PHILIPPINE PASAY CHUNG HUA ACADEMY AND EMILIO CHING, ETITIONERS, VS. SERVANDO L. EDPAN, RESPONDENT.

G.R. No. 168876. February 10, 2009

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

These consolidated petitions before us highlight conflicting decisions promulgated by two divisions of the Court of Appeals concerning the requirements of procedural due process in the termination by the school management of its employee, a high school teacher.

Petitioners in G.R. No. 168876 assail the Decision[1] dated October 25, 2004 and Resolution[2] dated July 13, 2005 by the Special 17[th] Division of the Court of Appeals in CA-G.R. SP No. 80757 which affirmed with modification the Decision[3] dated July 31, 2003 of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 034525-03 (NCR-00-05-03248-02). The appellate court had ordered the payment of full backwages, unpaid salaries and proportionate 13[th] month pay of respondent Servando Edpan.

Edpan as petitioner in G.R. No. 172093, in turn, assails the Decision[4] dated November 9, 2005 and Resolution[5] dated March 29, 2006 by the 16[th] Division of the Court of Appeals in CA-G.R. SP No. 80779 which affirmed with modification the same decision of the NLRC but deleted the indemnity award of P10,000.

The factual antecedents are as follows:

Servando Edpan was a high school teacher at Philippine Pasay Chung Hua Academy (PPCHA) where AAA,[6] a minor-aged student, was enrolled.

On April 10, 2002, PPCHA received a letter-complaint[7] from AAA's parents alleging that Edpan had committed lascivious acts against their daughter. They alleged that on April 5, 2002, Edpan kissed AAA's nape and breasts and touched her private parts. In support of their complaint, the parents attached AAA's Sinumpaang Salaysay.[8]

On April 11, 2002, Edpan received two letters[9] from Mrs. Huichin Auyong Chua, PPCHA School Directress, notifying him of the complaint of AAA's parents. Additionally, the Directress notified Edpan that he is being placed under preventive suspension for 30 days without pay, pending investigation of his case. Likewise, she informed him that he will be notified by the investigation committee to attend a preliminary investigation, and that his failure to attend such investigation will be construed as waiver to defend himself. Edpan was also instructed to submit a written explanation on the matter within 24 hours.

In compliance with the two letters from the school directress, Edpan submitted a letter[10] vehemently denying the allegations against him. In a follow-up letter[11] dated April 17, 2002, Edpan requested that he be given five-days advance notice of the investigation and copies of AAA's Sinumpaang Salaysay, the letter-complaint of AAA's parents, and other evidence against him.

PPCHA, by letter[12] dated April 22, 2002, required Edpan to report to school and submit his reply to AAA's

Sinumpaang Salaysay and her parents' letter-complaint.

On April 29, 2002, Edpan wrote PPCHA informing it that he will be reporting to school and submitting his reply on May 2, 2002 and that he will be bringing along his counsel.[13]

On May 2, 2002, Edpan submitted his reply-affidavit[14] attaching to it letters[15] from several PPCHA students and alumni attesting to his good character and integrity.

On May 9, 2002, Edpan received a notice of termination[16] of his employment as a teacher, on the ground of serious misconduct and loss of trust and confidence effective May 11, 2002. Edpan promptly filed an illegal dismissal complaint before the Labor Arbiter.

On December 27, 2002, Labor Arbiter Luis D. Flores dismissed Edpan's complaint for lack of merit. The dispositive portion reads:

> WHEREFORE, judgment is hereby rendered dismissing the instant complaint for lack of merit. Respondent school is however directed to pay complainant his unpaid salaries for services rendered during the summer class and his proportionate 13[th] month pay.
>
> SO ORDERED.[17]

Edpan appealed to the NLRC, which modified the Decision of the Labor Arbiter, to wit:

> WHEREFORE, premises considered, the Decision appealed from is hereby MODIFIED by directing respondents to indemnify complainant the amount of ten thousand pesos (P10,000.00) for failure to strictly comply with due process prior to termination.
>
> SO ORDERED.[18]

Edpan and PPCHA filed their respective motions for reconsideration of the NLRC Decision but both were denied. The parties thereafter filed separate special civil actions for certiorari before the Court of Appeals.

