ALEX GURANGO, PETITIONER, VS. BEST CHEMICALS AND PLASTICS INC. AND MOON PYO HONG, RESPONDENTS.

G.R. No. 174593. August 25, 2010

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition[1] for review on certiorari under Rule 45 of the Rules of Court. The petition challenges the 20 July 2006 Decision[2] and 11 September 2006 Resolution[3] of the Court of Appeals in CA-G.R. SP No. 94004. The Court of Appeals set aside the 17 October 2005[4] and 24 January 2006[5] Resolutions of the National Labor Relations Commission (NLRC) in CA No. 044428-05, affirming the 6 July 2004 Decision[6] of the Labor Arbiter in NLRC NCR Case No. 05-06181-03.

The Facts

Respondent Best Chemicals and Plastics, Inc. (BCPI) is a corporation engaged in the manufacture of biaxially oriented polypropylene and related products. Respondent Moon Pyo Hong (Hong) is the president and chief executive officer of BCPI.

Petitioner Alex R. Gurango (Gurango) and Romeo S. Albao (Albao) worked as boiler operator and security guard, respectively, in BCPI. In a memorandum[7] dated 2 May 2003, BCPI prohibited its empoyees from bringing personal items to their work area. Erring employees would be suspended for six days. BCPI stated that:

> Please be reminded of the following existing rules and regulations that all employees are expected to strictly observe and adhere to:
>
> x x x x
>
> Bringing in to work station/area of personal belongings other than those required in the performance of one's duty which disrupt/obstruct Company's services and operations, except those authorized by higher authorities. This offense shall include the following items [sic]: radios, walkman, discman, make-up kits, ladies' bags, workers' knapsacks and the like which must be left behind and safe kept [sic] in the employees' respective lockers. This being a Serious Offense, the penalty of which is six (6) days suspension from work without pay.[8]

Gurango and Albao presented two conflicting sets of facts as to what happened on 5 May 2003.

According to Gurango, at 4 a.m., he performed his routine check-up inside the production area. He had in his pocket a camera without film. On his way out of the production area, he saw Albao standing near the bundy clock. Albao pulled him, grabbed his pocket, and tried to confiscate the camera. Gurango refused to give the camera because there was no reason to surrender it.

Albao held Gurango's arm and punched him on the face. Gurango shouted for help. Another security guard,

Rodenio I. Pablis (Pablis), arrived. Instead of pacifying Albao, Pablis joined in punching and kicking Gurango. Albao and Pablis banged Gurango's head against the floor and provoked him to fight back.

Gurango's co-worker, Elvin Juanitas (Juanitas), saw what happened and asked Albao and Pablis to stop hitting Gurango. Albao and Pablis brought Gurango to the guardhouse. Officer-in-charge Rommel M. Cordero (Cordero) locked the guardhouse, then ordered Albao and Pablis to continue hitting Gurango. Freddie Infuerto arrived at the guardhouse and asked the security guards to stop hitting Gurango. Gurango agreed to surrender the camera on the condition that the security guards would prepare a document acknowledging receipt of the camera.

Albao, on the other hand, alleged that he was on duty at the main entrance of the production area from 7 p.m. of 4 May 2003 to 7 a.m. of 5 May 2003. At 4:20 a.m., Gurango tried to enter the production area bringing a camera. Albao told Gurango that he could not bring the camera inside the production area. Gurango got mad and tried to grab Albao's gun. Albao and Gurango engaged in a fistfight. Cordero, Pablis, and another security guard, Fredrick Lañada, arrived and stopped the fight.

On 5 May 2003, at 8:35 a.m., Gurango went to Dr. Homer L. Aguinaldo (Dr. Aguinaldo) for examination and treatment. Dr. Aguinaldo issued a medical report[9] and advised Gurango to rest for three days.

In a letter[10] dated 5 May 2003, BCPI asked Gurango to explain in writing why no disciplinary action should be taken against him and then placed him under preventive suspension effective 6 May 2003. On 6 May 2003, Gurango wrote a letter[11] to BCPI narrating what happened. On 8 May 2003, Gurango wrote another letter[12] to BCPI stating that:

> I already explained my side of the story regarding the alleged fistfight between Romeo Albao and me. I would like to reiterate that I was never involved in any fistfight nor commit any violation of our Company's Code of Discipline.
>
> Another issue is the preventive suspension I'm undergoing with [sic]. I would like to question the propriety of such action. Be reminded that you are putting me under indefinite preventive suspension.
>
> Under the law, an employee may be placed under preventive suspension only if his continued employment poses a serious and imminent threat to the life and property of the employer or of his co-employees. Consequently, without this kind of threat, preventive suspension is improper.[13]

On 9 May 2003, Juanitas wrote a letter[14] to BCPI narrating what he saw. Juanitas stated that:

