

JONAS MICHAEL R. GARZA, PETITIONER, VS. COCA-COLA BOTTLERS PEREZ, AND PHILIPPINES, INC. CHRISTINE BANAL/ CALIXTO MANAIG, RESPONDENTS.

G.R. No. 180972. January 20, 2014

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

Unsubstantiated accusations or baseless conclusions of the employer are insufficient legal justifications to dismiss an employee. “The unflinching rule in illegal dismissal cases is that the employer bears the burden of proof.”[1]

This Petition for Review on Certiorari[2] seeks a review and setting aside of the September 26, 2007 Decision[3] and the November 16, 2007 Resolution[4] of the Court of Appeals (CA) in CA-G.R. SP Nos. 97915 and 97916.

Factual Antecedents

Respondent Coca-Cola Bottlers Philippines, Inc. (CCBPI) is a manufacturer of soft drink products, employing salesmen and account specialists to sell these products to customers and outlets.

Petitioner Jonas Michael R. Garza (petitioner) became a regular employee of CCBPI on December 16, 1997, designated as its Salesman in Iriga City. In 2001, he was promoted to the position of Dealer Development Coordinator and assigned at Tabaco City. During his stint therein, he was likewise designated as Acting District Sales Supervisor.

In 2003, due to changes in CCBPI’s structure and operating systems, the position of Dealer Development Coordinator was abolished, and petitioner was designated as Account Specialist and assigned to the CCBPI Naga City Plant and at Iriga City. For his services, petitioner received a monthly salary of P29,350.00, exclusive of commissions and allowances. Prior to his dismissal from CCBPI, petitioner was an employee of good standing with an unblemished record.

As Account Specialist, petitioner was tasked mainly with booking customers’ orders and collecting on their accounts;[5] petitioner merely books customers’ orders, but does not deliver the product to them; the independent dealer makes the delivery.[6] In effect, petitioner performed the functions of a CCBPI salesman, except that he operates in concentrated or dense areas.[7]

As a matter of company policy, CCBPI Account Specialists/Salesmen are obliged to remit all cash sales and credit cash collections to the company office on the same day that payments are received in cash or check from customers, dealers and outlets.[8] Thus, before allowing the Account Specialists/Salesmen to work the following day, the CCBPI Cashier shall first issue a clearance which is given to the company security guard stating whether they incurred shortages or have not remitted collections. If so, the Account Specialist/Salesman concerned is not allowed to leave the company premises unless his shortages are settled.[9] Moreover, shortages are recovered against the monthly salary of the concerned employee.[10]

Petitioner received an October 30, 2003 memorandum[11] from his immediate supervisor, George C. Macatangay (Macatangay), directing him to explain alleged past unliquidated collections and cash shortages, thus:

You are directed to explain within twenty four (24) hours upon receiving this x x x for your shortages for past unliquidated reports and cash shortages.

For your strict compliance.

(signed)

GEORGE C. MACATANGAY

DSS-District 45[12]

On April 23, 2004, petitioner received another memorandum[13] of even date from Macatangay directing him –

x x x to explain in writing within twenty four hours from receipt hereof why you should not be charged [with] violation of Rule 005-85 SEC. 10 of CCBPI EMPLOYEES' CODE OF DISCIPLINARY RULES AND REGULATIONS specifically... misappropriation or embezzlement of Company funds, withholding of Company fund[s], unauthorized retrieval of empties by converting the same to cash for personal use, unremitted or short remittance of collection, non-issuance or mis-issuance of invoices.[14]

Petitioner sought verbal clarification from Macatangay, claiming that the memorandum did not specify the acts and transactions covered by the charge, and said that he could not submit a written explanation unless the charges against him are specified.

Instead of furnishing details, Macatangay issued to petitioner another memorandum[15] dated April 26, 2004, which was for all intents and purposes identical to the April 23, 2004 memorandum. This time, petitioner confronted Macatangay and reiterated his request for a detailed account of his alleged violations, but the latter told him not to worry about the memorandum because it was just a scheme adopted by local CCBPI management to cover up problems in the Naga City Plant.[16]

On May 6, 2004, Macatangay issued another memorandum[17] to petitioner, informing him that he had been placed under preventive suspension for 30 days effective May 12, 2004, and directing him to attend a formal investigation to be conducted on May 11, 2004 at the Naga City Plant. Macatangay personally handed the said memorandum to petitioner at the Mother Seton Hospital where the latter's wife had just given birth. Petitioner sought a rescheduling of the investigation, as he had to attend to his wife and the hospital obligations, and to have time to prepare for the investigation.[18] Significantly, the memorandum included the following paragraph:

Postponement will not be allowed unless prior notice thereof is made at least two (2) days before the scheduled investigation. Total postponement shall not exceed two (2) times [sic].[19]

Instead of rescheduling the investigation as requested, CCBPI through its Territory Sales Manager, Joselito Seradilla (Seradilla) sent a Notice of Termination[20] dated June 14, 2004, thus:

Reference is [made to] the administrative investigation conducted on you by Management relative to your alleged violation of Section 10, Rule 005-85 of our Company's Employee's Code of Disciplinary Rules and Regulation[s].

