

FIRST DIVISION

[G.R. No. 208459, February 15, 2017]

**JULIETA B. STA. ANA, PETITIONER, VS. MANILA JOCKEY CLUB,
INC., RESPONDENT.**

DECISION

DEL CASTILLO, J.:

Before the Court is a Petition for Review on *Certiorari* assailing the July 11, 2012 Decision^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 114861. The CA affirmed the February 26, 2010^[2] and April 30, 2010^[3] Resolutions of the National Labor Relations Commission (NLRC), which in turn affirmed the September 28, 2009 Decision^[4] of the Labor Arbiter (LA) dismissing the illegal dismissal case against Manila Jockey Club, Inc. (MJCI)/Atty. Alfonso Reyno (Atty. Reyno). Also challenged is the July 31, 2013 CA Resolution^[5] denying the Motion for Reconsideration on the assailed Decision.

Factual Antecedents

In May 1977, MJCI, a domestic corporation with legislative franchise to operate horse race betting,^[6] hired Julieta B. Sta. Ana (Sta. Ana) as outlet teller of its off-track betting (OTB) station in Tayuman, Manila (OTB Tayuman). Because horse racing was not on a daily basis, Sta. Ana's work schedule was only for 12 days per month with shifts from 5 p.m. to 10:30 p.m. on weekdays, and 1 p.m. to 7 p.m. on weekends.^[7]

As teller, Sta. Ana performed the following duties and functions:

1. Waits on [OTB] tellers' booth for customers/clients; sells betting tickets.
2. Answers bettor's inquiries, provides information on racing events, assists patrons with information, and takes bet orders.
3. Processes cash payments through terminal registers; balances registers and makes daily ticket sales reports after the races.
4. Handles cash and transactions with due diligence and honesty to the bettors and to the company as well.
5. Coordinates with the Betting Operations Department (BOD) on matters beyond the standard operating procedure of the BOD.
6. Strictly observes and implements company policies and procedures to

protect the interests of the company against unscrupulous bettors and operators

7. Reports incidents to the company on matters pertaining to the operations.

8. Submits or remits the cash sales for the day to the official collection team and/or to the assigned banks with night depository box.

9. May be assigned to different OTBs as necessary to the company's operations.

10. Performs miscellaneous job-related duties as assigned.^[8]

On November 13, 2008, however, MJCI issued a Memorandum^[9] stating that its Treasury Department was discovered to have been illegally appropriating funds and lending it out to the employees of MJCI. As a result, MJCI required its officers and employees to report any loan obtained from said department or any of its personnel.

On December 21, 2008, MJCI's Internal Auditing Department (IAD) submitted its Preliminary Report^[10] indicating that its Agudo OTB Branch (OTB Agudo) had unaccounted check remittances amounting to P44,377,455.00 for the period January 10, 2008 to November 30, 2008.

On January 8, 2009, MJCI, through its Special Disciplinary Committee (SDC), formally charged^[11] Sta. Ana with the following infractions:

x x x Julieta Sta. Ana - OTB Teller

DISHONESTY AND OTHER FRAUDULENT ACTS

[A.] Stealing or attempting to steal corporate property or money/corporate assets - 1st offense: dismissal

[B.] Malversation - 1st offense; dismissal

[C.] Engaging/conniving in anomalous transactions - 1st offense: dismissal^[12]

In her Explanation,^[13] Sta. Ana denied committing any offense. She contended that even prior to the takeover of the new management of MJCI, she had been engaged in the lending business to augment her income.

Later, MJCI served upon Sta. Ana a Notice of Investigation^[14] reiterating the accusations against her, and narrating the circumstances surrounding her case, viz.:

Initial investigation revealed that there were unaccounted shortages incurred by the Cashier Department. The Balance Sheet as of November 2008 indicated that the Cash on Hand amounted to around P198 million; actual counting of the cash in vault revealed, however, that the actual amount is only around P3.1 million. At the center of this irregularity

and/or fraud is Josephine Tejada.

