

SECOND DIVISION

[G.R. No. 216635, June 03, 2019]

DR. MARY JEAN P. LOECHE-AMIT, PETITIONER, V. CAGAYAN DE ORO MEDICAL CENTER, INC. (CDMC), DR. FRANCISCO OH AND DR. HERNANDO EMANO, RESPONDENTS.

DECISION

J. REYES, JR., J.:

Before us is a Petition for Review on *Certiorari*,^[1] which seeks to assail the Decision^[2] dated August 3, 2012 and Resolution^[3] dated April 12, 2013 of the Court of Appeals (CA)-Cagayan de Oro City, in CA-G.R. SP No. 03067-MIN which affirmed the decision of the National Labor Relations Commission (NLRC).

The Relevant Antecedents

Dr. Mary Jean P. Loreche-Amit (petitioner) started working with Cagayan De Oro Medical Center, Inc. (CDMC), sometime in May 1996, when she was engaged by the late Dr. Jose N. Gaerlan (Dr. Gaerlan) as Associate Pathologist in the Department of Laboratories. Upon the demise of Dr. Gaerlan, CDMC's Board of Directors formally appointed petitioner as Chief Pathologist for five years or until May 15, 2011.^[4]

On June 13, 2007, (CDMC's) Board of Directors passed a resolution, recalling petitioner's appointment as Chief Pathologist. This prompted petitioner to file a complaint for illegal dismissal, contending that she was dismissed by CDMC from her work without just cause and due process.^[5]

In her complaint, petitioner narrated the circumstances which surrounded the recall of her appointment. She averred that Dr. Hernando Emamo (Dr. Emamo) asked her to help his daughter Dr. Helga Emamo-Bleza (Dr. Emamo-Bleza) to qualify as a pathologist considering that petitioner is one of the six members of the Board of Governors accredited by the Professional Regulation Commission. However, petitioner refused to assist Dr. Emamo-Bleza because the latter failed to qualify in the clinical pathology examination. Such refusal, according to petitioner, started the subtle attempt of Dr. Emamo to oust her from her job.^[6]

Soon thereafter, Dr. Francisco Oh (Dr. Oh) issued an Inter-Office Memorandum addressed to all laboratory personnel stating that working in and out of the building without proper permission is to be treated as absence without official leave and payment for printing of duplicate copies not endorsed to the hospital is a form of stealing. As petitioner slammed the Memorandum against the wall and tagged the name of Dr. Oh as an irrational man, she received an Inter-Office Memorandum from Dr. Oh for alleged conduct unbecoming/insubordination, and to explain why her appointment should not be revoked due to such behavior.^[7] Finally, a Memorandum recalling her appointment was issued.^[8]

For their part, Dr. Emano, Dr. Oh, and CDMC (collectively referred to as respondents) averred that petitioner was not hired by them as she merely assisted Dr. Gaerlan in operating the hospital's laboratory. Respondents maintained that petitioner worked at the same time as pathologist in Capitol College Hospital and J.R. Borja Memorial Hospital as she was not prohibited to do so.^[9]

In dismissing the complaint for lack of jurisdiction, the Labor Arbiter rendered a Decision^[10] dated March 31, 2008. The Labor Arbiter found that petitioner is a corporate officer of the hospital because of her appointment by the Board of Directors through a resolution; thus, matters relating to the propriety of her dismissal is under the jurisdiction of the Regional Trial Court (RTC) under Section 5.2 of Republic Act (R.A.) No. 8799 (The Securities Regulation Code of the Philippines). The dispositive portion of the Decision reads:

WHEREFORE, foregoing premises considered, the above-entitled case is DISMISSED for lack of jurisdiction.

SO ORDERED.^[11]

On appeal, the NLRC in a Resolution^[12] dated March 31, 2009, affirmed the ruling of the Labor Arbiter and reiterated that petitioner is a corporate officer and that there was no employer-employee relationship between CDMC and her. As it is, the issue is an intra-corporate matter, the jurisdiction of which belongs to the regular courts, viz.:

WHEREFORE, in view of all the foregoing considerations, the instant appeal is hereby **DISMISSED** for lack of merit. The assailed Decision dated March 31, 2008 is **AFFIRMED**.

SO ORDERED.^[13]

Petitioner filed a Petition for *Certiorari* before the CA.

In a Decision^[14] dated August 3, 2012, the CA dismissed the petition and echoed the rulings of the Labor Arbiter and NLRC, thus:

WHEREFORE, the petition is **DISMISSED**.

SO ORDERED.^[15]

The motion for reconsideration filed by petitioner was likewise dismissed in a Resolution^[16] dated April 12, 2013.

The Issue

Whether or not the labor tribunals have jurisdiction over the complaint for illegal dismissal filed by petitioner.

The Court's Ruling

The determination of whether petitioner was indeed an employee of CDMC is necessary before we proceed to rule on the propriety of her dismissal.

Petitioner argues that she is not a corporate officer because her position as Pathologist is not among those included in the by-laws of CDMC.