In CA-G.R. SP No. 80757, the appellate court ruled that PPCHA did not observe procedural due process when it dismissed Edpan. It decreed as follows:

> WHEREFORE, the instant petition is DENIED. The assailed Decision dated July 31, 2003 and Resolution dated September 5, 2003 of public respondent NLRC, in NLRC NCR CA NO. 034525 (NCR-00-05-03248-02) are AFFIRMED with MODIFICATION, by ordering private respondent school to pay petitioner: 1) full backwages from the time he was dismissed on May 11, 2002 up to the time the herein decision becomes final; and 2) unpaid salaries for services rendered during the summer class and his proportionate 13[th] month pay. No pronouncement as to cost.
>
> SO ORDERED.[19]

In contrast, the appellate court in CA-G.R. SP No. 80779 found that procedural due process was complied with. The dispositive portion reads:

> WHEREFORE, based on the foregoing, the petition is GIVEN DUE COURSE. The assailed Decision is MODIFIED, the award of P10,000.00 as indemnity is hereby DELETED.
>
> SO ORDERED.[20]

Both Edpan and PPCHA are now before this Court assailing the decisions rendered by the appellate court. In G.R. No. 168876, PPCHA and co-petitioner allege that in CA-G.R. SP No. 80757, the Court of Appeals

> I.

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> ...BLATANTLY DISREGARDED THE LAW AND PREVAILING JURISPRUDENCE WHEN IT UPHELD THE SERRANO DOCTRINE IN ITS RESOLUTION DATED JULY 13, 2005 DESPITE THE FACT THAT, AS OF THE DATE OF PROMULGATION OF THE ASSAILED RESOLUTION, THE SAID DOCTRINE HAD BEEN ABANDONED.
>
> II.
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> ...UTTERLY IGNORED PREVAILING JURISPRUDENCE WHEN IT DIRECTED PETITIONERS TO PAY RESPONDENT BACK WAGES.
>
> III.
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> ...DISREGARDED THE LAW AND ESTABLISHED FACTS ATTENDANT IN THE INSTANT CASE WHEN IT CONCLUDED THAT PETITIONERS DID NOT APPEAL THE NLRC RULING.
>
> IV.
>
> ...BLATANTLY DISREGARDED THE LAW AND PREVAILING JURISPRUDENCE WHEN IT DID NOT FIND THAT PETITIONERS COMPLIED WITH DUE PROCESS IN DISMISSING RESPONDENT.[21]

In G.R. No. 172093, petitioner Edpan avers that in CA-G.R. SP No. 80779, the Court of Appeals

> COMMITTED GRAVE AND REVERSIBLE ERROR IN HOLDING THAT RESPONDENT PHILIPPINE PASAY CHUNG HUA ACADEMY OBSERVED PROCEDURAL DUE PROCESS IN DISMISSING THE PETITIONER.[22]

Simply stated, the basic issue is: Did PPCHA observe procedural due process when it dismissed Edpan?

On one hand, PPCHA contends that it has complied with the two-notice requirement when it dismissed Edpan. It argues that the following are undeniable from the case records: (1) PPCHA served Edpan a written notice informing him of the complaint against him and another notice requiring him to submit a written explanation; (2) PPCHA conducted an investigation; and (3) PPCHA served a written notice to Edpan informing him of his dismissal.[23]

On the other hand, Edpan claims that PPCHA failed to observe procedural process since no hearing was conducted when his case was under investigation. He stresses that the law specifically mandates that there should be a hearing or conference during which the employee concerned, with the assistance of counsel, if he so desires, is given the opportunity to respond to the charge, and present evidence or rebut the evidence presented against him.[24]

After serious consideration of this case, we are in agreement to rule in favor of PPCHA, the employer.

In the dismissal of employees, it has been consistently held that the twin requirements of notice and hearing are essential elements of due process. Article 277 (b)[25] of the Labor Code and Section 2,[26] Rule XXIII, Book V of the Rules Implementing the Labor Code require the employer to furnish the employee with two written notices, to wit: (1) a written notice served on the employee specifying the ground or grounds for termination, and giving to said employee reasonable opportunity within which to explain his side; and (2) a written notice of termination served on the employee indicating that upon due consideration of all the circumstances, grounds have been established to justify his termination.[27] The first notice which may be considered as the proper charge, serves to apprise the employee of the particular acts or omissions for which his dismissal is sought. The second notice on the other hand seeks to inform the employee of the employer's decision to dismiss him.[28] With regard to the requirement of a hearing, it should be stressed that the essence of due process lies simply in an opportunity to be heard, and not that an actual hearing should always and indispensably be held.[29]

In this case, the employer - PPCHA - appears to have complied with the due process requirements set forth in the law and already established in jurisprudence. PPCHA through its school directress sent Edpan a letter informing him of the complaint filed by the parents of AAA and requiring him to submit a written explanation within 24 hours. He then submitted his written explanation denying the allegations against him. He was later furnished copies of AAA's Sinumpaang Salaysay and the parents' letter-complaint and was again required to submit his reply thereto. Edpan was able to submit his reply-affidavit and even attached to it letters of PPCHA students and alumni attesting to his integrity. It was only after giving Edpan opportunities to present his side, that PPCHA furnished him a notice dismissing him from its service.

