

WHITE DIAMOND TRADING CORPORATION AND/OR JERRY UY AND JESSIE UY, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, NORLITO ESCOTO, MARY GRACE PASTORIL AND MARIA MYRNA OMELA,...

G.R. No. 186019. March 29, 2010

Ponente: BRION, J.

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BRION, J.:

For resolution is the present Petition for Review on Certiorari[1] filed by petitioners White Diamond Trading Corporation and/or Jerry Uy and Jessie Uy. The petition seeks to nullify the Decision[2] and Resolution[3] of the Court of Appeals (CA), promulgated on October 24, 2008 and January 14, 2009, respectively, in CA-G.R. SP No. 94137.[4]

THE ANTECEDENTS

The background and facts are summarized below.

The petitioner White Diamond Trading Corporation (the company) is engaged in buying and selling second hand motor vehicles; Jerry Uy is its owner and Jessie Uy its President. The company employed Maria Myrna Omela (Omela) in 1999 as assistant secretary, Mary Jane Pastoril (Pastoril) in 2000 as secretary, and Norlito Escoto (Escoto) in 2001 as salesman.

On February 28, 2004, Escoto consummated the sale of a Toyota Town Ace to Teodoro Abejar Aquino (Aquino) for P200,000.00. Aquino tried but failed to haggle for a lower price. While the purchase price indicated in the original copy of the receipt issued to Aquino was P200,000.00, it was only P190,000.00 in the duplicate copy that remained with the company. The receipt was issued by Omela to Aquino after he gave Omela P200,000.00 in cash, which amount Aquino counted in the presence of Pastoril. Pastoril then took out the deed of sale and handed it to Aquino. The deed showed that the consideration for the sale to be P190,000.00.

On March 8, 2004, the company terminated the employment of Escoto, Omela and Pastoril. On March 10, 2004, the three employees filed a complaint for illegal dismissal against the company and its two top officers.

THE COMPULSORY ARBITRATION PROCEEDINGS

Before the labor arbiter, the dismissed employees described themselves as hardworking with no derogatory record in the course of their employment. They were therefore surprised when their employer terminated their employment without conducting an investigation, on the accusation that they stole company funds. They denied the accusation and alleged that on the day Aquino bought the Toyota Town Ace, he paid the purchase price of P200,000.00 to Omela who issued a receipt for that amount. Aquino then went to Escoto, who was then attending to the release of the vehicle, to ask for an additional discount. Escoto told Aquino that he would bring the matter

up to Jessie Uy. Jessie Uy agreed to give the requested discount, but Aquino had already left the premises. Omela then reflected the correct amount of the purchase price in the duplicate receipt. When Escoto contacted Aquino on March 1, 2004, he told him that he (Escoto) had a refund of P10,000.00. Aquino collected the refund on March 8, 2004 and issued a receipt for that amount. By way of intervening development, on insistent questioning by their co-employee Neil Rodriguez (Rodriguez) on February 28, 2004, Escoto disclosed to Rodriguez that they would remit the P10,000.00 discount to Aquino. Rodriguez responded by asking that they keep the money for themselves (Escoto, Rodriguez, Omela, Pastoril and Bernie, another co-employee). Rodriguez even told Escoto that he was in dire need of money because he had been involved in a vehicular accident and had paid the victim a substantial amount as settlement. Escoto informed Rodriguez that the money was with Omela; thereafter, Escoto lent Rodriguez P1,000.00, an amount that Rodriguez had not yet paid. The complainants denied that they altered the phone number and address of Aquino, and argued that the receipt for P10,000.00 that Aquino issued belied the charge that they swindled the company. Based on this story, the complainants posited that their dismissal was without just cause.

For its part, the company alleged that in connection with the sale of the Toyota Town Ace on February 28, 2004, Rodriguez asked the manager how much the vehicle's selling price was; the manager replied that it was bought for P190,000.00. Rodriguez continued talking and at some point wondered why Pastoril and Omela gave him P1,000.00. At this point, the manager became suspicious and was prompted to look at the records of the sale; he even tried to contact Aquino by telephone, to no avail. The company then sent Rodriguez to Aquino's address on record, but there was no such person in the given address. On March 3, 2004, Rodriguez found out that the complainants had changed Aquino's phone number. The company found the correct information later and, upon contacting Aquino, recovered the original copy of the official receipt issued by Omela. According to Aquino, he paid P200,000.00 in cash to Omela but the duplicate copy indicated P190,000.00. The company further alleged that it summoned Escoto, Omela and Pastoril to shed light on the differing entries of the purchase price in the original and duplicate copies of the receipts. Omela and Pastoril appeared at the investigation conducted on March 6, 8 and 9, 2004, but Escoto could not be contacted at his given address. Omela and Pastoril initially denied that an anomaly took place, but later admitted that Escoto had planned and executed it and who had changed Aquino's address and phone number. On March 9, 2004, Omela and Pastoril were issued a memorandum terminating their services.

