571 Phil. 281

THIRD DIVISION

[G.R. No. 164403, March 04, 2008]

COSMOS BOTTLING CORPORATION, Petitioner, vs. PABLO NAGRAMA, JR., Respondent.

D E C I S I O N

REYES, R.T., J.:

LABOR disputes are often filled with acrimony. It is inevitable when the interest of labor clashes with that of capital. This one showcases labor and industry trading charges of abandonment, insubordination and illegal dismissal.

In resolving the controversy, We take another look at the dichotomies between question of law and question of fact, on one hand, and the doctrine of conclusive finality and doctrine of great respect and finality, on the other.

Sought to be set aside in this petition for review on certiorari are the following dispositions of the Court of Appeals (CA) in CA-G.R. SP No. 71229:[1] (a) Decision[2] dated April 6, 2004 which reversed and set aside the June 29, 2001 Resolution of the NLRC; and (b) Resolution[3] dated July 2, 2004 which denied the motion for reconsideration of petitioner.

The Facts

Petitioner Cosmos Bottling Corporation is a domestic corporation engaged in the business of manufacturing, bottling and selling soft drinks.[4] Respondent Pablo Nagrama, Jr. was initially employed by petitioner as a maintenance mechanic on June 24, 1993 at the Cosmos Plant in Cauayan, Isabela.[5] On September 17, 1996, he was elected by the local union as chief shop steward.

Respondent was designated by petitioner as waste water treatment operator effective September 27, 1999.[6] Petitioner hired Clean Flow Philippines, Inc. to conduct training seminars to acquaint petitioner's personnel on the operations of the water treatment plant.[7] Respondent was instructed to attend the seminar to be held on September 27-30, 1999.[8]

He failed to attend the first two (2) days of the seminar.[9] In a letter by his immediate supervisor, Josephine D. Calacien, dated September 29, 1999, respondent was informed that charges of abandonment of duty and gross insubordination had been lodged against him. He was required to submit his written explanation.[10]

Respondent filed his explanation on September 30, 1999. He contended that he had to attend to an administrative hearing for fellow unionists which were held at

Santiago, Isabela; that before he went, he first secured permission from the plant controller.[11] He averred that as a union official, he is obligated to attend to the problems of his fellow union members.

Hearing was held on the twin charges against him. Respondent and officers of petitioner corporation testified. On October 29, 1999, he was formally terminated from service.

Respondent filed a complaint before the Labor Arbiter, contending that he was illegally dismissed and that petitioner had committed unfair labor practices. In his Position Paper,[12] he explained his absences as follows:

> 8. As Co-Chairman of the Grievance Committee of the Union, the scope of my responsibility included union members from the Cosmos Warehouse at Santiago, Isabela. Furthermore, there was no shop steward from the said warehouse who was available for the said hearing;
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> 9. I asked the permission of all of our managers for my attendance in the said administrative hearing as representative of the Union. Our managers (Mr. Gabuco, Mr. Guina, Mr. Lelis, Mrs. Orosco, and Mr. Pangon) all gave their consent;
>
> 10. Accordingly, I attended the hearing on Arnel Brazuela's case on September 24, 1999, as Union representative. The said hearing started on 9:00 A.M. and ended at about noon. After the said hearing, I immediately went back to my post and resumed my work (I was still assigned at the advertising department during that time);
>
> 11. Nobody questioned my attendance during the hearing. My immediate supervisor or anybody for that matter did not inform me that what I was doing was a violation of company policy;
>
> 12. On September 28, 1999, another hearing was conducted regarding two other companions of Arnel Brazuela namely Joseph Salvador and Marcelino Estimada. They also sought my attendance and after obtaining the consent of our five managers, I attended the said hearing as union representative;
>
> 13. As in previous instance, I immediately returned to my post after the termination of the hearing and resumed whatever tasks I was doing. Again, nobody questioned my appearance during the hearing. Neither was I warned that what I was doing was contrary to company rules;
>
> 14. Another administrative hearing for the same case was conducted on September 29, 1999. With consent from my managers, I also attended the hearing. Nobody questioned my attendance therein;
>
> 15. Another administrative hearing was conducted on September 30, 1999 and I again represented the union during the said hearing

> with my attendance therein having been previously cleared by our managers.[13]

On August 4, 1999, Labor Arbiter Ricardo N. Olarirez rendered judgment sustaining the legality of the dismissal of respondent. In ruling against him, the Labor Arbiter held:

> WHEREFORE, premises considered, judgment is hereby rendered dismissing the above-entitled case for lack of merit. All other claims are hereby dismissed.[14]

The Labor Arbiter predicated the finding of abandonment on the admission made by respondent in a letter addressed to petitioner's management. The letter reads:

> Ako po at ang aking buong sambahayan ay humihingi ng paumanhin sa nalabag kong batas paggawa sa Cosmos Bottling Corp. bunga lamang ito ng aking ginawang sobrang malasakit sa aking mga kasamahang sales force ng Santiago na sa kasalukuyan ay may hinaharap na kaso, dahil sila po ay humihingi ng payo kung ano ang dapat na pakikiharap na gagawin at ito po ang naging sanhi na pati ako ay hindi ko namalayan na nakagawa na rin pala ako ng paglabag sa batas paggawa. Kaya't kung mamarapatin po ninyo ay humihingi pa po ako ng pagkakataon pa na sana ay manatili pa po ang mga kabutihan na ipinakita ninyo sa akin, at ipinangangako ko po sa inyo na hindi na mauulit ang mga pangyayaring ito at idinadalangin ko po sa Dios nawa'y pagpalain po kayong lahat ng ating panginoong Dios sampu ng inyong buong sambahayan.[15]

Invoking Rule 129, Section 4 of the Rules of Court, the Labor Arbiter considered the letter as a judicial admission of guilt.[16] The Arbiter also ruled that the charge of unfair labor practice was without merit because it was not sufficiently shown that he was dismissed for his union activities.

