OFFICIAL GAZETTE · SECOND DIVISION · AUGUST 3, 2011

FRANCIS BELLO, REPRESENTED HEREIN BY HIS DAUGHTER AND ATTORNEY-IN-FACT, GERALDINE BELLO-ONA, PETITIONER, VS. BONIFACIO SECURITY SERVICES, INC. AND SAMUEL TOMAS, RESPONDENTS.

G.R. No. 188086, August 03, 2011

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We resolve the petition for review on certiorari,[1]filed by petitioner Francis Bello, to challenge the decision[2] and the resolution[3] of the Court of Appeals (CA) in CA-G.R. SP. No. 105402.[4]

The Factual Background

Respondent Bonifacio Security Services, Inc. (BSSI) is a domestic private corporation engaged in the business of providing security services. In July 2001, the BSSI hired Bello as a roving traffic marshal to manage traffic and to conduct security and safety-related operations in the Bonifacio Global City (BGC). In August 2001, Bello was posted at the Negros Navigation Company in Pier 2, North Harbor, to supervise sectoral operations. In November 2001, he was assigned at BGC as assistant detachment commander. After a week, he was transferred to Pacific Plaza Towers as assistant detachment commander and later as detachment commander. In June 2002, he was assigned at Pier 2, North Harbor as assistant detachment commander, but later reassigned to BGC. In August 2002, the BSSI hired a new operations manager, resulting in the reorganization of posts. In October 2002, Bello was assigned as roving traffic marshal at the BGC. On October 25, 2002, he filed an indefinite leave of absence when his new assignment took effect.

On November 5, 2002, Bello filed a complaint against the BSSI and its General Manager, respondent Samuel Tomas, with the National Labor Relations Commission (NLRC),[5] claiming that he had been constructively dismissed when he was demoted from a detachment commander to a mere traffic marshal. He alleged that he received a series of promotions from 2001 to 2002, from traffic marshal to supervisor, to assistant detachment commander, and to detachment commander.[6]

The BSSI denied Bello's claim of constructive dismissal, arguing that no promotion took place; Bello's designation as assistant detachment commander or detachment commander was not an employment position but a duty-related assignment; Bello abandoned his job when he went on an indefinite leave of absence and did not report for work.[7]

The Labor Arbiter's Ruling

In his December 29, 2005 decision,[8] Labor Arbiter Cresencio G. Ramos, Jr. found that Bello was illegally dismissed, noting that the BSSI failed to adduce evidence that Bello abandoned his employment. Thus, he ordered Bello's reinstatement and awarded him backwages amounting to P391,474.25.

After the NLRC dismissed the BSSI's belated appeal and subsequent motion for reconsideration,[9] the latter filed a petition for certiorari with the CA. The CA granted the petition,[10] thus reinstating BSSI's appeal with the NLRC.

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In its March 26, 2008 resolution, the NLRC affirmed the labor arbiter's decision, finding that Bello had been constructively dismissed when he was demoted to the rank-and-file position of traffic marshal after occupying the supervisory position of assistant detachment commander and detachment commander.[11] The denial of BSSI's subsequent motion for reconsideration led it back to the CA on a petition for certiorari under Rule 65 of the Rules of Court.[12]

The CA Ruling

The CA nullified the NLRC resolutions, finding the records bereft of evidence substantiating the labor arbiter's and the NLRC's conclusions that Bello had been constructively dismissed.[13] It noted that Bello offered no evidence to prove that there was a series of promotions that would justify his claim of subsequent demotion. The CA denied the BSSI's motion for reconsideration,[14] paving the way for the present petition.

The Petition

Bello insists that he was constructively dismissed when he was demoted to a mere traffic marshal after having been promoted to the positions of supervisor, assistant detachment commander, and detachment commander.

The Case for the BSSI

The BSSI prays for the petition's outright dismissal due to a defective verification, arguing that the special power of attorney (SPA) of Bello's attorney-in-fact, Geraldine Bello-Ona, was limited to representing him in the NLRC case only and not to the present petition; and that Bello-Ona has no personal knowledge of the allegations in the petition. On the merits of the case, the BSSI contends that the CA correctly ruled that there was no evidence to substantiate the NLRC's finding of constructive dismissal.

The Issues

The core issues boil down to: whether the petition should be dismissed outright for defective verification; and whether the CA erred in annulling the NLRC's resolutions.

