

**VICTOR A. CUSTODIO, PETITIONER, VS. THE HONORABLE MINISTER,
MINISTRY OF LABOR AND EMPLOYMENT AND FIRST FARMERS
MILLING AND MARKETING COOPERATIVE ASSOCIATION, INC.,
RESPONDENTS.***G.R. No. 64374. July 19, 1990*

Ponente: CORTES, J.

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Petitioner was in the employ of private respondent for almost seventeen (17) years. He submitted a letter of resignation on May 5, 1981. At the time of his resignation, he was holding the position of Assistant General Manager for Operations and was the second highest official of private respondent. He had a monthly salary of Ten Thousand Seven Hundred Pesos (P10,700.00), monthly allowance of Five Hundred Pesos (P500.00), monthly housing allowance of Four Hundred Pesos (P400.00), Christmas bonus of one month salary and a milling bonus of not less than Fifty Thousand Pesos (P50,000.00), plus other company benefits, for a total of not less than Two Hundred Thousand Pesos (P200,000.00) annually. He exercised general supervision and control over all departments connected with mill operations.

In 1981, the private respondent, through its board of directors, decided to purchase a boiler, the cost of which would amount to several million pesos. An evaluation committee was constituted with petitioner as chairman. Quotations and proposals were received by the committee.

A dispute arose between petitioner and the general manager regarding the committee's recommendations, particularly, the brand of boiler recommended, leading to charges and counter-charges of kickbacks or commissions given to officers and directors by the suppliers, which culminated in petitioner's letter of resignation dated May 5, 1981. That this matter led to petitioner's resignation is certain, although no mention of it is made in the letter. The material portion of the letter stated, "... I am taking a much needed vacation for a period of one (1) month starting May 7th and subsequently resigning irrevocably after serving the required 30-day notice and turning over period right after my vacation." [Rollo, p. 59.]

The letter was submitted to the board of directors, but the board, in its meeting on May 8, 1981 deferred action on the matter. Petitioner was summoned by the board and in the meeting of May 13, 1981 he explained why he filed his resignation. As stated in the minutes of the meeting, "[h]e manifested his intention to withdraw his letter of resignation and he promised to send a letter to that effect." [Rollo, p. 63.]

Petitioner then went on vacation.

In the board's meeting of May 30, 1981, petitioner's letter of resignation was again discussed. The minutes stated:

* * *

C. The letter of resignation submitted by Mr. Victor Custodio is irrevocable and according to our lawyer who

was present, Mr. Victor Custodio is considered resigned as soon as the board takes cognizance of his irrevocable letter of resignation. Mr. Romeo Guanzon pointed out that the resignation was made under pressure and the resignation was not voluntary, and therefore not valid. Mr. Victor Custodio expressed his intention to withdraw his letter of resignation. The president reported that no letter of withdrawal has been received. In as much as the Board believed that it had no choice on the matter it did not take any action on the resignation except to take cognizance of it. [Annex "G", p. 1; Rollo, p. 64.]

In a letter dated June 3, 1981, Fernando Cuenca, the general manager, directed petitioner "to desist and refrain from further assuming and usurping the functions of the said position after your vacation, if ever any such intention exists in your mind." (Rollo, p. 66.)

Petitioner replied in a letter dated June 5, 1981, stating that he had already withdrawn his resignation and that he was returning to work [Rollo, pp. 67-68.]

On June 7, 1981, petitioner reported back to work.

In a notice dated June 8, 1981, Cuenca informed the suppliers of private respondent that petitioner was no longer connected with the cooperative and that any transaction entered into by petitioner on said date or thereafter shall be considered null and void [Rollo, p. 73.]

On June 10, 1981, petitioner filed a complaint for illegal dismissal against private respondent and Cuenca before the regional office of the Ministry of Labor and Employment (MOLE). The complaint was docketed as LRD Case No. SI-8453-81.

In the meeting of the board of directors on June 11, 1981, the matter was discussed again. The minutes stated:

The minutes of May 13, 1981 were presented. Mr. Guanzon stated that when asked whether he was resigning or not, Mr. Custodio answered, "No, I am withdrawing my letter of resignation." Mr. Claparols, Mr. Flores, Mr. Villanueva and Mr. Ledesma all said that Mr. Custodio said that he was sending a letter to withdraw his resignation. Mr. Guanzon said that the letter to be sent was a request for leave of absence. The minutes of May 13, 1981 were approved as presented with objection from Mr. Guanzon.

* * *

The minutes of May 30, 1981 were presented. Mr. Guanzon proposed that the minutes be corrected so that it will show that in the meeting of May 30, 1981, he said, "In the meeting of May 13, Mr. Custodio stated that he was withdrawing his resignation.

* * *

The minutes of May 30, 1981 were approved as corrected.

* * *

Upon motion duly made and seconded the following resolutions were approved:

* * *

14. Resolved that Mr. Fernando Cuenca and Mr. Victor Custodio be informed that whatever is done by them is done in their private capacity unless it had been brought to [the] board's attention and approved by the board. (Guanzon-Villanueva)

* * *

[Annex "M", pp. 1-4; Rollo, pp. 74-77.]

