

RURAL BANK OF CANTILAN, INC., AND WILLIAM HOTCHKISS III, PETITIONERS, VS. ARJAY RONNEL H. JULVE, RESPONDENT.

G.R. NO. 169750. February 27, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant Petition for Review on Certiorari assailing the Decision[1] of the Court of Appeals (Twenty Second Division, Cagayan de Oro City) dated September 23, 2004 in CA-G.R. SP No. 77206 and its Resolution of September 6, 2005.

The facts of this case as found by the Court of Appeals are:

On August 1, 1997, the Rural Bank of Cantilan, Inc., petitioner, hired respondent as a management trainee. Later, he was appointed as planning and marketing officer.

On June 18, 2001, William Hotchkiss III (also a petitioner), president of petitioner bank, issued a memorandum addressed to all its branch managers informing them of the abolition of the positions of planning and marketing officer and remedial officer; that this was undertaken in accordance with the bank's Personnel Streamlining Program; and that the operations officer shall absorb the functions of the abolished offices.

On July 18, 2001, Hotchkiss sent respondent a memorandum stating that he has been appointed bookkeeper I at the bank's branch in Madrid, Surigao del Sur effective immediately with the same salary corresponding to his old position. Initially, respondent agreed to accept the appointment, but eventually, he changed his mind and made the following notation on Hotchkiss' memorandum, thus:

I am withdrawing my signature on this appointment because I feel that this is a demotion (on the position itself and allowances) and not a lateral transfer as what the President told me yesterday. I believe I do not deserve a demotion.

Thank you.

On August 9, 2001, Hotchkiss appointed respondent as bookkeeper I and assistant branch head of the Madrid branch. However, he did not report for work.

On September 11, 2001, Hotchkiss directed respondent to explain why he should not be sanctioned for his failure to assume his new post at the Madrid branch.

The following day, respondent submitted his written explanation, which partly reads:

I regret to say that I am not accepting the position of Asst. Branch Head of RBCI-Madrid Branch for the very reason that the papers were not left with me by the Admin. Officer after she let me read them. Considering that Asst. Branch Head is a newly-created position, I requested her for a copy of the said papers first so I can thoroughly study them before making my decision. But she immediately took them back from me after I told her about this.

On September 14, 2001, respondent filed with the Regional Arbitration Branch No. XIII, National Labor Relations Commission (NLRC), Butuan City, a complaint for constructive dismissal against petitioners, docketed as NLRC Case No. RAB-13-09-00276-2001.

On January 14, 2002, the Labor Arbiter rendered a Decision, the dispositive portion of which is partly reproduced below:

WHEREFORE, premises considered, judgment is hereby entered:

- Declaring complainant as constructively illegally dismissed;
- Ordering respondents to reinstate complainant to his former or equivalent position without loss of seniority rights with full backwages from the time his salary was withheld from him up to the time he is actually reinstated;
- To pay complainant his partial backwages in the amount of P57,165.33 computed up to the date of this decision as follows:
- BACKWAGES FROM 16 Oct 2001 to 15 Jan 2002 (4 months) (Partial)

$P12,192.50 + 1,000 \times 4 = P52,768.00$

Plus $P52,768/13$ (13[th] mo. Pay) = P4,397.33

TOTAL BACKWAGES P57,165.33

and

- Ordering respondents to pay complainant moral and exemplary damages in the total amount of P100,000.00 plus P15,718.53, as attorney's fees which is equivalent to 10% of the total monetary award.

Complainant's other claims are dismissed for lack of merit.

On appeal by petitioners, the NLRC, in its Resolution dated November 19, 2002, set aside the Labor Arbiter's judgment, thus:

WHEREFORE, foregoing premises considered, the appealed decision is Vacated and Set Aside. In lieu thereof, a new judgment is rendered dismissing the above-entitled case for lack of merit.

SO ORDERED.

The NLRC held that respondent's reassignment is not a demotion. There was neither diminution in functions and pay. Thus, he was not constructively dismissed from employment. Moreover, respondent himself admitted that he decided not to report for work at his new station. Yet, he continued receiving his salaries and allowances.

Respondent filed a motion for reconsideration but it was denied by the NLRC.

Respondent then filed with the Court of Appeals a petition for certiorari, docketed as CA-G.R. SP No. 77206.

On September 23, 2004, the Court of Appeals rendered its Decision granting the petition, thus:

WHEREFORE, the instant Petition is hereby GRANTED. The NLRC Resolutions dated 19 November 2002 and 26 February 2003 are hereby ANNULLED and SET ASIDE. The Labor Arbiter's Decision dated 14 January 2002 is hereby REINSTATED.

SO ORDERED.