The Court's Ruling

The petition lacks merit.

Verification of a pleading is a formal, not jurisdictional, requirement intended to secure the assurance that the matters alleged in a pleading are true and correct.[15] Thus, the court may simply order the correction of unverified pleadings or act on them and waive strict compliance with the rules.[16] It is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct.[17]

In this case, we find that the petition's verification substantially complied with the requirements of the rules. The SPA authorized Bello-Ona to represent Bello in the case entitled "Francis Bello v. Bonifacio Security Services, Inc. and/or Samuel Tomas, (CA) Case No. 047829-06; NLRC-N[CR] Case No. 00-11-09529-2002"[18] - the case from which the present petition originated. As the daughter of Bello, Bello-Ona is deemed to have sufficient knowledge to swear to the truth of the allegations in the petition, which are matters of record in the tribunals and the appellate court below.

On the merits of the case, we find no reason to disturb the CA conclusion that there was no constructive dismissal. Case law defines constructive dismissal as a cessation of work because continued employment has been rendered impossible, unreasonable, or unlikely, as when there is a demotion in rank or diminution in pay, or both, or when

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a clear discrimination, insensibility, or disdain by an employer becomes unbearable to the employee.[19]

We note that, other than his bare and self-serving allegations, Bello has not offered any evidence that he was promoted in a span of four months since his employment as traffic marshal in July 2001 to a detachment commander in November 2001. During his six-month probationary period of employment,[20] it is highly improbable that Bello would be promoted after just a month of employment, from a traffic marshal in July 2001 to supervisor in August 2001, and three months later to assistant detachment commander and to detachment commander in November 2001. At most, the BSSI merely changed his assignment or transferred him to the post where his service would be most beneficial to its clients. The management's prerogative of transferring and reassigning employees from one area of operation to another in order to meet the requirements of the business is generally not constitutive of constructive dismissal.[21] We see this to be the case in the present dispute so that the consequent reassignment of Bello to a traffic marshal post was well within the scope of the BSSI's management prerogative.

WHEREFORE, we hereby DENY the petition and AFFIRM the assailed CA decision and resolution in CA-G.R. SP. No. 105402. Costs against the petitioner.

SO ORDERED.

Carpio, (Chairperson), Leonardo-De Castro,[*] Perez, and Sereno, JJ., concur.

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[*] Designated as Acting Member of the Second Division per Special Order No. 1006 dated June 10, 2011.

[1] Filed under Rule 45 of the Rules of Court; rollo, pp. 8-26.

[2] Dated March 6, 2009; penned by Associate Justice Andres B. Reyes, Jr., and concurred in by Associate Justices Jose C. Reyes, Jr. and Normandie B. Pizarro; id. at 34-47.

[3] Dated June 1, 2009; id. at 31-32.

[4] Entitled "Bonifacio Security Services, Inc. v. National Labor Relations Commission, National Capital Region Second Division, and Francis Bello."

[5] Docketed as NLRC NCR Case No. 00-11-09529-2002; NLRC records, p. 2.

[6] Id. at 10-20.

[7] Id. at 43-47.

[8] Id. at 81-87.

[9] Resolutions dated July 10, 2006 and September 27, 2006 in NLRC CA No. 047829-06; id. at 249-251 and 316-317.

[10] Decision dated August 23, 2007 in CA-G.R. SP No. 96696, entitled "Bonifacio Security Services, Inc., petitioner v. NLRC, National Capital Region - Second Division and Francis Bello"; id. at 323-332.

[11] Id. at 335-350.

[12] CA rollo, pp. 2-28.

[13] Supra note 2.

[14] Supra note 3.

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[15] Ramirez v. Court of Appeals, G.R. No. 182626, December 4, 2009, 607 SCRA 752, 766.

[16] Altres v. Empleo, G.R. No. 180986, December 10, 2008, 573 SCRA 583, 596.

[17] Id. at 597.

[18] Rollo, p. 48.

[19] La Rosa v. Ambassador Hotel, G.R. No. 177059, March 13, 2009, 581 SCRA 340, 346-347.

[20] Labor Code, Article 282.

[21] Bisig Manggagawa sa Tryco v. NLRC, G.R. No. 151309, October 15, 2008, 569 SCRA 122, 130.

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