

COKIA INDUSTRIES HOLDINGS MANAGEMENT, INC. AND/OR GEORGE LEE CO, PRESIDENT & CHIEF OPERATING OFFICER, PETITIONERS, V. BEATRIZ C. BUG-OS, RESPONDENT

G.R. No. 236322. November 27, 2019

Ponente: CARANDANG, J.

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CARANDANG, J.:

This is a Petition for Review on Certiorari[1] assailing the Decision[2] dated August 25, 2017 and Resolution[3] dated November 24, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 07982. The CA affirmed the Resolutions dated December 29, 2016[4] and February 14; -20-17[5] of the National Labor Relations Commission (NLRC), which granted respondent Beatriz Bug-Os' (Bug-Os) motion for reconsideration and set aside its Resolution[6] dated June 16, 2016 and the Decision[7] dated November 23, 2015 of the Labor Arbiter. The NLRC found Cokia Industries Holdings Management, Inc. (CIHMI) and its President and Chief Operating Officer George Lee Co (George; collectively, petitioners) to have illegally dismissed Bug-Os and ordered them to pay her backwages, 13th month pay, and service incentive leave pay. The NLRCa]also ordered Bug-Os' reinstatement to her previous position without loss of seniority rights and privileges.[8]

Antecedents

Bug-Os was employed as CIHMI's accounting personnel on January 2, 2001. She was tasked to do the following: (1) prepare salary payrolls, vouchers, and contributions; (2) process loans and submit remittances of the company to various government agencies like the Social Security System (SSS), Philippine Health Insurance Corporation (PhilHealth), and Pagtutulungan sa Kinabukasan: Ikaw, Bangko, Industria at Gobyerno (Pag- Ibig) Fund; and (3) serve as liason officer/authorized representative to various government agencies, including the Department of Labor and Employment.[9]

When Biange L. Co (Biange) died, he was replaced by his sister, Shirley L. Co (Shirley), as Corporate Finance Officer/Treasurer of CIHMI in May 2015. Shirley reviewed the documents of the company and discovered that there was a record of a Pag-Ibig loan in her name even though she did not apply for it. After she informed George of her discovery, they began investigating the matter. They discovered several irregularities, including forgeries and falsifications on the Pag-Ibig loan supposedly obtained by Shirley, and on the remittances to Pag-Ibig. The documents for the loan under Shirley's name bore her forged signature and that of Biange's.[10]

On July 4, 2015, George issued an Office Memorandum to Bug-Os, directing her to explain: "(I) why she participated and connived in applying, processing, and securing a multi-purpose loan in the name of stockholder and corporate officer(s) Shirley Co; (2) why she lied and told Shirley that the latter did not have any loan with Pag-Ibig; and (3) why she attempted to cover up the fact that Shirley has an existing loan with Pag-Ibig that she never applied for." Bug-Os submitted her handwritten explanation on the same day. [11] She denied having any knowledge of the irregularities. Allegedly, Gina Co (Gina), sister-in-law of George and Bug-O's immediate supervisor, was the one responsible for the forgery. Bug-Os claimed that she merely prepared the loan forms and

submitted it to Pag-Ibig.[12]

On July 6, 2015, Bug-Os tendered her departure through a handwritten resignation letter, which became effective at the close of office hours on the same day. The following day, she sent another handwritten letter authorizing ./

her cousin, Corazon P. Etac (Etac), to withdraw her salaries, 13th month pay and other amounts due her. On July 30, 2015, Etac received the check for Bug-Os worth P9,163.50 covering her salary for July 1 to 6, 2015, 13th month pay, and proportionate service incentive leave pay. Bug-Os filed a complaint for illegal dismissal against petitioners on August 11, 2015.[13]

Ruling of the Labor Arbiter

On November 23, 2015, the Labor Arbiter dismissed Bug-Os' complaint with prejudice and for lack of merit.[14] The Labor Arbiter held that her unjustified failure to submit her position paper is sufficient ground to dismiss her complaint. [15] In any case, the Labor Arbiter ruled that petitioners were able to show that Bug-Os voluntarily resigned.[16] There was no proof that she was merely compelled to do so. She even sent another letter authorizing Etac to claim her monetary benefits on her behalf to CIHMI after she resigned. For the Labor Arbiter, Bug-Os opted for a graceful exit rather than be dismissed.[17] Bug-Os appealed to the NLRC.

