

THIRD DIVISION

[G.R. No. 202724, February 03, 2021]

SUSAN M. BANCE,[1] ARLENE C. DIMAIWAT, JEAN O. VELASCO, NANCY M. AGUIRRE, AND HAZEL A. LOBETANIA, PETITIONERS, VS. UNIVERSITY OF ST. ANTHONY AND SANTIAGO ORTEGA, JR., RESPONDENTS.

Hernando, J.:

Challenged in this Petition for Review on *Certiorari*^[2] are the April 17, 2012 Decision^[3] and June 27, 2012 Resolution^[4] of the Court of Appeals (CA) in CA-G.R. SP No. 115111, which affirmed with modification the September 30, 2009 Decision^[5] of the National Labor Relations Commission (NLRC) in NLRC LAC Case No. 12-003998-08.

The NLRC Decision reversed and set aside the October 1, 2008 Decision^[6] of the Labor Arbiter (LA), and held that the petitioner-employees were rightfully dismissed from employment in respondent University of St. Anthony (University).

The Factual Antecedents:

Petitioners Susan M. Bance (Bance), Arlene C. Dimaiwat (Dimaiwat), Jean O. Velasco (Velasco), Nancy M. Aguirre (Aguirre), and Hazel A. Lobetania (Lobetania; collectively, petitioners) filed complaints for illegal dismissal with money claims against respondents University and Atty. Santiago D. Ortega, Jr. (Atty. Ortega; collectively, respondents).

The University is an educational institution duly organized and existing under Philippine laws.^[7] Atty. Ortega is the President and the Chairman of the University's Board of Trustees.^[8] Mrs. Victoria SD. Ortega (Mrs. Ortega) was originally impleaded in the case but was subsequently dropped as a party respondent.^[9] She is the University's Vice-President for Finance.^[10]

Petitioners were regular employees of the University.^[11] As summarized by the CA, the details of their employment are as follows:

Names	Date Employed	Position	Monthly Salary
Susan M. Bance	June 1984	Senior Accounts Officer	P21,591.12
Arlene C. Dimaiwat	June 14, 1982	Accounting Clerk	P9,250.00
Jean O. Velasco	June 1988	Classroom Teacher	PI 1,880.00
Nancy M. Aguirre	April 7, 1980	Accounting Officer	PI 1,850.00
Hazel A. Lobetania	June 1, 1984	Credit and Collection Officer	P14,000.00 ^[12]

Facts relative to Lobetania:

In June 2006, several irregular and anomalous transactions were noted in the University's Accounting Office.^[13] Consequently, in January 2007, Atty. Ortega hired an external auditor to conduct an investigation.^[14] The audit report dated March 13, 2007 revealed a cash shortage of ₱239,856.25, which represents the net collection of book remittances.^[15] The cash should have been kept inside the cash vault under the custody of Lobetania but it was missing.^[16] As a result, Lobetania was asked to go on a leave of absence.^[17] During her conference with Atty. Ortega, Lobetania admitted that she failed to deposit the amount in the University's bank account.^[18] Upon demand to return the amount,^[19] Lobetania paid it in installments out of her personal funds as evidenced by official receipts issued by the University under her name.^[20] In a subsequent audit report dated May 15, 2007, additional anomalous transactions in the prior years surfaced where the tellers accommodated the encashment of checks not in the name of the University.^[21]

Lobetania went on leave for the duration of the audit. Eventually, she tendered her resignation on July 27, 2007 (to take effect on August 1, 2007), and was approved by Atty. Ortega on August 9, 2007.^[22]

Subsequently, on February 22, 2008, the University filed criminal cases for Estafa against Lobetania.^[23] On March 25, 2008, the prosecutor found probable cause to charge her with Qualified Theft and filed the corresponding Information before the Regional Trial Court of Iriga City.^[24]

Facts relative to Bance, Dimaiwat, Velasco, and Aguirre:

At around the same period, Bance, Dimaiwat, and Aguirre were found to have taken advantage of their positions in the Accounting Office by enrolling their children and relatives, including Velasco's, under the University's group enrollment incentive program^[25] despite knowing that they were unqualified.^[26] Upon discovery of the fraudulent scheme in November 2007, Atty. Ortega immediately ordered an investigation and called a conference with the alleged perpetrators.^[27]

