

HOSPITAL MANAGEMENT SERVICES, INC. – MEDICAL CENTER MANILA, PETITIONER, VS. HOSPITAL MANAGEMENT SERVICES, INC. – MEDICAL CENTER MANILA EMPLOYEES ASSOCIATION-AFW AND EDNA R. DE C...*G.R. No. 176287. January 31, 2011*

Ponente: PERALTA, J.

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Before this Court is a petition for review on certiorari seeking to set aside the Decision[1] dated May 24, 2006 and Resolution[2] dated January 10, 2007 of the Court of Appeals (CA), Special First Division, in CA-G.R. SP No. 73189, entitled Hospital Management Services, Inc.-Medical Center Manila Employees Association-AFW and Edna R. De Castro v. National Labor Relations Commission, Hospital Management Services, Inc.-Medical Center Manila and Asuncion Abaya-Morido, which reversed and set aside the Decision[3] dated February 28, 2002 of the National Labor Relations Commission (NLRC), Second Division, in NLRC NCR No. 00-07-07716-99 (CA No. 027766-01), and its Resolution[4] dated May 31, 2002. The assailed CA decision ordered petitioner Hospital Management Services, Inc.-Medical Center Manila to reinstate respondent Edna R. De Castro to her former position without loss of seniority rights or by payroll reinstatement, pursuant to the Labor Arbiter's Decision dated January 18, 2001, but with payment of full backwages and other benefits or their monetary equivalent, computed from the expiration of the 14-day suspension period up to actual reinstatement.

The antecedent facts are as follows:

Respondent De Castro started working as a staff nurse at petitioner hospital since September 28, 1990, until she was dismissed on July 20, 1999.

Between 2:00 a.m. to 3:00 a.m. of March 24, 1999, while respondent De Castro and ward-clerk orientee Gina Guillergan were at the nurse station on night duty (from 10:00 p.m. of March 23, 1999 to 6:00 a.m. of March 24, 1999), one Rufina Causaren, an 81-year-old patient confined at Room 724-1 of petitioner hospital for "gangrenous wound on her right anterior leg and right forefoot" and scheduled for operation on March 26, 1999, fell from the right side of the bed as she was trying to reach for the bedpan. Because of what happened, the niece of patient Causaren staying in the room was awakened and she sought assistance from the nurse station. Instead of personally seeing the patient, respondent De Castro directed ward-clerk orientee Guillergan to check the patient. The vital signs of the patient were normal. Later, the physician on duty and the nursing staff on duty for the next shift again attended to patient Causaren.

Chief Nurse Josefina M. Villanueva informed Dr. Asuncion Abaya-Morido, president and hospital director, about the incident and requested for a formal investigation. On May 11, 1999, the legal counsel of petitioner hospital directed respondent De Castro and three other nurses on duty, Staff Nurse Janith V. Paderes and Nursing Assistants Marilou Respicio and Bertilla T. Tatad, to appear before the Investigation Committee on May 13, 1999, 2:00 p.m., at the conference room of petitioner hospital. During the committee investigation, respondent De

Castro explained that at around 2:30 a.m. to 3:00 a.m., she was attending to a newly-admitted patient at Room 710 and, because of this, she instructed Nursing Assistant Tatad to check the vital signs of patient Causaren, with ward-clerk orientee Guillergan accompanying the latter. When the two arrived at the room, the patient was in a squatting position, with the right arm on the bed and the left hand holding on to a chair.

In the Investigation Report[5] dated May 20, 1999, the Investigation Committee found that the subject incident happened between 11:00 a.m. to 11:30 a.m. of March 23, 1999. The three other nurses for the shift were not at the nurse station. Staff Nurse Paderes was then in another nurse station encoding the medicines for the current admissions of patients, while Nursing Assistant Respicio was making the door name tags of admitted patients and Nursing Assistant Tatad delivered some specimens to the laboratory. The committee recommended that despite her more than seven years of service, respondent De Castro should be terminated from employment for her lapse in responding to the incident and for trying to manipulate and influence her staff to cover-up the incident. As for Staff Nurse Paderes and Nursing Assistants Respicio and Tatad, the committee recommended that they be issued warning notices for failure to note the incident and endorse it to the next duty shift and, although they did not have any knowledge of the incident, they should be reminded not to succumb to pressure from their superiors in distorting the facts.

