

JHORIZALDY UY, PETITIONER, VS. CENTRO CERAMICA CORPORATION AND/OR RAMONITA Y. SY AND MILAGROS U. GARCIA, RESPONDENTS.

G.R. No. 174631. October 19, 2011

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

Before us is a petition for review on certiorari under Rule 45 assailing the Decision[1] dated April 21, 2006 and Resolution[2] dated September 7, 2006 of the Court of Appeals (CA) in CA-G.R. SP No. 88061. The CA annulled and set aside the Decision[3] dated July 29, 2004 rendered by the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 035557-03 which reversed the Labor Arbiter's ruling that petitioner was not illegally dismissed.

Factual Antecedents

Petitioner Jhorizaldy Uy was hired by respondent Centro Ceramica Corporation as full-time sales executive on March 21, 1999 under probationary employment for six months. He became a regular employee on May 1, 2000 with monthly salary of P7,000.00 and P1,500.00 transportation allowance, plus commission.

On March 18, 2002, petitioner filed a complaint for illegal dismissal against the respondent company, its President Ramonita Y. Sy (Sy) and Vice-President Milagros Uy-Garcia (Garcia).

Petitioner alleged that his predicament began when former VP Garcia was rehired by respondent company in the last quarter of 2001. Certain incidents involving longtime clients led to a strained working relationship between him and Garcia. On February 19, 2002 after their weekly sales meeting, he was informed by his superior, Sales Supervisor Richard Agcaoili, that he (petitioner) was to assume a new position in the marketing department, to which he replied that he will think it over. His friends had warned him to be careful saying "mainit ka kay Ms. Garcia." That same day, he was summoned by Sy and Garcia for a closed-door meeting during which Sy informed him of the termination of his services due to "insubordination" and advised him to turn over his samples and files immediately. Sy even commented that "member ka pa naman ng [S]ingles for [C]hrist pero napakatigas naman ng ulo mo." On February 21, 2002, he was summoned again by Sy but prior to this he was already informed by Agcaoili that the spouses Sy will give him all that is due to him plus goodwill money to settle everything. However, during his meeting with Sy, he asked for his termination paper and thereupon Sy told him that "If that's what you want I will give it to you". She added that "pag-isipan mo ang gagawin mo dahil kilala mo naman kami we are powerful." [4]

Petitioner further narrated that on February 22, 2002, he turned over company samples, accounts and receivables to Agcaoili. Thereafter, he did not report for work anymore. But on March 6, 2002, an employee of respondent company presented to him at his apartment the following memorandum:

MEMO OF NOTICE OF CHARGES

MEMORANDUM:

TO: JHORIZALDY B. UY
FROM: RAMONITA Y. SY
RE: FAILURE TO MEET QUOTA FOR SALES EXECUTIVE
DATE: February 21, 2002

Records show that you have failed to meet the quota for sales executives, set for the period from 1999 to 2001 in violation of your contract of employment.

In view of the foregoing, please explain in writing within twenty[-]four (24) hours from receipt hereof, why the company should not terminate your contract of employment.[5]

He did not receive said memo because it was not written on the company stationery and besides he had already been dismissed. As to his alleged low output, he was surprised considering that last January 2002, he was informed by Agcaoili that management was satisfied with his performance and he ranked second to the top performer, Edwin I. Hiran. By that time, all of the sales people of the company could not meet the P1.5 Million sales quota, so respondents are clearly zeroing in on him.

Finally, on March 13, 2002, respondents sent him another memo, which reads:

MEMO OF NOTICE OF CHARGES

INTER-OFFICE MEMORANDUM NO. 2:

TO: JHORIZALDY B. UY
THRU: RICHARD B. AGCAOILI
FROM: RAMONITA Y. SY
RE: NOTICE OF CHARGE OF ABSENCE WITHOUT LEAVE
DATE: March 13, 2002

Records show that since February 22, 2002, to date, you have failed to report for work, without informing your employer of the reason therefor and without securing proper leave in violation of your contract of employment and existing company rules and regulations. Further, you have refused to receive any of your monetary entitlements such as salary, commission and other amounts due to you despite notice that the same are available to you for payment.

