

ALABANG COUNTRY CLUB, INC., Petitioner, vs. NATIONAL LABOR RELATIONS COMMISSION, ALABANG COUNTRY CLUB INDEPENDENT EMPLOYEES UNION, CHRISTOPHER PIZARRO, MICHAEL BRAZA, and NOLASC...

G.R. No. 170287. February 14, 2008

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

Petitioner Alabang Country Club, Inc. (Club) is a domestic non-profit corporation with principal office at Country Club Drive, Ayala Alabang, Muntinlupa City. Respondent Alabang Country Club Independent Employees Union (Union) is the exclusive bargaining agent of the Club's rank-and-file employees. In April 1996, respondents Christopher Pizarro, Michael Braza, and Nolasco Castueras were elected Union President, Vice-President, and Treasurer, respectively.

On June 21, 1999, the Club and the Union entered into a Collective Bargaining Agreement (CBA), which provided for a Union shop and maintenance of membership shop.

The pertinent parts of the CBA included in Article II on Union Security read, as follows:

ARTICLE II UNION SECURITY

SECTION 1. CONDITION OF EMPLOYMENT. All regular rank-and-file employees, who are members or subsequently become members of the UNION shall maintain their membership in good standing as a condition for their continued employment by the CLUB during the lifetime of this Agreement or any extension thereof.

SECTION 2. [COMPULSORY] UNION MEMBERSHIP FOR NEW REGULAR RANK-AND-FILE EMPLOYEES

a)

New regular rank-and-file employees of the Club shall join the UNION within five (5) days from the date of their appointment as regular employees as a condition for their continued employment during the lifetime of this Agreement, otherwise, their failure to do so shall be a ground for dismissal from the CLUB upon demand by the UNION.

b)

The Club agrees to furnish the UNION the names of all new probationary and regular employees covered by this Agreement not later than three (3) days from the date of regular appointment showing the positions and dates of hiring.

x x x x

SECTION 4. TERMINATION UPON UNION DEMAND. Upon written demand of the UNION and after

observing due process, the Club shall dismiss a regular rank-and-file employee on any of the following grounds:

- (a) Failure to join the UNION within five (5) days from the time of regularization;
- (b) Resignation from the UNION, except within the period allowed by law;
- (c) Conviction of a crime involving moral turpitude;
- (d) Non-payment of UNION dues, fees, and assessments;
- (e) Joining another UNION except within the period allowed by law;
- (f) Malversation of union funds;
- (g) Actively campaigning to discourage membership in the UNION; and
- (h) Inflicting harm or injury to any member or officer of the UNION.

It is understood that the UNION shall hold the CLUB free and harmless [sic] from any liability or damage whatsoever which may be imposed upon it by any competent judicial or quasi-judicial authority as a result of such dismissal and the UNION shall reimburse the CLUB for any and all liability or damage it may be adjudged.[1] (Emphasis supplied.)

Subsequently, in July 2001, an election was held and a new set of officers was elected. Soon thereafter, the new officers conducted an audit of the Union funds. They discovered some irregularly recorded entries, unaccounted expenses and disbursements, and uncollected loans from the Union funds. The Union notified respondents Pizarro, Braza, and Castueras of the audit results and asked them to explain the discrepancies in writing.[2]

Thereafter, on October 6, 2001, in a meeting called by the Union, respondents Pizarro, Braza, and Castueras explained their side. Braza denied any wrongdoing and instead asked that the investigation be addressed to Castueras, who was the Union Treasurer at that time. With regard to his unpaid loans, Braza claimed he had been paying through monthly salary deductions and said the Union could continue to deduct from his salary until full payment of his loans, provided he would be reimbursed should the result of the initial audit be proven wrong by a licensed auditor. With regard to the Union expenses which were without receipts, Braza explained that these were legitimate expenses for which receipts were not issued, e.g. transportation fares, food purchases from small eateries, and food and transportation allowances given to Union members with pending complaints with the Department of Labor and Employment, the National Labor Relations Commission (NLRC), and the fiscal's office. He explained that though there were no receipts for these expenses, these were supported by vouchers and itemized as expenses. Regarding his unpaid and unliquidated cash advances amounting to almost PhP 20,000, Braza explained that these were not actual cash advances but payments to a certain Ricardo Ricafrente who had loaned PhP 200,000 to the Union.[3]

