

ST. LUKE'S MEDICAL CENTER, INCORPORATED, PETITIONER, VS. JENNIFER LYNNE C. FADRIGO, RESPONDENT.

G.R. No. 185933. November 25, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

Petitioner St. Luke's Medical Center, Incorporated (SLMC) appeals by certiorari the August 15, 2008 Decision[1] of the Court of Appeals (CA) in CA-G.R. SP. No. 98959 and the January 7, 2009 Resolution[2] denying its reconsideration.

Respondent Jennifer Lynne C. Fadrigo (respondent) was the Customer Affairs Department Manager of petitioner SLMC. As such, respondent supervised the Wellness Program Office (WPO), which administers SLMC's check up packages.

On April 23, 2005, Dr. Charity Gorospe called up the WPO to refer a patient for immediate check up. The call was answered by Michelle Rillo (Rillo), a trainee at the front desk, who transferred the call to Hazel Tingzon (Tingzon), a casual employee. Tingzon explained to Dr. Gorospe the mechanics of undergoing a check up, which could not be administered immediately as Dr. Gorospe wanted.

Dr. Gorospe informed SLMC's Corporate President, Jose Ledesma (Ledesma), of the incident. Ledesma then called the WPO to inquire if it was its policy to reject patients, like what it did to Dr. Gorospe's referral. The WPO staff denied that they declined Dr. Gorospe's request for immediate admission of her patient, and added that the request for check up was already being processed for scheduling.

At around 5 o'clock in the afternoon of the same day, respondent, who was then at home enjoying her rest day, received a phone call from SLMC's Associate Director for Corporate Affairs, Marilen Lagniton (Lagniton), informing her what had transpired at the WPO on that day; and directing respondent to instruct Tingzon and Rillo not to report for duty the following day. Respondent immediately called the WPO. She was able to talk to Gail Manalastas (Manalastas), a senior associate, who also relayed to her what had happened in the office. Respondent, however, was not able to talk to Tingzon and Rillo because the two already went home. She tried to reach them through their cellular phones to inform them of Lagniton's instruction not to report for work, but respondent's efforts proved futile. Thus, respondent instructed Manalastas to tell Tingzon and Rillo not to work the following day and to wait for her at her office.

In the morning of April 24, 2005, Lagniton called the WPO and found out that Tingzon and Rillo were in the office. She talked to the two and instructed them to go home. Thus, when respondent arrived in the office, Tingzon and Rillo had already gone home.[3]

On April 27, 2005, respondent received a memorandum[4] from Lagniton requiring her to show cause why no disciplinary action should be taken against her for insubordination, gross inefficiency and incompetence due to the April 23 incident. The memorandum stated that respondent allowed a trainee and a casual employee, Rillo and

Tingzon, to man the WPO during official business hours. Likewise, respondent allegedly failed to comply with the management order to immediately pull out Rillo and Tingzon.

In her letter-reply, respondent denied the charges against her. She explained that Manalastas, a senior associate, was present at WPO at the time of the incident. She also denied that she ignored the management directive to instruct Rillo and Tingzon not to report for work the following day. Respondent further requested for a bill of particulars, since the memorandum did not state the specific acts or omissions that amounted to insubordination and gross inefficiency leveled against her.[5]

On May 4, 2005, Fe Corazon B. Ramos-Muit (Muit), Chairman of SLMC's Committee on Values Ethics and Discipline (COVED), issued a memorandum requiring respondent to explain in writing why no disciplinary action should be imposed on the latter for alleged insubordination, gross inefficiency and incompetence; and further informing respondent of the COVED conference set for May 6, 2005.[6]

During the COVED conference, respondent reiterated her request for a bill of particulars, but it was denied. The Committee, likewise, denied respondent's request to summon Dr. Gorospe.

On May 16, 2005, respondent received a memorandum[7] from Muit advising the former of the COVED decision to terminate her employment effective May 18, 2005. In the presence of several employees, respondent was subjected to a thorough search by security officers, pursuant to SLMC's directive.[8]

Claiming termination without cause, respondent filed with the Labor Arbiter a complaint for illegal dismissal with prayer for reinstatement, and for payment of full backwages, moral damages, as well as attorney's fees, against SLMC and COVED members, namely: Editha M. Simeon, Fe Corazon R. Muit, Araceli E. Ona, Marilen T. Lagniton, Jovie Anne M. Monsalud, and Atty. Conrado Dar Santos.