After carefully evaluating the records of the investigation and other pertinent documents, indeed you have misappropriated, embezzled or fail [sic] to remit company funds amounting to Php105,653.00.

In view of this, it is with much regret to [sic] inform you that your services are hereby terminated effective upon your receipt of this memo, in accordance with our Employee's Code of Disciplinary Rules and Regulations and pertinent provisions of Article 282 of the Labor Code.

At the same time, formal demand is being made to [pay]/restitute to the Company the amount of One Hundred

Five Thousand Six Hundred and Fifty Three Pesos (Php105,653.00) within five (5) days from the receipt hereof. Failure to do so shall constrain us to file necessary charges against you to protect the interest of the Company.

(signed)

Joselito G. Seradilla

TSM T4 SLA[21]

After petitioner received the above termination notice on June 15, 2004, he sought permission from the CCBPI Finance Department to review CCBPI financial records in order to be apprised of the basis for the finding that he misappropriated company funds, but his request was denied.[22] He was also denied access to the plant.[23]

At around 6:30 in the morning of June 15,[24] 2004, Macatangay visited petitioner at his residence and told him that he was being summoned to the CCBPI office by Area Sales Manager Dodie Peniera (ASM Peniera). At the CCBPI Human Resource Department office, where Peniera, Seradilla, Macatangay, and Human Resource Manager, Christine Banal (Banal), were present, Peniera ordered Macatangay to assist petitioner in reconciling the latter's accounts. At the same time, Banal directed petitioner to receive two Notices of Investigation apparently issued on different dates, and affix his signature on the "received" portion thereof, which he did.[25]

However, the agreed reconciliation of petitioner's accounts did not materialize, as Macatangay became uncooperative and CCBPI denied him access to its records.[26]

On August 19, 2004, petitioner filed a Complaint for illegal dismissal against respondents CCBPI, Banal and CCBPI Naga City Plant Logistics Head Calixto Manaig with the Naga City Sub-Regional Arbitration Branch No. V of the National Labor Relations Commission (NLRC), which was docketed as Case No. SUB-RAB V 05-08-0022-A-04. Petitioner prayed for reinstatement, backwages, P100,000.00 moral damages, P100,000.00 exemplary damages, and 10% attorney's fees.[27]

In their Position Paper[28] and Rejoinder to Complainant's Supplemental Position Paper,[29] respondents for the first time specified in detail the alleged violations of petitioner. They claimed that petitioner was guilty of misappropriation of cash/check collections, kiting of checks, and delayed remittances covering the following customer accounts:

1. Alice Asanza -

P 8,160.00

2. Kathryn Serrano/New Ongto Expressmart (Supermart) -

10,645.00

3. Ceguera Bakeshop -

2,558.00

4. Marlene Yu -

21,826.00

5. Ofelia Ong -

5,100.00

6. Beatriz Orolfo -

312.00

7. Henry Botor -

8,920.00

8. Noe Sabularse -

16,090.00

9. MCM Fastfood -

1,260.00

10. Leon Trinidad -

15,186.00

TOTAL

P 90,057.00

Respondents alleged that misappropriation/embezzlement is a violation of CCBPI's November 18, 2002 Inter-Office Memorandum[30] which defined misappropriation, non-remittance or delayed remittance of cash/check collections and specified outright dismissal as punishment for the first offense. They claimed that petitioner's total unremitted collections amounted to P105,653.00 and for this reason, his dismissal was necessary and proper. They added that due to petitioner's failure to attend the scheduled May 11, 2004 investigation, CCBPI was compelled to terminate his services, after which the proper notice was given the Department of Labor and Employment (DOLE). Finally, they contended that since petitioner was dismissed for just cause, he was not entitled to reinstatement, backwages, damages, and attorney's fees.

