

FIRST DIVISION

[G.R. No. 220170, August 19, 2020]

BAYVIEW MANAGEMENT CONSULTANTS, INC., CHARLIE LAMB, FRANK GORDON, ROSEMARIE MORADILLA, ROWENA ANDRADE, NOC GLOBAL MARKETING, INC., PHIL-AMER IMMIGRATION SVCS., INC., PRODATANET, INC., DOX INTERNATIONAL SERVICES, INC., AND I-JOBS INTERNATIONAL RECRUITMENT AGENCY, INC., PETITIONERS, VS. PEDRITA HELOISA B. PRE, RESPONDENT.

DECISION

REYES, J. JR., J.:

Acts of disdain and hostile behavior such as demotion, uttering insulting words, asking for resignation, and apathetic conduct towards an employee constitute constructive illegal dismissal.

The Case

This Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assails the April 15, 2014 Decision and the October 28, 2014 Resolution of the Court of Appeals (CA) in CA-G.R. SP No. 129412,^[1] which reversed the Decision dated December 10, 2012 of the National Labor Relations Commission (NLRC), affirming the Decision dated July 9, 2012 of the Labor Arbiter (LA) in dismissing respondent Pedrita Heloisa B. Pre's (Pre's) complaint for constructive dismissal with money claims, damages, and attorney's fees.

The Facts

On June 9, 2006, petitioner Charlie Lamb (Lamb), also known as Charlie Lin, hired Pre as legal officer for his companies: Phil-Amer Immigration Services, Inc. (Phil-Amer), Prodatanet, Inc., Dox International Services, Inc. (Dox), Noc Global Marketing, Inc. (Noc), International Job Recruitment Agency, Inc., and Bayview Management Consultants, Inc. (Bayview). These are known as CLAMB Group of Companies and are some of the petitioners in this case. Pre was then assigned to Phil-Amer. On February 23, 2007, Pre was promoted as corporate affairs manager, and headed the human resources and legal departments of CLAMB, particularly Bayview.^[2]

During Pre's employment, petitioner Rosemarie Moradilla (Moradilla), President of Phil-Amer and Bayview, discussed her new and additional assignment as customer service representative (CSR), which was assigned by her immediate superior, petitioner Frank Gordon (Gordon). She was told to answer phone calls and jot notes of her communications with clients.^[3] Since the CSR task was far from a managerial job, Pre suggested a different procedure, which elicited a negative reaction from

Gordon calling her stupid and incompetent.^[4] Gordon said: *"No you don't know anything stupid, stupid, I don't care about what you say, if you do not accept this project by doing the procedure of answering phone calls from clients and jot down your communication with them and fill in the forms provided then resign, we do not need you here, all you have to do is put in writing that you are not accepting this project and that you are incompetent."*^[5]

On December 6, 2011, Moradilla verbally advised Pre to resign.^[6] Pre informed Moradilla about the sexual harassment case she filed against Gordon and that he might be retaliating. Moradilla set aside Pre's apprehension as she could not do anything about it.^[7]

On December 7, 2011, Gordon asked Pre in front of a co-worker if Moradilla solicited her resignation, which she confirmed. He also informed her that in a meeting with Lamb, Moradilla, and other company officers decided to let her stay and continue with her assignments in the human resources and legal departments, but she would be relieved of her CSR position.^[8]

On December 9, 2011, Moradilla again asked Pre to resign and that the company was willing to pay her separation pay.^[9] On December 15, 2011, Pre sent Moradilla an email expressing her sentiments and asked for P1,000,000.00 as separation pay, damages and attorney's fees in exchange for her resignation.^[10] In response, Moradilla told Pre to forget the incident and assured her that she can keep her job. Moradilla explained that even if she remained in the company for 10 years, the company would not spend P1,000,000.00 to pay her salary. Subsequently, Gordon and the other heads of the CLAMB Group of Companies treated her indifferently. She received emails implying she was remiss in her duties.^[11] She was harassed by imputing matters that she was not responsible for to make it appear that she was incompetent.^[12]

