

SECOND DIVISION

[G.R. No. 223073, February 22, 2017]

**P.J. LHUILLIER, INC., PETITIONER, VS. HECTOR ORIEL
CIMAGALA CAMACHO, RESPONDENT.**

DECISION

MENDOZA, J.:

This Petition for Review under Rule 45 of the Rules of Court seeks to annul the August 28, 2015 Decision^[1] and the February 19, 2016 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 134879, which reversed and set aside the December 27, 2013^[3] and February 10, 2014^[4] Resolutions of the National Labor Relations Commission, 4th Division, Quezon City (NLRC) in NLRC LAC No. 06-001854-13, in a complaint for illegal dismissal.

The Antecedents

On July 25, 2011, petitioner P.J. Lhuillier, Inc. (PJLI), the owner and operator of the "Cebuana Lhuillier" chain of pawnshops, hired petitioner Feliciano Vizcarra (*Vizcarra*) as PJLI's Regional Manager for Northern and Central Luzon pawnshop operations^[5] and respondent Hector Oriel Cimagala Camacho (*Camacho*) as Area Operations Manager (AOM) for Area 213, covering the province of Pangasinan. Camacho was assigned to administer and oversee the operations of PJLI's pawnshop branches in the area.^[6]

On May 15, 2012, Vizcarra received several text messages from some personnel assigned in Area 213, reporting that Camacho brought along an unauthorized person, a non-employee, during the QTP operation (pull-out of "*rematado*" pawned items) from the different branches of Cebuana Lhuillier Pawnshop in Pangasinan. On May 18, 2012, Vizcarra issued a show cause memorandum directing Camacho to explain why no disciplinary action should be taken against him for violating PJLI's Code of Conduct and Discipline which prohibited the bringing along of non-employees during the QTP operations.^[7] Camacho, in his Memorandum,^[8] apologized and explained that the violation was an oversight on his part for lack of sleep and rest. With busy official schedules on the following day, he requested his mother's personal driver, Jose Marasigan (Marasigan) to drive him back to Pangasinan. He admitted that Marasigan rode with him in the service vehicle during the QTP operations.

During the formal investigation on June 1, 2012, Camacho admitted that he brought along a non-employee, Marasigan, during the QTP operations on May 15, 2012. He explained that on May 12, 2012, he went home to Manila to celebrate Mother's Day with his family on May 13, 2012. He drove himself using the service vehicle assigned to him and arrived in Manila at around 11:00 o'clock in the evening. As he was

expecting a hectic work schedule the following day and was feeling tired due to lack of sleep for the past few days, he asked Marasigan to drive him back to Pangasinan so he could catch some sleep on the way. Marasigan was supposed to return to Manila on May 15, 2012, but because he was scheduled to go back to Manila on May 18, 2012, to attend a regional conference in Antipolo, he asked the former to remain in Pangasinan so that they could travel back together to Manila on May 17, 2012. On the day of the QTP operations, Marasigan drove the service vehicle from his apartment to the Area Office. Upon reaching the Area Office, the Area Driver took over while Marasigan sat in the backseat of the vehicle. Camacho admitted that he knew that it was prohibited to bring unauthorized personnel, especially a non-employee, during the QTP operations because this was discussed in the seminars facilitated by the company's Security Service Division. He only realized his mistake at the end of their 13-branch stop when he noticed that his companions were unusually quiet throughout the trip.^[9] It was also discovered that Camacho committed another violation of company policy when he allowed an unauthorized person to drive a company vehicle.

On June 14, 2012, the Formal Investigation Committee issued the Report of Formal Investigation.^[10] The committee concluded that Camacho was guilty as charged. It could not accept his explanation that the confidentiality of the QTP operation slipped his mind because of his exhausting travel to Manila and, thus, recommended that his services be terminated. According to the report, his act of bringing along an unauthorized person, a non-employee, during the QTP operation was a clear violation of an established company policy designed to safeguard the pawnshop against robberies and untoward incidents. His act was a "willful neglect of duty which cause[d] prejudice to the Company."^[11]

On the basis of the June 14, 2012 Report of Formal Investigation, Vizcarra issued to Camacho the Notice of Disciplinary Action^[12] where he was meted the penalty of Termination. This prompted him to file a complaint^[13] before the Labor Arbiter (LA) against the petitioners for illegal dismissal, money claims, damages, and attorney's fees.