Respondent appealed the matter to the National Labor Relations Commission (NLRC). In a Resolution[17] dated June 29, 2001, the NLRC affirmed the decision of the Labor Arbiter, thus:

> WHEREFORE, finding no cogent reason to modify, alter, much less reverse the decision appealed from, the same is AFFIRMED *en toto* and the instant appeal is DISMISSED for lack of merit. [18]

In denying the appeal, the NLRC stated:

> Upon Our review of the record of the case, We conceive no abuse of discretion as to compel a reversal. Appellant failed to adduce convincing evidence to show that the Labor Arbiter in rendering the assailed decision had acted in a manner inconsistent with the criteria set forth in the foregoing pronouncement.
>
> Neither are We persuaded to disturb the factual findings of the Labor Arbiter a quo. The material facts as found are all in accordance with the evidence presented during the hearing as shown by the record.[19]

Respondent's motion for reconsideration was to no avail. Undaunted, he elevated the matter to the CA via petition for *certiorari*, seeking to annul and reverse the NLRC Resolutions.[20]

On April 6, 2004, the CA reversed the NLRC ruling and granted the reliefs sought, [21] disposing as follows:

> WHEREFORE, premises considered, the Court hereby GRANTS the petition and the assailed June 29, 2001 decision of the National Labor Relations Commission is hereby REVERSED and SET ASIDE and a new one is entered directing private respondents to:
>
> (1) Pay the petitioner full backwages, plus all other benefits, bonuses and general increases to which he would have been normally entitled, had he not been dismissed and had he not been forced to stop working;
>
> (2) Reinstate the petitioner without loss of seniority rights and other privileges. If reinstatement is no longer feasible, then separation pay equivalent to one (1) month for every year of service in addition to full backwages is mandated;
>
> (3) Pay the petitioner an amount equivalent to 10% of the judgment award as attorney's fees;
>
> (4) Pay the cost of the suit.
>
> SO ORDERED.[22]

The CA opined that the record is bare of any evidence to justify the termination of respondent Nagrama's employment.[23] It reiterated the rule that the burden was on the employer to prove abandonment.[24] It found that there was no evidence presented to show that the first requisite of abandonment, which is absence without a valid or justified reason, was present.[25] The justification of attendance at the administrative hearing of fellow union members in Santiago, Isabela was not refuted.[26] Nor was the fact that respondent was given permission by his managers to attend controverted.[27]

The second requisite, which is a clear intention to sever the employee-employer relationship, is also absent. The letter cited by the Labor Arbiter as proof of abandonment shows that respondent had no intention of severing the employee-employer relationship.[28] Moreover, the complaint for illegal dismissal shows a desire to return to work.[29]

Anent the issue of gross insubordination,[30] the CA found that respondent displayed a most commendable attitude by seeking consent from five (5) managers before absenting himself.[31] Although the second requisite of gross insubordination, which is willful disobedience, was present,[32] there was still no ground to terminate respondent's services since the crucial requisite of perverse mental attitude was lacking. His disobedience cannot be taken as just cause for dismissal due to gross insubordination.[33]

Issues

Dissatisfied, petitioner has come to Us via Rule 45, submitting the following questions for Our consideration:

> A. THE COURT OF APPEALS GRAVELY ERRED WHEN IT IGNORED THE FACT THAT THE EVIDENCE ON RECORD SUPPORTED THE DISMISSAL OF THE PETITIONER ON ACCOUNT OF ABANDONMENT AND GROSS INSUBORDINATION.
>
> B. THE COURT OF APPEALS VIOLATED THE DOCTRINE OF CONCLUSIVE FINALITY.[34]

Three (3) issues are hoisted for resolution. The first is whether or not the CA gravely erred in its judgment. The second is whether or not the CA violated the doctrine of conclusive finality. The third is whether or not the petition is violative of Rule 45 in that only questions of law should be raised. We shall resolve them in the reverse order, dealing with the procedural ahead of the substantive question.

Our Ruling

I. *Questions of law and fact distinguished*

Respondent claims that petitioner is raising questions of fact and not of law. Petitioner, for its part, claims that the propriety of the reversal of the CA of the factual findings of the NLRC and Labor Arbiter is a question of law insofar as the CA should have given finality to the factual findings of the administrative agencies. It is likewise argued that the CA committed an error in the application of the law when it reversed the factual findings of the NLRC.

The Court has made numerous dichotomies between questions of law and fact. A reading of these dichotomies shows that labels attached to law and fact are descriptive rather than definitive. We are not alone in Our difficult task of clearly distinguishing questions of fact from questions of law. The United States Supreme Court has ruled that: "we [do not] yet know of any other rule or principle that will unerringly distinguish a factual finding from a legal conclusion."[35]

In *Ramos v. Pepsi-Cola Bottling Co. of the P.I.*,[36] the Court ruled:

> There is a question of law in a given case when the doubt or difference arises as to what the law is on a certain state of facts; there is a question of fact when the doubt or difference arises as to the truth or the falsehood of alleged facts.[37]

We shall label this the doubt dichotomy.

In *Republic v. Sandiganbayan,*[38] the Court ruled:

> x x x A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of