

**RENTOKIL (INITIAL) PHILIPPINES, INC. AND/OR RONAN GREANY
AND DAVID MCCONNACHIE PETITIONERS, VS. LEILANI D. SANCHEZ,
RESPONDENT.**

G.R. No. 176219. December 23, 2008

Ponente: TINGA, J.

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TINGA, J.:

The instant petition for review[1] assails the Decision and Resolution of the Court of Appeals dated 31 July 2006[2] and 8 January 2007,[3] respectively, in CA-G.R. SP No. 92455.

The facts, as culled from the records, follow.

Leilani D. Sanchez (respondent) was hired by Rentokil Philippines, Inc. (petitioner) as Financial Controller on 19 April 1996. Sometime in 1999, David McConnachie (McConnachie), then Regional Finance Director of Rentokil Initial PLC, the parent company of petitioner, noted questionable entries in petitioner's year-end financial reports. Upon investigation, petitioner's internal audit department uncovered major discrepancies and anomalies in these financial reports. In a meeting dated 7 June 1999, Joaquin Cunanan & Co. (external auditor) acknowledged that it should have seen the inaccuracies in the company's 1998 year-end financial reports and should have taken action to alert petitioner of these facts.[4] Petitioner thus issued a show cause notice dated 17 July 1999 requiring respondent to explain the alleged anomalies. On 21 July 1999, respondent submitted her explanation. Thereafter, an administrative hearing was conducted with the presence of respondent and her counsel. Finding the explanations of respondent unsatisfactory, petitioner issued a written notice of termination on 21 July 1999, dismissing respondent on the grounds of gross neglect of duty, serious misconduct, and loss of trust and confidence.[5]

On 30 July 1999, respondent filed a complaint for illegal dismissal against petitioner. She alleged that she had sufficiently countered the charges leveled against her and that in fact she had been conferred positive ratings[6] by the external auditor in the three years that she had been preparing all the financial reports and accompanying documents for petitioner. She claimed that the charges against her were made up to ease her out of the company. Finally, she claimed that she was denied due process when she was not shown the internal audit report referred to in the notice of charges.[7]

On the other hand, petitioner countered that the results of the investigation carried out by its internal audit department showed respondent's failure and inability to competently and properly discharge her duties and responsibilities as financial controller. Petitioner added that it observed due process, as prior to her dismissal, she was properly notified of the charges, and was heard in an administrative investigation.[8]

On 17 April 2000, the labor arbiter, finding that petitioner failed to substantiate its charges, rendered a decision declaring respondent to have been illegally dismissed and ordered the payment of backwages and separation pay.[9] Petitioner appealed the decision to the National Labor Relations Commission (NLRC). The NLRC found the appeal meritorious and reversed the decision of the labor arbiter. According to the NLRC, petitioner was able

to establish the inaccuracies in the accounting procedure done by respondent.[10] Respondent sought reconsideration of the reversal, but her motion for reconsideration was denied.[11]

Respondent filed a petition for certiorari[12] before the Court of Appeals, which in turn granted the petition and set aside the NLRC decision. The Court of Appeals held that petitioner failed to prove by substantial evidence the grounds warranting the dismissal of respondent on the ground of loss of trust and confidence. The appellate court ruled that petitioner could not rely on the admission by a partner of the external auditor that the said firm had erred in the evaluation of respondent's performance, and that respondent had merely followed policies which were already in place when she assumed her position.[13] Petitioner filed a motion for reconsideration but the Court of Appeals denied the motion.[14]

Before this Court, petitioner argues that there is more than substantial evidence to prove that respondent had willfully, intentionally, knowingly and purposely committed a breach of the trust and confidence reposed on her. On the other hand, respondent counters that petitioner merely reiterates the arguments which have been thoroughly discussed and passed upon by the Court of Appeals and the NLRC.

We resolve to grant the petition.

It is a well-settled rule that the findings of facts of quasi-judicial bodies like the NLRC are accorded great respect and, at times, even finality. There are, however, exceptions, among which is when there is a conflict between the factual findings of the NLRC and the Labor Arbiter.[15] Accordingly, this Court must of necessity review the records to determine which findings should be preferred as more conformable to the evidentiary facts.[16] Nor is this Court bound by conclusions which are not supported by substantial evidence. The substantial evidence rule does not authorize any finding just as long as there is any evidence to support it. It does not excuse administrative agencies from considering contrary evidence which fairly detracts from the evidence supporting a finding.[17]

The Court of Appeals and the Labor Arbiter made a sweeping declaration that the charges against respondent were unsubstantiated, making much of the fact that the external auditors had given positive remarks on the financial reports and related documents prepared by respondent, and that respondent had allegedly sufficiently explained the charges against her.

