

## SECOND DIVISION

[ G.R. No. 202379, July 27, 2020 ]

**SPC POWER CORPORATION, JOCELYN O. CAPULE, AND ALFREDO S. BALLESTEROS, PETITIONERS, VS. GERARDO A. SANTOS, RESPONDENTS.**

### DECISION

**INTING, J.:**

Before the Court is a Petition for Review on *Certiorari* (With Application for a Temporary Restraining Order and/or Writ of Preliminary Injunction)<sup>[1]</sup> under Rule 45 of the Rules of Court assailing the Decision<sup>[2]</sup> dated July 28, 2011 and the Resolution<sup>[3]</sup> dated June 8, 2012 of the Court of Appeals (CA), Cebu City in CA-G.R. SP No. 05401 which reversed and set aside the Decision<sup>[4]</sup> dated April 30, 2010 of the National Labor Relations Commission (NLRC), Cebu City in NLRC VAC-06-000758-2009/RAB Case No. VII-07-1769-2008.

#### *The Antecedents*

Gerardo A. Santos (respondent) was hired by SPC Power Corporation (SPC) in 1997. He was assigned as a stock keeper in SPC's Warehouse Department. In 2002, the petitioners offered him the position of security officer, but respondent was hesitant to accept the position because he had no background or training as a security officer. The job was offered three times to him; on the third time, respondent accepted the position.<sup>[5]</sup>

In 2005, SPC gave respondent a regular appointment as security officer. However, SPC neither informed nor gave him a job description to guide him in his duties. Such being the case, his tasks were unrelated to his job as security officer, like being a personal aide of Raul Estrelloso (Estrelloso), his immediate supervisor. SPC also ordered him to conduct activities designed to prevent employees from forming a union.<sup>[6]</sup>

Sometime in 2006 and 2007, SPC ordered respondent and other employees of SPC to engage in activities that would undermine the 2007 certification election. They did as instructed, but still failed to prevent the employees from forming a union. Soon after the union was formed, the respondent noticed a change of treatment from SPC against him and the other personnel who actively participated in preventing the formation of a union. True enough, SPC took an action against Estrelloso by asking the latter to take a leave of absence. Subsequently, Estrelloso's close aides, including the respondent, were served notices to show cause why they should not be terminated from their employment. Later on, SPC asked Estrelloso to resign from the company.<sup>[7]</sup>

Meanwhile, SPC began to seek favorable dialogue with the newly formed union. In order to make it appear that they were not involved in union busting activities, SPC took steps to to get rid of the respondent and his group.

Alfredo S. Ballesteros (Ballesteros), Senior Vice President for Finance and Administrator of SPC, issued to respondent a show cause letter<sup>[8]</sup> dated January 15, 2008. In no time, Ballesteros placed respondent under preventive suspension for 30 days effective January 16, 2008. On January 17, 2008, respondent submitted his written explanation. In a letter<sup>[9]</sup> dated January 28, 2008, SPC directed the respondent to attend a formal investigation and hearing. On January 31, 2008, a formal hearing was conducted. In a letter<sup>[10]</sup> dated February 12, 2008, SPC extended the respondent's preventive suspension from February 14, 2008 to March 13, 2008. On March 12, 2008, the respondent requested additional time to submit supporting documents to answer the allegations hurled against him. SPC granted respondent's request. Thus, his preventive suspension was further extended, from March 14, 2008 to March 31, 2008. Thereafter, respondent's preventive suspension was subjected to series of extensions: (1) from April 1 to April 30, 2008;<sup>[11]</sup> (2) from May 1 to May 15, 2008;<sup>[12]</sup> and (3) from May 16 to May 31, 2008.<sup>[13]</sup> Eventually, in a Notice of Dismissal<sup>[14]</sup> dated May 30, 2008, signed by Jimmy Balisacan, Vice President for Finance, and Jocelyn O. Capule (Capule), Senior Manager for Human-Resources, SPC informed the respondent of their decision to terminate the latter's services. Consequently, the respondent filed a Complaint<sup>[15]</sup> for illegal dismissal, separation pay, unpaid salaries, moral and exemplary damages, and attorney's fees against SPC, Ballesteros and Capule (collectively, petitioners).