Further, to this date, you have not submitted any explanation in writing in response to our Memo dated February 21, 2002, requiring you to explain your failure to meet your quota as Sales Executive.

In view of the foregoing, please explain in writing twenty four (24) hours from receipt hereof, why the company should not terminate your contract of employment for serious violations of your employment contract as indicated above.[6]

He referred the above letter to his counsel who sent the following letter-reply:

MS. RAMONITA Y. SY
Centro Ceramica Corporation
225 EDSA, East Greenhills
Mandaluyong City

We are writing you in behalf of Mr. Jhorizaldy B. Uy who used to be a Sales Executive of your firm.

On February 19, 2002, you informed him that from Sales Executive he was to assume a new position in the marketing department. He refused and when he later said that "pag-iisipan ko pa" you charged him with

insubordination. Your Ms. Nita Garcia even lamented in this wise "single (for Christ) ka pa naman." Right then you terminated his services and was directed to turn over everything that he had which was company owned and it was on February 22, 2002 that the turn over was made.

On or about March 6, 2002 an employee of your company saw him in his apartment giving him a memorandum to explain his alleged failure to meet the quota as Sales Executive. He admits with c[a]ndor that he did not receive the said memorandum because it was written not on the company stationery. Just the same the contents of the said letter has bec[o]me irrelevant because he has been already dismissed as of February 19, 2002 and as regards the low output he says that all of the sales people could not meet the quota and why zero in on him.

Then on March 13, 2002 you sent him a memorandum to explain in writing within twenty four (24) hours why he should not be dismissed for his alleged absence without leave.

You must have been advised by someone that your dismissal of Mr. Uy on February 19, 2002 is doubly illegal, i.e., for lack of due process and sufficient cause and the March 13, 2002 memorandum is to make up for such lapse so that if Mr. Uy files a case of illegal dismissal, you can conveniently say that he violated his contract of employment and that he was on absence without leave. Nice move, but it may not be nice later on.

x x x x[7]

For his illegal termination, petitioner asserted that he is entitled to his unpaid commission, tax refund, back wages and reinstatement.

On the other hand, respondents denied dismissing petitioner. They countered that petitioner's poor sales performance did not improve even after he was regularized. On February 18, 2002, management met with the Sales Group on a per agent basis to discuss sales performance, possible salary realignment and revamp of the Sales Group. Agcaoili relayed to petitioner the poor assessment of his sales performance and the possibility that he will be transferred to another department although there was yet no official decision on the matter. Petitioner then told Agcaoili that he was aware of the problem and his possible termination, prompting the latter to convince the former to consider voluntarily resigning from the company rather than be terminated. The next day, February 19, 2002, petitioner talked anew to Agcaoili and informed the latter that he will just resign from the company and sought an appointment with Sy. When petitioner inquired how much he will get if he will resign, Sy advised him that he would get salaries and commissions to which he is legally entitled; hence, for items sold and already delivered, he will be receiving the commission in full, but for those sold but yet to be delivered, as per company policy, he will receive the commissions only upon delivery of the items. Upon hearing this, petitioner suddenly got mad and said that if that is the case, the company president should just terminate him and walked out. Petitioner was given a chance, through the two memos issued to him, to explain his failure to meet the prescribed sales quota and his failure to report for work without informing the company of the reason therefor. But he never submitted his explanations to his violations of the contract of employment, and abandoned his job which is another ground for terminating his employment. While it would appear that petitioner aimed to secure his alleged money claims from the respondents, this does not justify abandonment of his work as respondents never had the intention of terminating his services. Respondents maintained that petitioner voluntarily left his workplace and refused to report for work as in fact he indicated to his sales supervisor that he will just resign; however, he never submitted a letter of resignation.[8]