Pizarro, for his part, blamed Castueras for his unpaid and uncollected loan and cash advances. He claimed his salaries were regularly deducted to pay his loan and he did not know why these remained unpaid in the records. Nonetheless, he likewise agreed to continuous salary deductions until all his accountabilities were paid.[4]

Castueras also denied any wrongdoing and claimed that the irregular entries in the records were unintentional and were due to inadvertence because of his voluminous work load. He offered that his unpaid personal loan of PhP 27,500 also be deducted from his salary until the loans were fully paid. Without admitting any fault on his part, Castueras suggested that his salary be deducted until the unaccounted difference between the loans and the amount collected amounting to a total of PhP 22,000 is paid.[5]

Despite their explanations, respondents Pizarro, Braza, and Castueras were expelled from the Union, and, on October 16, 2001, were furnished individual letters of expulsion for malversation of Union funds.[6] Attached to the letters were copies of the Panawagan ng mga Opisyaes ng Unyon signed by 37 out of 63 Union members and officers, and a Board of Directors' Resolution[7] expelling them from the Union.

In a letter dated October 18, 2001, the Union, invoking the Security Clause of the CBA, demanded that the Club dismiss respondents Pizarro, Braza, and Castueras in view of their expulsion from the Union.[8] The Club required the three respondents to show cause in writing within 48 hours from notice why they should not be dismissed. Pizarro and Castueras submitted their respective written explanations on October 20, 2001, while Braza submitted his explanation the following day.

During the last week of October 2001, the Club's general manager called respondents Pizarro, Braza, and Castueras for an informal conference inquiring about the charges against them. Said respondents gave their explanation and asserted that the Union funds allegedly malversed by them were even over the total amount collected during their tenure as Union officers—PhP 120,000 for Braza, PhP 57,000 for Castueras, and PhP 10,840 for Pizarro, as against the total collection from April 1996 to December 2001 of only PhP 102,000. They claimed the charges are baseless. The general manager announced he would conduct a formal investigation.

Nonetheless, after weighing the verbal and written explanations of the three respondents, the Club concluded that said respondents failed to refute the validity of their expulsion from the Union. Thus, it was constrained to terminate the employment of said respondents. On December 26, 2001, said respondents received their notices of termination from the Club.[9]

Respondents Pizarro, Braza, and Castueras challenged their dismissal from the Club in an illegal dismissal complaint docketed as NLRC-NCR Case No. 30-01-00130-02 filed with the NLRC, National Capital Region Arbitration Branch. In his January 27, 2003 Decision,[10] the Labor Arbiter ruled in favor of the Club, and found that there was justifiable cause in terminating said respondents. He dismissed the complaint for lack of merit.

On February 21, 2003, respondents Pizarro, Braza, and Castueras filed an Appeal docketed as NLRC NCR CA No. 034601-03 with the NLRC.

On February 26, 2004, the NLRC rendered a Decision[11] granting the appeal, the fallo of which reads:

WHEREFORE, finding merit in the Appeal, judgment is hereby rendered declaring the dismissal of the complainants illegal. x x x Alabang Country Club, Inc. and Alabang Country Club Independent Union are hereby ordered to reinstate complainants Christopher Pizarro, Nolasco Castueras and Michael Braza to their former positions without loss of seniority rights and other privileges with full backwages from the time they were dismissed up to their actual reinstatement.

SO ORDERED.

The NLRC ruled that there was no justifiable cause for the termination of respondents Pizarro, Braza, and Castueras. The commissioners relied heavily on Section 2, Rule XVIII of the Rules Implementing Book V of the Labor Code. Sec. 2 provides:

SEC. 2. Actions arising from Article 241 of the Code. – Any action arising from the administration or accounting of union funds shall be filed and disposed of as an intra-union dispute in accordance with Rule XIV of this Book.

