

THIRD DIVISION

[G.R. No. 153982, July 18, 2011]

**SAN MIGUEL PROPERTIES PHILIPPINES, INC., PETITIONER, VS.
GWENDELLYN ROSE S. GUCABAN, RESPONDENT.**

D E C I S I O N

This is a Petition for Review under Rule 45 of the Rules of Court assailing the April 11, 2002 Decision ^[1] of the Court of Appeals in CA-G.R. SP No. 60135, as well as the June 14, 2002 Resolution ^[2] therein which denied reconsideration. The assailed decision affirmed the November 29, 1999 decision ^[3] of the National Labor Relations Commission (NLRC) in NLRC NCR-CA No. 019439-99, but modified the award of damages in the case. In turn, the decision of the NLRC had reversed and set aside the finding of illegal dismissal in the March 26, 1999 ruling ^[4] of the Labor Arbiter in NLRC NCR Case No. 00-06-05215-98.

The facts follow.

Respondent Gwendellyn Rose Gucaban (Gucaban) was well into the tenth year of her career as a licensed civil engineer when she joined the workforce of petitioner San Miguel Properties Philippines, Inc. (SMPI) in 1991. Initially engaged as a construction management specialist, she, by her satisfactory performance on the job, was promoted in 1994 and 1995, respectively, to the position of technical services manager, and then of project development manager. As project development manager, she also sat as a member of the company's management committee. She had been in continuous service in the latter capacity until her severance from the company in February 1998. ^[5]

In her complaint ^[6] for illegal dismissal filed on June 26, 1998, Gucaban alleged that her separation from service was practically forced upon her by management. She claimed that on January 27, 1998, she was informed by SMPI's President and Chief Executive Officer, Federico Gonzalez (Gonzalez), that the company was planning to reorganize its manpower in order to cut on costs, and that she must file for resignation or otherwise face termination. Three days later, the Human Resource Department allegedly furnished her a blank resignation form which she refused to sign. From then on, she had been hounded by Gonzalez to sign and submit her resignation letter. ^[7]

Gucaban complained of the ugly treatment which she had since received from Gonzalez and the management supposedly on account of her refusal to sign the resignation letter. She claimed she had been kept off from all the meetings of the management committee, ^[8] and that on February 12, 1998, she received an evaluation report signed by Gonzalez showing that for the covered period she had been negligent and unsatisfactory in the performance of her duties. ^[9] She found said report to be unfounded and unfair, because no less than the company's Vice-

President for Property Management, Manuel Torres (Torres), in a subsequent memorandum, had actually vouched for her competence and efficiency on the job. [10] She herself professed having been consistently satisfactory in her job performance as shown by her successive promotions in the company. [11] It was supposedly the extreme humiliation and alienation that impelled her to submit a signed resignation letter on February 18, 1998. [12]

Gucaban surmised that she had merely been tricked by SMPI into filing her resignation letter because it never actualized its reorganization and streamlining plan; on the contrary, SMPI allegedly expanded its employee population and also made new appointments and promotions to various other positions. She felt that she had been dismissed without cause and, hence, prayed for reinstatement and payment of backwages and damages. [13]

SMPI argued that it truly encountered a steep market decline in 1997 that necessitated cost-cutting measures and streamlining of its employee structure which, in turn, would require the abolition of certain job positions; Gucaban's post as project development manager was one of such positions. As a measure of generosity, it allegedly proposed to Gucaban that she voluntarily resign from office in consideration of a financial package [14] - an offer for which Gucaban was supposedly given the first week of February 1998 to evaluate. Gucaban, however, did not communicate her acceptance of the offer and, instead, she allegedly conferred with the Human Resource Department and negotiated to augment her benefits package. [15]

SMPI claimed that Gucaban was able to grasp the favorable end of the bargain and, expectant of an even more generous benefits package, she voluntarily tendered her resignation effective February 27, 1998. On the day before her effective date of resignation, she signed a document denominated as *Receipt and Release* whereby she acknowledged receipt of P1,131,865.67 cash representing her monetary benefits and waived her right to demand satisfaction of any employment-related claims which she might have against management. [16] SMPI admitted having made several other appointments in June 1998, but the same, however, were supposedly part of the full implementation of its reorganization scheme. [17]

In its March 26, 1999 Decision, [18] the Labor Arbiter dismissed the complaint for lack of merit, thus:

WHEREFORE, judgment is hereby rendered DISMISSING the complaint for lack of merit.

