

INTERNATIONAL RICE RESEARCH INSTITUTE, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (THIRD DIVISION) AND NESTOR B. MICOSA, RESPONDENTS.

G.R. No. 97239, May 12, 1993

Ponente: NOCON, J.

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NOCON, J.:

Posed for determination in this petition for certiorari is the question of whether a conviction of a crime involving moral turpitude is a ground for dismissal from employment and corollarily, whether a conviction of a crime of homicide involves moral turpitude.

International Rice Research Institute (IRRI) is an international organization recognized by the Philippine government and accorded privileges, rights and immunities normally granted to organizations of universal character. In 1977, it hired private respondent Nestor B. Micosas as laborer, who thereby became bound by IRRI Employment Policy and Regulations, the Miscellaneous Provisions of which states viz:

"C. Conviction and Previous Separation

'1. x x x

'2. An employer who has been convicted of a (sic) criminal offense involving moral turpitude may be dismissed from the service.'"[1]

On February 6, 1987, Micosas stabbed to death one Reynaldo Ortega inside a beer house in Los Baños, Laguna.

On September 15, 1987, Micosas was accused of the crime of homicide. During the pendency of the criminal case, Micosas voluntarily applied for inclusion in IRRI's Special Separation Program. However, on January 9, 1990, IRRI's Director General, Klaus L. Lampe expressed deep regret that he had to disapprove Micosas's application for separation because of IRRI's desire to retain the skills and talents that persons like him possess.[2]

On January 23, 1990, the trial court rendered a decision finding Micosas guilty of homicide, but appreciating, however, in his favor the presence of the mitigating circumstances of (a) incomplete self-defense and (b) voluntary surrender, plus the total absence of any aggravating circumstance.

Subsequently, Micosas applied for suspension of his sentence under the Probation Law.

On February 8, 1990, IRRI's Director General personally wrote Micosas that his appointment as laborer was confirmed, making him a regular core employee whose appointment was for an indefinite period and who "may not be terminated except for justifiable causes as defined by the pertinent provisions of the Philippine Labor Code." [3]

On March 30, 1990, IRRI's Human Resource Development Head, J.K. Pascual wrote Micosas urging him to resign from employment in view of his conviction in the case for homicide.

On April 4, 1990, the Laguna Parole and Probation Office No. II wrote IRRI informing the latter that said office found Micosa's application for probation meritorious as he was evaluated "to possess desirable social antecedents in his life." [4]

On April 6, 1990, Micosa informed J.K. Pascual that he had no intention of resigning from his job at IRRI.

On April 22, 1990, J.K. Pascual replied to Micosa's letter insisting that the crime for which he was convicted involves moral turpitude and informing him that he is thereby charged of violating Section I-AA, Par VII, C-2 of the Institute's Personnel Manual.

On April 27, 1990, Micosa explained to J.K. Pascual that the slaying of Reynaldo Ortega on February 6, 1987 arose out of his act of defending himself from unlawful aggression; that his conviction did not involve moral turpitude and that he opted not to appeal his conviction so that he could avail of the benefits of probation, which the trial court granted to him.

On May 7, 1990, Micosa sought the assistance of IRRI's Grievance Committee who recommended to the Director General, his continued employment. However, on May 21, 1990, J.K. Pascual issued a notice to Micosa that the latter's employment was to terminate effective May 25, 1990.

On May 29, 1990, Micosa filed a case for illegal dismissal.

On August 21, 1990, Labor Arbiter Numeriano D. Villena rendered judgment finding the termination of Micosa illegal and ordering his reinstatement with full backwages from the date of his dismissal up to actual reinstatement. The dispositive portion of the same is hereunder quoted:

"WHEREFORE, premises considered, the following orders are hereby entered:

"1. Finding the termination of complainant's services illegal;

"2. Ordering respondent International Rice Research Institute to reinstate complainant Nestor B. Micosa to his former position without loss of seniority rights and other privileges appurtenant thereto immediately upon receipt hereof;

"3. Ordering respondent International Rice Research Institute to pay complainant Nestor B. Micosa his full backwages computed from the date of his dismissal on May 25, 1990 up to actual reinstatement based on his latest salary rate of P4,068.00 per month.

"4. Ordering respondent International Rice Research Institute to pay complainant's counsel the amount of Five Thousand Pesos P5,000.00, representing his attorney's fees; and

"5. Dismissing the claim for damages for lack of merit.

SO ORDERED." [5]

On appeal, the National Labor Relations Commission was basically in agreement with the findings and conclusions of the Labor Arbiter. Hence, in a resolution dated January 31, 1991, it affirmed the appealed decision, the dispositive portion of which states:

"WHEREFORE, the appealed decision is AFFIRMED with modification deleting the award of attorney's fees.

