

SECOND DIVISION

[G.R. No. 223485, December 04, 2019]

**DEL MONTE FRESH PRODUCE (PHIL.), INC., PETITIONER, VS.
REYNALDO P. BETONIO, RESPONDENT.**

DECISION

INTING, J.:

Before the Court is an Appeal by *Certiorari*^[1] under Rule 45 of the 1997 Rules of Civil Procedure seeking to nullify and set aside the Decision^[2] dated May 13, 2015 and Resolution^[3] dated February 16, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 05508-MIN. The CA dismissed for lack of merit the Petition for *Certiorari* with prayer for Preliminary Injunction and Temporary Restraining Order^[4] filed by Del Monte Fresh Produce (PHIL.), Inc. (DMFPPI), praying for the following reliefs: (1) the issuance of a Writ of *Certiorari* to annul the Resolutions dated November 20, 2012 and February 27, 2013 of the National Labor Relations Commission (NLRC); and 2) the reinstatement of the Decision dated December 29, 2011 of the NLRC, which dismissed the complaint filed by Reynaldo P. Betonio (Betonio).

The Antecedents

DMFPPI is a corporation engaged in the business of providing technical assistance, inspection, and coordination services to Del Monte Fresh International, Inc. (DMFII).

On September 1, 2008, Betonio was employed by DMFPPI as its Manager for Port Operations at Tadeco Wharf, San Vicente, Panabo, Davao del Norte. On April 1, 2009, he was promoted as Senior Manager whose duty is to ensure prompt, efficient, and accurate loading and shipment of fruits to the market of DMFII. Further, he must ascertain that the bananas delivered to the port will be promptly loaded to their assigned vessels, or immediately placed in cold storage to avoid deterioration.^[5]

Beginning April 2010, the Human Resource (HR) Department of DMFPPI received reports/complaints about Betonio's inefficiencies in the operation of the port. The reports/complaints came from the managers and directors of different departments of DMFPPI, the market of Del Monte International in Japan, and the local growers of DMFPPI.^[6]

On account of the problems, reports, and complaints received by the HR Department of DMFPPI, HR Manager Ma. Cirila Canseco (Canseco) informed Betonio of the management's plan to commence disciplinary action against him. Canseco told Betonio that the charge against him would be gross and/or habitual neglect of duties, punishable with dismissal. To allegedly save Betonio from the embarrassment of going through an administrative investigation of his case, and for

him to maintain an unblemished record of employment, Canseco gave Betonio the choice of having a graceful exit by tendering his voluntary resignation. However, Betonio decided to go through a formal investigation of his case.^[7]

Through a Show Cause Memo^[8] dated June 21, 2010, Betonio was charged with gross and habitual neglect of duties, and breach of trust and confidence. Betonio was required to explain the 12 infractions he allegedly committed, as follows:

1. Banana Shipment Monitoring: Non-compliance to the procedures you proposed, agreed with Anflo/Tadeco, and confirmed by internal audit which is doing count/tally using the tag and to stop the old system in arriving at the breakdown of bananas loaded to the vessel per grower, which is the total load less other growers equals Tadeco.

Reported: April 21, 2010

2. Alarming boxes balance on the ground at 11 AM as reported on April 27, 2010,
April 30, 2010.

3. Reduction of the vessel loading capacity of Orion Reefer by almost 10,000 less without coordinating and allegedly upon the instruction of the ship captain.

Reported: April 22, 2010

4. Huge discrepancy between the shipping advice and actual DMG loaded to Alcantara-68 bound for Kobe.

Reported: May 4, 2010

5. Failure to follow loading instructions and erroneous cold storage monitoring report

- a. 7.2k 6 hands to Korea to be loaded to Almeria 4/30/10 but were not loaded, instead kept at the cold storage and expected to stay further for 9 days before the next vessel arrival. This was not reflected in the cold storage monitoring report.

Reported: May 5, 2010

6. Failure to follow loading instructions

- a. Organic boxes not loaded but still kept at the cold storage

Reported: May 7, 2010

- b. RC's not loaded

Reported: May 7, 2010

- c. Load RC to Valencia but not followed as evidenced in the daily monitoring of boxes on the ground. Coordination with Banana Production was also not done.

Reported: May 8, 2010

- d. Loading instructions not followed for Cordoba Carrier V-66 for Japan and Korea.
Reported: May 14, 2010
- 7. Erroneous Actual Loading Report - Alcantara Carrier V-69 vs Delivery Report
 - a. Crate Pack
 - b. Variances in the box count (loaded vs. delivered)
Reported: May 8, 2010
- 8. Boxes with 7 days at the cold storage
Reported: May 12, 2010
- 9. Failure to maximize loading efficiency of the vessel. Instructed to prepare a structured & reliable plan for management review.
Reported: May 14, 2010
- 10. Excessive loading hours of Fruits to Vessel Alcantara 71
Reported: June 5, 2010
- 11. Inaccuracy in fruit loading to specified destination based on Banana Order
 - a. Giralda 204 for Yoko
 - i. Order 216 boxes, loaded 948 boxes
 - b. Alcantara 71 for Moji
 - i. Order 864 boxes, loaded 93 boxes
Reported: June 10, 2010
- 12. Fruit overstay at the cold storage (6 RH for Japan: packed June 4)
Reported: June 12, 2010^[9]

In his response to the Show Cause Memo,^[10] Betonio explained point by point the infractions leveled against him, and denied having failed to execute his duties with utmost diligence.