It has been reported that Josephine Tejada, without authority, has been lending large amount [sic] of money to some MJCI personnel using corporate funds. It has likewise been reported that you [Sta. Ana] were abetting Josephine Tejada in the said unauthorized lending or that you yourself has also been lending to some MJCI personnel using corporate funds and without any authority from management.^[15]

The Notice further informed Sta. Ana of her 30-day suspension without pay effective January 16, 2009.

In her Answer,^[16] Sta. Ana averred that she did not know anything regarding MJCI's unaccounted money and that her suspension was unjust. She maintained that she did not violate any company rule by engaging in the lending business.

On January 30, 2009, Sta. Ana attended the hearing conducted by MJCI.^[17]

Sta. Ana and Josephine Tejada (Tejada), also submitted a Joint Affidavit^[18] dated January 20, 2009. Therein, Tejada, MJCI's Assistant Head/Cashier, Treasury Department, denied doing business with Sta. Ana while Sta. Ana asserted that she had been in the money lending business for 15 years, or even prior to the takeover by the new management of MJCI, and that her capital was sourced from the sale of her fishing boats.

Sta. Ana likewise submitted a Supplement Affidavit^[19] dated February 2, 2009 alleging that in August 2008, Benjie Sunga (Sunga) proposed to borrow money from her but since she could not personally attend to him, she requested Tejada to give Sunga the money he needed. The following day, she paid Tejada the amount the latter lent to Sunga. According to Sta. Ana, that was her only transaction with Tejada.

In its February 13, 2009 Report,^[20] the SDC found that Sta. Ana extended loans to the employees of MJCI during office hours using its personnel as messenger. It further stated that on one occasion, Sta. Ana used corporate funds without MJCI's authority, and with the assistance of Tejada.^[21]

Consequently, the SDC found Sta. Ana guilty of conspiring to defraud, illegally take funds, and cause irreparable damage to MJCI; as such, MJCI lost its trust on her. It also declared that even granting that there was no conspiracy, Sta. Ana, nonetheless, committed gross inexcusable negligence for failure to perform her duties and protect the interest of MJCI. SDC recommended the dismissal of Sta. Ana and the filing of criminal cases for qualified theft and other appropriate charges.

On February 16, 2009, MJCI issued a Notice of Termination^[22] to Sta. Ana.

On February 25, 2009, Sta. Ana filed a Complaint^[23] for illegal dismissal and payment of actual, moral and exemplary damages, and attorney's fees against MJCI/Atty. Reyno, its President.

In her Position Paper,^[24] Sta. Ana averred that she had been in the service for 31 years prior to her dismissal. She stressed that she had bank deposits, real properties and fishing business to fund her lending business; and, the fact that she lent money to her co-employees is not proof that she used MJCI's funds for her business. She further insisted that there was no company rule prohibiting employees from engaging in their own businesses. In addition, Sta. Ana contended that she had no direct access to her employer's money; thus, she could not have stolen it. She pointed out that she never incurred a shortage in remitting the income of her OTB Branch or the OTB Tayuman Branch. Lastly, Sta. Ana stated that her one-time request for Tejada to accommodate Sunga is not evidence of any complicity with Tejada. Similarly, she should not be dragged into the controversy in the Cashier/Treasury Department of MJCI just because she was a "kumare" of Tejada.

On the other hand, MJCI/Atty. Reyno countered in their Position Paper^[25] that it is incredible that the money that Tejada advanced to Sunga came from Tejada's own fund. They insisted that the salary of Sta. Ana (of P6,700.00 per month), even including that of Tejada, was insufficient to fund a money lending business; hence, the only logical conclusion was that the amount lent to Sunga came from MJCI's funds.

MJCI/Atty. Reyno remained firm that Sta. Ana committed dishonesty and connived with Tejada in an anomalous transaction. They further declared that in its Report^[26] dated April 22, 2009, the SDC reiterated the charge against Sta. Ana of operating a lending business and using a personnel of MJCI as conduit even during office hours. That Sta. Ana supposedly used MJCI personnel in her business was derived from the statements of two employees of MJCI, namely, Ramon Santos (Santos) and Ramon Pimentel (Pimentel).