On July 5, 1999, Janette A. Calixijan, HRD Officer of petitioner hospital, issued a notice of termination, duly noted by Dr. Abaya-Morido, upon respondent De Castro, effective at the close of office hours of July 20, 1999, for alleged violation of company rules and regulations, particularly paragraph 16 (a), Item 3, Chapter XI of the Employee's Handbook and Policy Manual of 1996 (Employee's Handbook):[6] (1) negligence to follow company policy on what to do with patient Rufina Causaren who fell from a hospital bed; (2) failure to record and refer the incident to the physician-[on- duty and] allow[ing] a significant lapse of time before reporting the incident; (3) deliberately instructing the staff to follow her version of the incident in order to cover up the lapse; and (4) negligence and carelessness in carrying out her duty as staff nurse-on-duty when the incident happened.

On July 21, 1999, respondent De Castro, with the assistance of respondent Hospital Management Services Inc.-Medical Center Manila Employees Association-AFW, filed a Complaint[7] for illegal dismissal against petitioners with prayer for reinstatement and payment of full backwages without loss of seniority rights, P20,000.00 moral damages, P10,000.00 exemplary damages, and 10% of the total monetary award as attorney's fees.

On January 18, 2001, the Labor Arbiter rendered a Decision,[8] ordering petitioner hospital to reinstate respondent De Castro to her former position or by payroll reinstatement, at the option of the former, without loss of seniority rights, but without backwages and, also, directing petitioners to notify her to report to work. Her prayer for damages and attorney's fees was denied. The Labor Arbiter concluded that although respondent De Castro committed the act complained of, being her first offense, the penalty to be meted should not be dismissal from the service, but merely 7 to 14 days suspension as the same was classified as a less serious offense under the Employee's Handbook.

On appeal by respondent De Castro, the NLRC rendered a Decision dated February 28, 2002, reversing the findings of the Labor Arbiter and dismissing the complaint against the petitioners. It observed that respondent De Castro lacked diligence and prudence in carrying out her duty when, instead of personally checking on the condition of patient Causaren after she fell from the bed, she merely sent ward-clerk orientee Guillergan to do the same in her behalf and for influencing her staff to conceal the incident.

On May 31, 2002, the NLRC denied respondent De Castro's Motion for Reconsideration dated April 16, 2002.

On May 24, 2006, the CA reversed and set aside the Decision of the NLRC and reinstated the Decision of the

Labor Arbiter, with modification that respondent De Castro should be entitled to payment of full backwages and other benefits, or their monetary equivalent, computed from the expiration of the 14-day-suspension period up to actual reinstatement. The CA ruled that while respondent De Castro's failure to personally attend to patient Causaren amounted to misconduct, however, being her first offense, such misconduct could not be categorized as serious or grave that would warrant the extreme penalty of termination from the service after having been employed for almost 9 years. It added that the subject infraction was a less serious offense classified under "commission of negligent or careless acts during working time or on company property that resulted in the personal injury or property damage causing expenses to be incurred by the company" stated in subparagraph 11, paragraph 3 (B), Chapter XI [on the Rules on Discipline] of the Employee's Handbook[9] of petitioner hospital. The CA did not sustain the NLRC's ruling that respondent De Castro's dismissal was proper on the ground that her offense was aggravated to serious misconduct on account of her alleged act of asking her co-employees to lie for her as this fact was not proven.

Petitioners' motion for reconsideration was denied by the CA in the Resolution dated January 10, 2007.

Hence, this present petition.

Petitioners allege that the deliberate refusal to attend to patient Causaren after the latter fell from the bed justifies respondent De Castro's termination from employment due to serious misconduct. They claim that respondent De Castro failed to: (a) personally assist the patient; (b) check her vital signs and examine if she sustained any injury; (c) refer the matter to the patient's attending physician or any physician-on-duty; and (d) note the incident in the report sheet for endorsement to the next shift for proper monitoring. They also aver that respondent De Castro persuaded her co-nurses to follow her version of what transpired so as to cover up her nonfeasance.