"SO ORDERED." [6]

Accordingly, petitioner filed this instant petition raising the following issues:

"1. THE NATIONAL LABOR RELATIONS COMMISSION HAS ACTED WITH GRAVE ABUSE OF

DISCRETION IN FINDING THAT IRRI HAD NO RIGHT NOR AUTHORITY TO PRESCRIBE ANY OTHER CAUSE/S FOR DISMISSAL IF THE SAME IS NOT AMONG THOSE ENUMERATED IN ARTICLE 282 OF THE LABOR CODE.

"2. THE NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION IN HOLDING THAT "THERE IS NO BASIS TO APPLY PETITIONER'S INSTITUTE PERSONNEL MANUAL IN DISMISSING THE COMPLAINANT ON THE SOLE GROUND THAT HIS CONVICTION OF HOMICIDE CONSTITUTE MORAL TURPITUDE." [7]

The basic premise of petitioner is that Micosa's conviction of the crime of homicide, which is a crime involving moral turpitude, is a valid ground for his dismissal under the Miscellaneous Provisions of IRRI's Employment Policy Regulations.

In addition to its claim that it has the prerogative to issue rules and regulations including those concerning employee discipline and that its employees are bound by the aforesaid personnel manual, petitioner justifies its action as a legitimate act of self-defense. It admits that Micosa's interests -- in his employment and means of livelihood -- are adversely affected; that a convict should not be discriminated against in society and that he should be given the same opportunities as those granted to other fellow citizens but claims that at times, one's right is deemed superior than that of another. In this case, petitioner believes that it has a superior right to maintain a very high degree or standard not only to forestall any internal problem hampering operations but also to prevent even the smallest possibility that said problems could occur considering that it is an international organization with concomitant obligation to the host country to avoid creating disturbance or give occasion for such disturbance..

It should be recalled, however, that Micosa was issued an appointment with an assurance from the IRRI's Director General that as regular core employee he "may not be terminated except for justifiable causes as defined by the pertinent provisions of the Philippine Labor Code." [8] Thus, IRRI could not remove him from his job if there existed no justifiable cause as defined by the Labor Code.

Article 282 of the Labor Code enumerates the just causes wherein an employer may terminate an employment. Verily, conviction of a crime involving moral turpitude is not one of these justifiable causes. Neither may said ground be justified under Article 282 (c) nor under 282 (d) by analogy. Fraud or willful breach by the employees of the trust reposed in him by his employer or duly authorized representative under Article 282 (c) refers to any fault or culpability on the part of the employee in the discharge of his duty rendering him absolutely unworthy of the trust and confidence demanded by his position. It cannot be gainsaid that the breach of trust must be related to the performance of the employee's function. [9] On the other hand, the commission of a crime by the employee under Article 282 (d) refers to an offense against the person of his employer or any immediate member of his family or his duly authorized representative. Analogous causes must have an element similar to those found in the specific just cause enumerated under Article 282. Clearly lacking in the ground invoked by petitioner is its relation to his work or to his employer.

In the case at bar, the commission of the crime of homicide was outside the perimeter of the IRRI complex, having been committed in a restaurant after office hours and against a non-IRRI employee. Thus, the conviction of Micosa for homicide was not work-related, his misdeed having no relation to his position as laborer and was not directed or committed against IRRI or its authorized agent.

Besides, IRRI failed to show how the dismissal of Micosa would be in consideration of the safety and welfare of its employees, its reputation and standing in the community and its special obligations to its host country. It did not present evidence to show that Micosa possessed a tendency to kill without provocation or that he posed a clear

and present danger to the company and its personnel. On the contrary, the records reveal that Micosa's service record is unblemished. There is no record whatsoever that he was involved in any incident similar to that which transpired on that fateful night of February 6, 1987. In fact, even after his conviction, the IRRI's Director General expressed his confidence in him when he disapproved his application for special separation in a letter dated January 8, 1990 and when he conveyed to him IRRI's decision to promote him to the status of a regular core employee, with the commensurate increases in benefits in a letter dated February 8, 1990. Respondent IRRI derogates the letters' significance saying that they were mere pro-forma communications which it had given to numerous other workers. But whether or not such letters were "form letters," they expressed the message that were meant to be conveyed, i.e., that Micosa is fit for continued employment. In addition, the employees at IRRI's Grievance Committee interceded favorably in behalf of Micosa when they recommended his retention despite his conviction showing that the very employees which IRRI sought to protect did not believe that they were placing their very own lives in danger with Micosa's retention.

Likewise, noteworthy is the fact that Micosa, although found guilty as charged, was also found worthy of probation. This means that all the information regarding his character, antecedents, environment, as well as his mental and physical condition were evaluated as required under Section 8 of the Probation Law and it was found that there existed no undue risk that Micosa will commit another crime during his period of probation and that his being placed on probation would be to the benefit of society as a whole.

In the face of all these, IRRI remained adamant and insisted on Micosa's termination. Certainly, said termination cannot be upheld for it lacked not only a legal basis but factual basis as well.