Respondents also denied the claims of petitioner regarding an alleged souring of his relations with Garcia, as in fact it was petitioner who clearly had a personal grudge against her and not the other way around. The alleged incidents with client actually showed it was petitioner who was discourteous and abusive. There was likewise no reason for respondent Sy to say they were powerful because petitioner did not at all threaten to sue or do

something to their prejudice. To refute petitioner's unfounded allegations, respondents presented the affidavits of the following: (1) co-employee Rommel Azarraga who admitted he was the person who warned petitioner to be careful and told him "mainit ka kay Mrs. Garcia" and explained that he only made such statement in order to scare petitioner and convince him to change his attitude; the truth is that Mrs. Garcia had not spoken to him about harbouring any ill feelings towards petitioner and neither does he know of any incident or circumstance which may give rise to such ill feeling of Mrs. Garcia towards petitioner; (2) Richard Agcaoili who corroborated the respondents' claims, denying that petitioner was terminated due to insubordination; he further denied having told petitioner that management was satisfied with his performance, the truth being that while petitioner may have ranked second to the top performer, there was actually only two remaining senior sales agents while the rest have more or less six months experience; considering the number of years of his service to the company, petitioner should have improved as against other agents most of whom were newly-hired and still under probation; and (3) Arnulfo Merecido, respondent company's employee (warehouse helper) who claimed that he had a fistfight with petitioner sometime in June 2000 which arose from the latter's insulting remarks regarding his family.[9]

Labor Arbiter's Ruling

In his decision[10] dated April 8, 2003, Labor Arbiter Elias H. Salinas dismissed petitioner's complaint on the basis of his finding that it was petitioner who opted not to report for work since February 22, 2002, after offering to resign (as told to his supervisor) because he could not accept his possible transfer to another department.

NLRC's Ruling

Petitioner appealed to the NLRC which reversed the Labor Arbiter's ruling. The NLRC found that the dismissal of petitioner was made under questionable circumstances, thus giving weight to petitioner's assertion that he was being singled out notwithstanding that all sales personnel similarly could not meet the P1.5 million monthly sales quota. Such finding is reinforced by the fact that no sanction was imposed on petitioner or any other employee for the supposed failure to meet the quota, thereby creating the impression that the situation was tolerated by the respondents. The NLRC thus decreed:

WHEREFORE, premises considered, the Decision dated April 8, 2003 is set aside and reversed. A new one is entered finding complainant to have been illegally dismissed and thus entitled to reinstatement with backwages. Respondent Centro Ceramica Corporation is hereby ordered to pay complainant his backwages reckoned from the date of his dismissal on February 19, 2002 up to the date of the promulgation of this decision. As reinstatement is no longer feasible, complainant should instead be paid separation pay equivalent to one half (1/2) month pay for every year of service. In addition, respondents company should pay complainant his unpaid commission in the amount of P16,581.00.

All other claims are dismissed for lack of merit.

SO ORDERED.[11]

Court of Appeals Ruling

Respondents elevated the case to the CA which reversed the NLRC and dismissed petitioner's complaint. According to the CA, petitioner by his own account had admitted that it was he who asked for his dismissal when he narrated that during his meeting with Sy, he had asked for his termination paper and she threatened to do so if that was what he wanted. It also noted the affidavit of Agcaoili who attested that petitioner was merely informed of the decision to transfer him to another department, which is not denied by the petitioner; said witness also said that the turnover of company documents and files was voluntary on the part of petitioner who expressed desire to resign from the company. Another statement considered by the CA is that made by witness Azarraga who explained that he only mentioned the name of Ms. Garcia to petitioner when he warned the latter to be careful,

simply because she is a member of the Couples for Christ who may have an influence over petitioner who is a member of the Singles for Christ. As to the memos sent by the company to petitioner's residence, this shows that it has not yet terminated the employment of petitioner. Thus, the CA held that the evidence on record supports the Labor Arbiter's finding that petitioner "informally severed" the employment relationship as manifested by his voluntary transfer of his accountabilities to his supervisor and thereafter his act of not reporting for work anymore.

Petitioner's motion for reconsideration having been denied, the present petition was filed in this Court.