In case of violation, the Regional or Bureau Director shall order the responsible officer to render an accounting of funds before the general membership and may, where circumstances warrant, mete the appropriate penalty to the erring officer/s, including suspension or expulsion from the union.[12]

According to the NLRC, said respondents' expulsion from the Union was illegal since the DOLE had not yet made any definitive ruling on their liability regarding the administration of the Union's funds.

The Club then filed a motion for reconsideration which the NLRC denied in its June 20, 2004 Resolution.[13]

Aggrieved by the Decision and Resolution of the NLRC, the Club filed a Petition for Certiorari which was docketed as CA-G.R. SP No. 86171 with the Court of Appeals (CA).

The CA Upheld the NLRC Ruling that the Three Respondents were Deprived Due Process

On July 5, 2005, the appellate court rendered a Decision,[14] denying the petition and upholding the Decision of the NLRC. The CA's Decision focused mainly on the Club's perceived failure to afford due process to the three respondents. It found that said respondents were not given the opportunity to be heard in a separate hearing as required by Sec. 2(b), Rule XXIII, Book V of the Omnibus Rules Implementing the Labor Code, as follows:

SEC. 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:

For termination of employment based on just causes as defined in Article 282 of the Code:

x x x x

(b) A hearing or conference during which the employee concerned, with the assistance of counsel if the employee so desires, is given opportunity to respond to the charge, present his evidence or rebut the evidence presented against him.

The CA also said the dismissal of the three respondents was contrary to the doctrine laid down in *Malayang Samahan ng mga Manggagawa sa M. Greenfield v. Ramos* (Malayang Samahan), where this Court ruled that even on the assumption that the union had valid grounds to expel the local union officers, due process requires that the union officers be accorded a separate hearing by the employer company.[15]

In a Resolution[16] dated October 20, 2005, the CA denied the Club's motion for reconsideration.

The Club now comes before this Court with these issues for our resolution, summarized as follows:

- Whether there was just cause to dismiss private respondents, and whether they were afforded due process in accordance with the standards provided for by the Labor Code and its Implementing Rules.
- Whether or not the CA erred in not finding that the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it ruled that respondents Pizarro, Braza, and Castueras were illegally expelled from the Union.
- Whether the case of *Agabon vs. NLRC*[17] should be applied to this case.
- Whether that in the absence of bad faith and malice on the part of the Club, the Union is solely liable for the termination from employment of said respondents.

The main issue is whether the three respondents were illegally dismissed and whether they were afforded due process.

The Club avers that the dismissal of the three respondents was in accordance with the Union security provisions in their CBA. The Club also claims that the three respondents were afforded due process, since the Club conducted an investigation separate and independent from that conducted by the Union.

Respondents Pizarro, Braza, and Castueras, on the other hand, contend that the Club failed to conduct a separate hearing as prescribed by Sec. 2(b), Rule XXIII, Book V of the implementing rules of the Code.

First, we resolve the legality of the three respondents' dismissal from the Club.

Valid Grounds for Termination

Under the Labor Code, an employee may be validly terminated on the following grounds: (1) just causes under Art. 282; (2) authorized causes under Art. 283; (3) termination due to disease under Art. 284; and (4) termination by the employee or resignation under Art. 285.

Another cause for termination is dismissal from employment due to the enforcement of the union security clause in the CBA. Here, Art. II of the CBA on Union security contains the provisions on the Union shop and maintenance of membership shop. There is union shop when all new regular employees are required to join the union within a certain period as a condition for their continued employment. There is maintenance of membership shop when employees who are union members as of the effective date of the agreement, or who thereafter become members, must maintain union membership as a condition for continued employment until they are promoted or transferred out of the bargaining unit or the agreement is terminated.[18] Termination of employment by virtue of a union security clause embodied in a CBA is recognized and accepted in our jurisdiction.[19] This practice strengthens the union and prevents disunity in the bargaining unit within the duration of the CBA. By preventing member disaffiliation with the threat of expulsion from the union and the consequent termination of employment, the authorized bargaining representative gains more numbers and strengthens its position as against other unions which may want to claim majority representation.

In terminating the employment of an employee by enforcing the union security clause, the employer needs only to determine and prove that: (1) the union security clause is applicable; (2) the union is requesting for the enforcement of the union security provision in the CBA; and (3) there is sufficient evidence to support the union's decision to expel the employee from the union. These requisites constitute just cause for terminating an employee based on the CBA's union security provision.