On December 28, 2011, Pre filed a complaint for illegal dismissal against the petitioners. Then, she filed a motion to dismiss without prejudice to file a new complaint.^[13] Thereafter, on March 29, 2012, she filed a complaint for constructive illegal dismissal.^[14]

For their part, the petitioners narrated that Bayview hired Pre as corporate affairs manager in April 2010 after working as legal officer in Phil-Amer. They alleged that she failed to meet the standard performance expected of her, but was still given chances to improve her performance.^[15]

Sometime in 2011, Noc and Dox requested assistance from Bayview regarding complaints from its customers who have yet to receive refund check payments that Bayview was supposed to have processed. Upon investigation, Bayview found out that a number of checks remained in Noc and Dox's possession without being claimed or transmitted.^[16] Gordon instructed Pre to solve the problem and to contact 10 of those customers. Pre did not carry out the instruction and delegated the task to other personnel. As the complaints increased, Noc and Dox decided to create a CSR Project to be manned by Bayview's personnel particularly Pre and another co-worker. Pre prepared the procedure and memo to be disseminated to

Noc and Dox employees. Still, she failed to perform her task despite repeated follow ups. Consequently, she was relieved from the CSR Project.^[17]

She explained that her health concerns and stress caused her poor performance. Gordon suggested that she resign from her job. Bayview offered to give financial assistance and/or separation pay of one month pay for every year of service, including her four-year tenure with Phil-Amer, should she resign.^[18]

Pre sent Moradilla an email accusing Bayview of forcing her to resign and offering bribe money in the form of financial assistance. In response, Bayview informed her that it was withholding its previous offer of financial assistance and advised her to stay in her job, which she did. However, it became increasingly difficult to supervise her. She accused Bayview of oppressing her and forcing her to resign when they called her attention about her excessive absences.^[19]

The LA's Decision

On July 9, 2012, the LA rendered a Decision^[20] dismissing the complaint for lack of merit. The LA held that Pre failed to substantiate her complaint with evidence. Further, the matters allegedly imputed against her directly relate to her duties and responsibilities as corporate affairs manager. The LA resolved that there was no constructive dismissal and she was not entitled to separation pay, moral and exemplary damages, and attorney's fees.^[21]

The NLRC's Decision

Pre appealed to the NLRC, which, in its Decision^[22] dated December 10, 2012, affirmed the LA's Decision. The NLRC explained that constructive dismissal exists when the employee involuntarily resigns due to harsh, hostile and unfavorable conditions set by the employer. It arises when there is clear discrimination, insensibility or disdain by an employer, and this becomes unbearable to the employee. The test of constructive dismissal is whether a reasonable person in the employee's position would have felt compelled to give up his job under the circumstances.^[23]

The NLRC resolved that there is nothing on record which corroborates constructive dismissal. Pre did not suffer a diminution of pay or benefits, as she was earning high salary as a managerial employee. She did not suffer any demotion in rank or status. Her new assignment as customer service representative was in addition to her role as manager and was brought about by the exigencies of the service, that is, the escalating complaints of customers. Further, it was management's prerogative to give her a new assignment. Her employers neither discriminated nor treated her with disdain. She held a high-ranking managerial position, was assigned important tasks, and was not given functions that are beyond her skills, credentials, and competence. At no time did she complain that the tasks assigned to her were beyond her skill or capability. All these belie her claim of constructive illegal dismissal.^[24]

On the other hand, the records show that the alleged constructive dismissal stemmed on November 29, 2011 when Pre was instructed to oversee the problem of

stale checks and to directly contact the complaining clients. However, she did not make her timely report. Then, the company assigned her and a colleague to manage the CSR Project, where she again failed to perform. Consequently, she was relieved from the CSR Project.^[25]

The NLRC determined that there is no constructive dismissal and affirmed the LA's findings on lack of evidence to substantiate the complaint. Thus, the dismissal of the complaint was affirmed.^[26] Pre moved for reconsideration, which the NLRC dismissed.^[27]

