

JOHN HANCOCK LIFE INSURANCE CORPORATION AND/OR MICHAEL PLAXTON, PETITIONERS, VS. JOANNA CANTRE DAVIS, RESPONDENT.

G.R. No. 169549. September 03, 2008

Ponente: CORONA, J.

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CORONA, J.:

Respondent Joanna Cantre Davis was agency administration officer of petitioner John Hancock Life Insurance Corporation.[1]

On October 18, 2000, Patricia Yuseco, petitioner's corporate affairs manager, discovered that her wallet was missing. She immediately reported the loss of her credit cards to AIG and BPI Express. To her surprise, she was informed that "Patricia Yuseco" had just made substantial purchases using her credit cards in various stores in the City of Manila. She was also told that a proposed transaction in Abenson's-Robinsons Place was disapproved because "she" gave the wrong information upon verification.

Because loss of personal property among its employees had become rampant in its office, petitioner sought the assistance of the National Bureau of Investigation (NBI). The NBI, in the course of its investigation, obtained a security video from Abenson's showing the person who used Yuseco's credit cards. Yuseco and other witnesses positively identified the person in the video as respondent.

Consequently, the NBI and Yuseco filed a complaint for qualified theft against respondent in the office of the Manila city prosecutor. But because the affidavits presented by the NBI (identifying respondent as the culprit) were not properly verified, the city prosecutor dismissed the complaint due to insufficiency of evidence.

Meanwhile, petitioner placed respondent under preventive suspension and instructed her to cooperate with its ongoing investigation. Instead of doing so, however, respondent filed a complaint for illegal dismissal[2] alleging that petitioner terminated her employment without cause.

The labor arbiter, in a decision dated May 21, 2002,[3] found that respondent committed serious misconduct (she was the principal suspect for qualified theft committed inside petitioner's office during work hours). There was a valid cause for her dismissal. Thus, the complaint was dismissed for lack of merit.

Respondent appealed[4] the labor arbiter's decision to the National Labor Relations Commission (NLRC) which affirmed the assailed decision on July 31, 2003.[5] Respondent moved for reconsideration but it was denied in a resolution dated October 30, 2003.[6]

Aggrieved, respondent filed a petition for certiorari[7] in the Court of Appeals (CA) claiming that the NLRC committed grave abuse of discretion in affirming the decision of the labor arbiter. She claimed there was no valid cause for her termination because the city prosecutor of Manila "did not find probable cause for qualified theft against her." The dismissal of the complaint proved that the charges against her were based on suspicion.

The CA, in its July 4, 2005 decision,[8] found that the labor arbiter and NLRC merely adopted the findings of the

NBI regarding respondent's culpability. Because the affidavits of the witnesses were not verified, they did not constitute substantial evidence. The labor arbiter and NLRC should have assessed evidence independently as "unsubstantiated suspicions, accusations and conclusions of employers (did) not provide legal justification for dismissing an employee." Thus, the CA granted the petition.

Petitioner moved for reconsideration but it was denied.[9] Hence, this petition.

The issue in this case is whether or not petitioner substantially proved the presence of valid cause for respondent's termination.

Petitioner essentially argues that the ground for an employee's dismissal need only be proven by substantial evidence. Thus, the dropping of charges against an employee (specially on a technicality such as lack of proper verification) or his subsequent acquittal does not preclude an employer from dismissing him due to serious misconduct.

We grant the petition.

Article 282 of the Labor Code provides:

Article 282. Termination by Employer. - An employer may terminate an employment for any of the following causes:

(a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or his representatives in connection with his work;

x x x x x x x x

(e) Other causes analogous to the foregoing.

Misconduct involves "the transgression of some established and definite rule of action, forbidden act, a dereliction of duty, willful in character, and implies wrongful intent and not mere error in judgment." [10] For misconduct to be serious and therefore a valid ground for dismissal, it must be:

- of grave and aggravated character and not merely trivial or unimportant and
- connected with the work of the employee.[11]

In this case, petitioner dismissed respondent based on the NBI's finding that the latter stole and used Yuseco's credit cards. But since the theft was not committed against petitioner itself but against one of its employees,[12] respondent's misconduct was not work-related and therefore, she could not be dismissed for serious misconduct.