SLMC and the COVED members responded that there was a valid termination. They asserted that respondent was dismissed for a just cause and with due process. Respondent willfully breached her duty when she allowed a trainee and a casual employee to man the WPO during official business hours; and when she ignored the management directive to immediately pull out the personnel involved in the incident, justifying the termination of her employment.

After due proceedings, the Labor Arbiter rendered a decision[9] finding respondent's dismissal illegal. According to the Arbiter, SLMC utterly failed to substantiate the charges of insubordination, gross inefficiency and incompetence against respondent. Her termination from employment was, therefore, without just cause. The Arbiter also found respondent's dismissal without due process and attended by malice and bad faith, justifying the awards of P1,000,000.00 as moral damages, and P163,051.72 as attorney's fees.

The Labor Arbiter disposed, thus:

WHEREFORE, in view of all the foregoing, [SLMC] is hereby ordered to reinstate [respondent] to her former position without loss of seniority rights and other privileges and benefits with full backwages computed from the time of [respondent's] illegal dismissal up her actual reinstatement, which up to this promulgation already amounted to THREE HUNDRED FIFTEEN THOUSAND TWO HUNDRED FIFTY-EIGHT PESOS and 66/100 (P315,258.66). FURTHERMORE, [SLMC] is hereby ordered to pay [respondent] the sum of ONE MILLION ONE [HUNDRED] SIXTY-THREE THOUSAND FIFTY-ONE PESOS and 70/100 (P1,163,051.70) as discussed above.

The reinstatement aspect of this decision is immediately executory and [SLMC] is hereby directed to submit report of compliance within ten (10) calendar days from receipt hereof.

SO ORDERED.[10]

On appeal, the National Labor Relations Commission (NLRC) reversed the Labor Arbiter.[11] It found that respondent was remiss in her duties as Department Manager for Customer Affairs, particularly in handling the WPO. The April 23, 2005 incident proved that respondent had not put in place, or at the very least had not made clear, the office policy on admission of clients which resulted in the fiasco. SLMC, thus, lost its trust and confidence in respondent to head a critical and significant department. The operation of a hospital, the NLRC explained, is service oriented, as it provides the public with medical services. Thus, when an employee is guilty of breach of trust or his employer has ample reason to distrust him, the employee's dismissal is justified. Accordingly, the NLRC granted the appeal and dismissed respondent's complaint for illegal dismissal. However, it awarded separation pay, after considering respondent's exemplary performance in her five years' stay with SLMC. Thus:

WHEREFORE, the decision appealed from is hereby REVERSED and SET ASIDE, and correspondingly, the complaint for illegal dismissal is dismissed for lack of merit. However, consistent with our adherence to the principles of social justice, the payment of separation pay equivalent to one-half (1/2) month salary per every year of service is awarded to [respondent].

SO ORDERED.[12]

Respondent filed a motion for reconsideration, but the NLRC denied it.

Respondent then elevated the NLRC ruling via certiorari to the CA, which rendered the now assailed Decision[13] reversing the NLRC and reinstating, but with modification, the Labor Arbiter's decision. The CA sustained the Arbiter's finding that respondent committed no insubordination of such willful and intentional character amounting to a wrongful and perverse attitude as would warrant her dismissal. It also failed to perceive any gross inefficiency on the part of respondent. The assignment of a casual employee and a trainee to the WPO, it held, could hardly constitute gross inefficiency. It added that the April 23, 2005 incident was either a misunderstanding or a case of someone wanting to have something done without following hospital procedure. The CA, therefore, held that no just cause exists to warrant respondent's dismissal. Respondent is, thus, entitled to reinstatement with backwages. The CA, however, ruled that reinstatement is no longer viable considering that respondent no longer enjoys SLMC's full trust and confidence; thus, in lieu of reinstatement, the CA ordered the payment of separation pay equivalent to at least one month pay, or one month pay for every year of service, whichever is higher. Both backwages and separation pay should be computed from the date of illegal dismissal until the finality of the decision. The CA further reduced the award of moral damages from P1,000,000.00 to P100,000.00.

The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the petition is GRANTED and the assailed October 31, 2006 Decision is, accordingly, NULLIFIED and SET ASIDE. In lieu thereof, the Labor Arbiter's Decision is REINSTATED with MODIFICATIONS, viz: awarding [respondent], in lieu of reinstatement, separation pay equivalent to one month salary for every year of service; and reducing the award of moral damages from P1,000,000.00 to P100,000.00.