Issue

The sole issue to be addressed is whether petitioner was dismissed by the respondents or voluntarily severed his employment by abandoning his job.

Arguments of the Parties

Petitioner assails the CA's misappreciation of the facts, completely relying on respondents' allegations particularly on what transpired during the meeting with respondents Sy and Garcia, of which the appellate court made a "twisted" interpretation of their conversation. Hence, instead of decreeing petitioner's illegal termination based on Sy's verbal dismissal without just cause and due process, the CA proceeded to conclude that petitioner voluntarily and informally severed his relation with the company. As to the affidavit of Agcaoili, his statement that he merely informed petitioner of the decision to transfer him to another department is of no moment because what matters is the action of Sy who dismissed petitioner outright. Moreover, Agcaoili, being under the employ of respondents, would logically be biased and he would naturally tend to protect the company by his statements regarding petitioner's case. On the other hand, Azarraga's confusing and inconsistent statements only confirmed that Garcia indeed had a grudge against petitioner, as he could not give a rational explanation for warning petitioner to be careful with Garcia.

Petitioner further contends that his act of turning over his accountabilities to his supervisor cannot be considered voluntary on his part as it was done by him knowing that he was already terminated and upon the specific instructions of Sy and Garcia. The CA therefore erred in relying on the unbelievable submission of respondents that such transfer of company documents and samples was indicative of petitioner's desire to resign. It failed to see that petitioner's reaction to his impending transfer to another department ("pag-iisipan ko pa") was due to his not coming to terms with Garcia and aware of the warning earlier given by his friends. Under this scenario, the animosity between petitioner and Garcia was evident such that Garcia eventually prevailed upon Sy to terminate petitioner's services. Unfortunately, it was on the very same day that petitioner was verbally terminated by Sy on the ground of insubordination and ordered to immediately turn over his files and samples. It was on February 21, 2002 that Agcaoili told petitioner that the company will give him all that is due him plus goodwill money, and in a meeting with Sy he had asked for his termination paper because he was in fact already terminated on February 19, 2002 but she responded by saying that if that was what he wanted she will give it to him and even threatened him to think because respondents are powerful.

In their Comment, respondents assert that the CA committed no reversible error in concluding that petitioner was not illegally terminated. They stress that the evidence clearly established that petitioner was not dismissed but required merely to explain why he failed to report for work after meeting the company president. As to petitioner's act of turning over his accountabilities, respondents argue that this cannot be considered proof of his illegal dismissal because it was done voluntarily in line with his proposed resignation. Respondent company was about to conduct its investigation on petitioner who went AWOL since February 19, 2002 but then he refused to accept the memos sent to him, thus confirming categorically that respondents were investigating his failure to report for

work and giving him all the opportunity to explain his absence.

The Court's Ruling

We grant the petition.

As a general rule, only questions of law may be allowed in a petition for review on certiorari.[12] Considering, however, that the Labor Arbiter's findings were reversed by the NLRC, whose Decision was in turn overturned by the CA, reinstating the Labor Arbiter's Decision, it behooves the Court to reexamine the records and resolve the conflicting rulings.[13]

Scrutinizing the records, we find that the NLRC's finding of illegal dismissal is supported by the totality of evidence and more consistent with logic and ordinary human experience than the common finding of the CA and Labor Arbiter that petitioner informally severed his employment relationship with the company. It hardly convinces us that after declining his supposed transfer to another department as per the information relayed to him by his supervisor, petitioner would readily turn over his files and samples unless something critical indeed took place in his subsequent closed-door meeting with Sy and Garcia. As correctly pointed out by petitioner, it is irrelevant whether or not he had earlier inquired from his supervisor what he will receive if he offers instead to resign upon being told of his impending transfer, for what matters is the action of Sy on his employment status. If ever petitioner momentarily contemplated resignation and such was the impression he conveyed in his talk with his supervisor prior to the meeting with Sy, such is borne by circumstances indicating Garcia's antagonism towards petitioner. In any event, whether such perception of a strained working relationship with Garcia was mistaken or not is beside the point. The crucial factor is the verbal order directly given by Sy, the company president, for petitioner to immediately turn over his accountabilities. Notably, Sy got irked when petitioner asked for his termination paper. Petitioner apparently wanted to ascertain whether such summary dismissal was official, and it was well within his right to demand that he be furnished with a written notice in order to apprise him of the real ground for his termination.

