

GOLDEN FARMS, INC., PETITIONER, VS. WILFREDO BUGHAO, GERMAN NONO AND THE NATIONAL LABOR RELATIONS COMMISSION, RESPONDENTS.

G.R. No. 82044. March 18, 1991

Ponente: PADILLA, J.

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PADILLA, J.:

Petition for review on certiorari (treated as a petition for certiorari) seeking the annulment of the resolution of the National Labor Relations Commission (NLRC), promulgated on 25 September 1987[1] affirming the decision of the labor arbiter, and the NLRC resolution dated 29 December 1987[2] denying for lack of merit petitioner's motion for reconsideration.

The facts of the case are as follows:

Private respondents were utility workers employed by petitioner company. On 13 January 1984, private respondents were picked up by petitioner's guards in connection with the theft of polythelene bags belonging to the petitioner. They were detained in the Kapalong Municipal Jail. Initial investigation by the police yielded no prima facie case against them, resulting in their release. However, after further investigation, an amended complaint was formally filed against private respondents and two (2) others, charging them with the crime of theft before the Municipal Trial Court of Kapalong, Province of Davao.[3]

After their release from detention, private respondents, Wilfredo Bughao and German Nono, filed a complaint for illegal dismissal with Regional Arbitration Branch No. XI of the National Labor Relations Commission in Davao City. For failure of complainants (now private respondents) to appear at the scheduled hearing, the complaint was dismissed. However, on motion of respondent German Nono, the complaint was again set for hearing. At said hearing and further proceedings only respondent Nono appeared.

After the submission of the parties' position papers as directed by the labor arbiter, a decision was rendered ordering petitioner to reinstate private respondents to their former positions without loss of seniority rights, and with backwages from the time of their dismissal until they are actually reinstated.[4]

Petitioner appealed the labor arbiter's decision to the National Labor Relations Commission (NLRC), alleging that the labor arbiter erred in finding that:

"a. —

the respondent (now petitioner) dismissed the complainants (now respondents) based in (sic) a criminal complaint which did not operate to justify such dismissal;

b. —

The complainants were militant leaders during the campaign for certification election between the National Federation of Labor and the Associated Labor Union."[5]

On 17 October 1985, respondent NLRC rendered the questioned resolution affirming the labor arbiter's decision. Said the respondent NLRC:

"Indubitably, respondent failed to show any convincing and valid proof to warrant the dismissal of complainants. It is even bolstered by the fact that even the police who conducted the investigation found no valid and sufficient ground to sustain the alleged charge of theft against them. If at all respondent's actuation is merely based on, suspicion which to our mind is no sufficient ground to dismiss outright herein complainants. Basic is the rule on substantive and procedural due process that a worker should be afforded the chance to be informed of the charge against him and the opportunity to defend himself. This was unavailing to complainants in the instant case because respondent in an arbitrary and oppres-sive manner even caused detention of complainants herein on mere suspicion of the commission of a crime. Respondent even failed to establish complainants participation in the alleged theft, for which reason we have no valid and cogent reason to disturb the findings of the Labor Arbiter."[6]

The present recourse was resorted to by the petitioner after its motion for reconsideration was denied by the NLRC on 29 December 1987.

The sole issue to be resolved in this petition is whether or not respondent NLRC committed grave abuse of discretion when it affirmed the findings of the labor arbiter.

The findings of the labor arbiter, to which respondent NLRC concurred, read as follows:

"It is our considered view that complainants herein were illegally dismissed. The so-called investigation by the office of respondent and subsequently by the police, charging complainants of theft of polythylene bags, and, the subsequent filing of a criminal case did not constitute as the basis for the dismissal of complainants as the same was dismissed by the Municipal Trial Court for lack of basis. It must be stressed that complainants herein do not perform confidential positions but are mere laborers and the fact that the complaint was filed against them did not operate to justify their dismissal on the ground of lost (sic) of confidence since they were not holding confidential or managerial positions. Moreover, we are of the opinion that since complainants were militant leaders during the campaign for certification election between the NFL and ALU, their dismissal was effected due to their union activities. We took note that their dismissal was so close to the certification and run-off elections."[7]

Petitioner maintains that it did not dismiss private respondents. The fact is - and this has been its position from the start before the labor arbiter - that the private respondents themselves did not report for work anymore after they were released by the police. Moreover, respondent NLRC erred, according to petitioner, when it ruled that private respondents may not be validly dismissed because the police failed to submit sufficient evidence to sustain the charge of theft. Petitioner invites attention to Criminal Case No. 2318 in the Municipal Trial Court of Kapalong, Province of Davao, entitled "People of the Philippines vs. Ananias Salubre, Gil Aspilla, German T. Nono and Wilfredo.C. Bughao" to support its allegation that respondent NLRC's decision has no factual and legal bases to hold petitioner liable for allegedly dismissing private respondents and to order their reinstatement with back wages.

We find merit in the petition.

The record clearly shows that there was indeed a criminal complaint filed against private respondents. As a matter of fact, on 16 August 1989, a decision was rendered in said criminal case finding German Nono guilty of the crime charged while Wilfredo Bughao was acquitted. The trial court declared:

"It is clear from the evidences presented that the theft were (sic) perpetrated by Ananias Salubre and German Nono." [8]

The NLRC thus committed grave abuse of discretion when it disregarded the evidence regarding the filing of a criminal case for theft against private respondents.

Similarly, there is merit in petitioner's claim that it could not have dismissed private respondents because of their active participation in the certification election because it (petitioner) was not involved in the election of officers, a matter that concerned only the two (2) rival unions - the NFL and ALU.

In short, no substantial evidence was presented to show that petitioner dismissed private respondent's because of their union activities. This conclusion was based merely on the perception of the labor arbiter and not on any evidence on record. True, the question of whether an employee was dismissed because of his union activities is essentially a question of fact as to which the findings of the administrative agency concerned are generally conclusive and binding but such findings must nonetheless be supported by substantial evidence. [9]

Finally, in several cases decided by the Court, it has been held that proof beyond reasonable doubt of an employee's misconduct is not required if the ground for dismissal is loss of confidence. Corollarily, an employee who has been exonerated from a criminal charge (based on reasonable doubt) may still be dismissed for loss of confidence arising from his misconduct. [10]

WHEREFORE, the decision of the National Labor Relations Commission is SET ASIDE and the private respondents' complaint is ordered DISMISSED.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, and Regalado, JJ., concur.

Sarmiento, J., dissents with regard to respondent Bughao, his acquittal has cleared him of any wrongdoings and must be reinstated with backwages, and concurs with the rest.

[1] Penned by Commissioner Rosario G. Encarnacion, with the concurrence of Presiding Commissioner Edna Bonto-Perez and Commissioner Conrado Maglaya.

[2] Rollo, p. 72

[3] Criminal Case No. 2318, People of the Philippines vs. Ananias Salubre, et al.

[4] Rollo, p. 56

[5] Ibid., p. 58

[6] Ibid., pp. 65-66

[7] Ibid., pp. 55-56

[8] Ibid., p. 117

[9] Rubberworld (Phils.), Inc. vs. NLRC, G.R. No. 75704, 19 July 1989, 175 SCRA 450

[10] Nasipit Lumber vs. NLRC, 177 SCRA 93; Cruz vs. Medina, 177 SCRA 565; Mercury Corporation vs. NLRC, 177 SCRA 580

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