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SECOND DIVISION

[G.R. No. 221356, March 14, 2018]

MARIA CARMELA P. UMALI, PETITIONER, VS. HOBBYWING SOLUTIONS, INC., RESPONDENT.

D E C I S I O N

REYES, JR., J:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, assailing the Decision[1] dated May 29, 2015 and Resolution[2] dated November 4, 2015 of the Court of Appeals (CA) in CA G.R. SP No. 136194.

Antecedent Facts

The instant case stemmed from a complaint for illegal dismissal filed by Maria Carmela P. Umali (petitioner) against Hobbywing Solutions, Inc. (respondent) and its general manager, Pate Tan (Tan).

In her position paper, the petitioner alleged that she started working for the respondent, an online casino gaming establishment, on June 19, 2012, as a Pitboss Supervisor. Her main duties and responsibilities involve, among others, supervising online casino dealers as well as the operations of the entire gaming area or studio of the respondent company. She, however, never signed any employment contract before the commencement of her service but regularly received her salary every month.[3]

Sometime in January 2013, after seven (7) months since she started working for the respondent, the petitioner was asked to sign two employment contracts. The first employment contract was for a period of five (5) months, specifically from June 19,2012 to November 19,2012. On the other hand, the second contract was for a period of three (3) months, running from November 19, 2012 to February 18, 2013. She signed both contracts as directed.[4]

On February 18, 2013, however, the petitioner was informed by the respondent that her employment has already ended and was told to just wait for advice whether she will be rehired or regularized. She was also required to sign an exit clearance from the company apparently to clear her from accountabilities. She was no longer allowed to work thereafter.[5] Thus, the filing of a complaint for illegal dismissal against the respondent.

For its part, the respondent admitted that it hired the petitioner as Pitboss Supervisor on probationary basis beginning June 19, 2012 to November 18, 2012. With the conformity of the petitioner, the probationary period was extended for three (3) months from November 19, 2012 to February 18, 2013.[6] The respondent

claimed that the engagement of the petitioner's service as a probationary employee and the extension of the period of probation were both covered by separate employment contracts duly signed by the parties. After receiving a commendable rating by the end of the extended probationary period, the petitioner was advised that the company will be retaining her services as Pitboss Supervisor. Surprisingly, the petitioner declined the offer for the reason that a fellow employee, her best friend, will not be retained by the company. Thereafter, on February 18, 2013, she processed her exit clearance to clear herself of any accountability and for the purpose of processing her remaining claims from the company. As a sign of good will, the company signed and issued a Waiver of Non Competition Agreement in her favor and a Certificate of Employment, indicating that she demonstrated a commendable performance during her stint. Thus, the respondent was surprised to receive the summons pertaining to the complaint for illegal dismissal tiled by the petitioner.[7]

Ruling of the Labor Arbiter (LA)

On October 7, 2013, the LA rendered a Decision,[8] dismissing the complaint for lack of merit, the dispositive portion of which reads as follows:

> ACCORDINGLY, the cause of action for illegal dismissal is **DENIED** for lack of merit.
>
> Respondent *Hobbywing Solutions, Inc.* is ordered to pay complainant here NIGHT SHIFT DIFFERENTIALS of [P]21,232.58 subject to 5% withholding tax upon execution **whenever applicable**. All other claims are **DENIED** for lack of merit.
>
> Respondent Pate Tan is **EXONERATED** from all liabilities.
>
> SO ORDERED.[9]

The LA ruled that the petitioner failed to substantiate her claim that she was dismissed from employment. As it is, she opted not to continue with her work out of her own volition. Further, it noted that the respondent did not commit any overt act to sever employer-employee relations with the petitioner as, in fact, it even offered the petitioner a regular employment but she turned it down.[10]

Unyielding, the petitioner filed an appeal with the National Labor Relations Commission (NLRC), reiterating her claim of illegal dismissal.

Ruling of the NLRC

On January 15, 2014, the NLRC rendered a Decision,[11] holding that the petitioner was illegally dismissed, disposing thus:

> **WHEREFORE**, premises considered, the appeal of complainant is partly GRANTED. The assailed Decision of the Labor Arbiter dated October 7, 2013 is hereby **MODIFIED**. It is hereby declared that complainant is a regular employee of respondent Hobbywing Solutions, Inc. We also find complainant to have been illegally dismissed from employment and respondent Hobbywing Solutions, Inc. is hereby ordered to:

1. reinstate complainant to her former position without loss of seniority rights and other privileges;

2. pay complainant her full backwages, inclusive of allowances, and to her other benefits or their monetary equivalent computed from the date of dismissal up to her actual reinstatement; and

3. pay complainant an amount equivalent to 10% of the total judgment award as and for attorney's fees.

All other awards of the Labor Arbiter **STAND**.

The Computation Division of this Office is hereby directed to make the necessary computation of the monetary award granted to complainant, which computation shall form an integral part of this decision.

SO ORDERED.[12]

The NLRC held that the petitioner attained the status of a regular employee by operation of law when she was allowed to work beyond the probationary period of employment. From that point, she enjoys security of tenure and may not be terminated except on just or authorized causes. The respondent's claim that the petitioner's probationary period of employment was extended cannot be given credence since the records are bereft of proof that the latter's performance was ever evaluated based on reasonable standards during the probationary period and that there was a need to extend the same.[13]

The respondent filed a motion for reconsideration but the NLRC denied the same in its Resolution[14] dated April 30, 2014.