The language of Art. II of the CBA that the Union members must maintain their membership in good standing as a condition sine qua non for their continued employment with the Club is unequivocal. It is also clear that upon demand by the Union and after due process, the Club shall terminate the employment of a regular rank-and-file employee who may be found liable for a number of offenses, one of which is malversation of Union funds.[20]

Below is the letter sent to respondents Pizarro, Braza, and Castueras, informing them of their termination:

On October 18, 2001, the Club received a letter from the Board of Directors of the Alabang Country Club Independent Employees' Union ("Union") demanding your dismissal from service by reason of your alleged commission of act of dishonesty, specifically malversation of union funds. In support thereof, the Club was furnished copies of the following documents:

- A letter under the subject "Result of Audit" dated September 14, 2001 (receipt of which was duly acknowledged from your end), which required you to explain in writing the charges against you (copy attached);
- The Union's Board of Directors' Resolution dated October 2, 2001, which explained that the Union afforded you an opportunity to explain your side to the charges;
- Minutes of the meeting of the Union's Board of Directors wherein an administrative investigation of the case was conducted last October 6, 2001; and
- The Union's Board of Directors' Resolution dated October 15, 2001 which resolved your expulsion from the Union for acts of dishonesty and malversation of union funds, which was duly approved by the general membership.

After a careful evaluation of the evidence on hand vis-à-vis a thorough assessment of your defenses presented in your letter-explanation dated October 6, 2001 of which you also expressed that you waived your right to be present during the administrative investigation conducted by the Union's Board of Directors on October 6,

2001, Management has reached the conclusion that there are overwhelming reasons to consider that you have violated Section 4(f) of the CBA, particularly on the grounds of malversation of union funds. The Club has determined that you were sufficiently afforded due process under the circumstances.

Inasmuch as the Club is duty-bound to comply with its obligation under Section 4(f) of the CBA, it is unfortunate that Management is left with no other recourse but to consider your termination from service effective upon your receipt thereof. We wish to thank you for your services during your employment with the Company. It would be more prudent that we just move on independently if only to maintain industrial peace in the workplace.

Be guided accordingly.[21]

Gleaned from the above, the three respondents were expelled from and by the Union after due investigation for acts of dishonesty and malversation of Union funds. In accordance with the CBA, the Union properly requested the Club, through the October 18, 2001 letter[22] signed by Mario Orense, the Union President, and addressed to Cynthia Figueroa, the Club's HRD Manager, to enforce the Union security provision in their CBA and terminate said respondents. Then, in compliance with the Union's request, the Club reviewed the documents submitted by the Union, requested said respondents to submit written explanations, and thereafter afforded them reasonable opportunity to present their side. After it had determined that there was sufficient evidence that said respondents malversed Union funds, the Club dismissed them from their employment conformably with Sec. 4(f) of the CBA.

Considering the foregoing circumstances, we are constrained to rule that there is sufficient cause for the three respondents' termination from employment.

Were respondents Pizarro, Braza, and Castueras accorded due process before their employments were terminated?

We rule that the Club substantially complied with the due process requirements before it dismissed the three respondents.

The three respondents aver that the Club violated their rights to due process as enunciated in *Malayang Samahan*,[23] when it failed to conduct an independent and separate hearing before they were dismissed from service.

The CA, in dismissing the Club's petition and affirming the Decision of the NLRC, also relied on the same case. We explained in *Malayang Samahan*:

x x x Although this Court has ruled that union security clauses embodied in the collective bargaining agreement may be validly enforced and that dismissals pursuant thereto may likewise be valid, this does not erode the fundamental requirements of due process. The reason behind the enforcement of union security clauses which is the sanctity and inviolability of contracts cannot override one's right to due process.[24]