Later, Sta. Ana argued in her Reply^[27] that MJCI/Atty. Reyno maliciously and hastily concluded that she was in cahoots with Tejada based only on the single transaction relating to Sunga. She also denied using MJCI's personnel as conduit during office hours; she pointed out that considering her office schedule, she had enough free time to engage in a lending business.

For their part, MJCI/Atty. Reyno attached in their Reply^[28] the Affidavit^[29] of Sunga alleging that Sta. Ana advised him to get money from Tejada. Thus, MJCI/Atty. Reyno maintained that Sta. Ana and Tejada were business partners, and they committed dishonesty and connived in perpetrating an anomalous transaction against MJCI.

The parties filed their respective Rejoinders^[30] reiterating the contentions in their Position Papers and Replies.

Ruling of the Labor Arbiter

On September 28, 2009, the LA dismissed the Complaint for lack of merit. He declared that Sta. Ana conspired with the other tellers against MJCI by issuing reports intended to conceal discrepancies in the remittance which resulted in the unlawful taking of MJCI's funds, and that the money obtained by Sta. Ana was used in her lending business.

The LA noted that Sta. Ana claimed that her capital was sourced from the proceeds of the sale of her fishing vessels two years ago; yet, she also alleged that she started her lending business 15 years prior to the takeover of the new management. The LA also concluded, based on the declarations of two employees, that the amounts they borrowed from Sta. Ana were delivered by an employee of MJCI, that Sta. Ana had used an MJCI's employee and company time in her business.

Lastly, the LA held that Sta. Ana's salary alone could not support her lending business. He also decreed that the filing by MJCI of criminal cases against Sta. Ana proved its loss of trust and confidence in her, a valid ground for dismissal from work.

Ruling of the National Labor Relations Commission

The NLRC affirmed the LA Decision. It ruled that MJCI validly dismissed Sta. Ana for loss of trust and confidence; that although Sta. Ana might not have been directly involved in the discrepancies of the remittances and in the preparation of reports to cover up such discrepancies, she was nonetheless a recipient of the stolen money which she used in her lending business; that Sta. Ana's claim that her lending business was funded by the sale of her fishing vessels two years ago contradicted her declaration that she commenced her business 15 years earlier; and that Sta. Ana's statement, anent her co-employees who had loans from her, did not indicate the dates when the borrowers obtained their loans from Sta. Ana.

Furthermore, the NLRC decreed that conspiracy between Sta. Ana and Tejada was established by Sunga's admission that the money he borrowed from Sta. Ana came from Tejada; that Sta. Ana deliberately engaged in a lending business and used corporate funds without MJCI's authority; and that the filing of a criminal case against Sta. Ana proved the employer's loss of trust and confidence in her.

Lastly, the NLRC held that Atty. Reyno must be dropped as party respondent because there was no showing that he acted maliciously in furtherance of any illegal act of MJCI. It also affirmed the finding of the LA that MJCI complied with the procedural requirements in dismissing Sta. Ana.

On April 30, 2010, the NLRC denied the Motion for Reconsideration filed by Sta. Ana.

Ruling of the Court of Appeals

Sta. Ana filed with the CA a Petition for *Certiorari* contending that the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it ruled that she was validly dismissed from work.

On July 11, 2012, the CA affirmed the NLRC Resolutions.

The CA held that Sta. Ana regularly handled a large amount of money belonging to MJCI; thus, she occupied a position of trust. The CA gave credence to Sunga's Affidavit where he declared that Sta. Ana told him that Tejada was her (Sta. Ana) business partner. The CA further ruled that it could not see how Sta. Ana, with her meager salary, could finance her lending business. It likewise sustained the view that Sta. Ana's statement that she funded her business from the sale of her fishing boats two years ago contradicted her assertion that her lending business commenced 15 years earlier.