

CASA CEBUANA INCORPORADA AND ANGELA FIGUEROA PAULIN, PETITIONERS, VS. IRENEO P. LEUTERIO, RESPONDENT.

G.R. No. 176040. September 04, 2009

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Assailed in this petition for review on certiorari is the Decision[1] of the Court of Appeals dated May 5, 2006 in CA-G.R. CEB-SP No. 01361, which found petitioners Casa Cebuana Incorporada and Angela Figueroa Paulin guilty of illegal dismissal.

Petitioner corporation is a company engaged in the business of manufacturing fine furniture, fixtures and ornamentation for export. On September 15, 1999, it hired respondent as manager of its Human Resources Development Department for a monthly salary of P30,000.00. Respondent was also given convertible 30 days paid leave, gasoline allowance as well as health care benefits.

On November 24, 2000, petitioner corporation extended a loan to respondent in the amount of P1,035,000.00 for the purchase of a lot, evidenced by a promissory note,[2] wherein respondent authorized petitioner corporation to deduct P5,000.00 from his monthly salary as installment payment for the debt.

Subsequently, on February 24, 2003, the company's account manager, Mrs. Nemesia Gomez, told respondent that in consideration of the loan, the company president, petitioner Paulin, wanted him to execute a real estate mortgage over the lot. Respondent refused, contending that there was no agreement to that effect between him and petitioner Paulin when the loan was contracted.

On March 29, 2003, Mrs. Carmen Bugash, a company consultant, called respondent to a meeting and allegedly told him that petitioner Paulin could no longer work with him. Immediately thereafter, they both went to the office of petitioner Paulin where he was allegedly asked to resign.

The parties differ on their accounts of what transpired at petitioner Paulin's office. According to petitioners, respondent was shown a notice/ memorandum of the same date detailing his infractions[3] which respondent allegedly refused to receive and instead pleaded that he be allowed to resign as he did not want the stain of dismissal on his employment record.[4]

Respondent denied that he offered to resign. He claimed that he did not submit any resignation letter and even reported for work on April 3, 2003. However, he was barred from entering the company premises and was allowed entry only after signing the visitor's logbook. He again spoke to Bugash who allegedly told him that the memorandum of March 29, 2003 would be issued, unless he tendered his resignation and executed a real estate mortgage in favor of the company.

On the same day, respondent received a Memorandum[5] dated March 31, 2003 from petitioner Paulin, confirming the details of their previous meeting. It stated that respondent was allowed to voluntarily resign, as the company lost its trust and confidence on his ability to handle the position of HR Manager. Petitioners cited the

following reasons for such loss of trust and confidence:

- 1. The result of a survey among our employees would indicate that you have lost your credibility with them since you are always making promises without fulfilling them. This puts the company in bad light since it is expected that you as Personnel Manager link with management on decisions pertaining to industrial relations.
- The expected series of value formation that you were supposed to conduct regularly was not done religiously which resulted in the deterioration of the work values of the employees, excessive overtime, quality problems, materials wastage, etc.
- Disciplinary measures that needed to be taken in regard to AWOLS and tardiness were just left to the discretion of the supervisors, and as a result, the corresponding penalties were not imposed leading to abuse by the employees.
- You were instructed to put teeth to the 5S program, which you started in line with your plan to be ISO accredited, but we have not seen any concrete results. A walk through the factory will clearly show that nothing was done along this line. It was all talk with no clear visible action program.
- The recent adverse findings of DOLE on the safety standards should have been addressed by you as Personnel Manager, but it was only when a DOLE inspector came when attention was given to it. We need not emphasize here that DOLE matters are your responsibility and we accept no reason for failure to comply with requirements.
- Mishandling of the recent security guard case, which became full blown when it could have been addressed earlier had attention been given to it.
- Too much attention given to HUNAT movement against Corona Del Mar which has nothing to do with the company and yet its name gets dragged down as a hindrance to your efforts in fighting against Corona Del Mar. It is apparent that your extra-curricular activities have eaten up your time, which resulted in relegating your functions as a second or third priority.