Labor Arbiter Ermita T. Abrasaldo-Cuyuca dismissed the complaint for lack of merit in her decision of September 30, 2004.[5] The arbiter found that Escoto, Omela and Pastoril defrauded the company through their concerted action. The labor arbiter found that they made it appear in the company records that Aquino bought the Toyota Town Ace for P190,000.00, but charged Aquino and issued him a receipt for P200,000.00. Except for the claim for service incentive leave, the labor arbiter denied the complainants' money claims for lack of supporting evidence.

On appeal, the National Labor Relations Commission (NLRC) affirmed the labor arbiter's ruling with modification.[6] While the NLRC was convinced that the company had validly dismissed Escoto and Omela for having "effected the discrepancies in sales amount" of the Toyota Town Ace, it found that "no contributory act was shown from Pastoril who, in Aquino's Sinumpaang Salaysay, merely handed him the Deed of Sale." It therefore ruled that Pastoril's dismissal was without just cause. The NLRC also held that the company failed to accord Escoto and Omela the twin-notice requirement, noting that while the company conducted an administrative investigation, the questions posed to the complainants were not reduced to writing. Consequently, the NLRC awarded Escoto and Omela nominal damages of P10,000.00 each. To Pastoril, the NLRC awarded backwages and separation pay of one month's pay for every year of service in lieu of reinstatement, citing the evidently strained relations between him and the company as reason for the separation pay.

The NLRC denied the company's motion for reconsideration in its Resolution rendered on February 15, 2006,[7] paving the way for the elevation of the case to the CA through a Petition for Certiorari under Rule 65 of the Rules of Court.

THE CA DECISION

On October 24, 2008, the CA promulgated its decision[8] dismissing the petition for lack of merit. It found that the NLRC did not commit any grave abuse of discretion in rendering the challenged rulings. The company sought but failed to secure a reconsideration of the CA decision; hence, the present petition.

THE PETITION

The petition raises the sole issue of whether the CA erred in affirming the NLRC decision finding that Pastoril had been illegally dismissed and awarding her backwages and separation pay. The company and its principal officers question the appellate court's findings of facts, as well as the conclusions it derived from the facts. Specifically, they dispute the following conclusion of the CA:

x x x x

Notably, the record is bereft of any substantial proof that private respondent Pastoril conspired with private respondents Escoto and Omela and covered up the irregularity in the sale of the vehicle. It would be speculative to infer conspiracy on her part, when all that she did was to give the deed of sale to Aquino.[9]

x x x x

The company submits that contrary to the findings of the NLRC and the CA, Pastoril took part in the fraudulent transaction. It cites the following statement of Aquino in his Sinumpaang Salaysay in support of its position:

x x x x

Na, pinapunta na ako sa opisina para magbayad at doon ay ibinigay ko kay Ms. Myrna Omela ang pera at niresibuhan niya ako ng P200,000.00 habang inilabas naman ni Mary Grace Pastoril ang Deed of Sale at pinapirmahan sa akin sabay ng abot ng gatepass sa akin.[10]

x x x x

The company points out that Pastoril, well-aware that the buyer had paid P200,000.00, placed the sum of P190,000.00 in the Deed of Sale. In a subsequent Sinumpaang Salaysay dated December 3, 2005,[11] Aquino deposed as follows:

x x x x

Pebrero 28, 2004 pagitan ng alas 9:00 hanggang 10:00 ng umaga, pumunta ako sa WHITE DIAMOND TRADING CORP. sa Valenzuela City, para bumili ng sasakyan. Ang nag-assist po sa akin ay Norlito Escoto o tinatawag nilang Lito.

Pagkatapos po naming magkasundo ni Lito sa halagang P200,000.00 na halaga ng binibili kong TOYOTA TOWN ACE, agad po niya akong pinapunta sa opisina para magbayad.

Pumasok ako sa loob ng opisina at sinabing babayaran ko na ang sasakyan sa halagang aming napagkasunduan at binigay ko kay Myrna Omela ang pera na kanyang binilang sa harapan naming ni Grace (Pastoril).

Pagkatapos pong bilangin ni Myrna ang pera at sinabing eksaktong P200,000.00 dali dali niya naming itong niresibuhan sa ganon din halaga. Agad agad din po pinapirmahan sa akin ni Grace ang deed of sale na siya ang

naghanda. Habang si Lito naman ay dali daling pinalabas ang aking biniling sasakyan na hindi na nalinisan.