Petitioners filed a motion for reconsideration. However, it was denied by the appellate court in its Resolution

dated September 6, 2005.

The only issue before us is whether the Court of Appeals erred in holding that respondent was constructively dismissed from employment.

In resolving this issue, we rely on the following guide posts:

Under the doctrine of management prerogative, every employer has the inherent right to regulate, according to his own discretion and judgment, all aspects of employment, including hiring, work assignments, working methods, the time, place and manner of work, work supervision, transfer of employees, lay-off of workers, and discipline, dismissal, and recall of employees.[2] The only limitations to the exercise of this prerogative are those imposed by labor laws and the principles of equity and substantial justice.

While the law imposes many obligations upon the employer, nonetheless, it also protects the employer's right to expect from its employees not only good performance, adequate work, and diligence, but also good conduct and loyalty.[3] In fact, the Labor Code does not excuse employees from complying with valid company policies and reasonable regulations for their governance and guidance.

Concerning the transfer of employees, these are the following jurisprudential guidelines: (a) a transfer is a movement from one position to another of equivalent rank, level or salary without break in the service or a lateral movement from one position to another of equivalent rank or salary;[4] (b) the employer has the inherent right to transfer or reassign an employee for legitimate business purposes;[5] (c) a transfer becomes unlawful where it is motivated by discrimination or bad faith or is effected as a form of punishment or is a demotion without sufficient cause;[6] (d) the employer must be able to show that the transfer is not unreasonable, inconvenient, or prejudicial to the employee.[7]

Constructive dismissal is defined as "quitting when continued employment is rendered impossible, unreasonable, or unlikely as the offer of employment involves a demotion in rank and diminution of pay." [8]

In light of the above guidelines, we agree with the NLRC in ruling that respondent was not constructively dismissed from employment.

Respondent contends that the abolition of his position as planning and marketing officer and his appointment as bookkeeper I and assistant branch head of the Madrid Branch is a demotion. However, a look at the functions of his new position shows the contrary. The bookkeeper and assistant branch head is not only charged with preparing financial reports and monthly bank reconciliations, he is also the head of the Accounting Department of a branch. Under any standard, these are supervisory and administrative tasks which entail great responsibility. Moreover, respondent's transfer did not decrease his pay.

Nor was respondent's transfer motivated by ill-will or prejudice on the part of petitioners. His position was not the only one abolished pursuant to the bank's Personnel Streamlining Program. We recall that the position of remedial officer was likewise abolished. Petitioners' reason was to acquire savings from the salaries it would pay to full-time personnel in these positions.

Finally, we note that despite respondent's refusal to accept the new appointment, petitioners did not dismiss him. Rather, it was he who opted to terminate his employment when he purposely failed to report for work.

In fine, we hold that the Court of Appeals erred when it concluded that respondent was constructively dismissed from employment.

WHEREFORE, we GRANT the petition and REVERSE the Decision of the Court of Appeals in CA-G.R. SP No. 77206. The Resolutions of the NLRC dated November 19, 2002 and February 26, 2003, dismissing respondent's

complaint are AFFIRMED.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, and Garcia, JJ., concur.
Azcuna, J., on official leave.

[1] Rollo, pp. 89-102. Penned by Associate Justice Mariflor P. Punzalan-Castillo and concurred in by Associate Justice Sesinando E. Villon and Associate Justice Rodrigo F. Lim, Jr.

[2] Baybay Water District v. Commission on Audit, G.R. Nos. 147248-29, January 23, 2002, 374 SCRA 482, 495-96, citing Tierra International Construction Corp. v. National Labor Relations Commission, 256 SCRA 36 (1996).

[3] Durban Apartments Corp. v. Catacutan, G.R. No. 167318, December 14, 2005, 478 SCRA 801, 809.

[4] Dosch v. National Labor Relations Commission, G.R. No. 51182, July 5, 1983, 123 SCRA 296, 312, citing Millares v. Subido, 20 SCRA 954 (1967).

[5] Genuino Ice Company, Inc. v. Magpantay, G.R. No. 147790, June 27, 2006.

[6] Phil. Telegraph & Telephone Corp. v. Laplana, G.R. No. 76645, July 23, 1991, 199 SCRA 485, 491.

[7] Westmont Pharmaceuticals, Inc. v. Samaniego, G.R. Nos. 146653-54 & 147407-08, February 20, 2006, 482 SCRA 611, 620; Globe-Telecom, Inc. v. Florendo-Flores, G.R. No. 150092, September 27, 2002, 390 SCRA 201, 213.

[8] Mobil Protective & Detective Agency v. Ompad, G.R. No. 159195, May 9, 2005, 458 SCRA 308, 321, citing R.P. Dinglasan Construction, Inc. v. Atienza, 433 SCRA 263 (2003).

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