While we note that the external auditor found no fault with the financial reports of respondent, we cannot ignore its later statement that there were inconsistencies in their audit reports. In fact, we are more inclined to give more weight to the subsequent declaration because it satisfactorily elucidated on the inaccuracies found by petitioner. We do not subscribe to the Court of Appeals' observation that petitioner's position with regard the external auditor's opinion "would negate the need for an external auditing firm because of its perceived role of merely providing standard opinion and not a carefully designed conclusion based on its independent findings." [18] As pointed out by the appellate court, petitioner continued engaging the services of external auditors, and had, in fact, retained Laya Mananghaya & Co. in lieu of the external auditor. This continued availment of the services of external auditors merely shows that petitioner has not disregarded the importance of external auditors. What it might prove is that petitioner had lost faith in its external auditor understandably so, after its initial erroneous audit.

In any case, the Court is not bound by the findings and observations of the external auditor. In the same way that courts are not bound to give probative value or evidentiary value to the opinions of expert witnesses,[19] this Court may disregard the conclusions and statements of the external auditor and make its own independent findings based on the facts of the case.

A review of the charges, as well as respondent's corresponding explanations is necessary in this case.

Respondent was asked to explain the five charges against her: (i) there were at least three versions of the Fixed Assets register purporting to represent assets as of 31 December 1998; (ii) the Fixed Assets registers include an unidentified amount of P1.98 Million; (iii) failure to identify components comprising the asset "withholding tax;" (iv) preparation of inaccurate bank reconciliation; and (v) the deferred VAT Account was not in accordance with generally accepted accounting principles.

In her position paper,[20] respondent countered that there was only one version of the fixed assets register prepared as of 31 December 1998. However, during the administrative hearing, she was unable to explain the three different versions she submitted to Ronan Greany (Greany), petitioner's Country Manager. Anent the unidentified P1.98 Million in the Fixed Assets register, respondent explained that "the value represents the amount reflected by previous managers to overstate the sales and to synchronize the anomalous overstatement thereof," a fact which respondent failed to relay to Greany. Respondent adds that she had already submitted to Greany a copy of the list of clients who have claimed withholding taxes; but Greany categorically denied having received such list. Respondent also stated that bank reconciliation statements were made, however she was unable to fully explain the inaccuracies found therein. Finally, on the issue of the deferred VAT Account, respondent discussed the computation of VAT returns; she was however unable to give an explanation on why she made a deferred VAT provision that is significantly less than the company's future VAT liability.

The consideration of these unexplained charges, as well as the latter statement of the external auditor, justifies a conclusion different from that of the Court of Appeals' and the labor arbiter's.

The degree of proof required in labor cases is not as stringent as in other types of cases.[21] As a general rule, employers are allowed a wider latitude of discretion in terminating the services of managerial employees who perform functions which by their nature require the employers' full trust and confidence,[22] thus, existence of basis for believing that the employee has breached the trust of the employer is sufficient and does not require proof beyond reasonable doubt.[23] In fact, it has been held that when the employer has ample reason to distrust an employee, a labor tribunal cannot deny the employer the authority to dismiss him.[24]

Loss of confidence as a just cause for termination of employment is premised from the fact that an employee concerned holds a position of trust and confidence. This situation holds where a person is entrusted with confidence on delicate matters, such as the custody, handling, or care and protection of the employer's property. But, in order to constitute a just cause for dismissal, the act complained of must be "work-related" such as would show the employee concerned to be unfit to continue working for the employer.[25]

In this case, respondent was no ordinary employee. She was the company's financial controller, and as such was tasked with the management of the entire Finance and Administrative Department, which duty included the safeguarding of company assets, manpower administration, ensuring adherence to the company's policies, tax administration, coordination with other departments to ensure cost-effective operations, and ensuring that financial transactions are recorded, classified and summarized in accordance with generally accepted accounting principles.[26] In essence, the nature of her work requires not just a substantial, but rather a very high degree of responsibility requiring trust and confidence.

The Court of Appeals seems to have overlooked these responsibilities and accepted respondent's stand that she merely followed the procedures laid down by her previous superiors. It cannot be overemphasized that she occupied a position which was not only sensitive, but also crucial to the company's welfare, as it relates to the financial interest of the company. Having occupied the position for three years, and having knowledge of the fact that the procedures laid down by her previous superiors was not in accordance with the generally accepted principles of accounting, she should have had the initiative to implement changes in the system, or at the very

least inform Greany and McConnachie of the questionable practices and inconsistencies in the preparation of the company's financial statements.

