

SECOND DIVISION

[G.R. No. 213137, March 01, 2017]

FLORDALIZA LLANES GRANDE, PETITIONER, VS. PHILIPPINE NAUTICAL TRAINING COLLEGE, RESPONDENT.

DECISION

PERALTA, J.:

Before us is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court which seeks to annul and set aside the Amended Decision^[2] dated November 7, 2013 and the Resolution dated June 25, 2014 of the Court of Appeals (CA) in CA-G.R. SP No. 125444. The CA reversed on reconsideration its Decision^[3] dated March 27, 2013 affirming the Decision^[4] of the National Labor Relations Commission (NLRC), Sixth Division, in NLRC Case No. LAC 08-002290-11 and the Decision^[5] of the Labor Arbiter which held that petitioner did not voluntarily resign but was illegally dismissed by respondent.

The factual antecedents are as follows:

Respondent Philippine Nautical Training College, or PNTC, is a private entity engaged in the business of providing maritime training and education.^[6] In 1988, respondent employed petitioner as Instructor for medical courses like Elementary First Aid and Medical Emergency.^[7] In April 1998, she became the Course Director of the Safety Department.^[8] Respondent was then principally engaged in providing maritime training for seafarers.^[9]

In 2002, petitioner was appointed Course Director for the Training Department of respondent school. In November 2007, she resigned as she had to pursue graduate studies and carry on her plan to immigrate to Canada.^[10]

In May 2009, petitioner was invited by respondent to resume teaching since it intended to offer BS Nursing and other courses for maritime training. In July 2009, petitioner was, again, employed by respondent as Director for Research and Course Department. As such, she was responsible for the development, revisions and execution of training programs.^[11]

In September 2010, petitioner was given the additional post of Assistant Vice-President (VP) for Training Department. For the two positions she was holding, petitioner was given a salary of Thirty Thousand Pesos (P30,000.00) and an allowance in the amount of Twenty Thousand Pesos (P20,000.00).^[12]

In February 2011, several employees of respondent's Registration Department, including the VP for Training Department were placed under preventive suspension

in view of the anomalies in the enlistment of students.^[13]

On March 1, 2011, the VP for Corporate Affairs, Frederick Pios (*Pios*), called petitioner for a meeting. Pios relayed to petitioner the message of PNTC's President, Atty. Hernani Fabia, for her to tender her resignation from the school in view of the discovery of anomalies in the Registration Department that reportedly involved her. Pios assured petitioner of absolution from the alleged anomalies if she would resign.^[14]

Petitioner then prepared a resignation letter, signed it and filed it with the Office of the PNTC President. The respondent accomplished for her the necessary exit clearance.^[15] The resignation letter^[16] of petitioner reads:

Atty. Hernani Fabia
President
Philippine Nautical Training Institute

Sir,

This is to officially file my resignation effective March 2, 2011 as Director for Research and Course Development/AVP.

Thank you.

(Sgd) Flordaliza L. Grande

In the evening of the same date, petitioner, accompanied by counsel, filed a police blotter for a complaint for unjust vexation against Pios.^[17] The police blotter reads in full:

"One (1) Flordaliza Grande y Llanes, 36yo, M, (sic) Asst. Vice Pres. For Training and Dir. For Research and Dev't came here in our office to lodge her [complaint] against Frederick G. Pios Vice Pres. Corporate Affairs.

NOC: UNJUST VEXATION

x x x x

Facts of the case:

On or about cited DTPO complainant was called by Ms. Luchi Banaag for meeting by Mr. Frederick G. Pios (suspect) at the office. Mr. Pios was telling her that there were some unfounded anomalies discovered and being attributed to her; complainant was shocked upon hearing the same. With this, he forced the complainant to file resignation from employment, and in return made her [assurance] to absolve from the said unfounded anomalies, complainant considering that she was being accused of unfounded anomalies, she was force (sic) to succumb to the order and execute her resignation letter immediately, and Mr. Pios (suspect) uttered that he was following orders from the President of PNTC Colleges, Hernani Fabia-President, as narrated by complainant."^[18]

The next day, March 2, 2011, petitioner accompanied by counsel, filed a complaint for illegal dismissal^[19] with prayer for reinstatement with full backwages, money claims, damages, and attorney's fees against respondent.^[20]

In her position paper, petitioner alleged that she was forced to resign from her employment. On the other hand, respondent claimed that petitioner voluntarily resigned to evade the pending administrative charge against her.^[21]

On July 29, 2011, Labor Arbiter (LA) Arthur L. Amansec rendered a Decision, the dispositive portion of which states:

WHEREFORE, judgment is hereby made finding the complainant's claim of forced resignation established by substantial evidence. Concomitantly, her resignation of March 1, 2011 is hereby declared null and void, and by way of restoring the *status quo*, the respondent school is ordered to reinstate her to her former or substantially equivalent position without loss of seniority rights but without backwages. In case the complainant does not want to be reinstated, she may, upon her option, accept, in lieu of reinstatement, a separation pay amounting to P75,000.00 (her half month salary of P25,000.00 multiplied by three (3) years of service), plus ten percent (10%) thereof as attorney's fees.

Other claims are dismissed for lack of merit.

SO ORDERED.^[22]

Thereafter, respondent elevated the case before the NLRC, Sixth Division. On February 29, 2012, the NLRC affirmed the Decision of the LA.