Ruling of the NLRC

In its June 16, 2016 Resolution, the NLRC dismissed the appeal and affirmed the ruling of the Labor Arbiter.[18] The NLRC agreed with the Labor Arbiter that Bug-Os' failure to submit her position paper was inexcusable. [19] The NLRC also held that Bug-Os resigned without waiting for the outcome of the investigation.[20] The contents of her resignation, position, an undergraduate degree in accounting, 18 units of Masters in Business Administration,[21] work experience, and the circumstances before and after her departure, constitute substantial proof of her voluntary resignation.[22] In addition, she did not submit evidence that George was hostile towards her. Overall, there was no proof of Bug-Os' constructive dismissal.[23]

Bug-Os filed a motion for reconsideration. In its December 29, 2016 Resolution,[24] the NLRC granted her motion and ruled as follows:

WHEREFORE, the motion for reconsideration is GRANTED.

The assailed Resolution is SET ASIDE and a new one is entered finding respondents guilty of illegal dismissal. Complainant is entitled to backwages of P211,431.00, and reinstatement to her previous position without loss of seniority rights and privileges.

In addition, since complainant is not a minimum wage earner, the award of backwages, 13th month pay and SILP is subject to 5% withholding tax pursuant to Revenue Memorandum Circular No 39-2012 dated August 3, 2012 as restated in NLRC Administrative Order No. 11-17, dated November 16, 2012.

SO ORDERED.[25]

The NLRC held that Bug-Os was forced to resign because petitioners subjected her to harsh words and treatment.[26] George gave his orders in a high-pitched voice, directed her to do something despite being busy working on the payroll, forced her to run when she was given orders, and made her feel like a slave.[27] Bug-Os' act of filing her complaint shows that she had no real intention to give up her office.[28]

Petitioners filed a motion for reconsideration, but the NLRC denied it in its Resolution[29] dated February 14, 2017. Thus, they filed a petition for certiorari before the CA to assail the ruling of the NLRC.

Ruling of the CA

The CA denied the petition and affirmed the Resolutions of the NLRC in its Decision[30] dated August 25, 2017. The CA was convinced that Bug-Os would not have resigned if not for the harsh words and treatment from petitioners.[31] Therefore, the CA held that the NLRC did not commit grave abuse of discretion amounting to lack or excess of jurisdiction.[32]

Petitioners filed a motion for reconsideration. After the CA denied it in its Resolution[33] dated November 24, 2017, petitioners filed a petition before this Court to assail the ruling of the NLRC.

Issue

The issue before Us is whether the CA erred in affirming the finding of the NLRC that Bug-Os was illegally dismissed.

Ruling of the Court

The petition is meritorious.

Constructive dismissal exists if an act of clear discrimination, insensibility, or disdain by an employer becomes so unbearable on the part of the employee that it could foreclose any choice by him or her except to forego his or her continued employment.[34] The test for determining if an employee was constructively dismissed is whether a reasonable person in the employee's position would feel compelled to give up his or her employment under the prevailing circumstances.[35]

In contrast, resignation refers to the voluntary act of an employee who is in a situation where one believes that personal reasons cannot be sacrificed in favor of the exigency of the service, and one has no other choice but to dissociate oneself from employment. The acts of the employee before and after the alleged resignation must be considered in determining whether he or she, in fact, intended to sever his or her employment.[36]

The employer has the burden of proving that an employee voluntarily resigned. However, an allegation of constructive dismissal must be proven by the employee,[37] especially when he or she has given a resignation letter to the employer, as held in the appropriate case of *Gan v. Galderma Philippines, Inc.*[38] Whether the parties were able to discharge their respective burdens involves a review of the factual findings of the courts a quo. While the Court generally does not perform such function, the conflicting findings of the Labor Arbiter, the NLRC, and the CA call for the same in this case. [39]

As proof of Bug-Os' voluntary resignation, petitioners submitted a copy of her handwritten resignation letter. Bug-Os' resignation letter states:

Sirs/Madams,

Good day!