CCBPI relied mainly on the strength of an audit conducted by its Territory Finance Head, Ronaldo D. Surara (Surara), which concluded that petitioner failed to remit cash and credit collections covering the above accounts.[31]

In his Position Paper,[32] Supplemental Position Paper,[33] and Reply to Respondents' Rejoinder to Complainant's Position Paper,[34] petitioner claimed essentially that (1) his dismissal was without just cause, and (2) he was denied due process during the proceedings leading to his dismissal. Relative to his claim of dismissal without just cause, petitioner contended that:

1. The charges against him are false; he was not guilty of embezzlement. All his transactions as Account Specialist are duly accounted for, all cash sales were remitted to CCBPI and all check payments were remitted and credited to CCBPI's account. Nor did he delay the remittance of these cash and check payments, nor used them in kiting operations for his personal benefit;

2. With regard to cash collections covering the Henry Botor and Noe Sabularse accounts, CCBPI policies and procedures make it impossible for Salesmen/Account Specialists to commit embezzlement. Each working day, they are required to account for their sales/collections and obtain clearance from the company cashier before they are allowed to leave company premises at the end of their shift and report for work the next day; in case of a shortage, the concerned employee is not allowed to leave the company premises until he settles the shortage. In addition, shortages are deducted against the employee's salaries. The fact that he continued to report for work up to June 2004 without any adverse action from CCBPI proved that the irregularities attributed to him – which CCBPI claims were committed against his April and May 2003 accounts – were manufactured and untrue;

3. With respect to the Alice Asanza (Asanza) account, CCBPI's claim that he failed to remit the customer's payment is belied by the customer herself, who admitted in her sworn statement[35] that during a meeting with CCBPI auditors, she made a mistake in affirming that a delivery of CCBPI products worth P8,160.00 was made on January 30, 2004 and that the same was paid for in cash. She admitted that after consulting her records, delivery of said P8,160.00 worth of CCBPI products was in fact made on October 15, 2003, and that up to now the same remained unpaid. She admitted that she was confused by the CCBPI records which were shown to her, which indicated "Date of Invoice 01-30-04"; thus she mistakenly assumed that a delivery of P8,160.00 worth of CCBPI products was indeed made on such date, and that the same was paid for by her, when in fact no such transaction took place;

4. Contrary to CCBPI's claim, all the concerned CCBPI customers, through their submitted affidavits and certifications,[36] belied claims that petitioner embezzled their cash or check payments;

5. He could not have committed "kiting" of CCBPI's checks, as CCBPI claims, for the simple reason that these checks were made payable to CCBPI specifically, and were not issued in his name. Thus, even for CCBPI products paid for in advance through checks ("payment upon order" or "PUO" accounts), there is no opportunity for embezzlement because the checks are made out to CCBPI;[37]

6. On the claim of delayed remittances of check payments pertaining to the Leon Trinidad and MCM Fastfood accounts, petitioner claims that although it appears that the checks were issued or dated in the name of CCBPI days earlier, or upon the booking of orders by the petitioner, delivery of its products by the dealer was made days later. Naturally, the checks would only be released by the customers to the petitioner upon/after delivery of products by the dealer; which means that although it would appear that the checks were issued/dated by customers earlier – upon the booking of the customers' orders – they were delivered/handed over to petitioner only upon/after completion of delivery, which come days after the checks were issued/dated. CCBPI operates through private independent dealers over whom/which petitioner has no control, which means that after petitioner books an order, prompt delivery by the dealer is not guaranteed, and actual delivery could be made days later;[38]

7. With regard to transactions with Kathryn Serrano (Serrano) of New Ongto Supermart, what CCBPI claims was a different transaction covering an alleged unremitted amount of P10,645.00 was already paid for by Serrano in check issued to CCBPI, and the amount has been debited from her account.[39] CCBPI made a mistake in its records, which showed that Serrano paid by check for her order of CCBPI products worth P10,645.00, but which account was recorded by it as a different sale transaction of P10,615.00. These two transactions are but one and the same; in fact, CCBPI itself claims in its Rejoinder to Complainant's Position Paper that Serrano's check for P10,645.00 was used to pay the P10,615.00 transaction, which only proves that the P10,615.00 transaction was an erroneous entry;

8. With respect to the Marlene Yu, Beatriz Orolfo, Ofelia Ong, and Ceguera Bakeshop accounts, their own sworn statements and certifications will show that all their check payments were issued in the name of CCBPI, not the petitioner. And all the amounts covered by these checks have been duly debited from their accounts.[40]

In conclusion, petitioner argued that the evidence showed that he did not commit the alleged embezzlement; that CCBPI failed to prove just cause for his dismissal; and that the charges against him were contrived and the evidence self-serving.