SO ORDERED. [19]

Addressing in the affirmative the issue of whether the subject resignation was voluntary, the Labor Arbiter found no proven force, coercion, intimidation or any other circumstance which could otherwise invalidate Gucaban's resignation. He found incredible Gucaban's claim of humiliation and alienation, because the mere fact that she was excluded from the meetings of the management committee would not be so humiliating and alienating as to compel her to decide to leave the company. [20] He likewise dismissed her claim that SMPI merely feigned the

necessity of reorganization in that while the company indeed made new other appointments following Gucaban's resignation, still, this measure was an implementation of its reorganization plan. [21]

Gucaban appealed to the NLRC [22] which, in its November 29, 1999 Decision, [23] reversed the ruling of the Labor Arbiter. Finding that Gucaban has been illegally dismissed, it ordered her reinstatement without loss of seniority rights and with full backwages, as well as ordered the award of damages and attorney's fees. It disposed of the appeal as follows:

WHEREFORE, the appealed decision is SET ASIDE. On the basis of our finding that the complainant was illegally dismissed, judgment is hereby rendered directing the respondent to reinstate complainant to her position last held, and to pay her full backwages computed from the time of her dismissal until she is actually reinstated. As alleged and prayed for in the complaint, the respondent is likewise directed to pay complainant moral damages limited however to P200,000.00, exemplary damages of P100,000.00, and ten percent (10%) of the total award as attorney's fees.

SO ORDERED. [24]

SMPI sought reconsideration, [25] but it was denied. [26] It elevated the matter to the Court of Appeals *via* a petition for *certiorari*. [27]

On April 11, 2002, the Court of Appeals issued the assailed Decision [28] finding partial merit in the petition. It affirmed the NLRC's finding of illegal/constructive dismissal, but modified the monetary award as follows:

WHEREFORE, we grant the petition for *certiorari* insofar only in the granting of the exorbitant amount of P200,000.00 moral damages and P100,000.00 exemplary damages.

The damages awarded are reduced to P50,000.00 moral damages and P25,000.00 exemplary damages as discussed in the text of the decision. The ten percent (10%) awarded for attorneys fees shall be based on the total amount awarded.

SO ORDERED. [29]

SMPI's motion for reconsideration was denied; [30] hence, this recourse to the Court.

SMPI posits that the Court of Appeals' finding of illegal dismissal was at best conjectural, based as it is on a misapprehension of facts and on Gucaban's self-serving allegations of alienation and humiliation which, nevertheless, could not have given sufficient motivation for her to resign. It insists that Gucaban, in exchange for a benefits package, has voluntarily tendered her resignation following the presentation to her of the possibility of company reorganization and of the resulting abolition of her office as necessitated by the company's business losses at the time. It adds that Gucaban has, in fact, been able to negotiate with the company for a

better separation package which she voluntarily accepted as shown by her unconditional resignation letter and the accompanying *Receipt and Release* form. [31] It cites *Samaniego v. NLRC*, [32] *Sicangco v. NLRC*, [33] *Domondon v. NLRC* [34] and *Guerzon v. Pasig Industries, Inc.* [35] to support its cause. [36]

Gucaban stands by the uniform findings of the NLRC and the Court of Appeals. In her Comment on the Petition, she points out that indeed SMPI was unable to conclusively refute the allegations in her complaint, particularly those which negate the voluntariness of her resignation. [37] She insists that SMPI had no intention to reorganize at the time the option to resign was presented to her. She discloses that while actual reorganization took place more than a year after she was fraudulently eased out of the company, the said measure was supposedly brought about by the change in management and not by a need to cut on expenditures. In connection with this, she surmises why would SMPI actually implement its reorganization plan belatedly if there were, at the time of her resignation, an existing need to cut on costs, and why would those affected employees be given financial benefits far better than hers. [38] She concludes that given the foregoing, the cases relied on by petitioner do not apply to the case at bar. [39]

Replying, SMPI counters that the fact that the company had undertaken an albeit belated reorganization would mean that there was such a plan in existence at the time of Gucaban's resignation. It professes that in June 1998, the company designated several of its personnel to different positions which, therefore, indicates a reorganization following respondent's resignation. Moreover, it points out that Gucaban's claim of trickery does not sit well with the fact that she is a well-educated person who naturally cannot be inveigled into resigning from employment against her will. [40]

Prefatorily, we note in this case the inconsistency in the factual findings and conclusions of the Labor Arbiter and the NLRC, yet the incongruence has already been addressed and settled by the Court of Appeals which affirmed the NLRC. Not being a trier of facts, this Court then ought to accord respect if not finality to the findings of the Court of Appeals, especially since, as will be shown, they are substantiated by the availing records. [41] Hence, we deny the petition.