In the above case, we pronounced that while the company, under a maintenance of membership provision of the CBA, is bound to dismiss any employee expelled by the union for disloyalty upon its written request, this undertaking should not be done hastily and summarily. The company acts in bad faith in dismissing a worker without giving him the benefit of a hearing.[25] We cautioned in the same case that the power to dismiss is a normal prerogative of the employer; however, this power has a limitation. The employer is bound to exercise caution in terminating the services of the employees especially so when it is made upon the request of a labor union pursuant to the CBA. Dismissals must not be arbitrary and capricious. Due process must be observed in dismissing employees because the dismissal affects not only their positions but also their means of livelihood. Employers should respect and protect the rights of their employees, which include the right to labor.[26]

The CA and the three respondents err in relying on *Malayang Samahan*, as its ruling has no application to this

case. In Malayang Samahan, the union members were expelled from the union and were immediately dismissed from the company without any semblance of due process. Both the union and the company did not conduct administrative hearings to give the employees a chance to explain themselves. In the present case, the Club has substantially complied with due process. The three respondents were notified that their dismissal was being requested by the Union, and their explanations were heard. Then, the Club, through its President, conferred with said respondents during the last week of October 2001. The three respondents were dismissed only after the Club reviewed and considered the documents submitted by the Union vis-à-vis the written explanations submitted by said respondents. Under these circumstances, we find that the Club had afforded the three respondents a reasonable opportunity to be heard and defend themselves.

On the applicability of Agabon, the Club points out that the CA ruled that the three respondents were illegally dismissed primarily because they were not afforded due process. We are not unaware of the doctrine enunciated in Agabon that when there is just cause for the dismissal of an employee, the lack of statutory due process should not nullify the dismissal, or render it illegal or ineffectual, and the employer should indemnify the employee for the violation of his statutory rights.^[27] However, we find that we could not apply Agabon to this case as we have found that the three respondents were validly dismissed and were actually afforded due process.

Finally, the issue that since there was no bad faith on the part of the Club, the Union is solely liable for the termination from employment of the three respondents, has been mooted by our finding that their dismissal is valid.

WHEREFORE, premises considered, the Decision dated July 5, 2005 of the CA and the Decision dated February 26, 2004 of the NLRC are hereby REVERSED and SET ASIDE. The Decision dated January 27, 2003 of the Labor Arbiter in NLRC-NCR Case No. 30-01-00130-02 is hereby REINSTATED.

No costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, Azcuna and Tinga, JJ., concur.

* Per September 3, 2007 raffle.

[1] Rollo, pp. 62-63.

[2] Id. at 74.

[3] Id. at 160-161.

[4] Id. at 161.

[5] Id. at 161-163.

[6] Id. at 82-84.

[7] Id. at 79-81.

[8] Id. at 73.

[9] Id. at 95-100.

[10] Id. at 157-173.

[11] Id. at 212-219.

[12] Amended by Department Order No. 40-03, Series of 2003. The quoted provision is now in Sec. 4, Rule XIII of the Implementing Rules of Book V, which reads:

Sec. 4. Actions arising from Article 241.—Any complaint or petition with allegations of mishandling, misappropriation or non-accounting of funds in violation of Article 241 shall be treated as an intra-union dispute. It shall be heard and resolved by the Med-Arbiter pursuant to the provisions of Rule XI.

[13] Rollo, pp. 220-222.

[14] Id. at 50-56. Penned by Associate Justice Eliezer R. De los Santos and concurred in by Associate Justices Eugenio S. Labitoria and Cecilia C. Librea-Leagogo.

[15] G.R. No. 113907, February 28, 2000, 326 SCRA 428, 463.

[16] Rollo, p. 58.

[17] G.R. No. 158693, November 17, 2004, 442 SCRA 573.

[18] 48 Am Jur 2d, § 797, p. 509.

[19] *Del Monte Philippines v. Saldivar*, G.R. No. 158620, October 11, 2006, 504 SCRA 192, 203-204.

[20] *Supra* note 1, at 63.

[21] Rollo, pp. 95-100.

[22] Id. at 73.

[23] *Supra* note 15.

[24] *Supra* at 461-462.

[25] *Supra* at 462; citing *Cariño v. National Labor Relations Commission*, G.R. No. 91086, May 8, 1990, 185 SCRA 177, 187.

[26] *Supra* at 462.

[27] *Supra* note 17, at 616.

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