Respondent filed a complaint with the NLRC Regional Arbitration Branch No. VII in Cebu City for illegal dismissal, illegal deduction and non-payment of wages, 13th month pay, service incentive leave pay and allowances. In his position paper, respondent claimed that he maintained a good relationship with his superiors and, in fact, received several favors and praises for his exemplary performance, such as the loan extended to him for the purchase of a lot. He headed a people's organization which opposed a subdivision project called Corona del Mar located in Pooc, Talisay City, of which the mayor is a cousin-in-law of petitioner Paulin. He claimed that after he initiated a peaceful assembly against the project and the city, he was treated differently by his superiors. Respondent denied that he voluntarily resigned and insisted that he was illegally dismissed.[6]

On the other hand, petitioners asserted that it was respondent who borrowed money from the company and promised to execute a real estate mortgage after title to the lot was transferred to his name. However, after respondent obtained the loan, he began showing signs of aberrant behavior and lackadaisical work attitude. The employees also complained about his moody and high strung behavior.

Petitioners also alleged that respondent failed to report for work on time and refused to observe delineated working hours. He neglected to perform his job, particularly in coordinating skills and manpower, and planning and conducting proper training, job evaluation analysis, psychological evaluation and trade tests. His grossly deteriorating performance was coupled with abuse of privileges such as when he claimed gasoline allowance for two vehicles instead of only one. He also prioritized and spent company time on extra-curricular activities.

Petitioners stressed that it was respondent who pleaded to forego the investigation of his infractions and to allow

him to resign. Thereafter, he no longer reported for work and took out all his personal belongings and effects from the company premises.[7]

In due course, the Labor Arbiter rendered a Decision[8] dated September 24, 2003, ordering petitioners to reinstate respondent to his former or equivalent position without loss of seniority rights and benefits but without payment of backwages. While ruling that there was no illegal dismissal for lack of proof that respondent was in fact terminated from employment, the Labor Arbiter also held that there was no showing that respondent had voluntarily resigned. Thus, according to the Labor Arbiter, each party must bear his own loss.[9]

On appeal, the NLRC declared that respondent was illegally dismissed based on the memorandum issued by petitioners terminating his services and the fact that he was subsequently barred from reporting for work. Petitioners also did not refute respondent's narration of the events which led to his dismissal. Neither was there evidence that respondent was properly notified of his infractions prior to the March 29, 2003 meeting, nor given ample opportunity to controvert the charges against him. Consequently, petitioners failed to observe procedural due process and to prove any just cause for respondent's dismissal.[10]

Petitioners moved for reconsideration which was granted in a Resolution dated June 27, 2005. This time, the NLRC found respondent to have voluntarily resigned when he allegedly made known to a company security guard that he was quitting. The incident transpired while respondent was in the process of taking out his belongings from the company premises, and was reported in a handwritten memorandum prepared by the security guard and presented by petitioners as part of their evidence. The NLRC also held that the Memorandum dated March 29, 2003 informing complainant that he was being terminated should be considered as never implemented, as it was superseded by the March 31, 2003 Memorandum allowing respondent to voluntarily resign.[11]

Respondent filed a motion for reconsideration but it was denied. Thus, respondent elevated the matter to the Court of Appeals which rendered the herein assailed Decision, the dispositive part of which reads:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us GRANTING the petition filed in this case, ANNULING and SETTING ASIDE the assailed Resolutions promulgated on June 27, 2005 and October 20, 2005, both by the public respondent, in NLRC Case No. V-000176-2004, ORDERING the private respondents to REINSTATE the petitioner to his position as HRD Manager without loss of seniority rights and DIRECTING the private respondents to pay him full backwages from April 3, 2003 up to the finality of this judgment.

The public respondent is hereby ordered to make proper determination of the backwages due to the petitioner as well as his separation pay should reinstatement be no longer feasible.

SO ORDERED.[12]

The appellate court held that the NLRC gravely abused its discretion when it found respondent to have voluntarily resigned from his employment despite lack of substantial evidence to support such finding. Respondent never submitted a resignation letter and the only evidence of such fact is the handwritten memorandum of the security guard. According to the appellate court, the security guard's memorandum does not conclusively establish the fact of respondent's resignation, but merely narrates the usual procedure of the guards in checking and logging vehicles coming in and out of company premises. Petitioners also failed to observe due process in dismissing respondent from employment.[13]

Petitioners filed a motion for reconsideration of the appellate court's decision which was denied in a Resolution dated December 6, 2006. Hence, petitioners filed the instant petition under Rule 45.

Petitioners fault the Court of Appeals for taking cognizance of respondent's petition for certiorari because the

same was allegedly filed late. They also assert that the Court of Appeals erred in declaring that respondent was illegally dismissed because there was substantial evidence to support the conclusion that he voluntarily resigned.

The petition lacks merit.