During the December 2007 conference, petitioners (excluding Lobetania) were apprised of the infractions they committed. During the conference, they admitted that their children and relatives indeed benefitted from the unauthorized discounts.^[28] Atty. Ortega thus verbally informed them that their employment will be terminated.^[29] On December 22, 2007, Atty. Ortega issued Office Memo No. 007-026, informing them that their employment will be terminated effective January 1, 2008 on grounds of dishonesty amounting to malversation of school funds.^[30] The office memo was allegedly not preceded by any written notice to petitioners except for the two conferences and a verbal announcement during the second conference.^[31]

Dimaiwat, Velasco, and Aguirre opted to resign. They tendered their resignation on December 22, 2007 (taking effect on January 2, 2008), and these were approved by Atty. Ortega on December 26, 2007.^[32] Bance did not tender her resignation.^[33]

Subsequently, the University filed several criminal cases for Estafa against Bance, Dimaiwat, Velasco, and Aguirre.^[34] These are pending before the Municipal Trial Court in Iriga City.^[35]

On April 1, 2008, Bance, Dimaiwat, Velasco, and Aguirre filed their respective complaints for illegal dismissal with money claims against the respondents.^[36] Lobetania filed hers on April 22, 2008.^[37] They subsequently amended their complaints to include claims for unpaid salaries and 13th month pay, and to implead Mrs. Ortega as respondent in Lobetania's complaint.^[38]

Proceedings ensued. Respondents opted to file two separate position papers-one position paper on Lobetania's case and another on Bance, Dimaiwat, Velasco, and Aguirre's case.^[39] They, however, belatedly filed their position paper on Bance, Dimaiwat, Velasco, and Aguirre's case before the LA.^[40]

In their Joint Position Paper,^[41] petitioners contended that their dismissal was illegal for lack of just or authorized causes^[42] and non-observance of the requirements of procedural due process.^[43] Lobetania, for her part, stated that there was no missing money as the P1,239,856.25 she allegedly pilfered was actually used by Mrs. Ortega to pay off loans ^[44] She was only forced to pay the amount from her personal funds, as evidenced by official receipts issued by the University under her name, because of the threats issued by Atty. Ortega.^[45] Petitioners prayed for reinstatement, and payment of money claims, moral, nominal, and exemplary damages, and attorney's fees.^[46]

On the other hand, in their two separate Position Papers,^[47] respondents contended that petitioners' (except Bance) resignation rendered the complaints for illegal dismissal without basis.^[48] Respondents added that, in any event, petitioners' (including Bance) dismissals were for a just cause (*i.e.*, willful breach of trust and fraud) based on the acts that they committed during their employment as shown by the result of the investigation and audits.^[49] Respondents prayed for the dismissal of the complaints and for the payment of moral and exemplary damages to the University.^[50]

Ruling of the Labor Arbiter:

On October 1, 2008, the LA rendered a Decision finding petitioners to have been illegally dismissed^[51] and ordering the respondents to reinstate them to their previous or equivalent positions without loss of seniority rights, and to pay them (jointly and severally) backwages, unpaid salaries, 13th month pay, holiday pay, damages, and attorney's fees.^[52] The LA also ordered respondents to reimburse Lobetania the amount of P1,239,856.25.^[53] The LA found that the University, as employer, failed to discharge the burden of showing by substantial evidence that there was just or authorized cause in the dismissal of Bance, Dimaiwat, Velasco, and Aguirre.^[54] In failing to file a position paper on time, respondents were deemed to have waived presenting evidence in their favor.^[55] As for Lobetania's case, the LA found that the missing funds were actually used by Mrs. Ortega to pay off her

personal obligations.^[56] Moreover, Lobetania was even forced to repay that amount to the University from her personal funds.^[57] The LA also ruled that respondents failed to afford petitioners procedural due process in effecting their dismissal.^[58] The dispositive portion of the LA Decision reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding respondents UNIVERSITY OF SAINT ANTHONY/ATTY. SANTIAGO D. ORTEGA, JR., guilty of illegal dismissal and liable for money claims of complainants SUSAN M. BANCE, ARLENE C. DIMAIWAT, JEAN O. VELASCO, and NANCY M. AGUIRRE. Likewise, respondents UNIVERSITY OF SAINT ANTHONY/ATTY. SANTIAGO D. ORTEGA, JR./MRS. VICTORIA SD. ORTEGA are found guilty of illegal dismissal and liable for money claims of complainant HAZEL LOBETANIA.

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SO ORDERED.^[59]

Aggrieved, respondents appealed the LA Decision to the NLRC.

