

FIRST DIVISION

[G.R. No. 209555, July 31, 2017]

**UNITED POLYRESINS, INC., ERNESTO UY SOON, JR., AND/OR
JULITO UY SOON, PETITIONERS, V. MARCELINO PINUELA,
RESPONDENT.**

D E C I S I O N

DEL CASTILLO, J.:

This Petition for Review on *Certiorari*^[1] assails the December 11, 2012 Decision^[2] and October 10, 2013 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. SP No. 115402 which set aside the June 11, 2011 Decision^[4] of the National Labor Relations Commission (NLRC) in NLRC-LAC Case No. 06- 001577-09.

Factual Antecedents

Petitioner United Polyresins, Inc. (UPI) is a registered domestic corporation doing business in San Pedro, Laguna, while petitioners Ernesto Uy Soon, Jr. and Julito Uy Soon are its corporate officers.

Respondent Marcelino Pinuela was employed by UPI in 1987. He became a member of the labor union, Polyresins Rank and File Association (PORFA), and was elected President thereof in May, 2005 and slated to serve until the end of 2007.

The collective bargaining agreement (CBA) then existing between UPI and PORFA provided that:

Section 3. The Company shall grant to the Union the amount of Three Hundred Thousand Pesos (P300,000.00) free of interest as the union's capital for establishing a cooperative to meet the needs of its members. Said loan shall fall due and become payable at the same date that this Bargaining Agreement expires, to wit - December 31, 2007. In the event of non-payment, all officers and members will be personally accountable. In case of additional funds, they can make a written request [addressed] to the President of the company.^[5]

The CBA likewise contained a union security clause which provided that employees who cease to be PORFA members in good standing by reason of resignation or expulsion shall not be retained in the employ of UPI.

Upon his assumption as union President, respondent wrote the former union President, Geoffrey Cielo (Cielo), to turn over the records, papers, documents and financial statements of the union. Cielo surrendered the union's bank account documents, among others, which indicated that the union had an available P78,723.60 cash balance. Cielo likewise submitted a Financial Report indicating that the union had P208,623.60 in cash and P159,500.00 in receivables.

Finding that the bank documents and Cielo's report did not match, and Cielo unable to explain the discrepancies, the union's Executive Committee, which was headed by respondent, resolved to hire a certified public accountant to conduct an audit of the union's finances. In a December 1, 2005 report, the accountant concluded that the union's finances, income, and disbursements for the years 2003 and 2004 were not properly documented, recorded, and reported. He recommended that the union officers "take a seminar on basic bookkeeping and accounting;"^[6] that the union adopt and/or install the necessary accounting and internal control systems; that the union prepare the proper financial statements; and that the officers take corrective measures in financial management as an integral part of sound management.^[7]

Meanwhile, during respondent's term as PORFA President, it appeared that UPI automatically deducted from the respective salaries of PORFA members amounts representing union membership dues and loan payments. These amounts, which totalled P2,402,533.43, were then regularly turned over by UPI to PORFA in the form of fifty eight (58) crossed checks, made payable to PORFA.^[8] These amounts were then deposited and credited to PORFA's account.^[9]

On December 8, 2007, or several days before the P300,000.00 loan by UPI to PORFA became due, petitioners, respondent, and the other union officers met to discuss the proposed new CBA. Thereat, petitioners told respondent that until the P300,000.00 is returned, the former shall not discuss the proposed CBA. Respondent explained that the union did not have the finances and had only P78,723.60, which was the original amount turned over by Cielo to respondent when the latter assumed office as union President. Petitioners then told respondent and the other union officers that if the amount is not returned, the same will be deducted from the salaries of the union members.^[10]

On January 7, 2008, respondent filed a complaint before the National Conciliation and Mediation Board (NCMB), claiming that petitioners refused to bargain collectively. During the scheduled conferences before the NCMB, petitioners raised the issue of non-payment of the P300,000.00 owing to UPI and insisted on its payment; they also threatened to deduct the amount of P1,500.00 from the respective salaries of the union members.^[11]

Because of the recurring threat of failed CBA negotiations and salary deductions as means of recovering the P300,000.00 loaned to the union, union members began to demand the holding of a special election of union officers. They likewise accused respondent and the other union officers of mismanagement, unduly hanging on to their positions, and lack of accountability.^[12]

Thus, in March 2008, special elections were held, and a new union President and set of officers were elected.^[13]

On March 29, 2008, the union's new set of officers conducted an investigation into the fact that the union had little or no funds remaining in its bank account. Respondent attended the investigation, and admitted that the union had no more funds as they were "utilized in the prosecution of cases during his incumbency."^[14] He likewise failed to make a formal turnover of documents to the new President. Respondent was required to surrender union documents in his possession on the next scheduled meeting.^[15]

On April 8, 2008, another inquiry was held where respondent was present. The investigation centered on respondent's continued failure to account for the union's bank accounts, documents, and deposits made during his incumbency, and his failure to formally turn over union's papers to the new officers. After the meeting, respondent and the new officers proceeded to the bank, where they discovered that the PORFA account had already been closed.^[16]

On April 10, 2008, the new set of union officers issued a Resolution^[17] expelling respondent from PORFA for being guilty of the following violations:

1. No annual financial statement.
2. No listings or ledger of union member's [sic] emergency loans.
3. Unposted cheques on the Union's passbook collected from union members [sic] monthly dues.
4. Our union checking account at Security Bank were [sic] Zero balance/closed account.
5. No receipts/cash disbursement presented for the union operational [sic] expenses.
6. Unable to return the P300,000.00 lent by the management free of interest. (Art. XXVII, Section 3 of our CBA).
7. Unable to explain and present documents to support where the agency fees and union dues collected from legitimate union members were used.^[18]

The officers held that these violations constituted an infringement of the union's Constitution, particularly Article XV, Section 1, paragraphs (e) and (f) thereof, which specifically prohibit the misappropriation of union funds and property and give ground for the impeachment and recall of union officers.^[19]

In an April 11, 2008 letter^[20] to petitioners, PORFA communicated respondent's expulsion from the union.