SO ORDERED.[14]

SLMC filed a motion for reconsideration, but the CA denied the same in its January 7, 2009 Resolution.[15]

Before us, SLMC insists that respondent was validly dismissed. It argues that respondent was a managerial employee and, as such, the mere existence of a basis for believing that respondent has breached the trust of her employer would suffice for her dismissal. SLMC asserts that the CA committed reversible error in reversing the NLRC decision.

The petition is devoid of merit.

SLMC attributes loss of confidence to respondent's alleged gross inefficiency, incompetence and insubordination. The termination letter reads:

You are charged with allowing a casual reliever and a student trainee to man a frontline desk unsupervised by a senior staff, failing to document Wellness Program Office operations policies and procedures as guides for staff to implement, failing to orient new staff, failing to implement corrective and preventive actions on the most recent previous related incident that occurred on April 6, 2005, failing to personally report to Management the details of the incident and follow-up reports thereafter, failing to ensure Management directive is carried out and failure to inform Management of any changes by you to their directive.

Therefore, it is with deep regret that we find Gross Inefficiency, Incompetence and Insubordination in the discharge of your duties and responsibilities as Department Manager. Furthermore, you have made false and inconsistent claims in your letters of explanation dated April 28 and May 5, 2005 as well as during the May 6, 2005 COVED conference. It would be inadvisable to consider retaining you as a Department Manager of the Medical Center as there is no reason for the Management to further provide you with the trust and confidence that your position entails. In considering the pertinent facts of the case, the COVED is constrained to decide against your favor.

We regret to inform you that your services are Terminated effective May 18, 2005. x x x.[16]

Gross inefficiency is closely related to gross neglect, for both involve specific acts of omission on the part of the employee resulting in damage to the employer or to his business.[17] As a just cause for an employee's dismissal, inefficiency or neglect of duty must not only be gross but also habitual. Thus, a single or isolated act of negligence does not constitute a just cause for the dismissal of the employee.[18]

We reviewed the records before us and we did not see any gross and habitual neglect or gross inefficiency on the part of respondent that would justify her termination from employment. As aptly pointed out by the Labor Arbiter:

[SLMC] has not cited any specific policy prohibiting such assignment of casuals and trainees under pain of dismissal from employment. On the other hand, we find [respondent's] explanation for such a situation reasonable, i.e., it is a practice resorted to due to lack of manpower and management's reluctance to hire regular employees. Furthermore, as explained by [respondent], there was in fact a senior staff (regular employee) in the person of Ms. Gail Manalastas assigned to the 7 a.m. to 4 p.m. shift on that particular day.[19]

Neither can SLMC validate respondent's termination on the ground of gross inefficiency for her alleged failure to document WPO policies, to orient new staff, and to act on the incident of April 6, 2005, for no convincing evidence was offered to prove the allegation. Likewise, the alleged failure was never included in the show cause memorandum given to respondent, which strengthens our belief that this allegation was a mere afterthought to try to justify the illegal dismissal.

Furthermore, respondent's alleged inefficiency or neglect of duty, assuming this to be true, does not appear to be habitual that would constitute a just cause for the termination of her employment. In her five-year stay with SLMC, respondent had shown exemplary performance, evidenced by the testimonials and commendations given to her.[20] Clearly, SLMC cannot justify respondent's termination on the ground of gross inefficiency or gross neglect of duty.

SLMC also attributes loss of confidence to respondent's alleged insubordination.

Willful disobedience or insubordination, as alleged in this case, necessitates the concurrence of at least two requisites: (1) the employee's assailed conduct must have been willful, that is, characterized by a wrongful and

perverse attitude; and (2) the order violated must have been reasonable, lawful, made known to the employee, and must pertain to the duties which he had been engaged to discharge.[21] The facts of this case do not show the presence of the first requisite.

As the CA had taken pains to explain:

[Respondent] committed no insubordination of such willful and intentional character amounting to a wrongful and perverse attitude as would warrant the penalty of dismissal. The order coming from management to pull out the casual and trainee staff came through sometime after five o'clock in the afternoon of April 22, 2006 (sic) when said staff had already left the office. Even then, [respondent] tried to call up the two (2) on their mobile phones as well as send text messages to them but to no avail. In the end, [respondent] left instructions with two (2) of her senior associates at the WPO who would be present at the office the following day not to allow the casual and trainee staff to work anymore but to just let them wait for her in her office so that she could personally inform them of management's decision to pull them out.

