

SECOND DIVISION

[G.R. No. 240254, July 24, 2019]

RODESSA QUITEVIS RODRIGUEZ, PETITIONER, VS. SINTRON SYSTEMS, INC. AND/OR JOSELITO CAPAQUE, RESPONDENTS.

DECISION

CAGUIOA, J:

Before the Court is a Petition for Review on Certiorari^[1] under Rule 45 of the Rules of Court, assailing the Decision^[2] dated February 26, 2018 (Assailed Decision) and Resolution^[3] dated June 22, 2018 (Assailed Resolution) of the Court of Appeals (CA) Special Fifteenth Division and Former Special Fifteenth Division, respectively, in consolidated cases docketed as CA-G.R. SP Nos. 145853 and 145922.

Facts

Petitioner Rodessa Rodriguez (Rodriguez) was hired by respondent Sintron Systems, Inc. (SSI) as Sales Coordinator on July 4, 2001.^[4] Her duties included the following: 1) communicating with sales engineers, customers and event organizers; 2) preparing invoices and delivery receipts for delivery schedules; and 3) arranging goods in the stockroom upon the instructions of SSI's president, respondent Joselito Capaque (Capaque).^[5]

The conflict between the parties arose when SSI received an invitation letter for a factory visit with training from its supplier in Texas, USA scheduled on October 22-24, 2013.^[6] The parties had different versions of the events succeeding this.

Version of Rodriguez:

According to Rodriguez, she attended the training in the USA without any condition imposed upon her attendance.^[7] However, when she returned for work on November 7, 2013, SSI asked her to sign a training agreement which required her to remain with SSI for three years, otherwise, she was to pay a penalty of P275,500.00.^[8] She refused to sign the agreement, arguing that she should have been informed of the same prior to her departure for the training.^[9]

Thereafter, in a meeting held on November 18, 2013, Capaque humiliated Rodriguez and shouted at her vindictive words such as "mayabang" and "mahadera."^[10] Rodriguez then went on absences from November 19 to 20, for which she filed requests for leave.^[11] When she reported back to work on November 21, 2013, she was surprised to learn that Capaque sent emails to clients stating that Rodriguez had abandoned her job and accused her of intentionally hurting the reputation of

SSI to the latter's clients.^[12] The following day, Capaque sent Rodriguez an email stating that he did not receive any request for leave and that her absence was "a ground of abandonment of work."^[13] Embarrassed, Rodriguez filed for leave to be absent from November 22 to 29, 2013 and from December 2, 2013 to January 2, 2014.^[14]

While on leave, on November 19, 2013,^[15] Rodriguez filed the present complaint for constructive illegal dismissal, non-payment of Service Incentive Leave (SIL) pay, separation pay, damages and attorney's fees.^[16] Rodriguez alleges that she was forced to go on absences in order to avoid the abusive words of Capaque.^[17]

On December 20, 2013, Rodriguez went to SSI's office to obtain her half-month salary and 13th month pay.^[18] Therein, Capaque verbally informed her that she was dismissed from employment.^[19] Moreover, her co-workers forcibly removed the contents of her bag and confiscated documents she intended to use as evidence in her complaint.^[20] Only when she contacted an officer from the Department of Labor and Employment (DOLE), who then talked to Capaque, was she given a check representing her half-month salary and 13th month pay.^[21] Thereafter, she reported the incident to the Philippine National Police – Criminal Investigation and Detection Group (PNP – CIDG) in Camp Crame, Quezon City.^[22]

Version of SSI:

According to SSI, Rodriguez was never maltreated, verbally or otherwise, and she failed to adduce proof thereof. In contrast, SSI offered in evidence affidavits of employees present in the November 18, 2013 meeting, who all claimed that there was no shouting that took place.^[23] In truth, it was Rodriguez who was tardy, inefficient^[24] and disrespectful to clients. She failed to respond to emails of clients, forcing Capaque to personally send replies.^[25] Due to these events and the decline in sales performances, SSI reorganized the Sales Department and hired an executive assistant (EA) and sales manager.^[26] When Rodriguez reported back to work on November 21, 2013, SSI required her to give the newly appointed EA copies of sales documents as well as to share the password to her company-provided email account.^[27] She was likewise told not to tamper with the files in her assigned computer. Rodriguez failed to follow these instructions.^[28] Hence, Rodriguez was not constructively dismissed. She merely preempted what would have been a valid dismissal by going on unapproved absences.^[29]