Contrary to respondents' theory that petitioner's act of turning over the company files and samples is proof of his voluntary informal resignation rather than of the summary dismissal effected by management, no other plausible explanation can be made of such immediate turn over except that petitioner directly confirmed from the company president herself that he was already being dismissed. The subsequent memos sent to petitioner's residence after he did not anymore report for work only reinforce the conclusion that the belated written notice of the charge against him - his alleged failure to meet the prescribed sales quota - was an afterthought on the part of respondents who may have realized that they failed to observe due process in terminating him. That respondents would still require a written explanation for petitioner's poor sales performance after the latter already complied with Sy's directive to turn over all his accountabilities is simply inconsistent with their claim that petitioner offered to resign and voluntarily relinquished possession of company files and samples when told of his impending transfer. In other words, petitioner was not given any opportunity to defend himself from whatever charges hurled by management against him, such as poor sales performance as relayed to him by his supervisor, when Sy unceremoniously terminated him which must have shocked him considering that his supervisor earlier advised that he would just be transferred to another department. Under this scenario, petitioner's decision not to report for work anymore was perfectly understandable, as the sensible reaction of an employee fired by no less than the company president. It was indeed a classic case of dismissal without just cause and due process, which is proscribed under our labor laws.

As to the affidavits submitted by the respondents, these are at best self-serving having been executed by employees beholden to their employer and which evidence by themselves did not refute petitioner's main cause of

action -- the fact of his summary dismissal on February 19, 2002. Respondents' effort to present the case as one of an erring employee about to be investigated for poor sales performance must likewise fail. The NLRC duly noted the discriminatory treatment accorded to petitioner when it declared that there is no evidence at all that other sales personnel who failed to meet the prescribed sales quota were similarly reprimanded or penalized. Incidentally, the question may be asked if petitioner whose performance was assessed by management as "poor" yet admittedly ranked second to the top sales agent of the company, why was it that no evidence was submitted by respondents to show the comparative sales performance of all sales agents? Given the strained working relationship with Garcia, or at least a perception of such gap on the part of petitioner, the latter could not have been properly informed of the actual ground for his dismissal. But more importantly, respondents terminated petitioner first and only belatedly sent him written notices of the charge against him. Fairness requires that dismissal, being the ultimate penalty that can be meted out to an employee, must have a clear basis. Any ambiguity in the ground for the termination of an employee should be interpreted against the employer, who ordained such ground in the first place.[14]

Resignation is defined as "the voluntary act of employees who are compelled by personal reasons to disassociate themselves from their employment. It must be done with the intention of relinquishing an office, accompanied by the act of abandonment." [15] In this case, the evidence on record suggests that petitioner did not resign; he was orally dismissed by Sy. It is this lack of clear, valid and legal cause, not to mention due process, that made his dismissal illegal, warranting reinstatement and the award of backwages.[16] Moreover, the filing of a complaint for illegal dismissal just three weeks later is difficult to reconcile with voluntary resignation. Had petitioner intended to voluntarily relinquish his employment after being unceremoniously dismissed by no less than the company president, he would not have sought redress from the NLRC and vigorously pursued this case against the respondents.[17]

When there is no showing of a clear, valid and legal cause for the termination of employment, the law considers it a case of illegal dismissal. Furthermore, Article 4 of the Labor Code expresses the basic principle that all doubts in the interpretation and implementation of the Labor Code should be interpreted in favor of the workingman. This principle has been extended by jurisprudence to cover doubts in the evidence presented by the employer and the employee.[18] Thus we have held that if the evidence presented by the employer and the employee are in equipoise, the scales of justice must be tilted in favor of the latter.[19] Accordingly, the NLRC's finding of illegal dismissal must be upheld.

