SECOND DIVISION

[G.R. No. 200815, August 24, 2020]

SAN MIGUEL CORPORATION, PETITIONER, VS. ROSARIO A. GOMEZ, RESPONDENT.

DECISION

HERNANDO, J.:

Challenged in this appeal is the October 21, 2011 Decision[1] of the Court of Appeals (CA) in CA-GR SP. No. 108758 which held that petitioner San Miguel Corporation (SMC) illegally terminated the services of respondent Rosario A. Gomez (Gomez).

SMC is a corporation organized under Philippine laws which is engaged in the business of manufacturing fermented beverages, particularly beer, among others.[2]

SMC employed Gomez on September 16, 1986 as a researcher in the Security Department and concurrently as Executive Secretary to the Head of the Security Department. Sometime in October 1994, Gomez was assigned as coordinator in the Mailing Department of SMC. On December 20, 2002, SMC terminated her services on the ground of fraud or willful breach of trust.[3]

The Antecedents

The circumstances which led to the termination of Gomez's employment involved SMC's arrangement with C2K Express, Inc. (C2K).[4]

C2K is a corporation engaged in courier and delivery services, which entered into business with SMC sometime in January 2001 as the latter's courier. For the first three months, the relationship between C2K and SMC went smoothly until C2K encountered difficulty in collecting its service fee from SMC. Eventually, it was found out that C2K's former manager, Daniel Tamayo (Tamayo), formed another courier services group, Starnec, which had been using fake C2K receipts and collecting the fees pertaining to C2K. C2K claimed that it was through Gomez's intervention that Tamayo's group was able to transact business with SMC.[5]

C2K brought the matter to the attention of SMC, which conducted an investigation. In line with this, SMC requested C2K's President, Edwin Figuracion (Figuracion), to execute an affidavit naiTating their claim. In the said affidavit,[6] Figuracion mentioned that Gomez had been collecting 25% commission from the total payment received by C2K. An audit was conducted where it was discovered that Gomez was allegedly involved in anomalies which caused tremendous losses to SMC.[7]

SMC conducted an administrative investigation and hearing where Gomez was able to present her evidence and witnesses to disprove the charges against her.[8] After

the investigation, Gomez was found guilty of committing fraud against SMC and of receiving bribes through commissions in connection with the performance of her function.[9] On December 20, 2002, SMC issued a Notice of Termination of Services[10] to Gomez prompting her to file a case for illegal dismissal with the National Labor Relations Commission (NLRC).[11]

Ruling of the Labor Arbiter:

In a March 30, 2006 Decision,[12] the Labor Arbiter held that Gomez's employment was validly terminated, *viz*.:

> WHEREFORE, premises considered, the instant complaint is hereby DISMISSED for lack of merit.
>
> Respondents' counter claims are also denied for lack of jurisdiction but without prejudice.
>
> SO ORDERED.[13]

Ruling of the NLRC:

Aggrieved, Gomez appealed to the NLRC. In its September 23, 2008 Decision[14] in NLRC NCR CA No. 050019-06, the NLRC reversed and set aside the findings of the Labor Arbiter and held that Gomez was illegally terminated. The dispositive portion of said Decision reads:

> **WHEREFORE**, premises considered, the Decision appealed from is hereby REVERSED and **SET ASIDE** and a new one entered declaring complainant's employment was illegally terminated. Accordingly, respondent is hereby ordered to reinstate complainant to her former or substantially equivalent position and to pay her backwages from the time of her illegal dismissal until actual reinstatement, moral damages in the amount of Twenty Thousand Pesos (P20,000.00) and ten percent (10%) of the total award as attorney's fees.
>
> **SO ORDERED**.[15] (*Emphasis in the original*)

SMC filed a Motion for Reconsideration[16] which was denied by the NLRC in its April 16, 2009 Resolution.[17]

Unsatisfied, SMC filed with the CA a Petition for *Certiorari*[18] under Rule 65 of the Rules of Court seeking to set aside the NLRC's September 23, 2008 Decision and April 16, 2009 Resolution. In said petition, SMC imputed grave abuse of discretion amounting to lack or excess of jurisdiction on the NLRC when it reversed and set aside the Labor Arbiter's Decision and held that Gomez was illegally terminated.

Ruling of the CA:

In its October 21, 2011 Decision,[19] the CA dismissed the petition and upheld the findings of the NLRC. The CA pointed out that "Gomez's dismissal on the ground of

fraud and loss of trust and confidence was not founded on clearly established facts." [20] Thus, the dispositive portion of the CA's Decision states:

> **WHEREFORE**, premises considered, the instant Petition is hereby **DENIED**. The assailed Decision dated September 23, 2008 and the Resolution dated April 16, 2009, both issued by public respondent NLRC in NLRC NCR CA No. 050019-06 are hereby **AFFIRMED**.
>
> SO ORDERED.[21] (*Emphasis in the original*).

