

## SECOND DIVISION

[ G.R. Nos. 220526-27, July 29, 2019 ]

### **PNOC DEVELOPMENT AND MANAGEMENT CORPORATION (PDMC) PETITIONER, VS. GLORIA V. GOMEZ, RESPONDENT.**

#### **DECISION**

##### **REYES, J. JR., J.:**

Loss of trust and confidence, be it a principal or an analogous ground for dismissal, is not justified if it exists in vacuum. As a just cause, it requires an underlying act, deed or conduct from which a reasonable belief of untrustworthiness might be inferred. Without it, dismissals undertaken on such mere belief are arbitrary and will be outlawed. Such is the Court's resolve in this petition.

This Petition for Review<sup>[1]</sup> assails the Consolidated Decision<sup>[2]</sup> dated December 22, 2014, issued by the Court of Appeals (CA) in CA-G.R. SP Nos. 119971 and 120276, as well as the August 11, 2015 Resolution<sup>[3]</sup> in said cases denying reconsideration. The challenged decision resolved the twin petitions for *certiorari* each filed by respondent Gloria V. Gomez (Gomez) and the petitioner PNOC Development and Management Corporation (PDMC) from the January 31, 2011 Resolution<sup>[4]</sup> of the National Labor Relations Commission (NLRC) affirming the Labor Arbiter's September 30, 2005 Decision<sup>[5]</sup> in a case for illegal dismissal, non-payment of wages and other money claims.

#### **The Facts**

Gomez is a lawyer who used to work as Legal Manager of Petron Corporation (Petron) and availed of early retirement on April 30, 1994 when the company was privatized. On May 1, 1994, she was appointed by Filoil Refinery Corporation (Filoil) as its Corporate Secretary and Legal Counsel with the rank, compensation and benefits she used to enjoy in Petron. Filoil's privatization was then underway, hence, to facilitate the transition, its Board of Directors (Board) appointed Gomez as Administrator of a special task-force comprised of former employees of Petron who retained their respective ranks, compensation, benefits, and privileges.<sup>[6]</sup>

In the course of her administration, Gomez found several unrecorded corporate assets. Hence, the Board deferred the privatization pending assets accounting and inventory. In the meantime, Filoil was reorganized and renamed to PNOC Development and Management Corporation and, as a result, the task-force was abolished and its members were given termination notices on March 5, 1996.<sup>[7]</sup> Gomez continued to serve as corporate secretary of PDMC in the interim. On September 23, 1996, she, as credit to her service in the defunct task-force, was appointed as Administrator and Legal Counsel of the company. Gomez was due to

retire on August 11, 1998. However, then incumbent PDMC president Simeon Ventura extended her term as Administrator effective until August 11, 2004.<sup>[8]</sup>

In the meantime, a new Board of Directors took over, which, on March 29, 1999, removed Gomez from her post as corporate secretary. In a succeeding board meeting, the new set of directors also questioned Gomez's continued employment as Administrator. While Gomez presented the appointment letter signed by Ventura, the Board, based on the advice of its legal department, expressed the view that the term extension in the appointment letter was *ultra vires* – this, because Gomez's position was functionally that of a vice-president or general manager whose extension of term should have been made with the Board's approval and in accordance with the by-laws. The Board believed that Gomez's *de facto* tenure could be validly terminated.<sup>[9]</sup>

Sought for opinion on the matter, the Office of the Government Corporate Counsel intimated to the Board that while indeed the latter did not approve the creation of the position of Administrator, Gomez's incumbency therein since 1994 was deemed ratified by inaction; however, with respect to the extension of her term beyond retirement age, the same would have been valid had it been approved by the Board. Addressing this opinion, Gomez argued that she was a corporate officer owing to her position as corporate secretary, but that she became a regular managerial employee when she was named as Administrator whose appointment as such – both original and for the extended term – was within the authority of the former president and did not need prior Board approval.<sup>[10]</sup>

While the matter was pending before the Board, Gomez's salary between November 16 and 30, 1999, was withheld. Thus, on December 8, 1999, she filed a complaint for non-payment of wages, damages and attorney's fees before the Labor Arbiter. She later amended the complaint to include other money claims as well. On December 29, 1999, the Board resolved to terminate her services retroactive to the date of her supposed retirement. This development led to yet another amendment in the complaint to include the charge of illegal dismissal.<sup>[11]</sup>

At the initial stage of the proceedings, the Labor Arbiter, on motion of PDMC, had dismissed the complaint for lack of jurisdiction based on the notion that the case involves an intra-corporate dispute falling under the competence of the Securities and Exchange Commission. In its November 22, 2002 Decision, the NLRC reversed the Labor Arbiter and directed the remand of the case for further proceedings. At that point, as the merits were being heard for the first time, PDMC brought its jurisdictional objection before the CA<sup>[12]</sup> and eventually found its way to this Court in a petition docketed as G.R. No. 174044.<sup>[13]</sup> In our November 27, 2009 Decision in said case which had already attained finality, we affirmed that Gomez, in her capacity as PDMC Administrator, was indeed a regular managerial employee whose objection to her termination is properly and exclusively cognizable by the labor tribunal.

### **The Ruling of the Labor Arbiter**

In the meantime, on September 30, 2005, the Labor Arbiter issued a Decision<sup>[14]</sup>

finding Gomez to have been illegally dismissed, disposing as follows:

**WHEREFORE**, all the foregoing premises being considered, judgment is hereby rendered ordering the respondent company to pay complainant as follows:

- 1) P7,930,849.50 as backwages;
- 2) P225,161.55 as unpaid salaries;
- 3) P660,904.12 (P7,930,849.50 divided by 12 months), as 13<sup>th</sup> month pay; and
- 4) Ten percent (10)% of the total judgment award as and for attorney's fees.