Under the circumstances, we find that [respondent] did the best that she could possibly do to comply with management's orders. Furthermore, it appears from the records that although the casual and trainee staff(s) were indeed present the following day, they were in fact no longer allowed to handle any work at the WPO. They merely waited for [respondent] to arrive. Management appears to have concluded that just because the two (2) were at the WPO, they were still allowed to work, which was not the case. Being their immediate supervisor, [respondent's] act of making them wait for her in her office so she could personally inform them of their dismissal is understandable. We see nothing wrong with that - it is even humane, to say the least.[22]

Undoubtedly, respondent cannot be dismissed for loss of confidence arising from alleged gross inefficiency and insubordination.

We are not unmindful of the employer's right to dismiss an employee based on fraud or willful breach of trust. However, the loss of confidence must be based not on an ordinary breach by the employee of the trust reposed in him by the employer, but, in the language of Article 282(c) of the Labor Code, on a willful breach. A breach is willful if it is done intentionally, knowingly and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly, or inadvertently. It must rest on substantial grounds and not on the employer's arbitrariness, whims, caprices or suspicion; otherwise, the employee would eternally remain at the mercy of the employer. It should be genuine and not simulated; nor should it appear as a mere afterthought to justify an earlier action taken in bad faith or as a subterfuge for causes that are improper, illegal or unjustified. It has never been intended to afford an occasion for abuse because of its subjective nature. There must, therefore, be an actual breach of duty committed by the employee, which must be established by substantial evidence.[23] In this case, SLMC utterly failed to establish the requirements prescribed by law and jurisprudence for a valid dismissal on the ground of breach of trust and confidence.

The principle echoed and reechoed in jurisprudence is that the onus of proving that the employee was dismissed for a just cause rests on the employer,[24] and the latter's failure to discharge that burden would result in a finding that the dismissal is unjustified.[25] The CA, therefore, committed no reversible error in not sustaining the legality of respondent's dismissal.

Article 279 of the Labor Code mandates that an employee who was unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, as well as to other benefits or their monetary equivalent, computed from the time her compensation was withheld up to the time of her actual reinstatement.[26] Since the circumstances obtaining in this case do not warrant respondent's reinstatement due to her strained relations with SLMC, the award by the CA of separation pay, in lieu of reinstatement, in addition to full backwages, is in order.

WHEREFORE, the petition is DENIED. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. No. 98959 are AFFIRMED.

Costs against petitioner.

SO ORDERED.

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

[*] The present petition impleaded the Court of Appeals as respondent. However, Section 4, Rule 45 of the Revised Rules of Court provides that the petition shall not implead lower courts and judges thereof as petitioners or respondents. Hence, the deletion of the Court of Appeals from the title.

[1] Penned by Associate Justice Rebecca de Guia-Salvador, with Associate Justices Vicente S.E. Veloso and Ricardo R. Rosario, concurring; rollo, pp. 84-105.

[2] Id. at 107-108.

[3] Id. at 120.

[4] Id. at 118.

[5] Id. at 119-120.

[6] Id. at 126.

[7] Id. at 130.

[8] See Position Paper, id. at 167.

[9] Rollo, pp. 187-210.

[10] Id. at 210.

[11] Id. at 315-335.

[12] Id. at 334-335.

[13] Supra note 1.

[14] Id. at 104.

[15] Supra note 2.

[16] Supra note 7.

[17] Lim v. NLRC, 328 Phil. 843 (1996).

[18] Bienvenido C. Gilles v. CA, Schema Konsult and Edgardo Abores, G.R. 149273, June 5, 2009.

[19] Rollo, p. 206.

[20] Id. at 433-439.

[21] Bienvenido C. Gilles v. CA, Schema Konsult and Edgardo Abores, supra note 18.

[22] Rollo, pp. 100-101.

[23] Manila Memorial Park Cemetery, Inc. v. Panado, G.R. No. 167118, June 15, 2006, 490 SCRA 751, 767-768.

[24] See De Jesus v. National Labor Relations Commission, G.R. No. 151158, August 17, 2007, 530 SCRA 489, 498.

[25] AFI International Trading Corporation (Zamboanga Buying Station) v. Lorenzo, G.R. No. 173256, October 9, 2007, 535 SCRA 347.

[26] Bienvenido C. Gilles v. CA, Schema Konsult and Edgardo Abores, supra note 18.

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