Even under IRRI's Employment Policy and Regulations, the dismissal of Micosa on the ground of his conviction for homicide cannot be sustained. The miscellaneous provisions of said personnel manual mentions of conviction of a crime involving moral turpitude as a ground for dismissal. IRRI simply assumed that conviction of the crime of homicide is conviction of a crime involving moral turpitude. We do not subscribe to this view.

Moral turpitude has been defined in *Can v. Galing*[10] citing *In Re Basa*[11] and *Tak Ng v. Republic*[12] as everything which is done contrary to justice, modesty, or good morals; an act of baseness, vileness or depravity in the private and social duties which a man owes his fellowmen, or to society in general, contrary to justice, honesty, modesty or good morals.

As to what crime involves moral turpitude, is for the Supreme Court to determine.[13] Thus, the precipitate conclusion of IRRI that conviction of the crime of homicide involves moral turpitude is unwarranted considering that the said crime which resulted from an act of incomplete self-defense from an unlawful aggression by the victim has not been so classified as involving moral turpitude.

IRRI argues that the crime of homicide committed by Micosa involves moral turpitude as the killing of a man is conclusively an act against justice and is immoral in itself not merely prohibited by law. It added that Micosa stabbed the victim more than what was necessary to repel the attack.

IRRI failed to comprehend the significance of the facts in their totality. The facts on record show that Micosa was then urinating and had his back turned when the victim drove his fist unto Micosa's face; that the victim then forcibly rubbed Micosa's face into the filthy urinal; that Micosa pleaded to the victim to stop the attack but was ignored and that it was while Micosa was in that position that he drew a fan knife from the left pocket of his shirt and desperately swung it at the victim who released his hold on Micosa only after the latter had stabbed him several times. These facts show that Micosa's intention was not to slay the victim but only to defend his person. The appreciation in his favor of the mitigating circumstances of self-defense and voluntary surrender, plus the total absence of any aggravating circumstance demonstrate that Micosa's character and intentions were not

inherently vile, immoral or unjust.

This is not to say that all convictions of the crime of homicide do not involve moral turpitude. Homicide may or may not involve moral turpitude depending on the degree of the crime.[14] Moral turpitude is not involved in every criminal act and is not shown by every known and intentional violation of statute, but whether any particular conviction involves moral turpitude may be a question of fact and frequently depends on all the surrounding circumstances.[15] While xxx generally but not always, crimes mala in se involve moral turpitude, while crimes mala prohibita do not, it cannot always be ascertained whether moral turpitude does or does not exist by classifying a crime as malum in se or as malum prohibitum, since there are crimes which are mala in se and yet but rarely involve moral turpitude and there are crimes which involve moral turpitude and are mala prohibita only.[16] It follows therefore, that moral turpitude is somewhat a vague and indefinite term, the meaning of which must be left to the process of judicial inclusion or exclusion as the cases are reached.

In fine, there is nothing in this case to show any abuse of discretion by the National Labor Relations Commission in affirming the decision of the Labor Arbiter finding that Micoso was illegally dismissed. For certiorari to lie, there must be capricious, arbitrary and whimsical exercise of power, the very antithesis of the judicial prerogative in accordance with centuries of both civil and common traditions.[17] The abuse of discretion must be grave and patent, and it must be shown that the discretion was exercised arbitrarily or despotically.[18]

WHEREFORE, the petition is hereby DISMISSED for lack of merit.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.

[1] Rollo, p. 13.

[2] Records, p. 56.

[3] Id., p. 57.

[4] Id., p. 60

[5] Rollo, pp. 26 and 27.

[6] Id., p. 32.

[7] Id, p. 12.

[8] Supra.

[9] Quezon Electric Cooperative v. NLRC, et al., G.R. Nos. 79718-22, 172 SCRA 88 (1989).

[10] G.R. No. 54258, 155 SCRA 663 (1987).

[11] 41 Phil. 275.

[12] 106 Phil. 727.

[13] In Re: Victorio Lanuevo, Administrative Case No. 1162, 66 SCRA 245 (1975).

[14] Hartman v. Board of Chiropractic Examiners, 66 P. 2d 705, 706, 20 Cal. App. 2d 76; U.S. ex rel. Mongiovi v. Karnuth, D.C.N.Y., 30 F. 2d 825, 826, cited in 58 CJS, Moral Turpitude, p. 1206.

[15] Cal.- Brainard v. Board of Medical Examiners of California, 157 P. 2d 7, 8, 68 Cal App. 2d 591 cited in 58 CJS, Moral Turpitude, p. 1204.

[16] Ariz. - Du Val v. Board of Medical Examiners of Arizona, 66 P. 2d 1026, 1030, 49 Ariz. 329, cited in 58 CJS, Moral Turpitude, p. 1205.

[17] Panaligan v. Adolfo, G.R. No. L-24100, 67 SCRA 176 (1975).

[18] Philippine Virginia Tobacco Administration v. Lucero, G.R. No. L-32550, 125 SCRA 337 (1983).

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