Maliit lang din po ang kanilang opisina sa katunayan isa lang itong container van, masikip at magkakatabi ang mga lamesa at upuan kaya imposibleng hindi nila alam ang mga nangyayari.

Pagkaraan ng mga ilang araw tumawag sila sa akin sa telepono at ako raw ay may discount na P10,000.00 na isasauli daw nila ito sa akin at nakiusap na pag may taong pumunta sa akin at gustong makita ang orihinal na resibo sabihin ko raw na ito ay nawala.

Marso 6, taon 2004. Sabado ng gabi. May taong pumunta sa aking bahay na nagngangalang Neil Rodriquez na nagpakilalang taga White Diamond, inutusan daw siya ng kanyang manager na mag imbestiga sa bentahan na naganap noong Pebrero 28, 2004. Ipinakita niya sa akin ang duplicate copy na nagsasaad ng pagkakabili ko sa van at ito nga ay P190,000.00 malinis at walang bahid ng bura. Dahil na rin sa ebidensyang ipinakita sa akin ni Neil ako'y kanyang nakumbinse at binigyan ko siya ng kopya ng orihinal na resibo ko.

Marso 7, taon 2004. Linggo ng umaga, magkakasama silang tatlo nila Lito, Myrna at Grace pumunta sa aming bahay at isinauli ang perang diumano discount ko raw sa pagkabili sa Toyota Town Ace.

Marso 8, taon 2004. Lunes ng umaga, pumunta ako sa White Diamond sa Valenzuela naabutan ko ang may ari na si Ginang Jessie Uy sa opisina at ang kanyang anak na si Joanne Uy at sinabi ko sa kanila ang mga pangyayari at ang maling ginawa ng kanilang tauhan. Sa kasamaang palad hindi ko nakita ang grupo nila Lito noong umaga na iyon at hindi nga raw ito nagpasukan. Inireklamo ko rin at pinaayos ang pangalan, address at halaga ng pagkabili ng sasakyan at baka kasi magkaproblema ito sa paglipat sa aking pangalan at sila naman nangakong aayusin ito. Ibinigay ko po ang orihinal na resibo na issue ni Myrna Omela na Acknowledgment Receipt No. 626 sa may-ari.

x x x x

The company posits that Pastoril's acts amounted to fraud and serious misconduct so that her dismissal was for a just cause under the law.[12] It prays that Pastoril be declared legally dismissed.

PASTORIL'S COMMENT

In her Comment filed on December 2, 2009,[13] Pastoril contends that the company allegation that she conspired with Escoto and Omela in the irregularity that attended the sale of the Toyota Town Ace was speculative; the record clearly shows that her participation was limited only to handing the deed of sale to the buyer and nothing more.[14]

THE COURT'S DECISION

Procedural Issue

We first resolve an apparent procedural question involving the propriety of giving due course to a petition that essentially raises questions of fact. While as a rule, factual findings of the CA are binding on the Court,[15] we deem it necessary to exercise our discretionary review authority in this case in view of the conflict in the findings of facts of the labor arbiter, on the one hand, and the NLRC and the CA, on the other.[16]

The conflict lies in the precise role Pastoril played in the irregularity that attended the company's sale of a used Toyota Town Ace on February 28, 2004. The labor arbiter found substantial evidence showing that Escoto, Omela and Pastoril were legally dismissed due to fraud committed in connection with the sale. The NLRC and the CA saw the case differently, but only with respect to Pastoril. They found that Pastoril had no participation in the commission of the fraud because she merely handed the deed of sale to Aquino, the buyer; in short, she had no knowledge of the discrepancies in the entries of the purchase price in the original receipt given to Aquino, the

duplicate copy of the receipt retained by the company, and the deed of sale given to Aquino.

The Merits of the Case

The records support the labor arbiter's factual and legal conclusions.

After a review of the records, we find that Pastoril was as actively involved as Escoto and Omela in the sale of the Toyota Town Ace that resulted in a loss to the company. All three participated in making the company believe that Aquino bought the Toyota Town Ace for P190,000.00 when in fact, Aquino paid P200,000.00 for the vehicle. The company was completely in the dark about the actual purchase price until it learned about the irregularity and commenced an investigation.[17]

Escoto undisputably closed the sale, while Omela received the purchase price of P200,000.00 from Aquino, Omela then gave Aquino a receipt indicating P200,000.00 as the purchase price, although the duplicate copy of the receipt (left with the company) showed the price of P190,000.00. Pastoril thereafter handed Aquino the deed of sale, likewise indicating P190,000.00 as consideration for the sale.[18] It was this involvement in the sale that the NLRC viewed as a purely mechanical act, with Pastoril completely unaware of the details of the sale, particularly of the actual purchase price.

