

SECOND DIVISION

[G.R. No. 227550, August 14, 2019]

UNIVERSITY OF MANILA, REPRESENTED BY EMILY DE LEON AS PRESIDENT, DOING BUSINESS UNDER THE NAME AND STYLE BENGUET PINES TOURIST INN, PETITIONER, VS. JOSEPHINE P. PINERA,* YOLANDA A. CALANZA AND LEONORA P. SONGALIA, RESPONDENTS.**

DECISION

J. REYES, JR., J.:

This resolves the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court from the August 24, 2015 Decision^[1] and the October 10, 2016 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 127660, which respectively, reversed and set aside the Decision of the National Labor Relations Commission (NLRC) and denied petitioner's Motion for Reconsideration.

Petitioner University of Manila (petitioner) is an educational institution established by the Delos Santos Family. It is also engaged in the business of operating hotels and restaurants, which include among others, Benguet Pines Tourist Inn (BPTI).

Respondents Yolanda Calanza (Calanza), Josephine Pinera (Pinera) and Leonora P. Songalia (Songalia) were all hired by Atty. Ernesto Delos Santos (Atty. Delos Santos) and his mother Cordelia Delos Santos (Cordelia), to work in BPTI as receptionists and all-around employees, in 1984, 1993 and 1999, respectively. The late spouses Virgilio and Cordelia Delos Santos (spouses Delos Santos) were then the owners of the petitioner University. During the lifetime of the spouses Delos Santos, BPTI was under the management of Atty. Delos Santos. Upon the death of Cordelia, Dr. Emily De Leon (De Leon) became the current University President.

Sometime in December 2010, Calanza, who was then assigned as front desk clerk in BPTI, was verbally informed by the personnel of the petitioner that 25 booklets of unused official receipts (with No. 86251-87500) were allegedly missing. Petitioner insists that Calanza has custody over the booklets and was accountable for the loss. Calanza claims that she did not receive any written notice at all requiring her to explain the said missing booklets of official receipts.^[3]

On January 19, 2011, petitioner released a letter-memorandum^[4] signed by the petitioner's Chairman of the Board and Vice-President for Finance, Dr. Ma. Corazon Ramona Delos Santos (Delos Santos) concerning the reshuffling of BPTI employees allegedly "to avoid anomalies." The letter mentioned about the 25 missing unused booklets of official receipts and for this reason, reshuffling of the employees is necessary and only assigned personnel are allowed to work at BPTI. Respondents were informed about the said letter-memorandum.

On January 31, 2011, Calanza received a letter^[5] from Delos Santos of her impending transfer to Manila. Due to her refusal to be transferred to Manila, Calanza was informed through a letter^[6] dated March 3, 2011 that by virtue of a Board Resolution, her service was already terminated on the ground of insubordination.

Pinera, on the other hand, received a letter^[7] from De Leon on June 15, 2011 requiring her to report for work in the University of Manila within 48 hours from receipt of the letter. Due to Pinera's refusal to be transferred to Manila, petitioner stopped the payment of her salary from June 1-15, 2011. On June 22, 2011, security guards of the BPTI, upon instruction of De Leon went to see Pinera and asked for the keys of their room in BPTI.^[8] When she refused, the guards destroyed the door knob of the locked room, stormed in, illegally removed Pinera's personal belongings and dumped them outside the room.^[9]

Songalia, for her part received a letter^[10] dated May 31, 2011, requiring her to explain why she was reporting to Dely's Inn, a small inn conveniently located at the back of BPTI and owned by Atty. Delos Santos. Another letter dated June 15, 2011^[11] was sent to Songalia reiterating the order for her to report to the University of Manila. Just like Pinera, her salaries were also withheld starting June 15, 2011.

However, sometime in the end of July 2011, petitioner offered to give respondents Calanza, Pinera and Songalia their 13th month pay which were refused by all of them.

Aggrieved, respondents filed an illegal dismissal case against petitioner. On March 22, 2012, the Labor Arbiter rendered a Decision^[12] in favor of respondents, ordering petitioner to pay respondents separation pay, full backwages and the deficiency in 13th month pay, in the total amount of P863,422.00.

Petitioner appealed the case to the NLRC. The NLRC found that there was no illegal dismissal to speak about. Respondents were dismissed on the ground of unlawful insubordination to the lawful order of petitioner for their refusal to transfer to Manila although the procedural due process was not observed. The dispositive portion of the NLRC's Resolution reads:

WHEREFORE, premises considered, the appeal is partly **GRANTED** and the Decision dated [22] March 2012 is ordered **VACATED** and **SET ASIDE**.

A new one is issued finding that complainant-appellee Calanza was validly dismissed but for failure to observe the notice requirement of the law, respondents-appellants are ordered to pay complainant-appellee Calanza nominal damages in the amount of P10,000.00. The complaint for illegal dismissal filed by complainants-appellees Pinera and Songalia are dismissed for lack of merit.