> Noong May 5 bandang alas 4:20 ng madaling araw ako po ay lumabas ng electral [sic] shop upang pumunta sa production upang mag monitor. Ng sa bandang locker room pa lang ako may nakita ako tatlong tao na nakasuot ng kulay puti na nagpaikot-ikot (sa harapan banda ng bandi [sic] clock). Medyo madilim pa kaya hindi ko nakita si Alex Gurango kasi nakasoot sya ng kulay dark blue na T-shirt. Ng medyo malapit na ako nakarinig ako ng boses na (tama na nasasaktan na ako) at may sumagot na ibigay mo na masasaktan ka lang. Ng makalapit na ako sa kanila nakita ko na iniipit na ng kanang braso ni Albao (Guard) ang leeg ni Alex. Akala ko nagbibiroan lang sila. Tinanong ko kung ano yan pero bago ako tumanong sa kanila nakita ko na nasasaktan na si Alex dahil sa pagkaipit sa kanyang leeg. Sagot ni Alex sa akin pre (ako) kinukuha nila ang kamera sa akin to eh. Sabi pa ni Alex hindi ko to ibibigay sa inyo kahit ako'y saktan nyo, hindi ako lalaban sa inyo. May pagbibigyan ako, ibibigay ko to sa management. Sabi ko ano ba yan nasasaktan na ang tao. Nagtataka naman ako sa kanila ni Pables at Lañada bakit hindi nila inaawat, nakatingin lang sila at kasamahan pa nila. Ako naman natatakot akong paghiwalayin sila kasi may baril si Albao na naka sabit sa beywang nya baka pag inawat ko baka sasabihin ni Albao na kumampi ako kay Alex dahil parehas kaming maintenance. Sinabihan ko si Albao na bitiwan mo si Alex ayusin natin to. Hindi pa rin binitiwan ni Albao ang pagkaipit sa leeg ni Alex hanggang sa naitulak ko sila papunta sa guardhouse. Ng sa loob na ng guardhouse hindi pa rin binitiwan ni Albao si Alex kaya hinahanap ko ang kanilang O.I.C. Para ayusin na. Maya maya lumabas si

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> Cordero (O.I.C.). Sabi ko awatin niya si Albao pero hindi manlang nya inawat pati na ang kanyang mga kasama dahil nandoon pa rin sa loob ng guardhouse sina Pables, Lañada at Cordero. Lumabas ako at tinawag ko si Pong sa kanilang shop. Bumalik ako sa guardhouse kasama si Pong, ganon pa rin nakakapit pa rin ang braso ni Albao sa leeg ni Alex. Ngayon naglakas loob na lang ako na paghiwalayin sila. Nahirapan ako dahil malakas si Albao. Napaghiwalay ko sila pero muntik pa nga ako tamaan ng kamay ni Albao at ng maghiwalay na pinaupo ko si Alex sa upuan sa tabi at hinarang ko si Albao dahil gusto pa nyang lumapit kay Alex at nagsabi ako kay Pong na bantayan mo si Alex dahil tatawag ako ng Korean o supervisor para ayusin.[15]

On 10 May 2003, BCPI wrote a letter to Gurango finding him guilty of engaging in a fistfight and violating company policy by bringing a camera. On 14 May 2003, Gurango wrote a letter[16] to BCPI stating that:

> I again would like to reiterate that I was never involved nor commit [sic] any violation of Company's Code of Discipline.
>
> For me to further explain, could you please be more specific what company policies are you referring to when you said that bringing of camera inside the production area and refusal to surrender the same camera constitute infractions of company policy.[17]

On 15 May 2003, Gurango filed with the 5th Municipal Circuit Trial Court (MCTC), Carmona, Cavite, a criminal complaint[18] against Albao, Cordero and Pablis for slight physical injury.

In a letter[19] dated 19 May 2003, BCPI dismissed Gurango effective 20 May 2003. BCPI stated that:

> After a thorough evaluation and intensive deliberation on the facts attendant to your case, Management has found you to have committed the following Offenses under the Company's Code of Discipline:
>
> - Concealing and bringing in to work station/area of personal belongings (e.g., a camera), other than those required in the performance of one's duty which disrupt/obstruct Company services and operations, except those authorized by higher authorities. (Table II, Serious, No. 10 of Code of Discipline);
>
> - Utter disregard for or refusal to submit to reasonable inspection connected within [sic] the Company premises by authorized Company security personnel in the conduct of their business. (Table IV, Minor, No. 1 of Code of Discipline);
>
> - Starting or provoking a fight, i.e., involvement in a fist fight with a security guard last May 5, 2003. (Table I, Grave, No. 6 of Code of Discipline);
>
> - Attempting to inflict or inflicting bodily injury upon any Company official (e.g., security guard who is a peacekeeping officer of the company) or employee. (Table I, Grave, No. 05 of Code of Discipline); and
>
> - Intentionally causing personal injury to another person (i.e., the security guard) within the Company premises. (Table I, Grave, No. 12 of Code of Discipline).
>
> x x x x
>
> Based on the foregoing, and in view of the gravity of the offenses that you have committed which constitute gross misconduct, the Company is constrained to terminate your employment for cause effective May 20, 2003, at the close of business hours.[20]

On 26 May 2003, Gurango filed with the NLRC a complaint against BCPI and Hong for illegal dismissal.