Dissatisfied, the respondent filed a petition for *certiorari* with the CA, imputing grave abuse of discretion on the part of the NLRC for ruling that there was an illegal dismissal. It argued that the petitioner did not become a regular employee by operation of Jaw since the probationary period of her employment was extended by agreement of the parties so as to give her a chance to improve her performance. There was also no il1egal dismissal since the petitioner was never terminated since she was the one who refused to accept the offer of the company to retain her services. It pointed out that the petitioner even processed her Exit Clearance Form and requested for a Certificate of Employment and Waiver of the Non-Competition Agreement.[15]

Ruling of the CA

On May 29, 2015, the CA rendered a Decision,[16] reversing the decision of the NLRC, the dispositive portion of which reads, as follows:

WHEREFORE, based on the foregoing, the petition is **GRANTED**. The 15 January 2014 Decision and the 30 April 2014 Resolution of the NLRC in NLRC NCR Case No. (M) 04-06101-13 [NLRC LAC No. 10-003040-13] are **REVERSED and SET ASIDE**. The 07 October 2013 Decision of the Labor Arbiter dismissing the Complaint for lack of merit is **REINSTATED**.

SO ORDERED.[17]

The CA agreed with the LA that the petitioner failed to prove the fact of her dismissal. It held that aside from bare allegations, no evidence was ever submitted by the petitioner that she was refused or was not allowed to work after the period of extension. There was no letter of termination given to the petitioner but only an exit clearance form which she personally processed, which therefore proved that the severance of her employment was her choice.[18]

The petitioner filed a motion for reconsideration but the CA denied the same in Resolution[19] dated November 4, 2015, the dispositive portion of which reads, thus:

> **WHEREFORE**, based on the foregoing, the Motion for Reconsideration is **DENIED**.
>
> **SO ORDERED.**[20]

The petitioner filed the instant petition for review on *certiorari*, questioning the issuances of the CA. She claims that she had already attained the status of regular employment after she was suffered to work for more than six months of probationary employment. She also reiterates that she was only belatedly asked to sign two employment contracts on January 19, 2013 after she had rendered seven (7) months of service.[21] She claims that she was terminated without cause on February 18, 2013 when she was informed that the period of her probationary employment had already ended and her services were no longer needed.

Ruling of the Court

The petition is meritorious.

Time and again, the Court has reiterated that, as a rule, it does not entertain questions of facts in a petition for review on *certiorari*. In *Pedro Angeles vs. Estelita B. Pascual*,[22] the Court emphasized, thus:

> Section 1, Rule 45 of the *Rules of Court* explicitly states that the petition for review on *certiorari* shall raise only questions of law, which must be distinctly set forth. In appeal by *certiorari*, therefore, only questions of law may be raised, because the Supreme Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial.[23]

There are, however, recognized exceptions to this rule, to wit:

> (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; **(4) when the judgment is based on a misapprehension of fads;** (5) when the findings of facts are conflicting; (6) When in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7)

> when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioners main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record: and **(11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion**.[24]

In the instant case, the Court finds that the CA misapprehended facts and overlooked details which are crucial and significant that they can warrant a change in the outcome of the case.

In finding that there was no illegal dismissal, the CA echoed the ruling of the LA that the petitioner failed to establish the fact of dismissal. It held that the petitioner failed to present evidence manifesting the intention of the respondent to sever relations with her. Absent any overt act on the part of the respondent, it ruled that there can be no dismissal to speak of. It also found credible the respondent's claim that it was the petitioner who refused to accept the offer of continued employment with the company.

The CA missed the point that the respondent employed a scheme in order to obscure the fact of the petitioner's dismissal. The CA would have recognized this ploy if it only delved deeper into the records and facts of the case.

It is beyond dispute that the petitioner started working for the respondent on June 19, 2012 as a probationary employee and that there were two (2) employment contracts signed by the parties. The parties, however, held conflicting claims with respect to the time when the contracts were signed. The petitioner is claiming that there was no contract before the commencement of her employment and that she was only asked to sign two employment contracts on January 19, 2013, after having rendered seven months of service. On the other hand, the respondent maintains that there was a contract of probationary employment signed at the beginning of the petitioner's service and another one signed on November 18, 2012, extending the probationary period purportedly to give the petitioner a chance to improve her performance and qualify for regular employment. The LA and the CA, however, opted to believe the respondent's claim that the contract of probationary employment was signed and extended on time. Having taken this theory, it is easy to dispose the case by concluding that no dismissal had taken place.

There was, however, a single detail which convinced this Court to take a second look at the facts of case. Contradicting the respondent's claim, the petitioner consistently reiterates that she was made to sign two contracts of probationary employment, one covering the period from June 19, 2012 to November 18, 2012, and the other purportedly extending the probationary employment from November 19, 2012 to February 18, 2013, only on **January 19, 2013**. To support her claim, she alleged that she was able to note the actual date when she signed the contracts, right beside her signature. And indeed, attached with the position paper submitted by the respondent itself, copies of the two contracts of employment signed by the petitioner clearly indicates the date "**01.19.13**" beside her signature.[25] This substantiates the petitioner's claim that the documents were signed on the same