For their part, the petitioners argued: (1) that the respondent was validly dismissed due to several infractions he caused while still engaged as the company's security officer; (2) that due to the gravity of the charges against him, he was immediately placed under preventive suspension pending investigation; and (3) that after being found guilty of the charges hurled against him, the respondent was terminated from services.

#### *The Ruling of the Labor Arbiter (LA)*

On April 1, 2009, the LA ruled in favor of the respondent.<sup>[16]</sup> He found that the respondent was not afforded the procedural due process because the Uniform Code of Conduct was not observed in the initiation of the termination proceedings. He likewise ruled that the petitioners miserably failed to prove the substantive aspect of termination. According to the LA, the respondent's termination was not based on just or authorized cause. He found the petitioners' accusations against the respondent baseless and unsubstantiated. The dispositive portion of the Decision reads:

WHEREFORE, the foregoing premises considered, judgment is hereby rendered declaring the respondents guilty of illegally dismissing the complainant from his employment. Respondents are therefore, directed to jointly and severally pay complainant the following:

I. Separation Pay	P156,000.00
II. Backwages	145,500.00

III. 30-day Salary (Preventive suspension)— 13,000.00

Total P314,500.00

The amount of P3,050,000.00 as MORAL DAMAGES and of P3,050,000.00 a EXEMPLARY DAMAGES, plus P641,450.00 ten (10%) percent attorney's fees or the total aggregate amount of PESOS: SEVEN MILLION FIFTY FIVE THOUSAND NINE HUNDRED FIFTY & 00/100 (7,055,950.00).

SO ORDERED.<sup>[17]</sup>

Undaunted, the petitioners appealed to the NLRC.

#### *The Ruling of the NLRC*

On April 30, 2010, the NLRC promulgated the Decision<sup>[18]</sup> reversing the LA's ratiocination. It ruled that the respondent's dismissal was for just causes. The NLRC found that the respondent failed to perform his duty in accordance with the standards expected of him as a security officer. It further stated that the respondent failed to prevent or at least to investigate several incidents which affected the property and security of the company such as stolen grounding cluster cables, pilfered/lost good lumber, missing/pilfered coal mill part, unaccounted stolen copper wire, ignored and disregarded security measures, unresolved murders inside the complex, and habitual neglect/gross incompetence. It ruled that with the gravity and seriousness of respondent's infractions, the petitioners were justified in terminating his services.<sup>[19]</sup> It disposed the case as follows:

WHEREFORE, PREMISES CONSIDERED, this appeal, is given due course. The decision of the Labor Arbiter is hereby REVERSED and VACATED and a new one entered declaring complainant to have been VALIDLY DISMISSED.

SO ORDERED.<sup>[20]</sup>

Subsequently, the respondent moved for reconsideration,<sup>[21]</sup> but the NLRC denied it.<sup>[22]</sup> Aggrieved, he filed a Petition for *Certiorari*<sup>[23]</sup> under Rule 65 of the Rules of Court before the CA.

#### *The Ruling of the CA*

On July 28, 2011, the CA issued the assailed Decision granting the petition and reversing the NLRC's ruling, to wit:

WEIEREFORE, finding the petition to be impressed with merit, the same is hereby GRANTED. The challenged NLRC's Decision and Resolution dated April 30, 2010 and June 29, 2010 are hereby ANNULLED and SET ASIDE. Accordingly, the Labor Arbiter's Decision dated April 1, 2009 is REINSTATED with MODIFICATIONS such that the award, of moral damages and exemplary damages are reduced to P50,000.00 and P25,000.00 respectively. Private respondents are likewise ordered to pay attorney's fees in the amount often (10%) of the total monetary award due to the petitioner. In all other respects, the April 1, 2009 decision of

the Labor Arbiter STANDS.

SO ORDERED.<sup>[24]</sup>

The CA found that the substantive aspect of due process in respondent's dismissal was not observed. It emphasized that the respondent was not negligent in his duties as the petitioners' security officer. It clarified that the alleged incidents, like the loss of company properties and the crimes committed inside the company premises, cannot be attributed to the respondent as there was no single piece of evidence that he committed the lapses. On the contrary, as it pointed out that the lapses were committed by the petitioners' security guards and negligent employees. It noted that the petitioners did not even file criminal charges for theft, pilferage or murder against the respondent, if indeed, the latter was responsible for the incidents.

Likewise, the CA stressed that it is highly suspicious that the alleged varied infractions of the respondent spanning over two years were lumped together and raised for the first time to bring about the latter's termination. It concluded that the respondent was terminated because of his failure to prevent the employees from forming a labor union.