The Labor Arbiter's Ruling

In his 6 July 2004 Decision, the Labor Arbiter found BCPI liable for illegal dismissal. The Labor Arbiter ordered BCPI to pay Gurango backwages and separation pay. The Labor Arbiter held that:

> I find that the complainant was illegally dismissed from employment.
>
> He was dismissed from [sic] trying to bring an alleged prohibited item, a camera, inside the Production Area but company rules did not prohibit the bringing of camera.
>
> How can an unloaded camera be said to "disrupt/obstruct company services and operations"? It cannot.
>
> As to the alleged fistfight between the complainant and security guard Albao, I am more inclined to believe and find credible complainant's version that he was mauled by Albao and, later, by some of the guards.
>
> His letter/statement was made on May 6, 2003, or only a day after the incident. The statement of guard Albao was made on May 28, 2003, several days after the incident.
>
> I find that complainant's statement is freshly unblemished, and, therefore, very credible while Albao's contradictory statement is the fruit of afterthought.
>
> Moreover, I don't find the complainant was foolish enough to try to snatch the gun of Albao during the incident. I am convinced Albao lied in his statement.
>
> x x x x
>
> In the present case, no solid cause exists to dismiss complainant from employment as to warrant a dismissal.[21]

BCPI and Hong appealed to the NLRC.

The NLRC's Ruling

In its 17 October 2005 Resolution, the NLRC affirmed in toto the Labor Arbiter's 6 July 2004 Decision. The NLRC held that:

> Although fighting within company premises constitute serious misconduct, this however, does not apply in this case. Complainant did not start nor provoke the fight. It was precipitated, instead, by guard Albao when he tried to get the complainant's camera for no valid reason. The statement of Albao that complainant tried to snatch his service firearm is not only unbelievable but is also exaggerated. The Labor Arbiter is correct and we concur in his finding that the complainant was not foolish enough to try to snatch the gun of Albao. The camera is undisputably owned by complainant. Bringing it inside his workplace is not a crime. So why would he try to snatch a gun for a very trivial misunderstanding. What is clear is that the security guards over acted in the performance of their duty.
>
> x x x x
>
> x x x The prohibition against the bringing of personal belongings in to the work station/area is qualified by a condition that such belongings will disrupt/obstruct company's services and operations. That is why in the enumerations the following are included, radios, walkman, discman, make-up kits, ladies' bag workers' knapsacks and the like. An unloaded camera is not listed and we cannot imagine how such camera could "disrupt or obstruct company services and operations.
>
> Moreover, even if we assume that the complainant indeed violated this Inter-Office Memorandum, still, this will not justify complainant's dismissal because the penalty provided therein is only six (6) days suspension from work without pay, not dismissal.[22]

BCPI and Hong filed a motion for reconsideration, which the NLRC denied. BCPI and Hong filed with the Court of Appeals a petition for certiorari under Rule 65 of the Rules of Court.

The Court of Appeals' Ruling

In its 20 July 2006 Decision, the Court of Appeals set aside the 17 October 2005 and 24 January 2006 Resolutions of the NLRC. The Court of Appeals held that "private respondent engaged himself in a fistfight with the security guard"[23] and that engaging in a fistfight constituted serious misconduct.

Gurango filed a motion[24] for reconsideration, which the Court of Appeals denied in its 11 September 2006 Resolution. Hence, the present petition.

The Issue

Gurango raises as issue that the Court of Appeals erred in ruling that he was legally dismissed. BCPI failed to prove that he engaged in a fistfight and that there was just cause for his dismissal.

The Court's Ruling
The petition is meritorious.

As a general rule, only questions of law may be raised in petitions for certiorari under Rule 45 of the Rules of Court. Section 1 of Rule 45 states that, "The petition shall raise only questions of law." In Triumph International (Phils.), Inc. v. Apostol,[25] the Court enumerated exceptions to the rule. Among the exceptions are when the findings of fact are conflicting and when the findings are conclusions without citation of specific evidence on which they are based.[26]

In the present case, the findings of fact of the Court of Appeals conflict with the findings of fact of the NLRC and the Labor Arbiter. Also, the finding of the Court of Appeals that Gurango engaged in a fistfight is a conclusion without citation of specific evidence on which it is based.