Nonetheless, Article 282(e) of the Labor Code talks of other analogous causes or those which are susceptible of comparison to another in general or in specific detail.[13] For an employee to be validly dismissed for a cause analogous to those enumerated in Article 282, the cause must involve a voluntary and/or willful act or omission of the employee.[14]

A cause analogous to serious misconduct is a voluntary and/or willful act or omission attesting to an employee's moral depravity.[15] Theft committed by an employee against a person other than his employer, if proven by substantial evidence, is a cause analogous to serious misconduct.[16] Did petitioner substantially prove the existence of valid cause for respondent's separation? Yes. The labor arbiter and the NLRC relied not only on the affidavits of the NBI's witnesses but also on that of respondent. They likewise considered petitioner's own investigative findings. Clearly, they did not merely adopt the findings of the NBI but independently assessed evidence presented by the parties. Their conclusion (that there was valid cause for respondent's separation from employment) was therefore supported by substantial evidence.

All things considered, petitioner validly dismissed respondent for cause analogous to serious misconduct.

WHEREFORE, the petition is hereby GRANTED. The July 4, 2005 decision and September 1, 2005 resolution of the Court of Appeals in CA-G.R. SP No. 81515 are REVERSED and SET ASIDE.

The July 31, 2003 decision and October 30, 2003 resolution of the National Labor Relations Commission in NLRC CA No. 032865-02 affirming the May 21, 2002 decision of the labor arbiter are REINSTATED.

SO ORDERED.

Puno, C.J. (Chairperson), Carpio, Azcuna, and Leonardo-de Castro, JJ., concur.

[1] Henceforth, John Hancock Life Insurance Corporation shall be referred to as "petitioner."

[2] Docketed as NLRC NCR Case No. 30-11-04413-00.

[3] Penned by labor arbiter Roma C. Asinas. Rollo, pp. 162-171.

[4] Docketed as NLRC CA No. 032865-02.

[5] Penned by Commissioner Victoriano R. Calaycay and concurred in by Presiding Commissioner Raul T. Aquino and Commissioner Angelita A. Gacutan of the Second Division of the National Labor Relations Commission, rollo, pp. 172-180.

[6] Id., pp. 181-182.

[7] Docketed as CA-G.R. SP No. 81515.

[8] Penned by Associate Justice Renato C. Dacudao (retired) and concurred in by Associate Justices Edgardo F. Sundiam and Japar B. Dimaampao of the Thirteenth Division of the Court of Appeals. Rollo, pp. 55-81.

[9] Dated September 1, 2005. Id., p. 83.

[10] Azucena, Everyone's Labor Code, 4th ed., p. 335.

[11] Id., citing Department of Labor Manual, Sec. 4343.01. See also Ballao v. Court of Appeals, G.R. No. 162342, 11 October 2006, 504 SCRA 227, 236 citing Fujitsu Computer Products Corporation of the Philippines v. Court of Appeals, G.R. No. 158232, 31 March 2005, 454 SCRA 737, 767-768.

[12] Compare Pangasinan III Electric Cooperative, Inc. v. National Labor Relations Commission, G.R. No. 89876, 13 November 1992, 215 SCRA 669, 673-674 and Litton Mills, Inc. v. Sales, G.R. No. 151400, 1 September 2004, 437 SCRA 488, 500-501.

[13] Webster's Third New International Dictionary, 1993 ed., p. 77.

[14] Nadura v. Benguet Consolidated, Inc., 116 Phil. 28, 31 (1962).

[15] See Oania v. National Labor Relations Commission, G.R. Nos. 97162-64, 1 June 1995, 244 SCRA 669, 674.

[16] See M.F. Violago Oiler Tank Trucks v. NLRC, 202 Phil. 872 (1982) and A. Marquez, Inc. v. Leogardo, 213 Phil. 217 (1984).

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