As for his contention that he was denied due process during the proceedings leading to his dismissal, petitioner claimed that he was not provided ample opportunity to be heard. The April 23, 2004 written charge against him did not specify the particular transactions and acts which formed the basis for the accusations against him, for which reason he was unable to prepare the required written explanation. He verbally informed Macatangay of this

predicament, but instead of acceding to his lawful request, the latter issued the April 26, 2004 memorandum which was identical to that issued on April 23. Petitioner argued that he could not be considered to have ignored the written charge against him. Nor may it be said that he waived his right to an investigation, as the evidence showed that he sought a rescheduling of the May 11, 2004 hearing for valid reasons – his wife had just given birth; he had to attend to her and their newborn child, as well as take care of their financial obligations to the hospital. CCBPI's failure and refusal to grant a postponement of the investigation was thus unreasonable and violative of his rights.

Petitioner added that he waited in vain for CCBPI to furnish him the proper detailed charges and accusations against him; instead, CCBPI issued the June 14, 2004 Notice of Termination. And immediately after receiving the said notice, he was called by ASM Peniera to his office where he was ostensibly told that he could have access to company records in order to reconcile his accounts, but which never materialized as thereafter he was in fact prohibited from entering the company premises and denied access to the records.

Ruling of the Labor Arbiter

On March 28, 2005, the Labor Arbiter issued a Decision,[41] the decretal portion of which states:

WHEREFORE, finding merit on [sic] the causes of action set forth by the complainant, judgment is hereby rendered declaring his termination or dismissal from employment by the respondents as ILLEGAL and thereby ORDERING x x x the following:

A. To reinstate the complainant within ten (10) days upon receipt of this Decision to his former position without loss of seniority rights and other privileges, and to submit compliance thereto within the same period.

B. To pay backwages, inclusive of allowances and other benefits or his [sic] monetary equivalent, computed from the date of his respective dismissal up to the time of his actual reinstatement, whether physically or on payroll, which as of the date of this decision amounted to P282,625.00 computed from June 14, 2004 to this date of decision, at the rate of P29,750.00 per month.

[C.] To pay Attorney's Fees corresponding to 10% of the total amount of P282,625.00 due to the complainant which is equivalent to the sum of P28,262.50.

Other than the above, all other claims are hereby ordered DISMISSED for lack of merit.

SO ORDERED.[42]

The Labor Arbiter held that CCBPI failed to adduce in evidence the particular provision in the CCBPI Employee's Code of Disciplinary Rules and Regulations which forms the basis of its accusations against petitioner. He added that the accusation that petitioner embezzled company funds totaling P105,653.00 was couched in general terms; the particulars thereof were not stated with sufficient clarity. Moreover, the alleged violations were not clearly made known to petitioner, such that he could not properly refute them. And instead of allowing a postponement of the investigation as requested by petitioner, he was summarily dismissed.

The Labor Arbiter further held that CCBPI violated the notice and hearing requirements, in serving upon petitioner a first notice which failed to correctly and fully inform him of the charges against him; for unreasonably denying him an opportunity to be heard during the investigation; and for issuing a second notice of termination that did not contain clear and sufficient reasons for his dismissal.

The Labor Arbiter however denied petitioner's prayer for moral and exemplary damages, stating that CCBPI and its co-respondents do not appear to be guilty of bad faith, malice or fraud, nor did they act in a manner contrary to morals, good customs or public policy. However, petitioner was awarded attorney's fees, as he was compelled to

litigate and thus secure the services of counsel to protect his interest.

Ruling of the National Labor Relations Commission

Respondents appealed to the NLRC.[43] Meanwhile, in May 2005, while the NLRC appeal was pending, petitioner was reinstated pursuant to Art. 223 of the Labor Code.[44] He was designated as Route Salesman, and was assigned tasks relative to booking and delivery of CCBPI products, and collection of accounts. In fact, he was awarded a Certificate of Achievement for exemplary sales performance.[45]

On July 31, 2006, the NLRC issued its Decision[46] which decreed as follows:

WHEREFORE, as modified, respondents-appellants are ordered to pay complainant-appellee Jonas Michael R. Garza his full backwages, inclusive of allowances and other benefits or their monetary equivalent, to be computed from the time of his illegal dismissal up to the promulgation of this [D]ecision in the amount of Php760,583.53, separation pay of one (1) month for his every year of service computed from the time of his employment up to the promulgation of this [D]ecision in the amount of Php267,750.00 and, ten percent (10%) attorney's fees of the total monetary award.

SO ORDERED.[47]

In affirming the Labor Arbiter's finding of illegal dismissal, the NLRC held that CCBPI failed to adduce sufficient evidence of petitioner's alleged embezzlement; quite the contrary, the latter's evidence showed that no embezzlement took place, as all check payments he received were credited to CCBPI's account. With regard to cash payments, the NLRC held that CCBPI's documentary evidence consisting of delivery and payment receipts, other than showing the fact of delivery of products to customers and payment made by them, do not prove embezzlement on the part of petitioner.