Resignation - the formal pronouncement or relinquishment of a position or office - is the voluntary act of an employee who is in a situation where he believes that personal reasons cannot be sacrificed in favor of the exigency of the service, and he has then no other choice but to disassociate himself from employment. [42] The intent to relinquish must concur with the overt act of relinquishment; [43] hence, the acts of the employee before and after the alleged resignation must be considered in determining whether he in fact intended to terminate his employment. [44] In illegal dismissal cases, fundamental is the rule that when an employer interposes the defense of resignation, on him necessarily rests the burden to prove that the employee indeed voluntarily resigned. [45] Guided by these principles, we agree with the Court of Appeals that with the availing evidence, SMPI was unable to discharge this burden.

While indeed the abolition of Gucaban's position as a consequence of petitioner's supposed reorganization plan is not the ground invoked in this case of termination,

still, the question of whether or not there was such reorganization plan in place at the time of Gucaban's separation from the company, is material to the determination of whether her resignation was of her own volition as claimed by SMPI, inasmuch as the facts of this case tell that Gucaban could not have filed for resignation had Gonzalez not communicated to her the alleged reorganization plan for the company.

In all stages of the proceedings, SMPI has been persistent that there was an existing reorganization plan in 1998 and that it was implemented shortly after the effective date of Gucaban's resignation. As proof, it submitted a copy of its June 9, 1998 Memorandum which shows that new appointments had been made to various positions in the company. A fleeting glance at the said document, however, tells that there were four high-ranking personnel who received their respective promotions, yet interestingly it tells nothing of a reorganization scheme being implemented within the larger corporate structure. [46]

Equally interesting is that SMPI, in its *Supplemental Argument to the Motion for Reconsideration* filed with the NLRC, attached copies of the notices it sent to the Department of Labor and Employment on July 13, 1999 and December 29, 1998 to the effect that effective February 15, August 15 and September 15, 1999 it would have to terminate the services of its 76 employees due to business losses and financial reverses. [47] True, while a reorganization of SMPI's corporate structure might have indeed taken place as shown by these notices, nevertheless, it happened only in the latter part of 1999 - or more than a year after Gucaban's separation from the company and incidentally, after she filed the instant complaint. [48] SMPI's claim in this respect all the more loses its bearing, considering that said corporate restructuring was brought about rather by the sudden change in management than the need to cope with business losses. And this fact has been explained by Gucaban in her Comment and in her Memorandum filed with the Court of Appeals. [49]

It is not difficult to see that, shortly prior to and at the time of Gucaban's alleged resignation, there was actually no genuine corporate restructuring plan in place as yet. In other words, although the company might have been suffering from losses due to market decline as alleged, there was still no concrete plan for a corporate reorganization at the time Gonzalez presented to Gucaban the seemingly last available alternative options of voluntary resignation and termination by abolition of her office. Certainly, inasmuch as the necessity of corporate reorganization generally lies within the exclusive prerogative of management, Gucaban at that point had no facility to ascertain the truth behind it, and neither was she in a position to question it right then and there. Indeed, she could not have chosen to file for resignation had SMPI not broached to her the possibility of her being terminated from service on account of the supposed reorganization.

It is then understandable for Gucaban, considering the attractive financial package which SMPI admittedly offered to her, to opt for resignation instead of suffer termination - a consequence the certainty of which she was made to believe. As rightly noted by the Court of Appeals, that there was no actual reorganization plan in place when Gucaban was induced to resign, and that she had been excluded from the meetings of the management committee since she refused to sign her resignation letter followed by the soured treatment that caused her humiliation and alienation, are matters which SMPI has not directly addressed and successfully refuted. [50]