SO ORDERED.^[13]

Respondents moved to reconsider but the NLRC denied its motion in a Resolution dated September 12, 2012.^[14]

The adverse Decision of the NLRC prompted respondents to file a Petition for *Certiorari* with the CA, ascribing grave abuse of discretion on the part of NLRC in declaring that Calanza was validly dismissed on the ground of willful disobedience or loss of trust and in finding that Pinera and Songalia failed to establish the fact of their illegal dismissal.

In the appealed Decision dated August 24, 2015, the CA reversed the findings of the NLRC and reinstated that of the Labor Arbiter. It ruled that there was no just cause for the dismissal of respondents and that procedural due process was not observed. The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the instant Petition for [*Certiorari*] is hereby **GRANTED**. Hence, the NLRC's dispositions on September 12, 2012 and July 9, 2012 are hereby **SET ASIDE** and we **AFFIRM** the Labor Arbiter's Decision on March 22, 2012.^[15]

It appears that the CA debunked the NLRC's findings of breach of trust and confidence and insubordination or willful disobedience. The order given by petitioner is for the respondents to transfer their workplace from Baguio to Manila. The CA found that said transfer order was a retaliatory move or a punishment for the unproven transgressions committed by Calanza — for losing the 25 booklets of official receipts (causing the breach of trust and confidence) and by Pinera and Songalia for allegedly working at Dely's Inn while employed with BPTI and for allowing Atty. Delos Santos to commit theft of supplies against BPTI. The Motion for Reconsideration was denied in a Resolution dated October 10, 2016.

Hence, petitioner filed the instant Petition arguing that the CA Decision is not in accord with law and/or jurisprudence and is based on misapprehension of facts, grounded on speculations or conjectures.^[16]

Under the Labor Code, there are twin requirements to justify a valid dismissal from employment: (a) the dismissal must be for any of the causes provided in Article 282 of the Labor Code (substantive aspect); and (b) the employee must be given an opportunity to be heard and to defend himself (procedural aspect).^[17] The *onus* of proving the validity of dismissal lies with the employer. Thus:

The burden of proof rests upon the employer to show that the disciplinary action was made for lawful cause or that the termination of employment was valid. In administrative and quasi-judicial proceedings, the quantum of evidence required is substantial evidence or "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Thus, unsubstantiated suspicions, accusations, and conclusions of the employer do not provide legal justification for dismissing the employee. When in doubt, the case should be resolved in favor of labor pursuant to the social justice policy of our labor laws and the 1987 Constitution.^[18]

As records would show, respondents were dismissed on the grounds of (a) willful breach of trust and confidence, specifically for losing the 25 booklets of unused official receipts during her duty as a front desk officer (for Calanza) and for working at Dely's Inn while employed with BPTI and for not reporting and tolerating the act of Atty. Delos Santos of getting supplies from BPTI; and (b) insubordination or willful disobedience of company rules specifically for not complying with petitioner's order for respondents to transfer workplace from Baguio to Manila.

A dismissal based on willful breach of trust or loss of trust and confidence entails the presence of two conditions.

First. Breach of trust and confidence must be premised on the fact that the employee concerned holds a position of trust and confidence, where greater trust is placed by management and from whom greater fidelity to duty is correspondingly expected.^[19] The essence of the offense for which an employee is penalized is the betrayal of such trust.^[20]

In the case of *Wesleyan University Phils. v. Reyes*,^[21] employees vested with trust and confidence were divided into two classes: (a) the managerial employees; and (b) the fiduciary rank-and-file employees. As explained by the Court:

To the first class belong the managerial employees or those vested with the powers or prerogatives to lay down management policies and to hire, transfer, suspend, lay-off, recall, discharge, assign or discipline employees or effectively recommend such managerial actions. The second class includes those who in the normal and routine exercise of their functions regularly handle significant amounts of money or property. Cashiers, auditors, and property custodians are some of the employees in the second class.^[22]

Second. There must be some basis for the loss of trust and confidence. The employer must present clear and convincing proof of an actual breach of duty committed by the employee by establishing the facts and incidents upon which the loss of confidence in the employee may fairly be made to rest.^[23] This means that "the employer must establish the existence of an act justifying the loss of trust and confidence."^[24] Otherwise, employees will be left at the mercy of their employers.^[25]

A more stringent degree of proof is required in terminating fiduciary rank-and-file employees. The Court explained in *Caoile v. National Labor Relations Commission*:^[26]

[W]ith respect to rank-and-file personnel, loss of trust and confidence as ground for valid dismissal requires proof of involvement in the alleged events in question, and that mere uncorroborated assertions and accusations by the employer will not be sufficient. But, as regards a managerial employee, mere existence of a basis for believing that such employee has breached the trust of his employer would suffice for his dismissal. Hence, in the case of managerial employees, proof beyond reasonable doubt is not required, it being sufficient that there is some basis for such loss of confidence, such as when the employer has reasonable ground to believe that the employee concerned is responsible for the purported misconduct, and the nature of his participation therein renders him unworthy of the trust and confidence demanded by his position.

To determine whether Calanza falls within the first or second class of employees, the actual work that she performed, not her job title, must be considered.^[27]

Petitioner averred that Calanza was an all-around in the small hotel that they operate. At the time the 25 booklets of unused official receipts were missing,