The NLRC likewise held that in dismissing petitioner, CCBPI failed to comply with the twin requirements of notice and hearing. The first two memorandum-notices of April 23 and April 26, 2004 requiring an explanation from petitioner did not indicate the particular transactions covered by the charges against him, despite clarification sought by him. The May 6, 2004 memorandum of suspension and investigation, on the other hand, merely reiterated the charges against petitioner, and did not state the basis for the investigation.

Finally, the NLRC reversed the Labor Arbiter's order of reinstatement, finding that relations between the petitioner and CCBPI have been strained.

Petitioner and respondents filed their respective motions for reconsideration,[48] which were denied in an October 27, 2006 Resolution.[49] Both thus went up to the CA on certiorari, with petitioner raising only the issue of reinstatement.

In the meantime, petitioner received a January 16, 2007 Memorandum informing him that effective January 17, 2007, petitioner may no longer report for work on account of the NLRC's October 27, 2006 Resolution.

Ruling of the Court of Appeals

The CA consolidated the two petitions. On September 26, 2007, it issued the assailed Decision, the dispositive portion of which reads, as follows:

WHEREFORE, premises considered, the assailed Decision dated July 31, 2006 and the Resolution dated October 27, 2006 of the NLRC, Second Division in NLRC CA No. 044656-05 NLRC-SUB-RAB V Case No. 05-08-00122-04 are REVERSED AND SET ASIDE. Petitioner CCBPI is hereby ORDERED to pay Jonas Michael R. Garza the amount of P30,000.00 as nominal damages for non-compliance with statutory due process.

SO ORDERED.[50]

The CA ruled that petitioner's dismissal was proper. It paid particular attention to the Asanza account, saying that CCBPI's evidence showed that petitioner was guilty of non-remittance of Asanza's P8,160.00 cash payment which appears to have been made on January 30, 2004 on an October 15, 2003 delivery. The payment is evidenced by Official Receipt No. 303203[51] issued by petitioner to Asanza on January 30, 2004, and a January 31, 2004 Route Header Form[52] where petitioner specifically indicated that Asanza no longer had payables to CCBPI. The CA held that from this, CCBPI was able to prove that petitioner was guilty of non-remittance of the P8,160.00 collected from Asanza.

With regard to the manner in which petitioner was dismissed, the CA conceded that the procedure observed by CCBPI was defective, but since the dismissal was for just cause, the lack of due process did not nullify the dismissal, but merely entitled petitioner to an award of nominal damages.

Petitioner filed a Motion for Reconsideration, but in the second assailed November 16, 2007 Resolution, the CA denied the same.

Issues

In this Petition,[53] the following issues are raised:

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN REVERSING THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION DESPITE CLEAR AND CONVINCING EVIDENCE THAT PETITIONER WAS ILLEGALLY DISMISSED;

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN NOT MODIFYING THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION WITH [REGARD] TO THE ORDER OF THE HONORABLE COMMISSION FOR PAYMENT OF SEPARATION PAY IN LIEU OF REINSTATEMENT;

THE HONORABLE COURT OF APPEALS ERRED WHEN IT FAILED TO AWARD DAMAGES AND ATTORNEY'S FEES TO THE PETITIONER.[54]

Petitioner's Arguments

Petitioner prays for the reinstatement of the Labor Arbiter's Decision, with an additional prayer for the award of moral and exemplary damages. He argues that he is innocent of the charges against him, pointing to the fact that all cash and check payments were remitted to CCBPI or credited to the latter's account. He insists that CCBPI's evidence consisting of the affidavit of its Territory Finance Head, Surara, is self-serving and without basis. Petitioner directs the Court's attention to the fact that company policies make it impossible for him to embezzle cash and check payments made to him by CCBPI customers, and his evidence consisting of customers' affidavits and certifications prove that all payments are made in the name of and for the account of CCBPI.

With regard to the Asanza account, petitioner claims that the CA erred in finding him guilty of failure to remit the P8,160.00 cash payment made by Asanza, contending that Asanza herself admitted under oath that no payment has in fact been made; that his issuance of Official Receipt No. 303203 was conditioned on Asanza issuing a postdated check later on, which she failed to do; that Asanza's account, as indicated in the receipts and invoices, is precisely an RCS account, or "Regular Charge Sale", which means that deliveries to her are on a credit – not cash – basis; that the January 31, 2004 Route Header Form which indicated that Asanza no longer had payables to CCBPI refers to deliveries made specifically on January 30, 2004, and did not include or refer to the October 15, 2003 transaction, which to date remains unpaid.

Finally, petitioner contends that he should be reinstated to his former position, and awarded moral and exemplary damages, as well as attorney's fees.