As to this absenteeism, SSI denied having received requests for leave from Rodriguez for her absence on November 19 and 20, 2013.^[30] As to the succeeding leaves from November 22 to 29, 2013 and December 2, 2013 to January 2, 2014, her request therefor was denied by SSI in a letter dated December 2, 2013.^[31] Hence, in an SSI memorandum, Rodriguez was warned that her continued absence may be ground for termination and required her to respond to the memorandum, else her termination would be reported to the DOLE.^[32]

On January 3, 2014, SSI sent Rodriguez a letter requiring her to turn over her office computer's password and surrender the keys to her assigned drawers and cabinets.

The letter also stated that the 2013 records of sales and other transactions could not be found.^[33] When Rodriguez took no action, SSI had her office computer unlocked by an Information Technology (IT) expert.^[34] It was then that SSI discovered that the contents of Rodriguez's company-provided email account had been deleted.^[35] In a letter dated June 3, 2014, SSI informed Rodriguez that the act of deleting information and files from her company-issued computer and the removal of company documents constitute serious misconduct, willful disobedience to a lawful order and dishonesty or breach of trust which are just causes for dismissal under the Labor Code.^[36]

Ruling of the Labor Arbiter

In a Decision^[37] dated October 7, 2015, the Labor Arbiter dismissed Rodriguez's complaint for lack of merit. According to the Labor Arbiter, Rodriguez failed to prove by substantial evidence the unbearable working environment which supposedly forced her to go on several absences. Hence, there was no constructive dismissal. Instead, it appeared that Rodriguez simply did not want to report to the newly appointed EA.^[38]

Moreover, Rodriguez's prolonged absences without turning in vital information and deleting the files from her company-issued computer and email account, causing injury to clients and SSI, constituted gross negligence which would have been a valid ground for her termination. However, SSI did not have any opportunity to dismiss her due to her continued absences.^[39]

Rodriguez appealed to the National Labor Relations Commission (NLRC).

Ruling of the NLRC

In a Decision^[40] dated December 29, 2015, the NLRC affirmed the Labor Arbiter's Decision with the modification that Rodriguez was held to be entitled to SIL pay. According to the NLRC, the Labor Arbiter's findings that SSI did not dismiss Rodriguez is supported by substantial evidence on record. Hence, Rodriguez is not entitled to her claim for separation pay and backwages.^[41] However, the NLRC noted that the Labor Arbiter failed to dispose of Rodriguez's claim for SIL pay. On this issue, the NLRC ruled that SSI failed to controvert the allegation that Rodriguez's SIL pay remained unpaid.^[42] The NLRC disposed of the case, thus:

WHEREFORE, the instant Appeal by the respondents-appellants is PARTLY GRANTED. The assailed Decision dated (sic) is hereby AFFIRMED with modification in that respondent-appellee SINTRON SYSTEMS, INC. is hereby ordered to pay complainant-appellant Rodessa Q. Rodriguez her service incentive leave in the amount of P98,181.81.

SO ORDERED.^[43]

Both Rodriguez and SSI filed Motions for Reconsideration, but the same were denied

in the NLRC Resolution dated March 31, 2016.^[44] Thereafter, both parties filed petitions for *certiorari* with the CA which were therein consolidated.