Thus, we rule that PPCHA observed procedural due process before Edpan was dismissed. Even if no hearing or conference was conducted, the requirement of due process had been met since he was accorded a chance to explain his side of the controversy.[30]

WHEREFORE, the Decision dated October 25, 2004 and Resolution dated July 13, 2005 of the Court of Appeals in CA-G.R. SP No. 80757 are SET ASIDE. The Decision dated November 9, 2005 and Resolution dated March 29, 2006 of the Court of Appeals in CA-G.R. SP No. 80779 are AFFIRMED. Thus, we affirm that the employee was validly dismissed and the award to him by the NLRC of P10,000 as indemnity was properly deleted.

No pronouncement as to cost.

SO ORDERED.

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

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[1] Rollo (G.R. No. 168876), pp. 30-35. Penned by Associate Justice Hakim S. Abdulwahid, with Associate Justices Remedios A. Salazar-Fernando and Magdangal M. De Leon concurring.

[2] Id. at 37.

[3] CA rollo, pp. 12-17.

[4] Rollo (G.R. No. 172093), pp. 25-30-A. Penned by Associate Justice Arturo G. Tayag, with Associate Justices Jose L. Sabio, Jr. and Jose C. Mendoza concurring.

[5] Id. at 32-33. Penned by Associate Justice Arturo G. Tayag, with Associate Justices Jose L. Sabio, Jr. and Noel G. Tijam concurring.

[6] This appellation is pursuant to Republic Act No. 9262, Sec. 44, otherwise known as the "Anti-Violence Against Women and their Children Act of 2004" and our ruling in People v. Cabalquinto, G.R. No. 167693, September 19, 2006, 502 SCRA 419, wherein this Court has resolved to withhold the real name of the victim-survivor and to use fictitious initials instead to represent her in its decisions. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed.

[7] CA rollo, p. 29.

[8] Id. at 33-34.

[9] Id. at 30-31.

[10] Id. at 58-59

[11] Id. at 60-61.

[12] Id. at 62.

[13] Id. at 66.

[14] Id. at 67-71.

[15] Id. at 73-77.

[16] Id. at 78-79.

[17] Id. at 93-94.

[18] Id. at 16.

[19] Rollo (G.R. No. 168876), p. 35.

[20] Rollo (G.R. No. 172093), p. 30.

[21] Rollo (G.R. No. 168876), pp. 17-18.

[22] Rollo (G.R. No.172093), p. 17.

[23] Rollo (G.R. No. 168876), pp. 21-22.

[24] Rollo (G.R. No. 172093), p. 18.

[25] ART. 277. Miscellaneous provisions. – ... (b) Subject to the constitutional right of workers to security of tenure and their right to be protected against dismissal except for a just and authorized cause and without prejudice to the requirement of notice under Article 283 of this Code, the employer shall furnish the worker whose employment is sought to be terminated a written notice containing a statement of the causes for termination and shall afford the latter ample opportunity to be heard and to defend himself with the assistance of his representative if he so desires in accordance with company rules and regulations promulgated pursuant to guidelines set by the Department of Labor and Employment....

[26] Section 2. Standards of due process: requirements of notice. - In all cases of termination of employment, the following standards of due process shall be substantially observed:

x x x x

(a) A written notice served on the employee specifying the ground or grounds for termination, and giving to said employee reasonable opportunity within which to explain his side;

x x x x

(c) A written notice termination served on the employee indicating that upon due consideration of all the circumstance, grounds have been established to justify his termination.

x x x x

[27] Pastor Austria v. NLRC, 371 Phil. 340, 356-357 (1999).

[28] Id. at 357.

[29] Metropolitan Bank and Trust Company v. Barrientos, G.R. No. 157028, January 31, 2006, 481 SCRA 311, 322.

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[30] Asian Terminals, Inc. v. Nepthally B. Sallao and Asian Terminals, Inc. (Mariveles) Workers' Union, G.R. No. 166211, July 14, 2008, pp. 1, 6.

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