On April 14, 2008, petitioners issued a letter of termination^[21] to respondent, to take effect immediately.

Ruling of the Labor Arbiter

Respondent filed a complaint against petitioners before the Labor Arbiter for illegal dismissal, with monetary claims and damages, which was docketed as NLRC Case No. RAB-IV-08-27303-08-L. He claimed that his dismissal was effected in bad faith and without due process and was thus illegal. Petitioners countered that respondent's dismissal is valid under the union security clause of the CBA; that his failure to return the P300,000.00 loan to the union due to mismanagement/misappropriation constitutes just cause for his expulsion from the union, as well as dismissal from employment; that he was accorded substantive and procedural due process; that the herein individual petitioners may not be held liable for respondent's claims; and that accordingly, the case should be dismissed.

On April 20, 2009, the Labor Arbiter issued a Decision^[22] dismissing respondent's complaint on the finding that respondent was not illegally terminated, thus:

While complainant, as then Union President, denies any misappropriation of union funds, it is undisputed that he failed to account for the missing union funds and to return the P300,000.00 which the respondent company had lent for the union's assistance upon the expiration of the CBA dated December 31, 2007.

More importantly, in the investigation conducted by the newly elected officers of the union, it was uncovered that union funds were in fact personally used by the former officers of PORFA which includes complainant.

Thus, the union passed a resolution expelling complainant from the PORFA union and the corresponding letter was sent to the respondent company informing the latter of complainant's expulsion coupled with a recommendation that complainant be terminated from employment pursuant to the union security clause of the CBA.

Given the foregoing, we rule that complainant was validly dismissed since the respondent company merely did its obligation under the CBA by terminating the services of complainant who ceased to be a member in good standing of the PORFA union by reason of expulsion.

WHEREFORE, premises considered, judgment is hereby rendered DISMISSING the instant complaint for lack of merit.

SO ORDERED.^[23]

Ruling of the National Labor Relations Commission

Respondent appealed before the NLRC, which initially overturned the Labor Arbiter in a December 8, 2009 Decision,^[24] which decreed as follows:

WHEREFORE, the assailed Decision is hereby SET ASIDE and a NEW one is entered declaring the complainant-appellant's dismissal to be illegal. Respondents Union [sic] and respondent company are hereby declared jointly and severally liable to pay complainant his full backwages from the date he was dismissed until date instant [sic] and to pay his separation pay equivalent to one month salary per year of service computed as follows:

BACKWAGES
04/14/08 -
10/14/09
P396 x 26
days x 18
mos.
P10,296.00
x 18 days = P185,328.00

SEPARATION = P226,512.00
PAY

P396.00 x
26 x 22yrs.
P10,296 x
22yrs.

13th Month
Pay
P185,328.00
/ 12 = P15,444.00

Grand Total P427,284.00

SO ORDERED.^[25]

However, on motion for reconsideration, the NLRC issued its June 11, 2011 Decision, which held as follows:

What cannot escape from [sic] our attention and consideration are the following: (1) there was an obligation x x x to return the amount of P300,000.00 to the respondent upon termination of the CBA on December 31, 2007, (2) complainant, as the President of the Union at the time the loan was due and demandable, failed to account for said funds, and under the same provision, was to be held personally accountable, (3) Pinuela actually participated x x x in the whole process of determining accountability over the union funds, (4) denied knowledge over and receipt of the missing funds, despite his being among those charged with its custody and safe-keep, as the Union President.

It is also to be noted that the complainant as union president, could not explain nor comment on the fact that their union's bank account is already a closed account. Even if We assume and in fact complainant admitted that he had custody of P78,723.60 as union funds as of June 3, 2005, still he could not account the whereabouts of the said money. As a signatory to the said account, complainant cannot be considered as entirely faultless since he was grossly negligent in the custody of the funds. There is substantial basis in complainant's dismissal thus, the award of backwages and 13th month pay should be deleted. However, even if We find complainant's dismissal to be valid, there is equally no evidence showing that he pocketed the missing funds of the union. In this regard since he had rendered a considerable number of years in the service (21 years) complainant may be awarded separation pay at the rate of 1/2 month salary for every year of service (396 x 13 x 21 years) from the inception of his employment till his dismissal in the interest of justice and compassion since his infraction did not involve serious misconduct.

Further, We also hold that while complainant's dismissal was valid pursuant to the enforcement of the Union Security Clause, respondents however did not comply with the requisite procedural due process. As held in the case of Agabon vs. NLRC, x x x the Supreme Court held that where the dismissal is for a cause recognized by the prevailing jurisprudence, the absence of the statutory due process should not nullify