Ruling of the CA

In the Assailed Decision, the CA denied both parties' petitions and affirmed the NLRC's Decision. The CA agreed with the labor tribunals as to the lack of substantial evidence presented that Rodriguez was constructively dismissed.^[45] As to the question of whether Rodriguez's actions constituted abandonment of work, the CA struck down this allegation of SSI and ruled that Rodriguez did not have any intention to sever her employer-employee relationship with SSI.^[46] The CA concluded that since there was neither dismissal nor abandonment, the remedy would have been reinstatement without payment of backwages.^[47] However, the CA noted that the relationship between the parties is already strained. Hence, reinstatement may no longer be ordered.^[48] In the end, the CA made the parties bear their own losses.^[49] As regards the award of SIL, the CA affirmed the same. In sum, the CA disposed the case, thus:

WHEREFORE, both petitions are **DENIED**. The assailed Decision dated December 29, 2015 and Resolution dated March 31, 2016 are hereby **AFFIRMED**.

SO ORDERED.^[50]

Both parties filed motions for reconsideration which were both denied in the Assailed Resolution. Rodriguez then filed the present petition.

In assailing the findings of the CA, Rodriguez avers that: 1) SSI committed overt and positive acts of dismissal, including Capaque's emails to clients and his declaration that she had abandoned her work;^[51] 2) assuming SSI had valid grounds to dismiss her, SSI nevertheless did so without due process of law;^[52] 3) she was constructively dismissed as she was forced to go on numerous absences because of the abusive treatment from Capaque and SSI;^[53] 4) she did not abandon her work as she clearly had no intention to sever her employment with SSI.^[54] She prays for the Court to find her as having been constructively and illegally dismissed and to order the payment of separation pay, backwages, SIL, attorney's fees and damages.^[55]

In their Comment, respondents allege that: 1) Rodriguez failed to substantiate her allegations to support a finding of illegal constructive dismissal;^[56] 2) nevertheless, the records of the case show that the relationship between the parties are so strained that reinstatement is no longer feasible.^[57] Both Rodriguez^[58] and respondents^[59] made assertions showing the damaged relations between them;^[60] and 3) since reinstatement is no longer possible due to the strained relationship between the parties, each of them must bear their own loss. On this note, respondents claim that Rodriguez should not be awarded separation pay in lieu of

reinstatement as in fact, it is more acceptable that she be reinstated and proceed with administrative investigation to determine her culpability for gross misconduct, gross negligence and loss of trust and confidence than to pay her separation pay for her misdeeds.^[61]

Issues

- 1) Whether the CA erred in finding that there was neither illegal dismissal nor abandonment; and
- 2) If so, whether the CA committed reversible error in finding that reinstatement of Rodriguez is no longer feasible, hence, the parties must just bear their own losses.

Ruling of the Court

The petition must be denied.

Rodriguez's petition raises both questions of fact and law, with the core question being one of fact — how was her employment relationship with SSI severed? Put differently, Rodriguez asks the question, was she illegally dismissed?

In a Rule 45 petition of Rule 65 labor case decisions of the CA, the Court cannot address questions of facts, except in the course of determining whether the CA erred in ruling that the NLRC did or did not commit grave abuse of discretion in its assailed decision.^[62] This is because first, the Court is not a trier of facts as it generally resolves only questions of law, and, second, the NLRC's decision was final and executory and can be reviewed by the CA only when the NLRC committed grave abuse of discretion amounting to a lack or excess of jurisdiction.^[63]

Hence, in the present case, the question to ask is not really whether Rodriguez was dismissed. Rather, it is whether the CA correctly ruled that the NLRC did not gravely abuse its discretion and affirming the latter's finding that Rodriguez was not dismissed.

The CA was correct in affirming the NLRC's ruling that Rodriguez was not dismissed.

In illegal dismissal cases, before the employer must bear the burden of proving that the dismissal was legal, the employee must first establish by substantial evidence the fact of his dismissal from service.^[64] Obviously, if there is no dismissal, then there can be no question as to its legality or illegality.^[65] As an allegation is not evidence, it is elementary that a party alleging a critical fact must support his allegation with substantial evidence. Bare allegations of dismissal, when uncorroborated by the evidence on record, cannot be given credence.^[66] Moreover, the evidence to prove the fact of dismissal must be clear, positive and convincing.^[67]

Here, the Labor Arbiter, NLRC and CA unanimously found that Rodriguez failed to