In her Comment, respondent De Castro counters that there was no serious misconduct or gross negligence committed, but simple misconduct or minor negligence which would warrant the penalty of 7 to 14 days of suspension under the Employee's Handbook of petitioner hospital. She denies exerting influence over the four nursing personnel, but points out that it was Chief Nurse Villanueva, a close friend of patient Causaren's niece, who persuaded the four nursing staff to retract their statements appearing in the incident reports as to the approximate time of occurrence, from 2:00 a.m. to 3:00 a.m. of March 24, 1999 to 11:00 p.m. to 11:30 p.m. of March 23, 1999, so as to pin her for negligence. She appeals for leniency, considering that the subject infraction was her first offense in a span of almost nine years of employment with petitioner hospital.

We affirm with modification the CA ruling which declared petitioners guilty of illegal dismissal.

Article 282 (b) of the Labor Code provides that an employer may terminate an employment for gross and habitual neglect by the employee of his duties. The CA ruled that per the Employee's Handbook of petitioner hospital, respondent De Castro's infraction is classified as a less serious offense for "commission of negligent acts during working time" as set forth in subparagraph 11, paragraph 3 (B) of Chapter XI[10] thereof. Petitioners anchor respondent De Castro's termination of employment on the ground of serious misconduct for failure to personally attend to patient Causaren who fell from the bed as she was trying to reach for the bedpan. Based on her evaluation of the situation, respondent De Castro saw no necessity to record in the chart of patient Causaren the fact that she fell from the bed as the patient did not suffer any injury and her vital signs were normal. She surmised that the incident was not of a magnitude that would require medical intervention as even the patient and her niece did not press charges against her by reason of the subject incident.

It is incumbent upon respondent De Castro to ensure that patients, covered by the nurse station to which she was assigned, be accorded utmost health care at all times without any qualification or distinction. Respondent De Castro's failure to personally assist patient Causaren, check her vital signs and examine if she sustained any

injury, refer the matter to the patient's attending physician or any physician-on-duty, and note the incident in the report sheet for endorsement to the next shift for proper monitoring constitute serious misconduct that warrants her termination of employment. After attending to the toxic patients under her area of responsibility, respondent De Castro should have immediately proceeded to check the health condition of patient Causaren and, if necessary, request the physician-on-duty to diagnose her further. More importantly, respondent De Castro should make everything of record in the patient's chart as there might be a possibility that while the patient may appear to be normal at the time she was initially examined, an injury as a consequence of her fall may become manifest only in the succeeding days of her confinement. The patient's chart is a repository of one's medical history and, in this regard, respondent De Castro should have recorded the subject incident in the chart of patient Causaren so that any subsequent discomfort or injury of the patient arising from the incident may be accorded proper medical treatment.

Neglect of duty, to be a ground for dismissal, must be both gross and habitual. Gross negligence connotes want of care in the performance of one's duties. Habitual neglect implies repeated failure to perform one's duties for a period of time, depending upon the circumstances. A single or isolated act of negligence does not constitute a just cause for the dismissal of the employee.[11] Despite our finding of culpability against respondent De Castro; however, we do not see any wrongful intent, deliberate refusal, or bad faith on her part when, instead of personally attending to patient Causaren, she requested Nursing Assistant Tatad and ward-clerk orientee Guillergan to see the patient, as she was then attending to a newly-admitted patient at Room 710. It was her judgment call, albeit an error of judgment, being the staff nurse with presumably more work experience and better learning curve, to send Nursing Assistant Tatad and ward-clerk orientee Guillergan to check on the health condition of the patient, as she deemed it best, under the given situation, to attend to a newly-admitted patient who had more concerns that needed to be addressed accordingly. Being her first offense, respondent De Castro cannot be said to be grossly negligent so as to justify her termination of employment. Moreover, petitioners' allegation, that respondent De Castro exerted undue pressure upon her co-nurses to alter the actual time of the incident so as to exculpate her from any liability, was not clearly substantiated.