In termination cases, the employer has the burden of proving, by substantial evidence, that the dismissal is for just cause. If the employer fails to discharge the burden of proof, the dismissal is deemed illegal. In AMA Computer College — East Rizal v. Ignacio,[27] the Court held that:

> In termination cases, the burden of proof rests on the employer to show that the dismissal is for just cause. When there is no showing of a clear, valid and legal cause for the termination of employment, the law considers the matter a case of illegal dismissal and the burden is on the employer to prove that the termination was for a valid or authorized cause. And the quantum of proof which the employer must discharge is substantial evidence. An employee's dismissal due to serious misconduct must be supported by substantial evidence. Substantial evidence is that amount of relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds, equally reasonable, might conceivably opine otherwise.[28]

In the present case, aside from Albao's statement, BCPI did not present any evidence to show that Gurango engaged in a fistfight. Moreover, there is no showing that Gurango's actions were performed with wrongful intent. In AMA Computer College – East Rizal, the Court held that:

> The Labor Code provides that an employer may terminate the services of an employee for a just cause. Among the just causes in the Labor Code is serious misconduct. Misconduct is improper or wrong conduct. It is the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies wrongful intent and not mere error in judgment. The misconduct to be serious within the meaning of the Labor Code must be of such a grave and aggravated character and not merely trivial or unimportant. x x x
>
> In National Labor Relations Commission v. Salgarino, the Court stressed that "[i]n order to constitute serious misconduct which will warrant the dismissal of an employee under paragraph (a) of Article 282 of the Labor Code, it is not sufficient that the act or conduct complained of has violated some established rules or policies.

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> It is equally important and required that the act or conduct must have been performed with wrongful intent."
>
> After a thorough examination of the records of the case, however, the Court finds that petitioner AMACCI miserably failed to prove by substantial evidence its charges against respondent. There is no showing at all that respondent's actions were motivated by a perverse and wrongful intent, as required by Article 282(a) of the Labor Code.[29] (Emphasis supplied)

The surrounding circumstances show that Gurango did not engage in a fistfight: (1) in his 9 May 2003 letter to BCPI, Juanitas corroborated Gurango's version of the facts; (2) nobody corroborated Albao's version of the facts; (3) in his medical report, Dr. Aguinaldo found that Gurango suffered physical injuries; (4) Gurango filed with the MCTC a complaint against Albao, Cordero and Pablis for slight physical injury; (5) the Labor Arbiter found Gurango's statement credible and unblemished; (6) the Labor Arbiter found Albao's statement contradictory; (7) the Labor Arbiter stated, "I am convinced Albao lied in his statement"; (8) the NLRC found that Gurango did not start a fight; (9) the NLRC found Albao's statement unbelievable and exaggerated; and (10) the Court of Appeals' reversal of the findings of fact of the Labor Arbiter and the NLRC is baseless.

In Triumph International (Phils.), Inc., the Court held that factual findings of labor officials, who are deemed to have acquired expertise in matters within their jurisdiction, are accorded not only respect but finality when supported by susbstantial evidence.[30]

WHEREFORE, we GRANT the petition. We SET ASIDE the 20 July 2006 Decision and 11 September 2006 Resolution of the Court of Appeals in CA-G.R. SP No. 94004 and REINSTATE the 17 October 2005 and 24 January 2006 Resolutions of the NLRC in CA No. 044428-05.

SO ORDERED.

Corona, C.J.,[*] Peralta, Abad, and Mendoza, JJ., concur.

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[*] Designated additional member per Raffle dated 23 August 2010.

[1] Rollo, pp. 3-30.

[2] Id. at 32-40. Penned by Associate Justice Andres B. Reyes, Jr., with Associate Justices Hakim S. Abdulwahid and Estela M. Perlas-Bernabe concurring.

[3] Id. at 42.

[4] Id. at 67-78. Penned by Commissioner Romeo C. Lagman, with Presiding Commisioner Lourdes C. Javier and Commisioner Tito F. Genilo concurring.

[5] Id. at 80-81.

[6] Id. at 59-65. Penned by Labor Arbiter Arthur L. Amansec.

[7] Id. at 44.

[8] Id.

[9] Id. at 48-49.

[10] Id. at 51.

[11] Id. at 50.

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[12] Id. at 52.

[13] Id.

[14] Id. at 45-47.

[15] Id.

[16] Id. at 53.

[17] Id.

[18] Id. at 54.

[19] Id. at 56-57.

[20] Id.

[21] Id. at 63-64.

[22] Id. at 75-77.

[23] Id. at 37.

[24] Id. at 94-109.

[25] G.R. No. 164423, 16 June 2009, 589 SCRA 185.

[26] Id. at 195-196.

[27] G.R. No. 178520, 23 June 2009, 590 SCRA 633.

[28] Id. at 651-652.

[29] Id. at 655.

[30] Supra note 25 at 198.

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