On June 30, 1981, private respondent reported petitioner's resignation to the district office of the MOLE.

The officer who investigated LRD Case No. SI-8453-81 recommended petitioner's reinstatement with backwages, but Assistant Regional Director Dante Ardivilla issued on August 10, 1981 an order dismissing the complaint.

Petitioner appealed to the Minister, but Deputy Minister Vicente Leogardo, Jr. affirmed the order on August 27, 1982 and denied the motion for reconsideration on April 18, 1983.

Thus, the instant petition was filed.

The Court dismissed the petition for lack of merit on July 13, 1983. But upon deliberation on petitioner's motion for reconsideration, private respondent's comment opposing it, the Solicitor General's comment supporting petitioner's position, petitioner's reply and private respondent's reply to the Solicitor General's comment, the Court on July 2, 1984 reconsidered the dismissal of the petition and gave it due course. Thereafter, the parties filed their memoranda.

The case was dormant for several years despite several motions for early resolution filed by petitioner. It was only after the Court was reorganized that the case was finally considered submitted for deliberation.

On April 4, 1990, the Court required the parties to move in the premises and manifest whether supervening events have rendered the case moot and academic. The parties replied in the negative. Thus, we proceed with the disposition of the case.

The controversy revolves around petitioner's resignation. If indeed the resignation never took effect, then petitioner should be allowed to return to work.

Naturally, petitioner claims that he had effectively withdrawn his resignation when he appeared before the board of directors on May 13, 1981 and verbally manifested his withdrawal. He is supported by the Solicitor General in this position. As stated by the Solicitor General:

Not only did petitioner withdraw his resignation in the Board meeting of May 13, 1981, he also performed acts of omission and commission repudiating the letter of resignation. Firstly, he did not serve the required 30-day notice mentioned in his letter of resignation. Secondly, he reported back for work on June 7, 1981, at the end of his vacation. Thirdly, on June 10, 1981, he filed a complaint for illegal lay-off or dismissal against respondent-cooperative and Cuenca. [Rollo, p. 152.]

On the other hand, private respondent contends that since his resignation letter used the word "irrevocable," his resignation need not be accepted by private respondent and could no longer be withdrawn by petitioner.

The undisputed facts and circumstances support the conclusion that petitioner's resignation never became effective. Despite its being termed "irrevocable," neither the petitioner nor the private respondent treated it as such, as shown by the minutes of the May 13, 1981 board meeting. Petitioner was summoned before the board of directors to explain why he was resigning and he withdrew his letter of resignation and instead took a one-month vacation.

The letter stated that the resignation was to take effect "after serving the required 30-day notice and turning over period right after my vacation." [Rollo, p. 59.] The resignation was not to take effect immediately. The withdrawal thereof on May 13, 1981 prevented it from becoming effective.

Thus, on May 13, 1981 the matter was already settled - petitioner had withdrawn his letter of resignation.

It was therefore surprising why the matter was again taken up during the May 30, 1981 board meeting. Apparent from the minutes is an effort to undo the withdrawal of the resignation by emphasizing that the letter of

resignation was by its own terms "irrevocable." This shift in the board's sentiment lends credence to petitioner's charge that some influential directors, together with Cuenca, conspired to oust him because he did not recommend the brand of boiler that they were pushing and instead recommended another brand.

Petitioner's counsel's letter to Cuenca dated June 5, 1981, copies of which were furnished the board of directors, laid to rest any question as to the withdrawal of the resignation and his intention to assume his duties as Assistant General Manager upon his return from his vacation.

That petitioner was not considered by the board as separated or resigned is further bolstered by the resolution mentioned in the minutes of the June 11, 1981 meeting where it was stated: "Resolved that Mr. Fernando Cuenca and Mr. Victor Custodio be informed that whatever is done by them is done in their private capacity unless it had been brought to [the] board's attention and approved by the board." [Rollo, p. 77.] If indeed petitioner was no longer connected in any capacity with the cooperative, as so stated in Cuenca's notice to suppliers dated June 8, 1981, then there would be no reason for the resolution. The resolution implied that petitioner was still connected with the cooperative and that the dispute between them had not yet been resolved. Thus, between an act of the board of directors and that of the general manager, that of the former will have to be given predominance.

WHEREFORE, the petition is GRANTED and the Orders of the Deputy Minister Leogardo, Jr. in LRD Case No. SI-8453-81, dated August 27, 1982 and April 18, 1983, are SET ASIDE. Private respondent is ORDERED to reinstate petitioner, without loss of seniority rights and with backwages for three (3) years without qualification or deduction. But, considering the time that has elapsed, should petitioner's reinstatement to his former or a substantially equivalent position be no longer feasible, he shall be entitled to separation pay equivalent to one (1) month's salary for every year of service, in addition to the backwages.

This decision is IMMEDIATELY EXECUTORY.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

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