A motion for reconsideration was filed by respondent, but the same was denied by the NLRC on May 31, 2012.^[23]

Aggrieved, respondent filed a petition for *certiorari* before the CA. In a Decision dated March 27, 2013, the CA affirmed the Decision of the NLRC. The *fallo* states:

WHEREFORE, the petition is **DISMISSED**. In view of the foregoing premises, the assailed *Decision* dated February 29, 2012 and Resolution dated May 31, 2012 of the National Labor Relations Commission in NLRC LAC No. 08-002290-11, are **AFFIRMED** with the **MODIFICATION** that Flordaliza L. Grande is **GRANTED** payment of backwages, computed from the time she was illegally dismissed on March 1, 2011 up to the time she is actually reinstated to her former or substantially equivalent position, and attorney's fees equivalent to 10% of the total monetary award.

SO ORDERED.^[24]

A motion for reconsideration was filed by the respondent which was granted by the CA on November 7, 2013 and reversed its Decision dated March 27, 2013. The *decretal* portion of the Amended Decision states:

WHEREFORE, the motion for reconsideration is **GRANTED**. The Court *Decision* dated March 27, 2013 is **RECONSIDERED AND SET ASIDE**.

Accordingly, the complaint of respondent Flordaliza L. Grande is **DISMISSED**.

SO ORDERED.^[25]

Hence, this petition, raising the following errors:

I

x x x The Court of Appeals seriously erred in issuing CONFLICTING DECISIONS (Decision dated 27 March 2013 and Amended Decision dated 7 November 2013) composed by the same set of Division Members although the Motion for Reconsideration filed by the private respondent did not present new arguments and/or facts (rather merely reiterating the arguments in the Petition for *Certiorari*) warranting a re-examination and re-evaluation of its earlier Decision.

II

x x x The Court of Appeals seriously erred in considering the Petition for *Certiorari* filed by the private respondents despite the absence of any grave abuse of discretion on the part of the Labor Arbiter *a quo* and NLRC, Sixth Division.^[26]

In the petition, petitioner averred that respondent did not present any new argument in its motion for reconsideration before the CA as to warrant the reversal of the Decision of the CA dated March 27, 2013. She stressed that she had no real intention of leaving her employment. She was really surprised and shocked when she was forced to resign despite having "wholeheartedly" served the school for years. Her resignation letter which she described as "simply worded" signified her involuntariness in the execution of the document. It was the "undue influence and pressure" exerted upon her by respondent that compelled her to submit the resignation letter. That was the reason why she immediately filed the case for illegal dismissal the day after she tendered her resignation letter. Also, petitioner attached in her petition the Special Cash Audit Report dated March 11, 2011^[27] which was the result of the audit conducted on the PNTC upon its request. The report shows that it is the VP for Training/Registrar who was made to account for the irregularity in the collection reports.

In the Comment^[28] of respondent to the petition, it maintained that petitioner voluntarily resigned from employment. As her resignation was voluntary, she was not dismissed from her employment. According to respondent, the acts of petitioner - the resignation, the blotter with the police, the continued processing of clearance the day after the resignation and the filing of the illegal dismissal case - showed that she used "calculated reasoning to protect herself from possible charges that PNTC may file against her." Respondent added that, notwithstanding the absence of liability of petitioner in the Special Cash Audit Report, it filed criminal complaints against petitioner.

In the Comment^[29] of petitioner to Respondent's Motion to Admit Rejoinder with Rejoinder, she countered that the two complaints filed against her before the Prosecutor's Office by respondent were both dismissed. She reiterated that she had

been consistent in all her pleadings that her clearance was processed on the very day that she tendered her resignation letter, and did not extend the day after, since she was then with the NLRC for the filing of the instant complaint.

We grant the petition.

It is well settled that in labor cases, the factual findings of the NLRC are accorded respect and even finality by this Court when they coincide with those of the LA and are supported by substantial evidence.^[30]

In the same vein, factual findings of the CA are generally not subject to this Court's review under Rule 45. However, the general rule on the conclusiveness of the factual findings of the CA is also subject to well-recognized exceptions such as where the CA's findings of facts contradict those of the lower court, or the administrative bodies, as in this case. All these considered, we are compelled to make a further calibration of the evidence at hand.^[31]

Respondent claimed that petitioner voluntarily resigned from employment. For the resignation of an employee to be a viable defense in an action for illegal dismissal, an employer must prove that the resignation was voluntary, and its evidence thereon must be clear, positive and convincing. The employer cannot rely on the weakness of the employee's evidence.^[32]

Quite notable in the instant case is the fact that respondent was silent as to the alleged meeting with petitioner on March 1, 2011. As in fact, as found by the LA and the NLRC, *"neither Pios nor Fabia came forth through an Affidavit to deny"* the meeting.^[33] All that respondent could say is that on March 1, 2011, petitioner *"suddenly and without reason tendered her resignation"*. And that, respondent then became suspicious of the *"abruptness"* of the resignation, such that, it conducted an investigation and discovered that petitioner was the one who signed the Enrollment Report, submitted to the Maritime Training Council, which contained names of students who were not officially enrolled with the school.^[34]

From the aforesaid statement of respondent, it can be deduced that on March 1, 2011, when petitioner "suddenly" resigned, there was no discovery yet as to the alleged anomaly involving petitioner. This is quite contrary to the statements of respondent in its Comment to the petition, thus:

12.7. The action of **Grande** was premeditated. There was no threat employed upon her. **Prior to her resignation, PNTC found out that there were discrepancies in the enrollment reports signed by Grande** and the system database of PNTC as to the list of enrollees. Likewise, there were enrollment reports signed by GRANDE stating that her husband, Nelson Grande, was the assigned professor to a particular course when the latter was, actually, abroad. **When confronted with these discrepancies**, GRANDE resigned from work and even filed a complaint for unjust vexation apparently to avoid any legal suit to be filed by PNTC against her and to cover up for her misdeeds and that of her husband, x x x.^[35]