The petitioners then filed a Motion for Reconsideration, which the the CA denied in its assailed Resolution dated June 8, 2012.

Undeterred, the petitioners filed the instant petition before the Court raising the following grounds, to wit:

I. The [CA] erred in finding that the admitted and incontrovertible actions and/or omissions of respondent that prompted his dismissal are not attributable to him.<sup>[25]</sup>

II. The [CA] palpably erred in ruling that respondent was dismissed as a result of the union busting activities allegedly pursued by [SPC].<sup>[26]</sup>

III. The [LA] and the [CA] erred in ruling that respondent's 30-day preventive suspension was invalid.<sup>[27]</sup>

IV. The [CA] erred in holding petitioners Ballesteros and Capule personally liable for respondent's claims.<sup>[28]</sup>

V. The [CA] committed grave and reversible errors in ruling that the dismissal of the respondent was without just cause despite the existence of clear and indisputable evidence and respondent's own incriminating admissions.<sup>[29]</sup>

VI. The [CA] erred in ruling that SPC is liable to pay respondent backwages and separation pay despite respondent's valid dismissal.<sup>[30]</sup>

[VII.] The [CA] erred in ruling that the respondent is entitled to moral and exemplary damages, and attorney's fees without any basis in fact and in law.<sup>[31]</sup>

The basic contention of the petitioners is that the respondent was validly dismissed after he was afforded the substantive and procedural aspects of due process. They argue: (1) that the respondent was grossly incompetent and negligent as a security officer; (2) that such incompetence resulted in the consummation of theft, pilferage, and murder inside the company's premises; (3) that the respondent was not terminated as a result of union busting, but rather as a result of his negligence as security officer; (4) that the respondent's preventive suspension is not illegal as it is part of employer's prerogative during an investigation; (5) that the respondent already admitted that his negligence resulted in the alleged incidents; and (6) that they should not be held liable to pay backwages, separation pay, damages, and attorney's fees as they acted within the bounds of the law in dismissing him.

In his Comment<sup>[32]</sup> dated September 19, 2012, the respondent counters that he was dismissed as a scapegoat of the petitioners' union busting activities. He asseverates: (1) that there was no shade of proof of the alleged just causes *i.e.*, gross and habitual neglect of duty, serious misconduct, willfull disobedience, and violation of the company's Uniform Code of Conduct for his termination; (2) that he cannot be faulted for the alleged incidents that happened in the company *i.e.*, stolen grounding cables, pilfered/lost good lumber, missing/pilfered coal mill part, unaccounted stolen copper wire, and unsolved murders inside the company premises; (3) that it is questionable why it took so long for the petitioners to address his alleged shortcomings; (4) that there are documents evidencing the petitioners' union busting activity; (5) that he was not afforded the procedural due process of law when he was terminated as the company's Uniform Code of Conduct was not strictly complied with in the initiation of the termination proceedings; and (6) that since he was illegally dismissed from his job he is entitled to backwages, separation pay, moral damages, exemplary damages, and attorney's fees.

### *Our Ruling*

The petition is without merit.

In a nutshell, the main issue in this case is whether respondent's dismissal is legal.

At the outset, the Court reiterates that in a petition for review on *certiorari* under Rule 45 of the Rules of Court, its jurisdiction is generally limited to reviewing errors of law. It must be emphasized that the Court is not a trier of facts, and this applies with greater force in labor cases.<sup>[33]</sup> It is well-settled that findings of fact of an administrative agency, like the LA and the NLRC, which has acquired expertise in the particular field of its endeavor, are accorded great weight on appeal. The Court has consistently ruled that the factual findings and conclusion of the NLRC are generally accorded not only great weight and respect but even clothed with finality and deemed binding on the Court as long as they are supported by substantial evidence.<sup>[34]</sup> Judicial review of labor cases does not go beyond the evaluation of the sufficiency of the evidence upon which its labor officials' findings rest.<sup>[35]</sup> However, the rule, is not absolute and admits of certain well recognized exceptions. Thus, when the factual findings of the quasi-judicial agencies concerned are conflicting or contrary with those of the Court of Appeals,<sup>[36]</sup> as in the present case, the Court may make an independent factual determination based on the evidence of the parties.<sup>[37]</sup>