

ESTRELLA VELASCO, PETITIONER, VS. TRANSIT AUTOMOTIVE SUPPLY, INC. AND ANTONIO DE DIOS, RESPONDENTS.

G.R. No. 171327. June 18, 2010

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before the Court is a petition for review assailing the 1 September 2005 Decision[1] and 3 February 2006 Resolution[2] of the Court of Appeals in CA-G.R. SP No. 53901.

The Antecedent Facts

Estrella Velasco (petitioner) was an employee of Transit Automotive Supply, Inc. (respondent corporation) from 1972 to 1993. Petitioner was originally hired as accounting clerk and later became the head of the Accounting Department while concurrently the Secretary to the President and General Manager, and Comptroller. Petitioner alleged that in January 1993, she was asked to resign as Comptroller and to concentrate on the preparation of respondent corporation's Income Statement. Jose F. Andan was then appointed Comptroller. When petitioner refused, her office table, things and personal belongings were allegedly transferred without her consent. Petitioner took a leave of absence for the whole month of February 1993. In a letter dated 5 March 1993,[3] respondent corporation called petitioner's attention that she had been absent without official leave since 1 March 1993. Respondent corporation required petitioner to explain her absence within three days from receipt of the letter; otherwise, her absence would be considered an abandonment of her duties and responsibilities. In her answer dated 31 March 1993,[4] petitioner through her counsel alleged that she had nothing to explain because in February 1993, she was verbally informed by respondent corporation's President and General Manager, Antonio De Dios (De Dios), to resign from her employment as Comptroller. Petitioner then filed an action for constructive dismissal against respondent corporation and De Dios (collectively, respondents).

The Decision of the Labor Arbiter

In his Decision[5] dated 29 October 1993, the Labor Arbiter dismissed the complaint. The Labor Arbiter ruled that petitioner was holding multiple positions and that respondents only exercised their management prerogative. The Labor Arbiter noted that there was no diminution in petitioner's salary and benefits. The Labor Arbiter also noted that as per petitioner's own evidence, she was applying with a multinational firm while she was on leave during the whole month of February 1993, thus showing that she had no intention to return to respondent corporation.

Petitioner appealed to the National Labor Relations Commission (NLRC).

The Decision of the NLRC

In its Decision[6] promulgated on 23 November 1994, the NLRC found that petitioner was constructively

dismissed from employment. The NLRC ruled that petitioner's reinstatement was logical except that it was not proper due to the strained relationship between the parties. Hence, the NLRC allowed the recovery of separation pay. The NLRC ruled:

WHEREFORE, premises considered, the decision dated October 29, 1993 is hereby Vacated and Set Aside and a new one Entered ordering the respondent to pay the complainant the amount of P521,325.00, representing backwages from March, 1993 up to September 30, 1994; separation pay in the amount of P608,212.50, representing the twenty one (21) years of service; and attorney's fees equivalent to 10% of the award pursuant to law.

All other claims are dismissed for lack of merit.

SO ORDERED.[7]

Respondents came to this Court assailing the 23 November 1994 Decision of the NLRC. The case was docketed as G.R. No. 119424.

Respondents alleged that the NLRC "in a glaring gesture of partiality, merely copied the appeal memorandum of the private respondent verbatim including all its blatant errors not only of grammar and spelling but also of fact and law without examining the evidence on record nor studying the existing jurisprudence on the matter."

In an unsigned Resolution[8] dated 30 September 1996, this Court ruled that while it held that it was proper for the Court of Appeals to copy the facts of the case as summarized in the Appellee's Brief, a judicial or quasi-judicial tribunal like the NLRC should not be allowed to copy verbatim and in toto the appeal memorandum's conclusion of law. This Court ruled that that the NLRC should make its own analysis and should show how the law and jurisprudence justify the conclusion it had reached. This Court deemed the NLRC's decision incomplete and ordered the NLRC to render a new decision on the case.

Thus, the NLRC promulgated a new Decision[9] on 27 January 1998. The NLRC ruled that petitioner's transfer was a demotion. The NLRC ruled that from performing a managerial function, petitioner was asked to perform a clerical task although she retained her salary and rank.

The dispositive portion of the NLRC Decision reads:

Accordingly, premises considered, the decision appealed from is hereby vacated and a new one entered declaring respondent guilty of illegal transfer and illegal dismissal and ordering the same to pay complainant P599,062.50 in separation pay and P1,891,493.75 in backwages.

