infraction;

2) to pay him the monetary equivalent of his accrued and unused combined sick/vacation leaves as of June 30, 2000 of 16 days x 3 years and 4 months - 10 days x P545.45 = P23,636.16 and the present fair market value of his Team Share stock option grant for eight hundred (800) BMS common shares of stock listed in the New York Stock Exchange which vested in complainant as of 01 July 1997, provisionally computed as 90% (800 shares x US\$40.00 per share x P43.20/US\$ = P1,244,160.00).

3) to pay him Attorney's fee of 10% on the entire computable amount.

All other claims of complainant are dismissed for lack of merit.

SO ORDERED. [10]

On appeal, the National Labor Relations Commission (NLRC) set aside the Decision of Labor Arbiter Hernandez in its Decision [11] dated September 24, 2002. It held that Lagrosas was validly dismissed for serious misconduct in hitting his co-employee and another person with a metal steering wheel lock. The gravity and seriousness of his misconduct is clear from the fact that he deliberately waited for Lim and Menquito to return to McDonald's. The NLRC also ruled that the misconduct was committed in connection with his duty as Territory Manager since it occurred immediately after the district meeting of territory managers.

Lagrosas moved for reconsideration. On May 7, 2003, the NLRC issued a Resolution [12] reversing its earlier ruling. It ratiocinated that the incident was not work-related since it occurred only after the district meeting of territory managers. It emphasized that for a serious misconduct to merit dismissal, it must be connected with the employee's work. The dispositive portion of the Resolution states:

WHEREFORE, premises considered, We find this time no reason to alter the Labor Arbiter's Decision of February 28, 2002 and hereby affirm the same in toto. We vacate our previous Decision of September 24, 2002.

SO ORDERED. [13]

Bristol-Myers filed a motion for reconsideration which the NLRC denied in an Order dated February 4, 2004 in NLRC NCR Case No. 00-03-02821-99 (NLRC NCR CA No. 031646-02). [14] Later, Labor Arbiter Hernandez issued a writ of execution. [15] Notices of garnishment were then served upon the Philippine British Assurance Co., Inc. for the supersedeas bond posted by Bristol-Myers and the Bank of the Philippine Islands for the balance of the judgment award. [16]

Bristol-Myers moved to quash the writ of execution contending that it timely filed a petition for certiorari with the Court of Appeals. The appellate court gave due course to Bristol-Myers' petition and issued a temporary

restraining order (TRO) [17] enjoining the enforcement of the writ of execution and notices of garnishment. Upon the expiration of the TRO, the appellate court issued a writ of preliminary injunction dated September 17, 2004. [18]

Bristol-Myers then moved to discharge and release the TRO cash bond. It argued that since it has posted an injunction cash bond, the TRO cash bond should be legally discharged and released.

On January 28, 2005, the appellate court rendered the following Decision:

WHEREFORE, the petition is GRANTED. The Resolution of May 7, 2003 and the Order of February 4, 2004 in NLRC NCR Case No. [00-03-02821-99] (NLRC NCR CA No. [031646-02]), are REVERSED and SET ASIDE. The public respondent NLRC's Decision dated September 24, 2002 which reversed the Labor Arbiter's decision and in effect sustained the legality of the private respondent's termination and the dismissal of his claim for the fair market value of the [Team Share] stock option grant is REINSTATED and AFFIRMED, with MODIFICATION that the petitioner shall pay the private respondent the monetary equivalent of his accrued and unused combined sick/vacation leave plus ten (10%) percent thereof, as attorney's fees. The injunction bond and the TRO bond previously posted by the petitioner are DISCHARGED.

SO ORDERED. [19]

The appellate court considered the misconduct as having been committed in connection with Lagrosas' duty as Territory Manager since it occurred immediately after the district meeting of territory managers. It also held that the gravity and seriousness of the misconduct cannot be denied. Lagrosas employed such a degree of violence that caused damage not only to Menquito's car but also physical injuries to Lim and Menquito.

Lagrosas filed a motion for reconsideration which the appellate court denied.

In the meantime, Bristol-Myers moved to release the TRO cash bond and injunction cash bond in view of the Decision dated January 28, 2005. On August 12, 2005, the appellate court denied the motion as premature since the decision is not yet final and executory due to Lagrosas' appeal to this Court. [20]

Bristol-Myers filed a motion for reconsideration. On October 28, 2005, the appellate court resolved:

WHEREFORE, the petitioner's Motion [f]or Reconsideration dated September 6, 2005 is PARTIALLY GRANTED and the Resolution of August 12, 2005 is RECONSIDERED and SET ASIDE. The temporary restraining order cash bond in the amount of SIX HUNDRED THOUSAND PESOS (P600,000.00) which was posted by the petitioners on July 19, 2004 is ordered DISCHARGED and RELEASED to the petitioners.