The CA's Decision

Unsuccessful, Pre elevated the case to the CA through a petition for *certiorari* under Rule 65 of the Rules of Court. On April 15, 2014, the CA rendered a Decision reversing the NLRC Decision. The CA explained that constructive dismissal occurs when there is cessation of work because continued employment is rendered impossible, unreasonable or unlikely; when there is a demotion in rank or diminution in pay or both; or when a clear discrimination, insensibility, or disdain by an employer becomes unbearable to the employee. The test of constructive dismissal is whether a reasonable person in the employee's position would have felt compelled to give up his position under the circumstances. It is an act amounting to dismissal, but is made to appear as if it were not. Constructive dismissal is therefore a dismissal in disguise. The law recognizes and resolves this situation in favor of employees in order to protect their rights and interests from the coercive acts of the employer.^[28]

Here, Pre was designated as customer service representative to answer phone calls and jot down communications from clients despite being a corporate affairs manager. The CA resolved that this is a form of demotion. Moreover, she was verbally abused by her immediate supervisor, Gordon, calling her stupid and incompetent. When she refused to resign, she was treated with apathy. She was bombarded with emails implying that she was negligent in her duties. All these were apparently done against Pre in order to bully her and force her to resign.^[29]

The CA elucidated that the company has the burden to prove that the employee's assignment from one position to another was not tantamount to constructive dismissal. Bayview and its co-petitioners failed to discharge this burden, and never disputed that Pre was relegated from the position of corporate affairs manager to customer service representative. The reduction of duties and responsibilities from manager to ordinary desk representative constituted a demotion in rank which is tantamount to constructive dismissal.^[30]

Furthermore, Pre's superior repeatedly verbally abused her and subjected her to continuous humiliation. She was discriminated against when she refused to resign. She received emails blaming her for ineptness. All these amounted to discrimination, insensibility, or disdain, which has become unbearable to Pre and forced her to resign.^[31]

The CA ordered Bayview and its co-petitioners to pay Pre backwages and separation pay equivalent to one month pay for every year of service. The CA determined that

reinstatement is no longer feasible due to strained relations between Pre and her employer.^[32] Pre was also awarded P100,000.00 as moral damages and P100,000.00 as exemplary damages. However, it denied the claim for attorney's fees because she failed to state the specific amount in her complaint or position paper.^[33] Bayview and its co-petitioners moved for reconsideration, which the CA denied in its October 28, 2014 Resolution.^[34]

Aggrieved, the petitioners filed a petition for review on *certiorari* under Rule 45 of the Rules of Court.

The Issue Presented

Whether or not Pre was constructively dismissed from employment.

The Court's Ruling

The Petition is without merit.

The general rule in a petition for review on *certiorari* under Rule 45 of the Rules of Court is that only questions of law shall be raised. In *Republic v. Heirs of Santiago*,^[35] the Court enumerated that one of the exceptions to the general rule is when the CA's findings are contrary to those of the trial court. Considering the different findings of fact and conclusions of law of the NLRC and the CA, the Court shall entertain this petition, which involves questions of fact.

In its Memorandum, the petitioners denied Pre's allegations and averred that this case simply involved an exercise of management prerogative to assign and supervise an employee's work. On the other hand, Pre asserted in her Memorandum that she was forced to resign and that she was subjected to a humiliating and degrading work setting.

In *Rodriguez v. Park N Ride, Inc.*,^[36] the Court defined constructive dismissal and discussed its nature.

There is constructive dismissal when an employer's act of clear discrimination, insensibility or disdain becomes so unbearable on the part of the employee so as to foreclose any choice on his part except to resign from such employment. It exists where there is involuntary resignation because of the harsh, hostile and unfavorable conditions set by the employer. We have held that the standard for constructive dismissal is "whether a reasonable person in the employee's position would have felt compelled to give up his employment under the circumstances."

The unreasonably harsh conditions that compel resignation on the part of an employee must be way beyond the occasional discomforts brought about by the misunderstandings between the employer and employee. Strong words may sometimes be exchanged as the employer describes her expectations or as the employee narrates the conditions of her work environment and the obstacles she encounters as she accomplishes her assigned tasks. As in every human relationship, there are bound to be disagreements.