SMC filed a Motion for Reconsideration which was denied by the CA in its February 27, 2012 Resolution.[22]

Issues:

Thus, SMC filed the instant Petition for Review on *Certiorari*[23] under Rule 45 of the Rules of Court, which raises the following arguments:

> (i) Gomez's termination from service was valid, legal and effective.[24]
> (ii) Gomez can no longer be reinstated since her dismissal was valid, legal and effective. Assuming that the dismissal was illegal, the CA should have ordered separation pay in lieu of reinstatement since SMC already lost the trust and confidence it reposed upon Gomez.[25]
> (iii) Gomez's appeal filed before the NLRC should not have been given consideration since it was not filed in accordance with the NLRC's 2005 Rules of Procedure.[26]

The Court's Ruling

This Court finds SMC's instant petition meritorious. Thus, We reverse the CA's ruling and reinstate the Labor Arbiter's findings that Gomez was validly terminated on the ground of loss of trust and confidence.

SMC claims that it validly terminated Gomez's services on the grounds of fraud and betrayal of the trust and confidence reposed on her due to her alleged acceptance of commission from C2K and Tamayo's group, and for allegedly allowing the courier to increase the actual weights of the packages in order to compensate for her commission.[27]

We find SMC's arguments tenable.

At the outset, We note that Gomez was accorded with procedural due process since she was given both notice and hearing where she was able to present her evidence and witnesses to disprove the charges against her.[28]

On the substantive aspect, this Court finds Gomez liable for fraud or Willful breach of trust, a valid ground for the termination of her employment.

Article 297 [282](c) of the Labor Code provides that an employer may terminate the

services of its employee for "[f]raud or willful breach x x x of the trust reposed in him by his employer or duly authorized representative." As a rule, employers have the discretion to manage its own affairs, which includes the imposition of disciplinary measures on its employees.[29] Thus, "employers are generally given wide latitude in terminating the services of employees who perform functions which by their nature require the employer's full trust and confidence."[30]

Nonetheless, employers may not arbitrarily dismiss their employees by simply invoking Article 297 [282](c). The loss of confidence must be genuine and cannot be used as a "subterfuge for causes which are improper, illegal or unjustified."[31] In *Matis v. Manila Electric Co.*,[32] We have pointed out that "[l]oss of confidence as a ground for dismissal has never been intended to afford an occasion for abuse by the employer of its prerogative, as it can easily be subject to abuse because of its subjective nature.

In *University of the Immaculate Conception v. Office of the Secretary of Labor and Employment*,[33] citing *Cruz v. Court of Appeals*,[34] this Court summarized the guidelines when loss of confidence constitutes a valid ground for dismissal:

> [T]he language of Article 282(c) of the Labor Code states that the loss of trust and confidence must be based on willful breach of the trust reposed in the employee by his employer. Such breach is willful if it is done intentionally, knowingly, and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. Moreover, it must be based on substantial evidence and not on the employer's whims or caprices or suspicions other wise, the employee would eternally remain at the mercy of the employer. Loss of confidence must not be indiscriminately used as a shield by the employer against a claim that the dismissal of an employee was arbitrary. And, in order to constitute a just cause for dismissal, the act complained of must be work-related and shows that the employee concerned is unfit to continue working for the employer. In addition, loss of confidence as a just cause for termination or employment is premised on the fact that the employee concerned holds a position of responsibility, trust and confidence or that the employee concerned is entrusted with confidence with respect to delicate matters, such as the handling or care and protection of the property and assets of the employer. The betrayal of this trust is the essence of the offense for which an employee is penalized.

Thus, the requisites for dismissal on the ground of loss of trust and confidence are: "1) the employee concerned must be holding a position of trust and confidence; (2) there must be an act that would justify the loss of trust and confidence; [and (3)] such loss of trust relates to the employee's performance of duties."[35]

In view of the first requisite above, this Court must make a determination with regard to the true nature of Gomez's position. SMC claims that Gomez is a mailing coordinator at the Mailing Department tasked with weighing and determining the volume of documents and other shipments of the corporation,[36] including the *Kaunlaran* Magazines. The Mailing Department is headed by a manager, in this case Ms. Rosanna Mallari (Gomez's boss), who takes care of the voluminous mailing as