Further, respondents are ordered to pay complainant all other benefits, privileges, or their monetary equivalent which the respondent company normally pays to regular employees as part of her backwages.

**SO ORDERED.**<sup>[15]</sup>

### **The Ruling of the NLRC**

On appeal, the NLRC affirmed *in toto* the findings and conclusion of the Labor Arbiter in a Resolution<sup>[16]</sup> dated January 31, 2011. It explained that as a consequence of Gomez's illegal dismissal, she was thereby entitled to full backwages and all benefits which the company regularly pays to its employees. As to moral and exemplary damages, it found no justification therefor in the absence of showing that the dismissal was accompanied by bad faith, oppression, immorality or fraud, or that the same was carried out in a wanton and malevolent manner. This, because the Board's action to terminate Gomez was done in an honest belief that her occupancy of the position of administrator was in a *de facto* capacity.<sup>[17]</sup> It disposed of the appeal as follows:

**WHEREFORE**, premises considered, the appeal interposed by both parties are disposed for lack of merit.

The assailed decision dated September 30, 2005 issued by the Honorable Labor Arbiter Jose G. De Vera is hereby AFFIRMED *in toto*.

**SO ORDERED.**<sup>[18]</sup>

PDMC and Gomez separately moved for reconsideration, but their motions were

denied in a March 31, 2011 Resolution.<sup>[19]</sup> Hence, they filed for *certiorari* with the CA.<sup>[20]</sup>

### **The Ruling of the Court of Appeals**

Finding illegal dismissal, the CA dismissed PDMC's petition for failure to prove a misconduct on the part of Gomez as basis for the claim of loss of trust and confidence.<sup>[21]</sup> Partly granting Gomez's petition, it affirmed in all respects the NLRC's award of backwages, unpaid salaries, 13<sup>th</sup> month pay, and all other customary benefits and privileges, but declined to award moral and exemplary damages. In addition, it directed the payment of retirement benefits accruing to Gomez as well as attorney's fees, and imposed a 6% interest per annum on all these awards.<sup>[22]</sup> The dispositive portion of the decision reads:

**WHEREFORE**, premises considered, the petition in CA-G.R. SP No. 120276 is **DISMISSED**, while the petition in CA-GR. SP No. 119971 is **PARTLY GRANTED**. The Resolutions dated January 31, 2011 and March 31, 2011, respectively issued by the National Labor Relations Commission (NLRC) in NLRC LAC No. 024978-00(8) NLRC NCR CN 30-12-00856-99 are **REVERSED and SET ASIDE**. The Labor Arbiter Decision dated September 30, 2005 is hereby **MODIFIED** as follows:

1. Respondent [PDMC] is hereby ordered to pay Petitioner Atty. Gloria Gomez:
  - a) P7,930,849.50 as backwages computed from January 3, 2000 up to August 11, 2004;
  - b) P225,161.55 as unpaid salaries computed from November 16, 1999 up to January 3, 2000;
  - c) P660,904.12 (P7,930,849.50 divided by 12 months), as 13<sup>th</sup> month pay;
  - d) All other benefits, privileges or their monetary equivalent which the respondent company normally pays to its regular employees as part of her backwages; and
  - e) Legal interest at the rate of 6% *per annum* of the total amount of backwages, unpaid salaries, 13<sup>th</sup> month pay and other benefits and privileges, computed from January 3, 2000 until full satisfaction;
- 2) Retirement benefits accruing to Petitioner Atty. Gloria Gomez from August 11, 2004, plus legal interest at the rate of 6% *per annum* computed from August 11, 2004 until full satisfaction; and

- 3) Ten percent (10%) of the total judgment award as and for attorney's fees, plus legal interest at the rate of 6% *per annum* computed from the date of finality of this decision until full satisfaction.

**SO ORDERED.**<sup>[23]</sup>

Aggrieved, PDMC is now seeking recourse to this Court.

### **The Issues**

PDMC still insists on the validity of Gomez's dismissal, and assigns the following error:

A. THE CA GRAVELY ERRED WHEN IT DISMISSED PDMC'S PETITION IN CA-G.R. SP [NO.] 120276, [IN SPITE] OF CLEAR SHOWING THAT THERE IS VALID AND ANALOGOUS GROUNDS FOR TERMINATION OF ATTY. GOMEZ'[S] SERVICES

B. THE CA GRAVELY ERRED WHEN IT PARTLY GRANTED ATTY. GOMEZ'S PETITION, NOTWITHSTANDING THE FACT THAT THERE IS NO BASIS IN GRANTING ADDITIONAL BENEFITS, LEGAL INTEREST and ATTORNEY[']S FEES.<sup>[24]</sup>

### **The Ruling of the Court**

It bears to stress at the outset that Gomez, as Administrator of PDMC, is a regular managerial employee whose appointment as such, both original and for the term beyond the age of retirement, does not require prior Board approval and, therefore, valid and incontestable. That matter has already been finally settled by the Court in G.R. No. 174044.<sup>[25]</sup> Hence, we now only resolve the question of whether or not Gomez's separation from office was valid and, if in the negative, forthwith determine whether she is entitled to monetary awards sanctioned under labor laws.

PDMC claims that Gomez was terminated based on loss of trust and confidence and on causes analogous thereto, under paragraphs (c) and (d), Article 282<sup>[26]</sup> of the Labor Code. It explains that Gomez's position requires a high degree of trust and confidence in exercising general supervision over the staff, in running the affairs and operations of the company, and in handling the budget and contracts as well as the execution and payment of insurance premiums pertaining to the firm. That Gomez's appointment for an extended term beyond her retirement and for a term longer than she had rendered service to the company prior to it, was, according to PDMC, highly suspect and was made only to tie the hands of the new management