Effective at the close of office hours of July 6, 2015, I will tender my resignation as an OFFICE EMPLOYEE of your 2 (two) PRESTIGIOUS COMPANIES. Thank you for the OPPORTUNITY working w/ you.[40]

On its face, the letter does not have any indication that Bug-Os was forced to execute it. She made no mention of what she claims are false accusations against her. Her words of gratitude further undermine her assertion that she was coerced to resign.[41]

Nonetheless, Bug-Os claims that George and his mother subjected her to harsh treatment the moment the irregular transactions were discovered. This made working for CIHMI unbearable and compelled her to resign. However, she did not submit proof in support of her contentions. Bare allegations alone are insufficient to establish constructive dismissal.[42] Notably, Lolita Perez (Perez), CIHMI's employee in charge of bookkeeping, recording, and preparation of its vouchers and even Bug-Os herself claimed that the latter was never scolded or

subjected to disciplinary action by petitioners prior to the discovery of the irregularities.[43] In addition, Perez refuted Bug-Os and averred that George scolded the latter only once in relation to the irregularities.[44]

Moreover, strong words from the employer do not necessarily make the working environment unbearable. When these are uttered "without palpable reason or are expressed only for the purpose of degrading the dignity of the employee, then a hostile work environment will be created." [45] Bug-Os did not cite the statements made by George that were demeaning to her. Hence, We cannot say whether George uttered words which made working in CIHMI unbearable for her, or simply expressed his anger over the misappropriation of CIHMI's funds.

We also take note of the fact that Bug-Os resigned merely two days after she was given the Office Memorandum, or from July 4 to 6, 2015. It is incredulous that in that short span of time, she was subjected to so much harassment that it made working for CIHMI unbearable. While there is no fixed period for constructive dismissal, the period from the time Bug-Os was asked to explain the irregularities discovered until she resigned simply does not lend credibility to her claim that she was constructively dismissed.

Conversely, petitioners submitted evidence to prove that Bug-Os committed irregularities, such as the affidavits of Shirley, Perez, and Edem Manlangit (Manlangit), another employee of CIHMI. Shirley attested to the fact that she did not obtain a loan from Pag-Ibig. Perez enumerated the irregularities she discovered after auditing CIHMI's transactions with SSS and Pag-Ibig of which are: 1) Bug-Os reported an amount for remittance to Pag-Ibig in excess of what was actually deducted from the employees' salaries. She then credited the excess to her loan; [46] 2) Bug-Os deducted from the salaries of other employees but credited the amount deducted to the payment of her own loan and that of other persons; [47] and 3) Bug-Os reported an amount for remittance that is higher than what was actually deducted from her salary. [48] As for Manlangit, he affirmed Perez's statement that P5,000 was deducted from his salary but it was credited to the payment of Bug-Os' loan.

Bug-Os admitted that she was in charge of processing the payroll, vouchers, loan application, and remittances to SSS, Pag-Ibig, and PhilHealth of CIHMI's employees except for herself. However, she denied committing any irregularity and ascribed it to Gina. The determination of whether Bug-Os defrauded CIHMI is unnecessary to resolve this case. Even so, the evidence presented by petitioners in relation to this matter and the January 11, 2019 Judgment [49] of the Municipal Trial Court in Cities of Cagayan de Oro City, Branch 5 convicting Bug-Os of six counts of estafa, in relation to the remittances to Pag-Ibig, support the finding of the Labor Arbiter that Bug-Os resigned on her own volition, perhaps to avoid further questioning from petitioners.

We, therefore, disagree with the NLRC and the CA's ruling that Bug-Os was constructively dismissed. There is a lack of evidence to support this conclusion. As such, the Labor Arbiter was correct in dismissing Bug-Os' complaint.

WHEREFORE, the petition is GRANTED. The Decision dated August 25, 2017 and the Resolution dated November 24, 2017 of the Court of Appeals in CA-G.R. SP No. 07982 are REVERSED and SET ASIDE. The Decision dated November 23, 2015 of the Labor Arbiter in NLRC Case No. RAB-10-08-00675-2015 is REINSTATED.

SO ORDERED.