Respondents' Arguments

Respondents, apart from echoing the pronouncements of the CA, flatly submit that the Petition involves purely questions of fact revolving around CCBPI customers, who confirmed in their affidavits^[55] that their cash payments were not remitted by petitioner to CCBPI.

Our Ruling

The Court grants the Petition.

There is no issue on the manner by which petitioner was dismissed. Since respondents did not appeal the unanimous findings of the Labor Arbiter, NLRC and the CA in this regard, their pronouncements on the issue are deemed final and executory. The only issue that needs to be resolved, therefore, is whether there is just cause for petitioner's dismissal.

The sole basis for the CA's ruling that petitioner was validly dismissed is that he failed to remit a cash collection of P8,160.00 from one of its customers, Asanza. What seems to have escaped the appellate court's notice is that in order to be able to come to such a conclusion, an important issue concerning CCBPI policies and procedures must first be tackled.

One of CCBPI's policies requires that, on a daily basis, CCBPI Salesmen/ Account Specialists must account for their sales/collections and obtain clearance from the company Cashier before they are allowed to leave company premises at the end of their shift and report for work the next day. If there is a shortage/failure to account, the concerned Salesmen/Account Specialist is not allowed to leave the company premises until he settles the same. In addition, shortages are deducted from the employee's salaries. Petitioner made repeated reiterations of this company policy all throughout the proceedings, and not once did respondents deny or dispute its existence and implementation. In fact, respondents confirmed existence of this policy when they stated in their Position Paper,^[56] that "[a]s a matter of policy, salesmen in respondent's company are obliged to remit all cash sales and credit cash collections to the company office on the same day that said payments are made by various customers, dealers and outlets."^[57]

It is altogether reasonable to suppose that this policy actually exists, because undeniably, such policy insured a fool-proof system of accountability within CCBPI, where shortages are immediately detected, presumably through the reconciliation of daily orders and deliveries to customers with the daily collections of CCBPI's salesmen, and simultaneously accounted for. With such a policy, no transaction is left unnoticed, and erring salesmen are instantaneously made to account for their shortages before they can even leave the premises and come back to work the following day.

Within the context of said policy, it can be said that since petitioner continued to work for CCBPI until June 2004, this should necessarily mean that he was clear of daily cash and check accountabilities, including those transactions covered by the charges against him. If not, the company cashier would not have issued the required clearance and petitioner would have been required to settle these shortages as soon as they were incurred. Indeed, he would not have been allowed to leave company premises until they were settled in accordance with company policy. And he would not have been allowed to report for work the following day.

"Where facts are in evidence affording legitimate inferences going to establish the ultimate fact that the evidence is designed to prove, and the party to be affected by the proof, with an opportunity to do so, fails to deny or explain them, they may well be taken as admitted with all the effect of the inferences afforded."^[58] If CCBPI expects to proceed with its case against petitioner, it should have negated this policy, for its existence and application are inextricably tied to CCBPI's accusations against petitioner. In the first place, as petitioner's

employer, upon it lay the burden of proving by convincing evidence that he was dismissed for cause.[59] If petitioner continued to work until June 2004, this meant that he committed no infraction, going by this company policy; it could also mean that any infraction or shortage/non-remittance incurred by petitioner has been duly settled. Respondents' decision to ignore this issue generates the belief that petitioner is telling the truth, and that the alleged infractions are fabricated, or have been forgiven. Coupled with Macatangay's statement – which remains equally unrefuted – that the charges against petitioner are a scheme by local CCBPI management to cover up problems in the Naga City Plant, the conclusion is indeed telling that petitioner is being wrongfully made to account.

The irregularity attributed to petitioner with regard to the Asanza account should fail as well. To be sure, Asanza herself confirmed that she did not make any payment in cash or check of P8,160.00 covering the October 15, 2003 delivery for which petitioner is being held to account. This being the case, petitioner could not be charged with embezzlement/failure to remit for the simple reason that as regards such October 15, 2003 delivery, there was nothing to embezzle or remit because no payment thereon has as yet been made by the customer Asanza. It may appear from Official Receipt No. 303203 issued to Asanza that the October 15 delivery of products to her has been paid; but as admitted by her, she has not paid for the said delivered products. The reason for petitioner's issuance of said official receipt to Asanza is the latter's concurrent promise that she would immediately issue the check covering the said amount, which she nevertheless failed to do.

Although petitioner may be faulted for this act – issuing an official receipt without receiving the corresponding payment – he could not be accused of embezzlement or failure to remit as defined and punished under CCBPI's November 18, 2002 Inter-Office Memorandum, because he received no cash or check from Asanza. Without receiving anything from her, there was nothing for petitioner to embezzle or remit, and thus CCBPI had no basis to charge him for violation of the November 18, 2002 Inter-Office Memorandum which punished embezzlement and failure/delay in remitting collections.