The LA Ruling

In its May 14, 2013 Decision,^[14] the LA sustained Camacho's termination. He reasoned out in this wise:

As such, **the fact that the Complainant admitted that he violated the rules and regulations of the Respondents by bringing along his driver, a non-employee and an unauthorized person, during the "QTP" operations, despite being fully aware that the same was prohibited, the Respondents were clearly justified to terminate the employment of the Complainant on the ground of loss of trust and confidence** in view of the trust reposed upon the Complainant by the Respondents by virtue of his position as Area Operations Manager.

Further, this Office finds that the Respondents have complied with the requirements of due process because, aside from the show-cause memorandum xxx, an administrative hearing was held in order to give

the Complainant an opportunity to explain his side of the controversy.

Verily, there being a just cause to terminate the Complainant coupled by the compliance with the requirements of due process, it logically follows that the Complainant was not illegally dismissed.^[15] [Emphasis and Underscoring Supplied]

Aggrieved, Camacho appealed the LA decision to the NLRC, questioning the harshness of the penalty meted out by PJLI. He argued that the infractions were purely unintentional and no more than an oversight on his part.

The NLRC Ruling

In its August 30, 2013 Decision, the NLRC *reversed* and *set aside* the May 14, 2013 Decision of the LA. It declared the dismissal of Camacho as illegal. It opined that there was no indication that Camacho, in allowing his mother's driver to be present during the conduct of the QTP operation, was motivated by malicious intent so as to construe the infraction as serious misconduct punishable by dismissal. The infraction, if at all, constituted "nothing more than an oversight or inadvertence, if not a necessity for him to conserve his energy and stay alert during the QTP Operation" xxx. The conduct could not be considered as gross so as to warrant the imposition of the supreme penalty of dismissal.^[16]

Dissatisfied with the said pronouncement, PJLI filed its Motion for Reconsideration^[17] praying that the May 14, 2013 Decision of the LA be reinstated.

After a re-evaluation of the case, in its December 27, 2013 Resolution, the NLRC found cogent reason to *set aside* its August 30, 2013 Decision. It ruled that Camacho's transgression of the company policy warranted his termination from the service. It wrote:

Xxx. When the complainant brought his personal drive and allowed the latter to ride in the company vehicle during the QTP operations on 15 May 2012, in utter violation of the respondent company's policy, the same was detrimental not only to the interests of the respondent company, but also to the interest of the persons who pawned the "rematado" items.^[18]

Thus, the decretal portion of the decision reads:

IN VIEW WHEREOF, the Respondent's Motion for Reconsideration is **GRANTED** and the assailed Decision is hereby **SET ASIDE**. The Labor Arbiter's Decision is hereby **REINSTATED**.

SO ORDERED.^[19]

Camacho moved for a reconsideration but his motion was denied in the NLRC Resolution of February 10, 2014.

Aggrieved, Camacho filed a petition for *certiorari* under Rule 65 of the Rules of Court before the CA.

The CA Ruling

In its August 28, 2015 Decision, the CA *reversed* the NLRC resolutions. It held that contrary to the findings of the LA and the NLRC, the misconduct of Camacho was not of a serious nature as to warrant a dismissal from work. At most, said the CA, he was negligent and remiss in the exercise of his duty as an AOM. There was no evidence that would show that said act was performed with wrongful intent. Moreover, Camacho's termination from work could not be justified on the ground of loss of trust and confidence. For loss of trust and confidence to be a valid ground, explained the CA, it must be based on willful breach of the trust reposed in the employee by his employer. The breach must have been made intentionally, knowingly, and purposely without any justifiable excuse as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. In this case, the CA found that Camacho's act of bringing along his mother's driver during the QTP operation was not willful as it was not done intentionally, knowingly and purposely. It was committed carelessly, thoughtlessly, heedlessly or inadvertently. Even Camacho himself admitted that it was merely a case of human error on his part, the same being prompted by his desire to finish his work as soon as possible.^[20]