The appellate court correctly resolved respondent's petition on the merits, instead of dismissing the same outright on technical grounds. Although respondent's motion for extension of time to file petition before the Court of Appeals was admittedly filed one day late, thus resulting in the belated filing of the petition, the same may be deemed as an excusable oversight that should not take precedence over the merits of the case. It is well-settled that the application of technical rules of procedure may be relaxed to serve the demands of substantial justice, particularly in labor cases. Labor cases must be decided according to justice and equity and the substantial merits of the controversy. Rules of procedure are but mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be avoided.[14]

The Court of Appeals correctly found that there was no substantial evidence to prove that respondent voluntarily resigned. The only evidence presented by petitioners on this matter is the handwritten memorandum of the security guard regarding what transpired when respondent took out his belongings on March 31, 2003. The security guard reported:

x x x x

This vehicle stopped 20 meters from the gate. I approached him (respondent) and saluted him. He returned my salute, opened the right side window of his car and said "Guard! I am bringing with me my personal effects. Look at these because I am up to today only, I will not come back here. This is so that I will be clear and you will not get into trouble with your work." I answered him "Is that so, sir? Let's look at them and I will enter them in my logbook."

x x x x[15]

According to petitioners, it may be reasonably inferred from the foregoing that respondent had already quit his job. The lack of a resignation letter does not necessarily disprove respondent's voluntary resignation, as the events described above show a clear intent on the part of respondent to relinquish employment. As correctly observed by the Court of Appeals, however, the security guard's report does not conclusively establish the fact of respondent's resignation, but merely narrates the standard procedure employed by security guards in checking vehicles that pass through company gates. Likewise, the statement of respondent that he was "up to today only" and that he will "not come back here" does not necessarily indicate that he resigned from employment, but could also mean that he was leaving the company due to other causes.

In light of the prevailing circumstances in this case, we are convinced that respondent did not voluntarily resign and was in fact illegally dismissed from employment. Petitioners admit that during the meeting in petitioner Paulin's office on March 29, 2003, respondent was shown a notice/memorandum detailing his alleged infractions, which the latter refused to receive.[16] Instead, respondent allegedly asked that he be allowed to resign because he did not want the stain of dismissal on his employment record.

The notice/memorandum that was shown to respondent referred to the Memorandum dated March 29, 2003 which is actually a notice of termination and not merely a memorandum detailing respondent's alleged infractions. The said memorandum explicitly states:

x x x x

We regret to inform you that we will have to terminate your services at the earliest possible time in view of the

loss of trust and confidence in your ability to handle your present position. This is brought about by the series of events which has made your stay with the company untenable.

x x x x[17]

Thus, it can be seen that when respondent went to petitioner Paulin's office together with Bugash, petitioners were decided on terminating his services.

The lack of any resignation letter on the part of respondent is significant, considering petitioner's assertion that he "pleaded" to be allowed to resign during the meeting held on March 29, 2003. If respondent had indeed opted to avail of this alternative, then there would have been nothing to prevent petitioners from asking respondent to tender a resignation letter at that very moment. However, respondent did no such thing and even went back several times to speak to Bugash until he was finally barred from entering company premises on April 3, 2003.

Moreover, respondent filed his complaint with the NLRC soon after the last meeting with Bugash. Needless to say, the filing of a complaint for illegal dismissal is difficult to reconcile with voluntary resignation.[18] Had respondent intended to voluntarily relinquish his employment, he would not have immediately sought redress from the NLRC. Respondent clearly manifested that he had no intention of resigning when he urgently and vigorously pursued this case against petitioners.

In *Fungo v. Lourdes School of Mandaluyong*,[19] we defined resignation 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." [20] In this case, the evidence on record suggests that respondent did not voluntarily resign. The more logical conclusion, based on the evidence, is that respondent was then being forced or pressured to resign, which is tantamount to illegal dismissal.

We cannot lend credence to petitioners' claim that respondent was merely given a "graceful exit." Their reliance on our ruling in *Willi Hahn Enterprises and/or Willi Hahn v. Lilia R. Maghuyop*[21] is misplaced, considering that, in said case, respondent had clearly resigned by tendering a resignation letter even before the petitioners could initiate termination proceedings. In contrast, respondent in this case did not execute any resignation letter and, in fact, resisted pressures for him to resign.

Consequently, we find no merit in petitioners' contention that respondent waived any intended investigation on his alleged infractions by offering to resign instead. The meeting held on March 29, 2003 was not meant to inform respondent of any planned investigation, but was called to formally apprise respondent of his termination from employment. Prior to said meeting, respondent had not been given any form of notice regarding the charges against him or the opportunity to refute these charges. Bugash even told respondent that petitioner Paulin "could no longer work with him," thereby signifying that respondent's services was being terminated.