The Court likewise finds convincing petitioner's arguments that it was impossible for him to embezzle/not remit the other customers' cash and check payments, not only because of the existence of the abovementioned policy, but likewise due to the sworn avowals of these customers that all their check payments have been issued in CCBPI's name and have been duly debited from their accounts. Certainly, petitioner could not have encashed check payments because they were issued in the name of CCBPI; for the same reason, he could not have engaged in kiting operations. Quite certainly, he would have easily been found out.

Regarding the claim that petitioner delayed the remittance of check payments covering PUO accounts, the Court finds petitioner's explanation to be satisfactory. Suffice it to state that in selling its products, CCBPI, like other manufacturers, operates through independent dealer-businessmen, whose delivery schedules are beyond CCBPI's control. Thus, if a CCBPI salesman places a customer's order with the independent dealer, this does not mean that the latter would immediately deliver the product; it could do so later. Meanwhile, the customer would write and date his/her check to coincide with the date of the order, expecting that delivery would be made the very same day. But actual delivery could be made days later; naturally, the customer would release the check – which is dated days earlier – to the CCBPI salesman (including petitioner) only after the delivery is completed. As correctly argued by petitioner, this constitutes a cogent explanation for his apparent late remittance of PUO or "date of order=date of check" checks.

In a bid to further pin down petitioner, respondents rely heavily on CCBPI customers' affidavits[60] which state that their cash payments were not remitted by petitioner to CCBPI. How these customers came to the knowledge and conclusion that petitioner did not remit their cash payments to CCBPI is beyond the Court. If there should be actual knowledge of petitioner's embezzlement, it could only come from respondents; it is not for the CCBPI

customers to prove, for the benefit of respondents, that petitioner embezzled their cash payments. They have gained no knowledge superior to that of respondents regarding this fact, and offhand are not adequately equipped with the means to come to such a conclusion. Thus, for respondents to even present their sworn statements to such effect is truly beyond comprehension.

As earlier stated, the burden is on the employer to prove that the termination was for valid cause. Unsubstantiated accusations or baseless conclusions of the employer are insufficient legal justifications to dismiss an employee. “The unflinching rule in illegal dismissal cases is that the employer bears the burden of proof.”[61]

It may also be said that CCBPI’s subsequent award of a Certificate of Achievement to petitioner for his exemplary sales performance, while the NLRC appeal was pending, constitutes recognition of petitioner’s abilities and accomplishments in CCBPI. It indicates that he is a responsible, trustworthy and hardworking employee of CCBPI. It constitutes adequate proof weighing in his favor.

Having thus seen that petitioner is innocent of the charges leveled against him, the Court must order his reinstatement. As a matter of course, the NLRC and CA pronouncements inconsistent with this declaration are necessarily rendered null and void. However, no moral and exemplary damages are forthcoming. Petitioner’s failure to appeal the Labor Arbiter’s ruling denying his claims for these damages rendered such pronouncement final and executory; he may no longer obtain a modification or reversal of the Decision on the issue. A party who did not appeal from the decision cannot seek any relief other than what is provided in the judgment appealed from.[62]

Finally, consistent with the Court’s pronouncement in *Nacar v. Gallery Frames*,[63] the awards herein are subject to interest at the rate of six percent (6%) per annum, to be computed from the finality of the Decision in this case until the total award is fully paid.

WHEREFORE, the Petition is GRANTED. The September 26, 2007 Decision and November 16, 2007 Resolution of the Court of Appeals in CA-G.R. SP Nos. 97915 and 97916 are ANNULLED and SET ASIDE. The July 31, 2006 Decision of the National Labor Relations Commission is REINSTATED, with the modification that petitioner Jonas Michael R. Garza is ORDERED reinstated to his former position as Account Specialist or its equivalent, without loss of seniority, rank, emolument and privileges, and with full backwages from the date of his illegal dismissal up to his actual reinstatement.

In addition, the awards in petitioner’s favor shall earn interest at the rate of six percent (6%) per annum on outstanding balance from finality of this Decision until full payment thereof.

The computation division of the NLRC-SUB-RAB-Branch No. V is hereby ORDERED to immediately update and compute the awards as herein granted, excluding therefrom the period during which petitioner was actually reinstated and compensated, after which respondent Coca-Cola Bottlers Philippines, Inc. is ORDERED to immediately pay the petitioner Jonas Michael R. Garza these amounts.

SO ORDERED.

Carpio, (Chairperson), Brion, and Perlas-Bernabe, JJ., concur.