We find that the NLRC misappreciated the facts and the CA grossly erred in upholding the labor tribunal's findings. Pastoril's involvement in the questionable transaction was much more than handing over to Aquino his copy of the deed of sale. The payment of the purchase price, the issuance of the receipt and the handing of the deed of sale to Aquino were not separate isolated acts. They occurred in one continuous logical sequence with the players in close proximity with one another. Under these circumstances, to say that Pastoril merely handed over the deed of sale to Aquino without even looking at the document or knowing what it contained, and without knowing what was actually happening, can hardly be believed. The deed of sale did not appear out of thin air; somebody in the company prepared the document. Given the positions of the three dismissed employees in the company and based on the sequence of events, it could only be Pastoril, the secretary, who prepared the deed of sale, not Omela. Had Omela prepared the deed aside from the receipt, then Pastoril's presence and participation would have been a surplusage; Omela could have handed the receipt and the deed to Aquino herself. Significantly, this conclusion finds support in Aquino's Sinumpaang Salaysay in July 2004,[19] as well as a subsequent Sinumpaang Salaysay dated December 3, 2005.[20] For the NLRC to disregard these very vital pieces of evidence constitutes grave abuse of discretion that the CA should have discovered and reflected in its ruling.

To reiterate, Pastoril was not an innocent participant in the fraudulent sale of the company's Toyota Town Ace. She acted in concert with Escoto and Omela in the transaction that defrauded their employer in the amount of P10,000.00 - the difference in the vehicle's actual price of P200,000.00 paid by the buyer, and the price (P190,000.00) entered in the duplicate purchase receipt and in the deed of sale. Pastoril prepared and issued the deed of sale indicating that the vehicle was sold for P190,000.00, although she knew that the buyer was being charged P200,000.00 for the vehicle. Escoto, Omela and Pastoril helped themselves to the price difference and tried to silence Rodriguez (who got wind of the anomaly)[21] by giving him P1,000.00 and passing the P10,000.00 price difference off as the approved discount Aquino asked for.[22] Under these facts, there was a conspiracy where every participant had made significant contributory acts.[23]

Despite the above conclusion, we note that the company itself admits that it failed to observe procedural due process in Pastoril's dismissal and, for this reason, it states that the payment of indemnity in the form of nominal damages is warranted.[24] We note further that the NLRC had the same conclusion with respect to Escoto and Omela; hence, the award to them of P10,000.00 each by way of nominal damages. We find a similar award of nominal damages to Pastoril to be warranted. [25]

WHEREFORE, premises considered, we hereby GRANT the petition. Accordingly, the assailed decision and resolution of the Court of Appeals are hereby SET ASIDE with respect to the ruling on Mary Grace Pastoril whose valid dismissal from employment is hereby confirmed. For the procedural lapses in dismissing Mary Grace Pastoril, the company is hereby ORDERED to pay her nominal damages of P10,000.00. Costs against respondent Mary Grace Pastoril.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Abad, and Perez, JJ., concur.

[1] Rollo, pp. 10-18; Filed pursuant to Rule 45, RULES OF COURT.

[2] Id. at 26-35; penned by Associate Justice Fernanda Lampas Peralta with Associate Justice Edgardo P. Cruz and Associate Justice Normandie B. Pizarro, concurring.

[3] Id. at 67.

[4] White Diamond Trading Corp. and/or Jerry Uy and Jessie Uy v. NLRC, et al.

[5] Rollo, pp. 37-52; Petition, Annex "B."

[6] Decision of October 28, 2005; Id. at 53-63; Petition, Annex "C."

[7] Id. at 65-66; Petition, Annex "D."

[8] Supra note 2.

[9] Rollo, p. 31; CA Decision, p. 6, par. 2.

[10] Id. at 84; Petition, Annex "H," par. 4.

[11] Id. at 91; CA Decision, Annex "J."

[12] LABOR CODE, Article 282.

[13] Rollo, pp. 108-109.

[14] Id. at 108; Comment, par. 2.

[15] Lanuza v. Muñoz, 473 Phil 617 (2004).

[16] Fujitsu Computer Products Corporation of the Philippines v. Court of Appeals, G.R. No. 188232, March 31, 2005, 454 SCRA 737.

[17] Rollo, p. 39; Labor Arbiter's Decision, p. 3, par. 1.

[18] Ibid.

[19] Supra note 10.

[20] Supra note 11.

[21] Rollo, pp. 85-90; Petition, Annex "I" dated June 10, 2004.

[22] Id. at 41-45; Labor Arbiter's Decision, pp. 5-9.

[23] Supra note 12.

[24] Rollo, pp. 17-18; Petition, p. 8, last paragraph.

[25] *Agabon v. NLRC*, 485 Phil 248 (2004).

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