SO ORDERED. [21]

The appellate court held that upon the expiration of the TRO, the cash bond intended for it also expired. Thus, the discharge and release of the cash bond for the expired TRO is proper. But the appellate court disallowed the discharge of the injunction cash bond since the writ of preliminary injunction was issued pendente lite. Since there is a pending appeal with the Supreme Court, the Decision dated January 28, 2005 is not yet final and executory.

Hence, the instant petitions.

In G.R. No. 168637, Lagrosas assigns the following errors:

I.

...THE HONORABLE COURT OF APPEALS IN DECLARING THAT THE TERMINATION OF EMPLOYMENT OF THE PETITIONER-APPELLANT WAS LEGAL HAD DECIDED A QUESTION OF SUBSTANCE IN A WAY NOT IN ACCORD WITH THE LABOR LAWS AND JURISPRUDENCE AND

DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS, AS TO CALL FOR THE EXERCISE OF THIS HONORABLE COURT'S POWER OF REVIEW AND/OR SUPERVISION.

II.

...THE HONORABLE COURT OF APPEALS IN IMPOSING THE PENALTY OF DISMISSAL, BEING A PENALTY TOO HARSH IN THIS CASE, DECIDED A QUESTION OF SUBSTANCE IN A WAY NOT IN ACCORD WITH THE LABOR LAWS AND JURISPRUDENCE AND DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS, AS TO CALL FOR THE EXERCISE OF THIS HONORABLE COURT'S POWER OF REVIEW AND/OR SUPERVISION. [22]

In G.R. No. 170684, Bristol-Myers raises the following issue:

[WHETHER OR NOT THE HONORABLE] COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DISALLOWING THE RELEASE AND DISCHARGE OF PETITIONER'S INJUNCTION BOND. [23]

Simply put, the basic issues in the instant petitions are: (1) Did the Court of Appeals err in finding the dismissal of Lagrosas legal? and (2) Did the Court of Appeals err in disallowing the discharge and release of the injunction cash bond?

On the first issue, serious misconduct as a valid cause for the dismissal of an employee is defined simply as improper or wrong conduct. It is a transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies wrongful intent and not mere error of judgment. To be serious within the meaning and intendment of the law, the misconduct must be of such grave and aggravated character and not merely trivial or unimportant. However serious such misconduct, it must, nevertheless, be in connection with the employee's work to constitute just cause for his separation. The act complained of must be related to the performance of the employee's duties such as would show him to be unfit to continue working for the employer. [24]

Thus, for misconduct or improper behavior to be a just cause for dismissal, it (a) must be serious; (b) must relate to the performance of the employee's duties; and (c) must show that the employee has become unfit to continue working for the employer. [25]

Tested against the foregoing standards, it is clear that Lagrosas was not guilty of serious misconduct. It may be that the injury sustained by Lim was serious since it rendered her unconscious and caused her to suffer cerebral contusion that necessitated hospitalization for several days. But we fail to see how such misconduct could be characterized as work-related and reflective of Lagrosas' unfitness to continue working for Bristol-Myers.

Although we have recognized that fighting within company premises may constitute serious misconduct, we have also held that not every fight within company premises in which an employee is involved would automatically warrant dismissal from service. [26] More so, in this case where the incident occurred outside of company premises and office hours and not intentionally directed against a co-employee, as hereafter explained.

First, the incident occurred outside of company premises and after office hours since the district meeting of territory managers which Lim attended at McDonald's had long been finished. McDonald's may be considered an extension of Bristol-Myers' office and any business conducted therein as within office hours, but the moment the district meeting was concluded, that ceased too. When Lim dined with her friends, it was no longer part of the district meeting and considered official time. Thus, when Lagrosas assaulted Lim and Menquito upon their return, it was no longer within company premises and during office hours. Second, Bristol-Myers itself admitted that

Lagrosas intended to hit Menquito only. In the Memorandum [27] dated March 23, 2000, it was stated that "You got out from your car holding an umbrella steering wheel lock and proceeded to hit Mr. Menquito. Dulce tried to intervene, but you accidentally hit her on the head, knocking her unconscious." [28] Indeed, the misconduct was not directed against a co-employee who unfortunately got hit in the process. Third, Lagrosas was not performing official work at the time of the incident. He was not even a participant in the district meeting. Hence, we fail to see how his action could have reflected his unfitness to continue working for Bristol-Myers.

In light of Bristol-Myers' failure to adduce substantial evidence to prove that Lagrosas was guilty of serious misconduct, it cannot use this ground to justify his dismissal. Thus, the dismissal of Lagrosas' employment was without factual and legal basis.