[1] *Mendoza v. National Labor Relations Commission*, 369 Phil. 1113, 1123 (1999).

[2] *Rollo*, pp. 7-24.

[3] *Id.* at 25-unpaginated; penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by

Associate Justices Rosalinda Asuncion-Vicente and Enrico A. Lanzas.

[4] Id. at 36-unpaginated.

[5] Id. at 10, Petition for Review on Certiorari; id. at 144-145, petitioner's Reply to CCBPI's Rejoinder to Complainant's Position Paper.

[6] Id. at 144-145, petitioner's Reply to CCBPI's Rejoinder to Complainant's Position Paper.

[7] Id. at 41, petitioner's Position Paper; id. at 151, Decision of the Labor Arbiter; id. at 187, Decision of the National Labor Relations Commission (NLRC).

[8] Id. at 104-105, CCBPI Position Paper.

[9] Id. at 51, petitioner's Position Paper;

[10] Id.

[11] Id. at 72.

[12] Id.

[13] Id. at 73.

[14] Id.

[15] Id. at 74.

[16] Id. at 188; Decision of the NLRC.

[17] Id. at 76.

[18] Id. at 188; Decision of the NLRC.

[19] Id. at 76.

[20] Id. at 71.

[21] Id.

[22] Id. at 189; Decision of the NLRC.

[23] Id. at 46; petitioner's Position Paper.

[24] This could be June 16.

[25] Rollo, p. 47; petitioner's Position Paper.

[26] Id. at 47-48.

[27] Id. at 67-68.

[28] Id. at 102-110.

[29] Id. at 124-128.

[30] Id. at 133-134.

[31] Id. at 111; Respondents' Position Paper.

[32] Id. at 38-70.

[33] Id. at 82-90.

[34] Id. at 142-147.

[35] Id. at 148.

[36] Id. at 91-101, 148.

[37] Id. at 82-90; petitioner's Supplemental Position Paper.

[38] Id. at 144-145; petitioner's Reply to Respondents' Rejoinder to Complainant's Position Paper.

[39] Id. at 96;

[40] Id. at 91-93, 101.

[41] Id. at 150-158; penned by Labor Arbiter Rolando L. Bobis.

[42] Id. at 157-158.

[43] Docketed as NLRC CA No. 044656-05.

[44] ART. 223. Appeal. – Decisions, awards, or orders of the Labor Arbiter are final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards, or orders. x x x

x x x x

In any event, the decision of the Labor Arbiter reinstating a dismissed or separated employee, insofar as the reinstatement aspect is concerned, shall immediately be executory, even pending appeal. The employee shall either be admitted back to work under the same terms and conditions prevailing prior to his dismissal or separation, or at the option of the employer, merely reinstated in the payroll. The posting of a bond by the employer shall not stay the execution for reinstatement provided herein.

x x x x

[45] CA rollo (CA-G.R. SP No. 97916), p. 198.

[46] Rollo, pp. 186-200; penned by Commissioner Victoriano R. Calaycay and concurred in by Presiding Commissioner Raul T. Aquino and Commissioner Angelita A. Gacutan.

[47] Id. at 199-200.

[48] Id. at 201-209; 222-231.

[49] Id. at 232.

[50] Id., unpaginated

[51] Id. at 113.

[52] CA rollo (CA-G.R. SP No. 97915), p. 231.

[53] In a January 28, 2009 Resolution, (rollo, unpaginated) the Court denied the Petition for Review on Certiorari for petitioner's failure to file a Reply. But on motion for reconsideration, the Court, in an August 23, 2010 Resolution, reconsidered, and the Petition was reinstated. (Id. at 333).

[54] Id. at 13.

[55] While their NLRC appeal was pending, respondents filed a “Motion for Leave to Admit Additional Offer of Newly Discovered Evidence”, attaching thereto the affidavits of several of CCBPI’s customers to the effect that petitioner embezzled their cash payments.

[56] Rollo, pp. 102-110.

[57] Id. at 104-105.

[58] Manila Bay Club Corporation v. Court of Appeals, 369 Phil. 413, 418 (1995).

[59] Galang v. Malasugui, G.R. No. 174173, March 7, 2012, 667 SCRA 622, 635-636.

[60] See note 55.

[61] Mendoza v. National Labor Relations Commission, supra note 1.

[62] Chan, Jr. v. Iglesia ni Cristo, Inc., 509 Phil. 753, 764 (2005), citing Spouses Buot v. Court of Appeals, 410 Phil. 183, 199-200 (2001) and The Consolidated Bank and Trust Corporation v. Court of Appeals, 274 Phil. 947, 959-960 (1991).

[63] G.R. No. 189871, August 13, 2013.

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