Negligence is defined as the failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation.[12] The Court emphasizes that the nature of the business of a hospital requires a higher degree of caution and exacting standard of diligence in patient management and health care as what is involved are lives of patients who seek urgent medical assistance. An act or omission that falls short of the required degree of care and diligence amounts to serious misconduct which constitutes a sufficient ground for dismissal.

However, in some cases, the Court had ruled that sanctioning an erring employee with suspension would suffice as the extreme penalty of dismissal would be too harsh.[13] Considering that this was the first offense of respondent De Castro in her nine (9) years of employment with petitioner hospital as a staff nurse without any previous derogatory record and, further, as her lapse was not characterized by any wrongful motive or deceitful conduct, the Court deems it appropriate that, instead of the harsh penalty of dismissal, she would be suspended for a period of six (6) months without pay, inclusive of the suspension for a period of 14 days which she had earlier served. Thereafter, petitioner hospital should reinstate respondent Edna R. De Castro to her former position without loss of seniority rights, full backwages, inclusive of allowances and other benefits, or their monetary equivalent, computed from the expiration of her suspension of six (6) months up to the time of actual reinstatement.

WHEREFORE, the petition is DENIED. The Decision dated May 24, 2006 and Resolution dated January 10, 2007 of the Court of Appeals, Special First Division, in CA-G.R. SP No. 73189, which reversed and set aside the

Decision dated February 28, 2002 and Resolution dated May 31, 2002 of the National Labor Relations Commission, Second Division, are AFFIRMED WITH MODIFICATION insofar as respondent Edna R. De Castro is found guilty of gross negligence and is SUSPENDED for a period of SIX (6) MONTHS without pay, inclusive of the suspension for a period of 14 days which she had earlier served. Petitioner Hospital Management Services, Inc.-Medical Center Manila is ORDERED to reinstate respondent Edna R. De Castro to her former position without loss of seniority rights, full backwages, inclusive of allowances and other benefits, or their monetary equivalent, computed from the expiration of her suspension of six (6) months up to the time of actual reinstatement.

SO ORDERED.

Carpio, (Chairperson), Nachura, Abad, and Mendoza, JJ., concur.

[1] Penned by Associate Justice Ruben T. Reyes (now a retired member of this Court), with Associate Justices Hakim S. Abdulwahid and Aurora Santiago-Lagman, concurring, rollo, pp. 24-39.

[2] Id. at 41-42.

[3] Penned by Presiding Commissioner Raul T. Aquino, with Commissioners Victoriano R. Calaycay and Angelita A. Gacutan, concurring; id. at 100-114.

[4] Id. at 116-117.

[5] Prepared by UPSIPHI-Legal Counsel Atty. Zaldy V. Trespeses, Chief Nurse Josefina M. Villanueva, and HRD Head Janette A. Calixijan, id. at 59-62.

[6] COMPANY RULES A - Serious Offense: Disciplinary Action: for Discharge/Termination

x x x x

16. Other serious offenses or commission of acts inimical to the interest of the corporation. x x x (CA rollo, pp. 58-59)

[7] Id. at 32.

[8] Per Felipe T. Garduque II, rollo pp. 81-87.

[9] CA rollo, p. 60.

[10] See note 9.

[11] St. Luke's Medical Center, Inc. and Robert Kuan v. Estrelito Notario, G.R. No. 152166, October 20, 2010. (Citation omitted)

[12] Janssen Pharmaceutica v. Silayro, G.R. No. 172528, February 26, 2008, 546 SCRA 628.

[13] Id.; Perez v. Medical City General Hospital, G.R. No. 150198, March 6, 2006, 484 SCRA 138; National Sugar Refineries Corporation v. NLRC, G.R. No. 112539, June 21, 1999, 308 SCRA 599; Offshore Industries, Inc. v. NLRC (5[th] Division), G.R. No. 83108, August 29, 1989, 177 SCRA 50.

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