In sum, the CA held that Camacho was illegally dismissed. The *fallo* of the assailed decision reads:

WHEREFORE, the instant Petition is **GRANTED**. The Resolutions promulgated on December 27, 2013 and February 10, 2014 of the NLRC, 4th Division, Quezon City in NLRC LAC No. 06-001854-13 are hereby **REVERSED** and **SET ASIDE**. The Decision of the said Commission promulgated on August 30, 2013 declaring the dismissal of petitioner as illegal is hereby **REINSTATED**.

SO ORDERED.^[21]

In February 19, 2016 Resolution,^[22] the CA denied PJLI's motion for reconsideration.

Hence, this petition.

ISSUES:

WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR OF LAW IN RULING THAT PETITIONER FAILED TO COMPLY WITH THE SUBSTANTIVE REQUIREMENTS OF DUE PROCESS IN THE DISMISSAL OF RESPONDENT.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR OF LAW IN RULING THAT THE PENALTY OF DISMISSAL WAS DISPROPORTIONATE TO THE INFRACTION COMMITTED DUE TO LACK OF MALICIOUS INTENT ON THE PART OF RESPONDENT.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR OF LAW IN RULING THAT

**RESPONDENT IS ENTITLED TO REINSTATEMENT, BACKWAGES,
14TH MONTH PAY AND ATTORNEY'S FEES.[23]**

Petitioner PJLI basically argues that Camacho was guilty of serious misconduct when he brought along an unauthorized driver during the QTP operation prompting it to lose trust and confidence in him. Such was a valid ground for his dismissal from service.

First, the CA failed to consider the fact that during the QTP operation, it was neither Camacho nor his personal driver who drove the company car. As a policy, in a QTP operation, a company driver (*Area Driver*) is assigned to do the driving. As AOM, his participation in a QTP operation was limited to oversee the safe transport of company assets. He was not to drive the vehicle. A driver was already assigned to him. As such, the fact that he was feeling under the weather was not a good reason to bring along his mother's driver. This was the reason why during the course of the QTP operations, his personal driver had to seat only at the back of the vehicle. The presence of his personal driver was simply unnecessary, unjustified, and unwanted.
[24]

Second, PJLI has lost its trust and confidence on Camacho. PJLI considered his breach of the said established security protocol as willful, contrary to the CA's finding. PJLI finds it hard to believe that his act was done carelessly, thoughtlessly, heedlessly or inadvertently. It points out that on the day before the May 15, 2012 QTP operation, he left his personal driver in his apartment when he went to work on that day. On the day of the QTP operation, however, a day which he knew that there would be a delicate operation, he decided to bring him along. Clearly, the act was intended and not a mere oversight.[25]

Third, considering the attendant circumstances surrounding the controversy, PJLI insists that the penalty of dismissal was proper. As AOM, Camacho was expected to administer and oversee the operations of the branches in his area. He was the eyes and ears of the company in all the operations and the overall performances of his area. He was the steward of the assets of the company so much so that the highest level of trust and confidence was reposed on him. This trust was lost when he breached a strict security regulation designed to protect the assets and employees of PJLI. The act in question was a disregard of PJLI's mandate, a behavior deleterious to the latter's interest.

Finally, PJLI reiterates that it complied with the requirements of both substantive and procedural due process in effecting Camacho's dismissal; thus, the latter was not entitled to reinstatement, backwages, 14th month pay, and attorney's fees.

Position of Camacho

In his *Comment*, [26] dated July 28, 2016, Camacho countered that when he let his personal driver join the QTP operation, he merely acted carelessly, thoughtlessly or heedlessly and not intentionally, knowingly, purposely, or without justifiable excuse. Simply put, the act was a mere oversight.[27] As such, his transgression could not be considered so gross as to warrant his termination. To consider "gross neglect of duty," the negligence must be "characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but