Leonen, J., (Chairperson), Gesmundo,* Carandang, Lazaro-Javier,** and Zalameda, JJ., concur.

* On official leave.

** Designated as Additional Member of the Third Division per Special Order No. 2728 dated October 25, 2019.

[1] Rollo, pp. 3-39.

[2] Penned by Associate Justice Edgardo T. Lloren, with Associate Justices Perpetua T. Atal-Paño and Ruben Reynaldo G. Roxas, concurring; id. at 193-202.

[3] Id. at 211-212.

[4] Penned by Presiding Commissioner Proculo T. Sarmen, with Presiding Commissioners Bario-Rod M. Talon and Elbert T. Restauero, concurring; id. at 138-142.

[5] Id. at 149-150.

[6] Id. at 117-127.

[7] Penned by Labor Arbiter Rammex C. Tiglao; id. at 82-89.

[8] Id. at 85-89.

[9] Id. at 194.

[10] Id.

[11] Id. at 195.

[12] Id. at 97.

[13] Id. at 195.

[14] Id. at 89.

[15] Id.

[16] Id. at 85.

[17] Id. at 86-87.

[18] Id. at 126-127.

[19] Id. at 121-122.

[20] Id. at 124.

[21] Id. at 66.

[22] Id. at 127.

[23] Id. at 125-127.

[24] Supra note 4.

[25] Id. at 141.

[26] Id. at 139.

[27] Id. at 138.

[28] Id. at 140.

[29] Supra note 5.

[30] Supra note 2.

[31] Id. at 200-201.

[32] Id. at 201.

[33] Id. at 211-212.

[34] Que v. Asia Brewery, Inc., G.R. No. 202388, April 10, 2019.

[35] Peñaflor v. Outdoor Clothing Manufacturing Corp., 632 Phil. 219, 226 (2010).

[36] Pascua v. Bank Wise, Inc., G.R. Nos. 191460 & 191464, January 31, 2018, 853 SCRA 446, 460.

[37] FCA Security and General Services, Inc. v. Academia, Jr. II, G.R. No. 189493, August 2, 2017, 834 SCRA 83, 84.

[38] 701 Phil. 612, 640 (2013).

[39] Lu v. Enopia, 806 Phil. 725, 738 (2017).

[40] Rollo, p. 78.

[41] See Panasonic Manufacturing Philippines Corp. v. Peckson, G.R. No. 206316, March 20, 2019; Rodriguez v. Park N Ride, Inc., 807 Phil. 747-758 (2017); and Vicente v. Court of Appeals, 557 Phil. 777-786 (2007).

[42] Panasonic Manufacturing Philippines Corp. v. Peckson, supra note 41; Doble, Jr. v. ABE, Inc., G.R. No. 215627, June 5, 2017, 825 SCRA 557; and Cosue v. Ferritz Integrated Development Corp., G.R. No. 230664, July 24, 2017, 831 SCRA 605.

[43] Rollo, pp. 56 & 93.

[44] Id. at 56.

[45] Philippine Span Asia Carriers Corp. v. Pelayo, G.R. No. 212003, February 28, 2018, citing Rodriguez v. Park N Ride, Inc., 807 Phil. 747-758 (2017).

[46] Rollo, p. 54

Date

Amount Remitted

Amount Actually Deducted

Amount Credited to Bug-Os' Loan Payment

April 2014

P37,823.00

P32,823.00

P5,000.00

[47] Id at 54-56

Date

Employee Whose Salary was Deducted

Amount Deducted

Amount Credited to

October 2014

Manlangit

P5,000.00

Bug-Os

January 2015

Perez

P1,000.00

P500 was credited to Grace Reyes while the remaining amount is unaccounted for

May 2015

Gina Co

P6,000.00

Bug-Os

May 2015

Allan Daquillog

P3,000.00

Bug-Os

[48] Id. at 55.

Date

Amount Deducted

Amount Reported

February 2015

P6,000.00

P9,000.00

March 2015

P6,000.00

P9,000.00

April 2015

P6,000.00

P9,000.00

[49] Id. at 247-257; penned by Presiding Judge Maria Luna Llena G. Lanticse-Saba.

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