For the dismissal of an employee to be valid, the employer must serve the employee two notices: (1) the first to inform the employee of the particular acts or omissions for which the employer seeks his dismissal, and (2) the second to inform the employee of his employer's decision to terminate him. The first notice must inform outright the employee that an investigation will be conducted on the charges specified in such notice which, if proven, will result in the employee's dismissal. This is to afford the employee an opportunity to avail of all defenses and exhaust all remedies to refute the allegations hurled against him. Absent such statement, the first notice falls short of the requirement of due process.[22]

In the case at bar, petitioners did not notify respondent of any investigation that was to be conducted on his alleged infractions. The Memorandum dated March 29, 2003 was actually a notice of termination that was ostensibly shown to respondent on the same day that he supposedly pleaded to be allowed to resign. Neither could

the March 31, 2003 Memorandum be deemed to comply with the requirements of the first notice, as maintained by petitioners. This second memorandum did not state that an investigation will be conducted, but merely "confirms" what allegedly transpired during the meeting held on March 29, 2003. Respondent was thus not given an opportunity to controvert the charges leveled against him by petitioners.

In view of the lack of proper investigation into the charges against respondent, petitioners failed to show that they have a just cause for terminating his employment. Respondents' alleged infractions amount to nothing more than bare accusations and unilateral conclusions that do not provide legal justification for his termination from employment. Although petitioners have wider latitude of discretion in terminating respondent, who was a managerial employee, it is nonetheless settled that confidential and managerial employees cannot be arbitrarily dismissed at any time, and without cause as reasonably established in an appropriate investigation. Such employees, too, are entitled to security of tenure, fair standards of employment and the protection of labor laws. Managerial employees, no less than rank-and-file laborers are entitled to due process.[23]

A valid dismissal must comply with two requisites, namely: (a) the dismissal must be for any of the causes stated in Article 282 of the Labor Code; and (b) the employee must have been accorded due process, basic of which is the opportunity to be heard and to defend himself.[24] In the instant case, petitioners failed to prove that they complied with the foregoing requirements of the law. Thus, they should be held accountable for respondents' illegal dismissal.

WHEREFORE, the instant petition is DENIED for lack of merit. The May 5, 2006 Decision of the Court of Appeals in CA-G.R. CEB-SP No. 01361 which found petitioners guilty of illegal dismissal and ordered them to reinstate respondent to his former or equivalent position without loss of seniority rights, or separation pay in case reinstatement is no longer feasible, with full backwages, is AFFIRMED in toto.

SO ORDERED.

Chico-Nazario, Velasco, Jr., Nachura, and Peralta, JJ., concur.

[1] Rollo, pp. 85-92.

[2] Id. at 124.

[3] Id. at 163.

[4] Id. at 25.

[5] Id. at 207.

[6] Id. at 210.

[7] Id. at 211-212.

[8] Id. at 209-214.

[9] Id. at 213-214.

[10] Id. at 240-241.

[11] Id. at 282-283.

[12] Id. at 91-92; penned by Associate Justice Isaias P. Dicdican and concurred in by Associate Justices Ramon M. Bato, Jr. and Apolinario D. Bruselas, Jr.

[13] Id. at 88 & 91.

[14] Remington Industrial Sales Corporation v. Erlinda Castaneda, G.R. Nos. 169295-96, November 20, 2006, 507 SCRA 391, 404-405.

[15] As translated from the Visayan dialect.

[16] Rollo, pp. 25 & 238-239.

[17] Id. at 163.

[18] Fortuny Garments/Johnny Co v. Elena J. Castro, G.R. No. 150668, December 15, 2005, 478 SCRA 125, 131.

[19] G.R. No. 152531, July 27, 2007, 528 SCRA 248.

[20] Id. at 256.

[21] G.R. No. 160348, December 17, 2004, 447 SCRA 349.

[22] See Mercury Drug Corporation v. Serrano, G.R. No. 160509, March 10, 2006, 484 SCRA 434, 448.

[23] Philippine Transmarine Carriers, Inc. v. Felicisimo Carilla, G.R. No. 157975, June 26, 2007, 525 SCRA 586, 597-598.

[24] Nenuca A. Velez v. Shangri-La's Edsa Plaza Hotel, Terry Ko, Coen Masselink and Vanessa Suatengco, G.R. No. 148261, October 9, 2006, 504 SCRA 13, 24.

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