However, the award of back wages and separation pay in lieu of reinstatement should be modified. Under the doctrine of strained relations, the payment of separation pay has been considered an acceptable alternative to reinstatement when the latter option is no longer desirable or viable.[20] Under the facts established, petitioner is entitled to the payment of full back wages, inclusive of allowances, and other benefits or their monetary equivalent, computed from the date of his dismissal on February 19, 2002 up to the finality of this decision, and separation pay in lieu of reinstatement equivalent to one month salary for every year of service, computed from the time of his engagement by respondents on March 21, 1999 up to the finality of this decision.[21]

WHEREFORE, the petition for review on certiorari is GRANTED. The Decision dated April 21, 2006 and Resolution dated September 7, 2006 of the Court of Appeals in CA-G.R. SP No. 88061 are SET ASIDE. The Decision dated July 29, 2004 of the National Labor Relations Commission in NLRC NCR CA No. 035557-03 is REINSTATED and AFFIRMED WITH MODIFICATIONS in that in addition to the unpaid commission of P16,581.00, respondent Centro Ceramica Corporation is hereby ordered to pay petitioner Jhorizaldy Uy his full back wages, inclusive of allowances, and other benefits or their monetary equivalent, computed from the date of his dismissal on February 19, 2002 up to the finality of this decision, and separation pay in lieu of reinstatement

equivalent to one monthsalary for every year of service, computed from the time of his engagement by respondent corporation on March 21, 1999 up to the finality of this decision.

No pronouncement as to costs.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Del Castillo, JJ., concur.

[1] Rollo, pp. 31-41. Penned by Associate Justice Rodrigo V. Cosico with Associate Justices Renato C. Dacudao and Arcangelita Romilla Lontok concurring.

[2] Id. at 43.

[3] CA rollo, pp. 37-44.

[4] Id. at 89-90.

[5] Id. at 73.

[6] Id. at 74.

[7] Id. at 102.

[8] Id. at 76-79, 82.

[9] Id. at 69-70, 133-138, 149-151, 161.

[10] Id. at 103-111.

[11] Id. at 43.

[12] Sec. 1, Rule 45 of the Rules of Court.

[13] Dansart Security Force & Allied Services Company v. Bagoy, G.R. No. 168495, July 2, 2010, 622 SCRA 694, 699, citing Cabalen Management Co., Inc. v. Quiambao, G.R. No. 169494, March 14, 2007, 518 SCRA 342, 348-349.

[14] Pascua v. NLRC (Third Division), G.R. No. 123518, March 13, 1998, 287 SCRA 554, 571, citing Pantranco North Express, Inc. v. NLRC, G.R. No. 114333, January 24, 1996, 252 SCRA 237, 243-244.

[15] Fungo v. Lourdes School of Mandaluyong, G.R. No. 152531, July 27, 2007, 528 SCRA 248, 256.

[16] Pascua v. NLRC (Third Division), supra note 14 at 574; Art. 279, Labor Code of the Philippines.

[17] Casa Cebuana Incorporada v. Leuterio, G.R. No. 176040, September 4, 2009, 598 SCRA 355, 366.

[18] Peñaflor v. Outdoor Clothing Manufacturing Corporation, G.R. No. 177114, January 21, 2010, 610 SCRA 497, 512, citing Fujitsu Computer Products Corporation of the Philippines v. Court of Appeals, 494 Phil. 697, 728 (2005).

[19] Mobile Protective & Detective Agency v. Ompad, G.R. No. 159195, May 9, 2005, 458 SCRA 308, 323, citing Asuncion v. National Labor Relations Commission, G.R. No. 129329, July 31, 2011, 362 SCRA 56, 68.

[20] Century Canning Corporation v. Ramil, G.R. No. 171630, August 9, 2010, 627 SCRA 192, 206.

[21] Id., citing *Eastern Telecommunications Phils., Inc. v. Diamse*, G.R. No. 169299, June 16, 2006, 491 SCRA 239, 251.

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