Ruling of the National Labor Relations Commission:

In its September 30, 2009 Decision, the NLRC reversed and set aside the LA Decision. It ruled that petitioners were not illegally dismissed.^[60] It, however, ordered the University to pay Bance indemnity for failure to observe procedural due process; pay Lobetania her 13th month pay; and, pay all petitioners their holiday pay for three (3) years.^[61] The Decision also dropped Mrs. Ortega as respondent.^[62] The NLRC ruled that the complaints for illegal dismissal have no basis as petitioners, except for Bance, had voluntarily resigned before the effectivity of the termination of their employment.^[63] In other words, they opted for a voluntary exit instead of being fired. As for Bance, the criminal charges for Estafa filed by the University against her provided ample basis for her dismissal on grounds of serious misconduct and loss of trust and confidence.^[64] However, the NLRC found that procedural due process was not observed in the termination of Bance's employment, thus, it awarded nominal damages in the amount of P5,000.00.^[65] On the matter of the payment of P1,239,856.25 as reimbursement to Lobetania, the NLRC declared that the claim is not covered by any labor law, labor standard, or a provision of a collective bargaining agreement^[66] hence it dismissed the claim with advice that the parties may litigate in a different forum.^[67] The dispositive portion of the NLRC Decision reads:

WHEREFORE, premises considered, the appeal filed by respondents is GRANTED. The appealed Decision of Labor Arbiter Jesus Orlando M. Quinones dated October 1, 2008 is REVERSED and SET ASIDE, and a NEW ONE [is] rendered declaring complainants not to have been illegally dismissed by respondents. 1. However, respondent USANT is hereby ordered: a. To pay complainant Susan Bance the sum of P5,000.00 as indemnity for failure to observe procedural due process as discussed above b. To pay all complainants their holiday pay for 3 years c. To pay

complainant Lobetania her 13th month pay for 2007 in the sum of P2,334.00 as computed in this Decision; and 2. Individual respondent Victoria SD. Ortega is hereby dropped as party respondent **SO ORDERED.**^[68]

Petitioners filed a motion for reconsideration but this was subsequently denied in a Resolution dated April 8, 2010.^[69] Hence, they filed a Petition for *Certiorari* before the CA.^[70] **Ruling of the Court of Appeals:** On April 17, 2012, the CA rendered its Decision affirming the ruling of the NLRC with modification in that it deleted the award of nominal damages in favor of Bance.^[71] It found that the requirement of substantive due process was satisfied with respect to Lobetania and Bance's dismissal,^[72] *i.e.*, loss of trust and confidence in view of their participation in the anomalous handling of the University's finances. Lobetania failed to remit collections to the University's bank account while Bance enrolled unqualified candidates into the University's group enrollment incentive program.^[73] Further, the CA ruled that the requirement of procedural due process was aptly observed in Bance's dismissal, hence, she is not entitled to nominal damages.^[74] As for Lobetania, the requirement of procedural due process is irrelevant in view of her voluntary resignation.^[75] With respect to Velasco, Aguirre, and Dimaiwat, there was just cause for their dismissal, *i.e.*, dishonesty, when they participated in the anomalous scheme in the University's accounting department by making their children and relatives beneficiaries of the group enrollment incentive program.^[76] The CA agreed with the NLRC's disposition on the matter of the payment of P1,239,856.25 as reimbursement to Lobetania. It stated that the issue did not arise from an employer-employee relationship but was a personal financial accommodation on the part of Lobetania.^[77] The dispositive portion of the assailed Decision reads:

WHEREFORE, foregoing considered, the Petition is hereby **DISMISSED**. The September 30, 2009 Decision of the NLRC is **AFFIRMED with the MODIFICATION** that the award of nominal damages in favor of Susan [Bance] is **DELETED**.

SO ORDERED.^[78]

Petitioners filed a motion for reconsideration but this was subsequently denied in a Resolution dated June 27, 2012.^[79] Steadfast, petitioners elevated the case to this Court praying for the reinstatement of the LA Decision.^[80] They maintain that there was no just cause in their dismissal from employment. They allege that Lobetania was dismissed because Atty. Ortega found out that she was more loyal to Mrs. Ortega than to him.^[81] There were no missing funds contrary to what the respondents alleged, hence, Lobetania's termination was unfounded.^[82] With respect to Bance, the allegation that she took undue advantage of the University's group enrollment incentive program was unsubstantiated.^[83] The same was true as to Dimaiwat, Velasco, and Aguirre – the allegation that they participated in the anomalous transaction involving the group enrollment incentive program was unsubstantiated.^[84] Petitioners also argue that the finding of probable cause in the criminal cases filed against them does not constitute just cause for their dismissal from employment.^[85] Petitioners further allege that procedural due process was not observed. Respondents allegedly did not issue a written notice informing them of