

SECOND DIVISION

[G.R. No. 245258, February 05, 2020]

METRO PSYCHIATRY, INC., PETITIONER, VS. BERNIE J. LLORENTE, RESPONDENT.

DECISION

REYES, A., JR., J.:

This is a Petition for Review on *Certiorari*^[1] filed by petitioner Metro Psychiatry, Inc. (MI) assailing the Decision^[2] dated October 16, 2018 and the Resolution^[3] dated February 12, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 153723, which reversed the Decision^[4] dated August 23, 2017 of the National Labor Relations Commission (NLRC) and Decision^[5] dated April 28, 2017 of the Labor Arbiter (LA).

The Antecedent Facts

The respondent, Bernie Llorente (Llorente), was hired in November 2007 as a nursing attendant at MPI, a domestic corporation engaged in full service psychiatric care and rehabilitation services of its patients.^[6]

On June 22, 2016, Llorente was served with a Memorandum^[7] by MPI requiring him to explain why no disciplinary action should be taken against him for continuously refusing to perform certain tasks assigned to him by his immediate supervisor. In his Explanation Letter, (in Filipino), Llorente bewailed how he was being treated by MPI.^[8]

On July 9, 2016, NIPI served Llorente with another Memorandum,^[9] this time, for:

- a. for falsely reporting to the parents of one patient that the latter was being maltreated in the hospital; and
- b. for failing to comply with the assistant nursing attendant head's instruction to clean the facility and to attend endorsement meetings.^[10]

Per the Memorandum,^[11] the mother of a patient named David Warren Tan (Tan) appeared at MPI's facility on March 17, 2016, demanding to see her son because earlier that day, she received a text message from someone who claimed to be a former staff of MPI, stating that Tan was being subjected to physical assault by the members of the clinic staff. However, upon checking Tan, no sign of physical injury

was found on him. Consequently, Tan's mother called the informant *via* speaker phone, and as she did, Nurse Garry Dumalanta and Nurse John Paul Manawat (Nurses Dumalanta and Manawat) recognized Llorente's voice on the other end. When the management reviewed the closed circuit television (CCTV) footage on the said date, Llorente was seen flipping through patients' charts and copying information, which he placed inside his pocket. NIPI then issued the Memorandum requiring Llorente to explain his side. He was also placed on preventive suspension.
[12]

Through an Explanation Letter (in Filipino)^[13] dated July 9, 2016, Llorente denied contacting Tan's mother and alleged that he was merely copying the vital signs of patients for endorsement. Llorente also claimed that the allegations of him not attending endorsement meetings were untrue. As for his failure to comply with the instruction to clean the facility, he explained that it was not his job to do housekeeping because he is a nursing attendant.^[14]

On September 5, 2016, Llorente received a Notice of Termination^[15] informing him of his dismissal from employment for loss of trust and confidence and willful disobedience.^[16] This prompted Llorente to file a complaint for constructive dismissal against MPI. He posited that because of a previous labor case, MPI subjected him to harassment and discriminatory acts such as: reducing his work days, assigning him to refill water and to clean the facility, and accusing him of calling Tan's parents, among others.^[17]

MPI counteracted that Llorente raised immaterial matters in an attempt to absolve himself from his misdeeds.^[18] They alleged that on February 26, 2010, Llorente was caught sleeping on duty and went on absence without official leave on March 4, 2012.^[19] He was also reported to be discourteous and disrespectful to patients. Additionally, he was given notices to explain his tardiness on September 16, 2012 and November 24, 2012.^[20] Finally, MPI was compelled to terminate the employment of Llorente for maliciously relaying false information to Tan's relatives.
[21]

The Ruling of the LA

On April 28, 2017, the LA rendered a Decision^[22] dismissing the complaint, *viz.*:

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

SO ORDERED.^[23]

The LA clarified that Llorente did not resign but was actually terminated from employment. Hence, his dismissal was not constructive.^[24] The LA found that Llorente's allegations were belied by his own evidence because several employees, other than Llorente, were also assigned to perform tasks such as refilling water and

cleaning the facility. Furthermore, the work schedule was distributed among them.
[25] Therefore, the LA rejected Llorente's claim of harassment and discrimination.

With regard to Llorente's actual dismissal from work, the LA ruled that there was substantial evidence proving that Llorente maliciously reported the alleged physical abuse to Tan's parents. Also, the LA concluded that Llorente had no valid excuse for his disobedience since other nursing attendants perform the duties he refused to do.
[26] Thus, the LA upheld Llorente's termination from work.

The Ruling of the NLRC

On August 23, 2017, the NLRC affirmed the LA ruling with modification. In its Decision, [27] NLRC agreed with the LA as regards the validity of Llorente's dismissal. However, the NLRC awarded salary differential, service incentive leave, holiday pay, and pay for additional work days rendered by Llorente based on the evidence that the parties submitted, thus:

WHEREFORE, premises considered, the instant Appeal is hereby PARTIALLY GRANTED and the assailed Decision by the Labor Arbiter Reynante L. San Gaspar dated 28 April 2017 is hereby MODIFIED in that the respondent METRO PSYCHIATRY, INC. is liable to pay the complainant the following:

- a) unpaid salary for six (6) days in the amount of Php2,886.00;
- b) service incentive leave in the amount of Php20,817.28;
- c) salary differential with double indemnity pursuant to R.A. 6727, as amended by R.A. 8188 in the amount of Php131.20; and, (sic)
- d) two holiday pay in the amount of Php962.00.

SO ORDERED. [28]

The Ruling of the CA

The CA, in a Decision [29] dated October 16, 2018, overturned the ruling of the NLRC and the LA, holding that the evidence presented by MPI against Llorente were inadequate to cause his termination from employment. According to the CA, MPI failed to substantiate their claim that it was Llorente who falsely alerted Tan's family about his alleged physical abuse because it relied entirely on the handwritten statements of witnesses, Nurses Dumalanta and Manawat. [30] While the CA found Llorente's actions in the CCTV footage suspicious, the CA concluded that the same was not completely untoward since he is a nursing attendant. [31]

As for Llorente's refusal to obey the orders of his superior, the CA deemed the penalty of termination harsh as he should have been subjected to a simple reprimand only.^[32] Accordingly, the CA disposed of the case in this wise:

WHEREFORE, premises considered, the instant petition is PARTIALLY GRANTED. Accordingly, the assailed Decision and Resolution of the National Labor Relations Commission dated August 23, 2017 and September 29, 2017, respectively, are hereby MODIFIED to include the payment of full back wages and separation pay from the date of dismissal until the finality of the decision plus 10% attorney's fees and the requisite 6% legal interest of the entire judgment award from the finality thereof until full satisfaction.

SO ORDERED.^[33]

The petitioner's motion for reconsideration was denied in a Resolution^[34] dated February 12, 2019 by the CA.

Issue

Whether the CA erred in holding that Llorente was illegally dismissed from employment, in effect, reversing the findings and conclusion of the LA and the NLRC.

The Ruling of the Court

The petition is meritorious.

"As a general rule, a petition for review under Rule 45 of the Rules of Court covers *only* questions of law. Questions of fact are not reviewable and cannot be passed upon by the Court in the exercise of its power to review under Rule 45."^[35] Nevertheless, this rule admits of certain exceptions, such as:

1. when the findings are grounded entirely on speculations, surmises or conjectures;
2. when the inference made is manifestly mistaken, absurd or impossible;
3. when there is grave abuse of discretion;
4. when the judgment is based on a misapprehension of facts;
5. when the findings of fact are conflicting;