On the second issue, it is settled that the purpose of a preliminary injunction is to prevent threatened or continuous irreparable injury to some of the parties before their claims can be thoroughly studied and adjudicated. Its sole aim is to preserve the status quo until the merits of the case can be heard fully. [29]

A preliminary injunction may be granted only when, among other things, the applicant, not explicitly exempted, files with the court where the action or proceeding is pending, a bond executed to the party or person enjoined, in an amount to be fixed by the court, to the effect that the applicant will pay such party or person all damages which he may sustain by reason of the injunction or temporary restraining order if the court should finally decide that the applicant was not entitled thereto. Upon approval of the requisite bond, a writ of preliminary injunction shall be issued. [30]

The injunction bond is intended as a security for damages in case it is finally decided that the injunction ought not to have been granted. Its principal purpose is to protect the enjoined party against loss or damage by reason of the injunction, and the bond is usually conditioned accordingly. [31]

In this case, the Court of Appeals issued the writ of preliminary injunction to enjoin the implementation of the writ of execution and notices of garnishment "pending final resolution of this case or unless the [w]rit is sooner lifted by the Court." [32]

By its Decision dated January 28, 2005, the appellate court disposed of the case by granting Bristol-Myers' petition and reinstating the Decision dated September 24, 2002 of the NLRC which dismissed the complaint for dismissal. It also ordered the discharge of the TRO cash bond and injunction cash bond. Thus, both conditions of the writ of preliminary injunction were satisfied.

Notably, the appellate court ruled that Lagrosas had no right to the monetary awards granted by the labor arbiter and the NLRC, and that the implementation of the writ of execution and notices of garnishment was properly enjoined. This in effect amounted to a finding that Lagrosas did not sustain any damage by reason of the injunction. To reiterate, the injunction bond is intended to protect Lagrosas against loss or damage by reason of the injunction only. Contrary to Lagrosas' claim, it is not a security for the judgment award by the labor arbiter. [33]

Considering the foregoing, we hold that the appellate court erred in disallowing the discharge and release of the injunction cash bond.

WHEREFORE, the two consolidated petitions are GRANTED. In G.R. No. 168637, filed by Michael J. Lagrosas, the Decision dated January 28, 2005, and the Resolution dated June 23, 2005 of the Court of Appeals in CA-G.R. SP No. 83885 are REVERSED. The Resolution dated May 7, 2003, and the Order dated February 4, 2004 of the NLRC in NLRC NCR Case No. 00-03-02821-99 (NLRC NCR CA No. 031646-02) are REINSTATED and hereby AFFIRMED.

In G.R. No. 170684, filed by Bristol-Myers Squibb (Phil.), Inc./Mead Johnson Phil., the Resolutions dated August 12, 2005 and October 28, 2005 of the Court of Appeals in CA-G.R. SP No. 83885 are REVERSED. The injunction cash bond in the amount of SIX HUNDRED THOUSAND PESOS (P600,000) which was posted by Bristol-Myers Squibb (Phil.), Inc./Mead Johnson Phil. on September 17, 2004 is hereby ordered DISCHARGED and RELEASED to it.

No pronouncement as to costs.

SO ORDERED.

Carpio Morales, Tinga, Velasco, Jr., and Brion, JJ., concur.

[1] Rollo (G.R. No. 168637), pp. 35-46. Penned by Associate Justice Hakim S. Abdulwahid, with Associate Justices Remedios A. Salazar-Fernando and Juan Q. Enriquez, Jr. concurring.

[2] Id. at 32-33.

[3] Rollo (G.R. No. 170684), pp. 24-25 and 27-29.

[4] Records, Vol. I, p. 53.

[5] Id. at 79.

[6] Id. at 82.

[7] Id. at 18-21.

[8] Id. at 1.

[9] Id. at 146-155.

[10] Id. at 155.

[11] Id. at 534-543.

[12] Id. at 616-619.

[13] Id. at 618-619.

[14] Id. at 723-724.

[15] Id. at 806-808.

[16] Records, Vol. II, p. 31.

[17] CA rollo, p. 188.

[18] Id. at 406.

[19] Rollo (G.R. No. 168637), pp. 45-46.

[20] Rollo (G.R. No. 170684), pp. 24-25.

[21] Id. at 29.

[22] Rollo (G.R. No. 168637), p. 6.

[23] Rollo (G.R. No. 170684), p. 12.

[24] Villamor Golf Club v. Pehid, G.R. No. 166152, October 4, 2005, 472 SCRA 36, 48; Samson v. National Labor Relations Commission, G.R. No. 121035, April 12, 2000, 330 SCRA 460, 471.

[25] Lopez v. National Labor Relations Commission, G.R. No. 167385, December 13, 2005, 477 SCRA 596, 601; Fujitsu Computer Products Corporation of the Philippines v. Court of Appeals, G.R. No. 158232, March 31, 2005, 454 SCRA 737, 768.

[26] Supreme Steel Pipe Corporation v. Bardaje, G.R. No. 170811, April 24, 2007, 522 SCRA 155, 167.

[27] Records, Vol. I, pp. 18-21.

[28] Id. at 18.

[29] Medina v. Greenfield Development Corporation, G.R. No. 140228, November 19, 2004, 443 SCRA 150, 159.

[30] Limitless Potentials, Inc. v. Court of Appeals, G.R. No. 164459, April 24, 2007, 522 SCRA 70, 83-84.

[31] Id. at 84.

[32] CA rollo, p. 406.

[33] Rollo (G.R. No. 170684), p. 318.

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