On July 1, 2010, a meeting was conducted by the Administrative Committee wherein Betonio was made to explain the charges against him. In the Minutes of the meeting,^[11] it was stated that the Administrative Committee will come up with a recommendatory report-that if the top management disagrees with the Administrative Committee's recommendation, they will reconvene to discuss the decision to be adopted.

While the Administrative Committee found Betonio inefficient in the management and operation of the port, it opined that his lapses were not enough for his dismissal. As such, the committee recommended that the charges against Betonio

be dismissed. Despite the Administrative Committee's recommendation, a Notice of Disciplinary Action^[12] dated July 21, 2010 was issued by the top management, terminating Betonio's employment on the ground of gross and habitual neglect of duties and breach of trust and confidence.

The Ruling of the LA

On August 11, 2010, Betonio filed before the Labor Arbiter (LA) a Complaint^[13] for illegal dismissal with money claims.

In a Decision^[14] dated April 25, 2011, the Executive LA Elbert C. Restauero ruled in favor of Betonio, holding DMFPPI liable for illegally dismissing him. The LA ordered DMFPPI to pay Betonio the total sum of P2,201,109.19 representing his separation pay, full backwages, and attorney's fees. According to the LA, while it is true that Betonio had committed errors and lapses in the performance of his duties and responsibilities, those lapses or errors did not amount to gross and habitual neglect of duty as contemplated by law.

Aggrieved, DMFPPI elevated the case before the NLRC.

The Ruling of the NLRC

In a Decision^[15] dated December 29, 2011, the NLRC reversed the LA's Decision, and ruled in favor of DMFPPI. The NLRC held that while Betonio cannot be dismissed on the ground of gross and habitual neglect of duty, he may be dismissed on the ground of loss of trust and confidence as he was a Senior Manager of DMFPPI. According to the NLRC, Betonio's breach of DMFPPI's trust and confidence was amply proven by substantial evidence. However, in the dissenting opinion^[16] of Commissioner Proculo T. Sarmen (Commissioner Sarmen), he affirmed the LA's Decision.

Betonio filed a Motion for Reconsideration^[17] of the NLRC's Decision. Pending resolution of his motion, the case was re-raffled to Commissioner Sarmen, as the new *ponente* of the case.

In a Resolution^[18] dated November 20, 2012, the NLRC reversed itself and reinstated the ruling of the LA in favor of Betonio. The Resolution was dissented to by the Presiding Commissioner Bario-Rod M. Talon (Presiding Commissioner Talon).

DMFPPI moved for a reconsideration^[19] of the November 20, 2012 Resolution of the NLRC, but it was denied on February 27, 2013.^[20] Presiding Commissioner Talon again dissented to the denial of DMFPPI's Motion for Reconsideration.

Aggrieved, DMFPPI filed a Petition for Certiorari with prayer for Preliminary Injunction and Temporary Restraining Order^[21] before the CA.

The Ruling of the CA

On July 29, 2013, the CA granted DMFPPI's application for TRO.^[22] In the

Resolution^[23] dated October 16, 2013, the CA issued the Writ of Preliminary Injunction^[24] prayed for by DMFPPI, enjoining the implementation of the Resolutions dated November 20, 2012 and February 27, 2013 of the NLRC. Consequently, DMFPPI's Petition for Certiorari with Preliminary Injunction and Temporary Restraining Order was submitted for decision.

On May 13, 2015, the CA rendered a Decision^[25] affirming the November 20, 2012 and February 27, 2013, Resolutions of the NLRC in favor of Betonio.^[26] The CA ruled that Betonio should only be liable for ordinary breach, not for breach of trust and confidence; as such, dismissal from employment was too harsh and incommensurate to his infractions. According to the CA, admonition, warning, reprimand or suspension would have been sufficient punishment for Betonio. The CA likewise opined that DMFPPI should have taken into account the recommendation of the Administrative Committee to dismiss the charges against Betonio.

Lastly, the CA found that Betonio's termination was made without due process of law. According to the CA, Betonio was informed of his termination from employment as early as June 1, 2010. Having been notified of his dismissal on June 1, 2010, the issuance of his Show Cause Memo dated June 22, 2010; the subsequent creation of Administrative Committee; and the hearing conducted on July 1, 2010 were empty ceremonies to show compliance with due process of law. All told, the CA held DMFPPI liable for illegally dismissing Betonio.

DMFPPI moved for a reconsideration^[27] of the CA's Decision, but it was denied on February 16, 2016.^[28]

Hence, the instant petition.

DMFPPI imputes error on the part of the CA in affirming the November 20, 2012 and February 27, 2013 Resolutions of the NLRC in favor of Betonio. It argues that even if Betonio cannot be dismissed on the ground of gross and habitual neglect of duty, he may be terminated on the ground of loss of trust and confidence as he was a senior manager of DMFPPI.

DMFPPI contends that Betonio's breach of trust and confidence was amply proven by substantial evidence, which consisted of the Affidavits of its General Manager, its HR Manager, and the Senior Director for Banana Production. Likewise, DMFPPI maintains that the emails, reports, and complaints of some of its employees and clients established Betonio's incompetence--a ground for it to lose trust and confidence in Betonio.

The core issues at hand are the following:

1. Whether or not Betonio was legally dismissed on the ground of loss of trust and confidence; and
2. Whether or not his dismissal was made with due process of law

The Court finds merit in the petition.

At the outset, it is to be emphasized that the Court is not a trier of facts; thus, its