SO ORDERED.[10]

Respondents filed a petition for certiorari before this Court, docketed as G.R. No. 134238. In its 16 June 1999 Resolution,[11] this Court referred the case to the Court of Appeals pursuant to *St. Martin Funeral Home v. NLRC*. [12]

The Decision of the Court of Appeals

In its 1 September 2005 Decision, the Court of Appeals set aside the NLRC's 27 January 1998 decision and reinstated the Labor Arbiter's 29 October 1993 decision. The Court of Appeals ruled that substantial evidence showed that petitioner's transfer was valid. The Court of Appeals ruled that there was nothing in the records which would show that petitioner was harassed to force her to resign from work. Neither was petitioner maltreated, or a deliberate scheme employed to make her work grossly inconvenient or almost impossible to bear. The Court of Appeals noted that petitioner even admitted that respondents tried to contact her when she absented herself from work for a month.

The Court of Appeals further ruled that petitioner was not asked to perform a function she had not been performing for years. Instead, there was only a transfer of some of her duties. The Court of Appeals ruled that petitioner was not terminated without cause or due process nor was she constructively dismissed.

The dispositive portion of the Court of Appeals' decision reads:

WHEREFORE, the writ of certiorari prayed for is hereby GRANTED and the Decision of public respondent NLRC dated January 27, 1998 is hereby NULLIFIED and SET ASIDE, and the Decision of the Labor Arbiter dated October 29, 1993 dismissing private respondent Erlinda Velasco's complaint for illegal dismissal is hereby REINSTATED.

SO ORDERED.[13]

Petitioner filed a motion for reconsideration. In its 3 February 2006 Resolution, the Court of Appeals denied the motion for lack of merit.

Hence, the present petition.

The Issue

The sole issue in this case is whether petitioner was constructively dismissed from employment.

The Ruling of this Court

The petition has no merit.

In administrative proceedings, the quantum of proof required is substantial evidence, which is more than a mere scintilla of evidence, but such amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[14] The Court of Appeals may review the factual findings of the NLRC and reverse its ruling if it finds that the decision of the NLRC lacks substantial basis,[15] as it did in this case.

We agree with the Court of Appeals in reversing the ruling of the NLRC and in finding that petitioner was not constructively dismissed from employment. In this case, it is undisputed that petitioner was holding three positions: Head of the Accounting Department, Secretary to the President and General Manager, and Comptroller. She was asked to relinquish her duties as Comptroller.

Constructive dismissal is defined as a quitting because continued employment is rendered impossible, unreasonable or unlikely, or when there is a demotion in rank or a diminution of pay.[16] It exists when an act of clear discrimination, insensibility or disdain by an employer has become so unbearable to the employee leaving him with no option but to forego with his continued employment.[17]

Here, there was no diminution of petitioner's salary and other benefits. There was no evidence that she was harassed or discriminated upon, or that respondents made it difficult for her to continue with her other duties. Absent any evidence of bad faith, it is within the exercise of respondents' management prerogative to transfer some of petitioner's duties if in their judgment, it would be more beneficial to the corporation. There was no basis for the NLRC's finding that from performing managerial functions, petitioner was reduced to performing clerical tasks.

Respondents allowed petitioner to take a leave of absence for the whole month of February 1993. It was only on 5 March 1993 when respondents called her attention that she had been absent without official leave since 1 March 1993. Respondents required petitioner to explain her absence within three days from receipt of the letter. However, it was only on 31 March 1993 when petitioner answered that she had nothing to explain because in

February 1993, she was verbally informed by De Dios to resign from her employment as Comptroller. Petitioner's belated reply showed her lack of intention to report back to work and to perform her other responsibilities. Instead, she filed a case for constructive dismissal against respondents which we find to be without factual and legal basis.

WHEREFORE, we DENY the petition. We AFFIRM the 1 September 2005 Decision and 3 February 2006 Resolution of the Court of Appeals in CA-G.R. SP No. 53901.

SO ORDERED.

Nachura, Peralta, Abad, and Perez,[*] JJ., concur.

[*] Designated additional member per Special Order No. 842.

[1] Rollo, pp. 233-246. Penned by Associate Justice Monina Arevalo-Zenarosa with Associate Justices Remedios A. Salazar-Fernando and Rosmari D. Carandang, concurring.

[2] Id. at 270-272.

[3] Id. at 39.

[4] Id. at 40.

[5] Id. at 74-80. Penned by Labor Arbiter Arthur L. Amansec.

[6] Id. at 98-120. Penned by Commissioner Victoriano R. Calaycay with Presiding Commissioner Raul T. Aquino and Commissioner Rogelio I. Rayala, concurring.

[7] Id. at 119.

[8] Id. at 144-145.

[9] Id. at 146-155.

[10] Id. at 154.

[11] Id. at 231-232.

[12] 356 Phil. 811 (1998).

[13] Rollo, pp. 245-246.

[14] Vicente v. Court of Appeals, G.R. No. 175988, 24 August 2007, 531 SCRA 240.

[15] Id.

[16] Norkis Trading Co., Inc. v. Gnilo, G.R. No. 159730, 11 February 2008, 544 SCRA 279.

[17] Formantes v. Duncan Pharmaceuticals Phil., Inc., G.R. No. 170661, 4 December 2009.

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