To be sure, an employer cannot be compelled to continue with the employment of workers guilty of acts of misfeasance or malfeasance, and whose continuance in the service of the employer is clearly inimical to its interest.[27] In the case at bar, records show that not only were general accounting principles not followed, respondent also lacked the initiative to institute appropriate measures to safeguard the company and to remedy the effects of the flawed procedure then implemented in the company. If we are to go by the computation of Wilfredo Regalado, the new financial controller, the errors or inactions of respondent had cost the company P4.86 Million.[28] But more than the financial losses, the company's reputation suffered as a result of respondent's actuations. According to Regalado:

As a result, the Company has a very real credibility issue to overcome with the BIR, and the professional competence of our tax advisors has been called into question in the eyes of the BIR due to their presentation of what has transpired to be false information. We may not be able to convince the BIR of the truth, but equally, they may not be receptive due to past acts of, what may appear to them to be, deception. This may unnecessarily cost the Company in both professional fees, and in settlement costs.[29]

There is no doubt that respondent's continuance in the sensitive fiduciary position of financial controller would be patently inimical to the interests of petitioner. It would be oppressive and unjust to order petitioner to take her back, for the law in protecting the rights of the employee authorizes neither oppression nor self-destruction of the employer.[30]

All told, respondent was validly dismissed on the grounds of gross neglect of duty, serious misconduct and loss of trust and confidence. The complaint for illegal dismissal is, as it should be, disallowed.

WHEREFORE, the petition is GRANTED. The Decision and Resolution of the Court of Appeals dated 31 July 2006 and 8 January 2007 are REVERSED and SET ASIDE. The Decision of the NLRC dated 24 June 2005 is hereby REINSTATED.

No pronouncement as to costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Velasco, Jr., and Brion, JJ., concur.

[1] Rollo, pp. 9-45.

[2] Rollo, pp. 47-56; penned by Associate Justice Magdangal M. De Leon, with Associate Justices Elvi John S. Asuncion and Juan Q. Enriquez, Jr. concurring.

[3] Id. at 58-60.

[4] Minutes of the Meeting dated 7 July 1999, id. at 297-302.

[5] Labor Arbiter's Decision, id. at 232-238.

[6] The Report of Independent Accountants dated 20 January 1999 issued by Joaquin Cunanan & Co. stated in part:

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Rentokil (Philippines), Inc. as of December 31, 1998 and 1997 and the results of its operations and

its cash flows for the years then ended in conformity with generally accepted accounting principles; *id.* at 415.

[7] *Id.* at 48-49.

[8] Labor Arbiter's Decision, *id.* at 232-238.

[9] Reinstatement was not ordered because respondent herself prayed for separation pay in lieu thereof.

[10] Decision dated 24 June 2005, rollo, pp. 346-359.

[11] *Id.* at 361-362.

[12] *Id.* at 363-397.

[13] *Id.* at 47-56.

[14] *Id.* at 58-60.

[15] *Atlas Fertilizer Corporation, et al. v. NLRC, et al.*, G.R. No. 120030, 17 June 1997.

[16] *Casimiro v. Stern Real Estate, Inc.*, G.R. No. 162233, 10 March 2006, 484 SCRA 463, 477.

[17] *House of Sara Lee v. Rey*, G.R. No. 149013, 31 August 2006, 500 SCRA 419, 432, citing *Samahan ng mga Manggagawa sa Bandolino-LMLC v. National Labor Relations Commission*, 341 Phil. 635, 645 (1997).

[18] Rollo, p. 53.

[19] *Domingo v. Domingo*, G.R. No. 150897, 11 April 2005, 455 SCRA 230, 237.

[20] CA rollo, pp. 85-106.

[21] *Etcuban, Jr. v. Sulpicio Lines, Inc.*, 489 Phil. 483, 496 (2005).

[22] *Coca-Cola Bottlers Philippines, Incorporated. v. NLRC*, 172 SCRA 751, 757 (1989).

[23] *Kwikway Engineering Works v. NLRC*, G.R. No. 85014, 22 March 1991, 195 SCRA 526, 529 (1991).

[24] *Del Carmen v. NLRC*, G.R. No. 93413, 28 October 1991, 203 SCRA 245, 250.

[25] *Etcuban, Jr. v. Sulpicio Lines*, *supra*.

[26] Job description provided by petitioner, rollo, p. 13.

[27] *San Miguel Corporation v. NLRC*, G.R. No. 78277, 12 May 1989, 173 SCRA 322.

[28] Per Wilfredo Regalado's "Affidavit," rollo, pp. 312-315. The computation shows:

Unidentified Unknown Assets

2, 275, 126

Tax liability (VAT) understated

1, 125, 731

Prepaid taxes unidentifiable

280, 000

Unsubstantiated Deposits

538, 088

Paid Accounts still reflected as outstanding

644, 061

TOTAL

4, 860,006

[29] Rollo, p. 315.

[30] House of Sara lee v. Rey, G.R. No. 149013, 31 August 2006, 500 SCRA 419, 442.

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